



LEGAL PROTECTION FOR COVER SONG CREATORS ON YOUTUBE PLATFORM

Nindi auliah¹, Ida Nadirah²

^{1,2}University of Muhammadiyah North Sumatra, Indonesia

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ABSTRACT

Copyright is regulated in Law Number 28 of 2014 concerning Copyright. Licensing agreements are the main legal instruments that govern the payment of royalties and the inclusion of the creator's name as a way of respecting moral rights. However, in practice, legal protection for songwriters has not been optimal due to low legal awareness among creators, weak law enforcement in the digital space, and ineffective royalty management systems on digital platforms. Therefore, it is necessary to strengthen regulations, raise legal awareness, and optimize the role of governments and digital platforms to create a balance between freedom of expression and copyright protection in the digital economy era.

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Corresponding Author:

Nindi auliah
University of Muhammadiyah North Sumatra, Indonesia
nindiauliah4646@gmail.com

1. INTRODUCTION

Advances in information and communication technology have revolutionized the music industry significantly, especially in terms of the distribution and use of copyrighted works. Platforms such as YouTube have now become popular platforms for showcasing musical works, both original creations and covers. Covers of these songs have become an international phenomenon, even in Indonesia, providing an opportunity for people to express their musical talents while earning additional income thanks to YouTube's monetization mechanism. The creativity that results from human thinking to meet human needs and well-being is known as intellectual property.

Developed countries use the term intellectual property rights (IPR) more as a producer. The intellectual property rights (IPR) system has been proposed as a justification for economic development, increased innovation, and social welfare. One example of a work protected by IPR is copyright. A musical or song is one of many forms of work copyrights that have moral rights and economic rights that are protected by law.⁵ Copyrighted works that have been published will have exclusive rights, including moral rights as described in Article 5 paragraph (1) of Law Number 28 of 2014 concerning Copyright, and economic rights regulated in Article. These economic rights include publishing, reproduction in all forms, adaptation, arrangement, transformation, distribution, and broadcasting of the work.

From a legal regulatory perspective, Indonesia already has a fairly strong legal foundation through the Copyright Law, which specifically regulates the use, publication, reproduction, and distribution of copyrighted works by third parties. However, in everyday practice, many cover song creators are still unaware of the legal

obligation to obtain approval or licensing before re-uploading their content on YouTube. This situation ultimately creates an imbalance between freedom of expression and the protection of the economic rights of songwriters.

Protecting the rights of creators lies in the licensing agreement system. Licensing basically is a civil agreement between the creator or copyright owner and an external party that intends to exploit the work. With a license, the creator gives consent to the use of the work in exchange for a mutually negotiated fee. But when it comes to cover songs on YouTube, this licensing agreement process is often officially ignored, due to a lack of legal knowledge among the parties involved and an imperfect digital permission management infrastructure. This ultimately resulted in losses for many songwriters, as their work was exploited without their knowledge and without proper payment.

People who have a YouTube account can upload and share videos that they have created. In addition, there are several other methods that are easier. YouTube is known for its slogan "Broadcast Yourself", which is a platform for sharing information in audiovisual form. In 2011, YouTube was ranked first as a video-sharing site. In 2006, Google Inc. managed to pay YouTube a sum of \$1.65 billion. YouTube also makes various types of videos, including song covers. When creating a song cover, the community has the independence to change existing works in different ways and forms. However, commercial issues in cover songs can cause disputes regarding copyright of the artist or creator. As music develops in Indonesia, there is often a desire to reproduce other people's works.

Covering songs on YouTube often raises serious legal issues, especially when it comes to copyright. Based on Law Number 28 of 2014 concerning Copyright, the creator of the song or the copyright owner has moral and economic rights to his musical works. Moral rights include the right to be named and protect the integrity of the work, while economic rights give creators the right to earn financial benefits from any use of their work. If a song is covered and uploaded to YouTube without the creator's permission or without a license agreement, it may be considered copyright infringement. People who cover songs with background on YouTube are often more famous than the original creator, which is detrimental to the creator.

Legal protection for songwriters related to cover songs on YouTube still faces a number of serious obstacles. Although YouTube has introduced Content ID features along with copyright claim procedures, these features do not fully guarantee copyright protection, especially in Indonesia. Many cover song videos are still freely available to the public, even generating revenue for those who are not the original copyright holders. This situation illustrates that law enforcement efforts in cyberspace are still trapped in the gap between formal legal provisions and the reality that occurs on the ground. One example of a case that occurred was dangdut artist Lesti Kejora reported by Yoni Dorez for alleged copyright infringement. The allegations highlight that Lesti has covered 9 songs created by Yoni and uploaded them on YouTube without permission since 2018. The songs include "Bagai Ranting Yang Kering", "Love Is Not a Ship", "Buaya Buntung", "Arjunanya Buaya", and several other titles. Yoni Dorez emphasized that the content was detrimental to his economic and moral rights as a creator, so he demanded legal accountability in accordance with the Copyright Law (Article 113 jo Article 9 of Law No. 28 of 2014).

