

JURIDICAL ANALYSIS ON COPYRIGHT LAW: THE NEW WAY OF ROYALTY DISTRIBUTION IN INDONESIA

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Abstract— The massive rise of technology, have changed the habit of copyright owner to earn them economic rights and moral rights, they hope to earn, especially the economic right often failed miserably, clearly there's a huge problem between theoretically and reality about so called Royalty distribution that held economic matters to the copyright owners. This research have been made to find out the regulation of royalty distributon in Indonesia, and the second one is to find out the new model or the new way of royalty distribution In Indonesia, the methods of this research is Juridical Normative, which is bold to secondary data as main data, such as regulations, books and journal. Combined with primary legal materials, secondary legal materials to ensure the right method of this research, In this study, the approach method used is normative juridical The results of this study give bright proof that the regulation of the royalty distribution in Indonesia still exists until today, the copyright law and more special regulation in government regulation already give us protection and definition of royalty itself, unfortunately the problem is not only the regulation but also about the law enforcement and the Government efforts, For example there are too many institutions that have the right to collect and distribute the royalty as an economic rights, this one problem made copyright owner feel unsure about the collection of the royalty. Royalty as one of the economic rights, have big roles in the Copyright law, years after years the problem of royalty, especially royalty distribution in Indonesia cant be hide. To overcome this problem, the regulation itself cannot be the only one weapon that government have. Technology and information are supposed to be the answer of this problem, collaboration between government and private parties are the only way to solve this major problem.

Keywords— *copyright; technology; information*

I. INTRODUCTION

Information and communication technology has changed the behavior of society and human civilization globally. In addition, the development of information technology has caused significant social changes that take place so quickly. Information technology is now a double-edged sword, in addition to providing benefits, it is also an instrument of potential unlawful acts, and secondly shows how necessary it is to immediately fix the legal sector in this field, including making positive laws related to cyber activities. The development of communication and information technology has brought implications for the legal world, especially the Intellectual Property Rights Law. This is because every work produced by these industry players receives protection from the State, and the work is included as an object of work protected by Intellectual Property Rights (IPR). In this case, the notion of intellectual property rights is a system that is now attached to the modern way of life. Intellectual property rights, hereinafter referred to as IPR, are simply rights that arise for the results of thoughts that produce a product that is beneficial to humans. IPR can also be interpreted as a right for someone because he has made something useful for others.

Copyright Law was born as a form of protection of copyright works along with the rights owned by the Creator. Protection is needed to provide legal certainty for the Creator to continue to maintain the existence of abilities based not only on his passions but also on the belief that his potential is protected by Copyright. Copyright as a protected object in the 2014 UUHC is mentioned in Article 40 paragraph (1), one of which mentions songs and/or music with or without text. In song and/or music creation works in general, there are two kinds of economic rights, namely reproduction rights that are closely related to the reproduction of songs and/or music on cassette, compact

discs, laserdiscs and others, known as mechanical rights, and the right to announce related to listening activities to a song and/or music creation such as singing, playing tapes in public places for commercial purposes, known as performing right.

In Copyright law, the creator has two rights, namely moral rights and economic rights, if moral rights are interpreted as inherent rights as the creator's *prinadi*, economic rights have a different meaning, economic rights are interpreted as the right for the creator of a creation (in this case songs and / or music) to be able to enjoy and utilize the material value of his creation. One of the material values that can be utilized by creators is royalty.

Royalties in the field of songs and / or music, if we look at their own potential, the economic value of music and / or song royalties is very large, so it needs to be supported by efforts to protect and legal certainty for creators of economic rights to their songs. Based on data on royalty receipts from songs and music in 2016 to 2018 continues to increase. In 2016 royalty income reached 22 billion, then in 2017 it increased by 36 billion and in 2018 it increased to 66 billion. The distribution of creator royalties in Indonesia is carried out by an institution called the Collective Management Institute (LMK), there are several LMKs in Indonesia that are engaged under the supervision of the National Collective Management Institute (LMKN), to get royalty distribution through LMK, of course, the creator must be incorporated in one of the LMKs in Indonesia.

Although the rules regarding royalties and their distribution are already contained in the laws and regulations, in reality there are problems that arise, one of which is the prohibition by songwriters to certain parties to sing their songs, which is allegedly the reason is because of the royalty problems obtained, then another problem is that there are creators who are dissatisfied with the distribution of royalties by LMK which results in several songwriting musicians who question how the process of calculating royalties by LMK reaches the creators, so they then question how the government's steps should be in minimizing this problem.

II. METHOD

In this study, the approach method used is normative juridical, namely legal research that prioritizes research on norms or rules, literature studies on Intellectual Property Rights in general, and copyright, especially regarding moral rights and economic rights for creators, in this case the creators of songs and / or music, as well as the distribution of royalties for songwriters or music in Indonesia.

