

The Judicial Protection Against Copyright Holders from Music Piracy in Digital Era

By MochS InaR



The Judicial Protection Against Copyright Holders from Music Piracy in Digital Era

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ABSTRACT

Copyright is the exclusive right of creator which is created based on declarative principles and is realized in material form without prejudice to the limitations of legislation provisions. There are several artworks, one of them is music. The objective of this research is to find out the implementation of judicial protection for copyright holders in Indonesia and analyze the judicial protection against copyright holders from music piracy in digital era. The method used in this research is descriptive qualitative method and the research type is normative. There are two problem statements of this research, these are (1) how implementation of judicial protection for copyright holders in Indonesia; (2) how implementation of judicial protection against copyright holders from music piracy in digital era. Meanwhile, the approach used in this research is case approach which an approach used applicable regulatory parameters to solve law issues, and the issue in this research is legal protection against copyright holders from music piracy in digital era. This research analysis used library research. Nowadays, the piracy issue especially in music piracy is widespread in Indonesia. Therefore, the government must to protect all copyrighted works of creators from pirating artworks such as supervise and control the development of illegal websites in digital era.

Keywords: Copyright, Digital Era, Digital Media, Juridical Analysis, Plagiarism

INTRODUCTION

Copyright is the exclusive right of creator which is created based on declarative principles and is realized in material form without prejudice to the limitations of legislation provisions. There are several artworks that have been spread around the world. Those artworks have to protect legally, especially in creator's copyright. This research analyzed about music piracy. There are some legislations which are specially designed to protect registered and unregistered copyright holders (Undang-Undang Republik Indonesia No. 28 Tahun 2014 Tentang Hak Cipta, 2014).

During worldwide economic era, copyright protection has become an important issue which complicated in its challenge. Indonesia is a country with various cultures and arts in every provinces (Hidayah, 2017). According to Saidin, copyrights is a personal right attached to the creator. The creator has a creativity which will be a main factor of its literature works. This term can be called an exclusive rights (Saidin, 2019).

Getting a copyright protection is something that is very important and crucial for a creator's works from piracy, plagiarism, and so on. Copyright protection is legally providing a protection to the creators. One of copyright infringement is music piracy. According to the General Manager of ASIRI (Indonesia Recording Industry Association), music piracy is a common thing in Indonesia for example, there are several website even provide converting services from video to MP3 format and illegal applications in providing any pirated musics. Even though, they have taken down those website, eventually other website appear with another domain and name. It becomes the problems which should be handled together.

The digital era provides a lot of conveniences for musicians, music labels, and their fans. There are a lot of ways to appreciate creator's works, such as buying official merchandise, attending to their concert, but the most important thing is the fans can appreciate their works by not piracy on their music. Therefore, Indonesian government has issued a Law No. 28/2014 concerning copyrights in Article 1 of Point 1 stated that copyrights is exclusive right for creator which created automatically based on declarative principle after a literature work is realized without reducing restrictions in accordance with the law provisions and regulations (Kementerian Hukum dan Hak Asasi Manusia, 2014). The objective of this research is to find out the implementation of judicial protection for copyright holders in Indonesia and to analyze the judicial protection against copyright holders from music piracy in digital era.

According to the background of this research, the researcher is able to do a research in titled "The Judicial Protection Against Copyright Holders from Music

Piracy in Digital Era.” There are two problem statements of this research, these are (1) how implementation of judicial protection for copyright holders in Indonesia; (2) how implementation of judicial protection against copyright holders from music piracy in digital era.

RESEARCH METHODOLOGY

Legal research can be interpreted as research on the legal system. The legal system consists of three components, these are legal substance, legal structure and legal culture. Therefore, when conducting to research legally, they can use one or all the components. The method used in this research is descriptive qualitative method and the research type is normative. According to Sugiyono statement that descriptive qualitative method is a method that collecting data research by using words rather than number (Sugiyono, 2017). Meanwhile, normative legal research is commonly known as document study, uses qualitative methods in analyzing data, and uses secondary data sources, such as regulations, court decisions, books, legal theory, and doctrine (Efendi, Jonaedi & Ibrahim, 2016). Normative in legal research is a research that examines applicable legal norms, which in this research used Law No. 28/2014 concerning copyrights. The data instrument used in this research is the researcher himself. Meanwhile, the approach used in this research is case approach which an approach used applicable regulatory parameters to solve law issues, and the issue in this research is legal protection against copyright holders from music piracy in digital era. This research analysis used library research because it is based on literature related to main discussion, especially regarding the copyright holders protection and all their problems. Proposals use deductive reasoning, proposals that cite various conclusions from general to concrete.

RESULT AND DISCUSSION

Music Spreading Phenomenon in Digital Era

Basically, everyone has a lot of creativity in making a masterpiece in their daily life. Those masterpieces can be form of copyrighted work and that can be traded commercially, for example is music. Copyrighted songs are easily in duplicating by irresponsible people and it can be called as a crime. That crime is conducted to fulfill the community request (Syahrial, 2014).