Based on the above issues, it is important to conduct more in-depth research on what legal protections should be given to songwriters and musicians when using their work on digital platforms. This kind of research is crucial to create legal clarity for all parties involved, while also promoting a balance between copyright protection and fostering creative innovation in the midst of a rapidly evolving digital economy.

2. RESEARCH METHODS

This research uses a type of normative legal research, Normative legal research is a method to study and understand law as norms, rules, legal foundations, legal principles, legal doctrines, legal theories, and other legal sources, with the aim of answering the legal problems that 26 are researched. In this study, the author examines and analyzes various legal norms and regulations that govern copyright protection. Descriptive research is a type of research that aims to describe existing phenomena, both naturally occurring and created by humans. These phenomena can include forms, activities, characteristics, changes, relationships, similarities, and differences between one phenomenon and another. The author uses a research approach to legislation. This approach includes a review of all laws and regulations related to the legal issues being discussed. In addition, the author also uses a historical approach by reviewing the background and development of laws and regulations related to the problems being researched.

3. RESULT AND ANALYSIS

Legal Protection for Song Creators as Copyright Holders Who Are Re-Performed (Cover Songs) on the Youtube Platform

Legal protection for songwriters whose work is covered on YouTube by a third party begins with their acknowledgment of their rights to the work and the right to enjoy or use it for a certain period of time. During

this period, no other person may enjoy, use, or benefit from these rights without the permission of the copyright owner

Regulations regarding the prohibition of commercialization of copyrighted works can be found in the Berne Convention. The Berne Convention emphasizes that all activities, such as the translation, adaptation, or arrangement of musical works, remain under copyright protection, just like works of art and literature. Indonesia is increasingly aware of the importance of legal protection related to copyright after joining the World Trade Organization (WTO). With the enactment of Law Number 7 of 1994 concerning the World Trade Organization (WTO), Indonesia is obliged to comply with all applicable WTO provisions, including the TRIPS Agreement.

The Indonesian government's efforts to protect copyright owners of cover songs on the digital platform YouTube are also seen in Article 96, which regulates the termination of access to information if there are provisions in laws and regulations that prohibit something and cause public concern. In the Circular Letter of the Minister of Communication and Information Technology Number 5 of 2016, legal protection for copyright owners of cover songs on YouTube can be linked to the provisions in Chapter V Letter B Number 1 Sub e, which emphasizes the obligation of digital platforms such as YouTube to provide reports on prohibited content, handle such reports, and pay attention to the blocking period for reports received. Furthermore, in the Circular Letter of the Minister of Communication and Information Technology Number 3 of 2016, it is stated that the provision of digital information services in the form of music, videos, movies, games, and others, either separately or combined, through the internet is considered part of over-the-top media, so YouTube is included in this category.

According to civil law, a person who uploads and downloading songs through YouTube and distributing or duplicating the original song or modified version without permission over the internet is an unlawful act. This unlawful act is a violation of the rights of others. Using someone else's work can be considered an infringement of the copyright holder's economic rights, as copyright gives the exclusive right to exploit the work economically. Article 1 number 25 of the Copyright Law explains that "compensation is the payment of money imposed on the party who violates the economic rights of the creator, copyright holder, and/or owner of related rights based on a civil or criminal court decision that has permanent legal force for losses suffered by the creator, copyright holder, and/or owner of the right." In addition to the Copyright Law (Law Number 28 of 2014).

Legal protections for copyright owners are also set out in YouTube's copyright policy, which is available on the platform. Some argue that reviews or content from YouTubers will benefit creators, as their work will get greater recognition. However, others argue that economic rights do not automatically eliminate a creator's moral rights, especially since if the work is "popularized" without the creator's permission, the creator will not receive any royalty compensation.

Royalty is compensation given to the creator, copyright owner, or other related rights owner for the exercise of economic rights to a related work or product. Anyone who uses songs and/or music commercially in a commercial public service, in accordance with the license agreement, is entitled to receive royalties.