III. RESULTS AND DISCUSSION

Royalties are rewards for the utilization of Economic Rights of a Work or Related Rights Product received by the creator or owner of related rights. The distribution of royalties collectively in Indonesia, carried out by an institution called

the Collective Management Institute (LMK), a Collective Management institution is an institution in the form of a non-profit legal entity authorized by the Creator, Copyright Holder, and/or Related Rights owner to manage their economic rights in the form of collecting and distributing royalties. Regulations regarding the distribution of royalties in Indonesia are contained in Law Number 28 of 2014 concerning Copyright, and Government Regulation number 56 of 2021. In the Copyright Law, it only mentions the definition of royalty, and in article 35, it is stated that:

(1) Unless otherwise agreed the Copyright Holder of the Work made by the Creator in relation to the *dinar*, who is considered to be the Creator i.e. a government agency. (2) In the event that the Work as referred to in paragraph (1) is used commercially, the Creator and/or Related Rights Holder shall receive compensation in the form of Royalties. (3) Further provisions regarding the provision of Royalties for commercial use as referred to in paragraph (2) shall be regulated by Government Regulation.

The Government Regulation as mentioned in article 35 paragraph (3) is Government Regulation Number 56 of 2021 concerning the Management of Song and / Music Royalties. Song and/or Music Copyright Royalty Management hereinafter referred to as Royalty Management is the withdrawal, collection, and distribution of song and/or music Copyright Royalties. Meanwhile, in the form of commercial public services in the imposition of royalties, it is emphasized through the provisions contained in Article 3 Paragraph (2) of Government Regulation Number 56 of 2021 concerning the Management of Song and/or Music Copyright Royalties, including: a. Commercial seminars and conferences; b. Restaurants, cafes, pubs, bars, bistros, nightclubs and discos; c. Music concerts; d. Aircraft; buses; trains and ships; e. Fairs and bazaars; f. Cinema; g. Phone waiting tone; h. Banks and offices; i. Shops; j. Recreation centers; k. Television broadcasters; l. Radio broadcasters; m. Hotels, hotel rooms, and hotel facilities; and n. Karaoke business.

There is also a royalty payment that is not limited to the license agreement holder because it can be waived if the song and/or music is commercially used for a performance. In a show, royalties are still required to be paid immediately after use to LMKN. However, considering that there is no latest provision regarding the amount of royalties to be paid, the amount of the price or rate of royalties refers to the Decree of the Minister of Human Rights Number HKI.2.OT.03.01-02 of 2016 concerning the Ratification of Royalty Rates for Users Who Make Commercial Use of Works and / or Rights Products Related to Music and Songs. The mechanism or procedure in withdrawing, collecting, and distributing royalties is regulated in the third part of Article 12 to part five of Article 17 of Government Regulation Number 56 of 2021 concerning the Management of Song and/or Music Copyright Royalties. That there are 3 ways to obtain royalty information, which are as follows, first Per-used data royalties mean obtaining information based on the songs played and/or used.

Like ring back tones, performance venues, and planes that already have their own data. Second, Sampling, that this method of getting information about the song has been played several times by the user. Such as in cafes, radio, hotels and karaoke. But in this way it can be rigged for its own users. Third, Backup system: in short, all data and money are not shared entirely because some of it is stored as reserve funds. This reserve fund will be given to: a) The owner of the contested song; b) People who are making songs for the first time and have not had time to be recorded but the song is quickly hits and famous; c) Persons who have been registered as members of LMK for a long time; and d) Incorrect sample documents such as the occurrence of incorrectly stating the name of the creator.

Based on the explanation that has been described, the form of royalty management of songs as creations based on the legal system in Indonesia itself in fact that there are many rules and derivatives that should be able to protect rights for creators, copyright holders, and / or related rights owners. However, with many underlying rules for the protection of rights for creators, copyright holders, and/or related rights owners, it turns out that there are still many rights that have not been obtained because the rules themselves are still not a bond, in other words, with many rules, the form of royalty rights protection for creators, copyright holders, and/or related rights owners is increasingly unclear.

Government efforts in royalty management to optimize the withdrawal and distribution of royalties in a comprehensive manner need to be supported by information technology facilities. From the DJKI side, it has the task to build a data center that includes e-copyright and related e-rights. Meanwhile, LMKN builds SILM as an information and data system used in distributing song and/or music royalties. The purpose of this data center is to facilitate LMKN, DJKI, creators, copyright holders, related rights owners and commercial users in managing royalties, withdrawal, collecting and distributing royalties transparently. As well as making it easier to manage a data that is expected to be optimal, efficient, and accountable.

Broadly speaking, Indonesia must have a database that is devoted to the management of royalties in a large and transparent manner. Understanding that the importance of information technology becomes a copyright principle is the key to the right legal rules. Because inevitably this copyright is

closely related to the development of the times. And the law also needs to metamorphose by keeping up with the times.

IV. CONCLUSIONS

Intellectual property rights include all forms of creation produced through thinking, in real form, meaning all kinds of ideas or plans that are still in the creator's mind, cannot be said to be copyrighted works, copyright is exclusive because someone is not easy to create a copyrighted work, each copyright has two rights, namely moral rights and economic rights, Economic rights obtained by creators based on the use of works one of which is royalties, royalties can be based on an agreement between the creator and copyright holder, or a third party. The collection of royalties carried out by LMK in Indonesia still reaps many differences between songwriters, this is due to various problems, such as double billing, royalty management systems that are not uniform between each LMK, as well as LMK reporting standards to LMKNs that have not reached the standards set by the State.

It is necessary to have a system or database managed by the government that functions to store all data about songwriters and their creations, the existence of this database can be in the form of music applications or other applications that connect songwriters and their works with the wider community as music connoisseurs, which contains portals that make it easier for application users to enjoy songs created and give awards (economically) to songwriters Through his song, this system can be in the form of a prototype directly from the government, or government collaboration with other parties.

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