It is not an easy thing for songwriters to create songs that appropriate with expected imagination. Therefore, music piracy is a crime because this action is not appreciate the creator’s effort. The most important thing in appreciate the creators in digital era is asking permission to them when we want to use or cover their

music. This thing provides the creators have a pleasant feeling, more values, and they will be eager in the work.

This phenomenon provides an opportunity for irresponsible people to create many illegal websites that contain pirated music (Hidayah, 2017). Therefore, the government legislate regarding of copyrights in Law No. 28/2014 and Law No. 19/2016 concerning Amendments to Law No. 11/2008 concerning Information and Electronic Transactions. Those illegal websites is contrary with the rules that have been mentioned because those illegal websites contain easy download system, music cover without permission to creators and easy web access. Those things is very detrimental to the creators, especially in their royalties.

Music Piracy in Digital Era

Intellectual Property Rights are part of immaterial objects. In Civil Law, an object is classified into two types, there are tangible and intangible objects. Intellectual property rights are one example of intangible objects in the form of rights. This caused immaterial property rights become the object's rights. On the other hand, along technology progressed those illegal websites were accessible on the internet and it caused the increase of music piracy in Indonesia. However, there are still official applications that provide a forum for creators to protect their copyrighted works and those applications are available on Appstore for iOS users and Play Store for Android users. Appstore is a naïve software or content and the main purpose for connecting to Internet-based services that offer a good smartphone user experience, especially for iOS users (Kim et al., 2014). Meanwhile, playstore is digital services that include online stores such as books, movies, games, music apps, and others (Nuranazmi, 2019). Among both of those two applications, Play Store is mostly used for irresponsible programmer in creating an application to piracy copyrighted works. They duplicate those copyrighted works used computer, and this action is a crime that violates Law No. 19/2016 concerning information and electronic transactions. The content of Law No. 19/2016 Article 1 Paragraph 4 concerning information and electronic transactions, electronic documents are electronic information that can be created, sent, transmitted, received, or stored in analog, digital, electromagnetic, optical, or similar formats, and displayed, heard through a computer or electronic system. Those information consist of text, sounds, images, maps, designs, photos, letters, numbers, access codes, symbols, or perforations that have been or can be understood by anyone who understands them (Kementerian Hukum dan Hak Asasi Manusia, 2016). Therefore, it requires clearer regulation on this issue, which must refer to universal basic values such as sustainability, unity, harmony, equality, and justice.

The Copyright Infringement on Music in Digital Era

According to Law No. 28/2014 concerning copyrights, the creation of copyrighted songs is an embodiment of the ideas, science, art, ideas, and thoughts of the creator (Kementerian Hukum dan Hak Asasi Manusia, 2014). The results of a song idea can be commercialized either by using cassettes or files that the author has saved on the internet. Songs are part of copyright because they can be referred to as works and are protected its copyright under the copyright provisions of Article 28, Article 40 (1) (d) in Law of 2014.

Creating music is a complicated work for the creator because it requires a lot of efforts such as time, money, and energy. Therefore, the government must to protect all copyrighted works of creators from pirating artworks such as supervise and control the development of illegal websites. If there is no direction or supervision in the completion of all copyrighted works as intended, then it is the creator who collects the entire work without violating copyright (Permana, 2019). There are several examples of the distribution of pirated music marketing offline, such as in Mataram Street, Kotagede Market, and Yogyakarta Senthir Market. Those actions caused of copyright infringement.

In the current era of globalization science and technological advances, the existence of artists have significant impact, both positive and negative. It is the same for piracy rate in Indonesia. Digital copyrighted works, especially those published in applications called playstore, such as computer programs in application form, including copyrighted songs and electronic documents. All of those copyrighted works are protected in Law No. 28/2014, and for copyright infringement is regulated in Law No. 19/2016 concerning Information and Electronic Transactions.

Copying other people's songs in the form of electronic documents and uploading them on Playstore platform in the form of an application that aims to make a profit, then all forms of action are copyright infringement. Although there are laws governing copyright such as amendments to the Copyright Law, the 1982 Copyright Law, and Law No. 28/2014, but all this efforts is still not optimal. Based on those cases on copyright infringement, the government must to protect all copyrighted works of creators from pirating artworks such as establish a copyright protection institution, especially copyrighted works in digital media.

CONCLUSION

After analyzing this case based on various background and research statement to comply and fulfil this research, then the researcher can provide a conclusion, such as (1) based on Law no. 28/2014 concerning copyright Article 1 Paragraph 1, it is stated that copyright is the exclusive right of the creator and is

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automatically generated based on declarative principles after the creation is realized in material form, without reducing the restrictions imposed by laws and regulations; (2) the existence of copyright protection makes some music investors to invest in Indonesia. The obstacle in this sector is the nature of copyright protection which is an automatic right and copyright registration is not required for the creator. Even though copyright registration itself supports the legal certainty of the creator. Nowadays, the piracy issue especially in music piracy is widespread in Indonesia. Therefore, the government must to protect all copyrighted works of creators from pirating artworks such as supervise and control the development of illegal websites in digital era.

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