There are three types of licenses:

1. Copyright: Copyright law protects music, and copyright owners have exclusive rights to use, copy, distribute, and perform music publicly. Copyright is usually shared between the songwriter (who owns the composition) and the artist or record label (who owns a specific version of the recording).
2. Master License: This license allows the use of a specific recorded version of a song. This license is obtained from the owner of the recording copyright, usually the music publisher or label.
3. Sync License: This license is required when music is used in conjunction with visual elements, such as in videos. You must obtain this license from the copyright owner of the music composition. YouTubers may need to obtain a sync license if they want to use music in their content

Licensing agreements in the Copyright Act are specifically regulated in Article 80. Based on the provisions of Article 80, there are two main things in the license agreement for copyrighted works in the form of songs and/or music with or without lyrics. First, the other party is given permission by the creator or copyright holder to obtain economic rights to the song and/or music, in accordance with the provisions of Article 9 paragraph (1) of the Copyright Law. Song covers activities, including republishing and copying works, must obtain permission from the creator or copyright holder concerned. Second, the licensee is obliged to provide royalties as compensation for the economic rights related to the song and/or music to the creator or rights holder. If someone covers a song on a digital platform like YouTube, then they are obliged to give royalties to the copyright holder if the song covered is to be used commercially. In addition, they are also required to mention the name of the creator or copyright holder on the song that is covered and uploaded to the YouTube digital platform.¹⁰ Objects subject to royalty payments include various forms of commercial public services such as commercial seminars and conferences, restaurants, cafes, pubs, bars, bistros, nightclubs, and discos, music concerts, airplanes, buses, trains, and ships, exhibitions and markets, cinemas, telephone lines, banks and offices, shops, leisure centers, television broadcasters, radio broadcasters, hotels, hotel rooms and hotel facilities, and karaoke business. Unless otherwise agreed, the copyright owner or related rights owner has the right to grant a license to another party

based on a written agreement to carry out the actions mentioned in Article 9 paragraph (1), Article 23 paragraph (2), Article 24 paragraph (2), and Article 25 paragraph (2).

The royalty object in Article 3 of Government Regulation Number 56 of 2021 concerning the Management of Song and/or Music Copyright Royalties does not specifically describe the situation when copyrighted songs and music are used on digital platforms such as YouTube. According to Fready Haris DJKI, this is considered a public service, as stipulated in Article 2 paragraphs (1) and (3) of Government Regulation Number 56 of 2021. This regulation states that performance, announcement, and communication of works, both in analog form and digital, considered as a commercial use of public services for creators and copyright holders.

YouTube's monetization policies include the following:

1. **Community Guidelines.** The YouTube platform has created these guidelines to ensure all users feel safe and respected, as YouTube is the largest social video platform in the world. These guidelines include: (1) false interactions; (2) imitating others; (3) embed links in content; (4) spam, fraud, and scams; (5) content that is harmful to children; (6) the use of altered cover images; (7) nudity or sexual content; (8) content about suicide or self-harm; (9) violent content such as vandalism and cyberbullying; (10) risky or harmful content; (11) offensive or hostile remarks; (12) organized crime; (13) violent and graphic content; (14) spreading misinformation about COVID-19; (15) content featuring firearms; and (16) selling illegal or regulated charcoal.
2. **Terms of Service.** Explains how the YouTube platform, as a social media service provider, works with content creators as video delivery partners. This service is managed by Google is working with a subsidiary of Alphabet. The YouTube platform always ensures that potential content creators understand all policies issued by YouTube, such as copyright policies, advertising policies, and community guidelines. These three things are always made clear at the beginning of the agreement between YouTube and the content creator.
3. **Copyright Terms.** In determining copyright rules, the YouTube platform prohibits Usage and/or uploading videos that do not belong to the user and/or videos obtained from other parties without permission from the creator and/or copyright holder. Videos in this case include musical works with or without lyrics, copyright-protected programs, or videos created and/or owned by other parties that are used and/or uploaded without permission from the creator and/or copyright holder. The YouTube platform also allows the use of copyrighted videos without permission from the creator and/or copyright holder, as long as such use is done in a reasonable manner

4. CONCLUSION

Based on the results of research and discussions about cover songs on the YouTube platform, it can be concluded that the use of re-sung songs is a form of exploitation of economic rights to copyrighted works that must obtain permission from the creator or copyright holder as stipulated in Law Number 28 of 2014 concerning Intellectual Property Rights. Legal protection for songwriters is generally comprehensively governed by national laws and regulations, international conventions, and YouTube's internal policies. This protection has not been optimally implemented. Many cover artists still upload and monetize musical works without official permission, thus harming the economic and moral rights of songwriters. Limited legal understanding, weak law enforcement in the digital space, and suboptimal royalty management systems on digital platforms are the main factors that contribute to copyright infringement. Therefore, it is necessary to increase legal awareness among content creators, strengthen the role of the government in monitoring and enforcing the law, and optimize the licensing and royalty distribution mechanism in a fair and transparent manner. This is expected to create a balance between freedom of expression and copyright protection to support a healthy and sustainable creative climate in the digital age.

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