

The Protection of Economic Rights of Copyright Holders of Musical Works (Study of Decision Number: 464 K/Pdt.Sus-HKI/2024)

*Perlindungan Hak Ekonomi Pemegang Hak
Cipta Karya Musik (Studi Putusan Nomor:
464 K/Pdt.Sus-HKI.Sus-HKI/2024)*

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Abstract

This study is intended to examine the application of protection of the economic rights of copyright holders of musical works of art as regulated in Law Number 28 of 2014 concerning Copyright, with a focus on the study of Supreme Court Decision Number 464 K/Pdt.Sus-HKI/2024. This study uses a normative legal approach by collecting data through literature reviews, laws and regulations, official documents, and other legal sources.



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The problems studied include the form of protection of economic rights in the copyright of musical works and how the legal considerations of the panel of judges in upholding the principle of this protection. The results of the analysis show that economic rights give creators exclusive rights to utilize, reproduce, distribute, and obtain economic benefits from their works. In this case, the Panel of Judges of the Supreme Court concluded that Rahman Efendi as the creator of the song “Nasib Force One Buruk” had his economic rights harmed by Romli through the song “Obuk Celleng” which without permission composed the lyrics, notation, chords, and arrangements. The Panel of Judges overturned the first instance court’s decision, granted Rahman Efendi’s appeal, ordered the revocation of the registration of the song “Obuk Celleng”, and determined the payment of material and immaterial compensation. However, there is potential for legal friction in the judge’s considerations that do not delve into the substance of the violation and focus more on the letter of registration of the creation.

KEYWORDS *Copyright, Economic Rights, Legal protection, Judge’s Decision.*

Penelitian ini dimaksudkan untuk mengkaji penerapan perlindungan terhadap hak ekonomi pemegang hak cipta atas karya seni musik sebagaimana diatur dalam Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta, dengan fokus kajian pada Putusan Mahkamah Agung Nomor 464 K/Pdt.Sus-HKI/2024. Studi ini menggunakan pendekatan yuridis normatif dengan pengumpulan data melalui telaah literatur, peraturan perundang-undangan, dokumen resmi, dan sumber hukum lainnya. Permasalahan yang dikaji meliputi bentuk perlindungan hak ekonomi dalam hak cipta karya musik serta bagaimana pertimbangan hukum majelis hakim dalam menegakkan prinsip perlindungan tersebut. Hasil analisis menunjukkan bahwa hak ekonomi memberikan pencipta hak eksklusif untuk memanfaatkan, memperbanyak, mendistribusikan, serta memperoleh keuntungan ekonomi dari karya ciptaannya. Dalam perkara ini, Majelis Hakim Mahkamah Agung menyimpulkan bahwa Rahman Efendi sebagai pencipta lagu “Nasib Force One Buruk” telah dirugikan hak ekonominya oleh Romli melalui lagu “Obuk Celleng” yang secara tanpa

izin mengubah lirik, notasi, chord, dan aransemen. Majelis Hakim membatalkan putusan pengadilan tingkat pertama, mengabulkan kasasi Rahman Efendi, memerintahkan pencabutan pendaftaran lagu “Obuk Celleng”, serta menetapkan pembayaran ganti rugi materiil dan imateriil. Namun, terdapat potensi gesekan hukum dalam pertimbangan hakim yang kurang mendalami substansi pelanggaran dan lebih berfokus pada surat pencatatan ciptaan. Putusan ini memperlihatkan penerapan asas keadilan dan perlindungan hukum yang didasari teori keadilan distributif Aristoteles serta teori perlindungan hukum Satjipto Rahardjo. Secara keseluruhan, penelitian ini menegaskan pentingnya perlindungan efektif terhadap hak ekonomi pencipta guna mewujudkan kepastian hukum, keadilan, serta perlindungan hak kekayaan intelektual di industri kreatif musik.

KATA KUNCI *Hak Cipta, Hak Ekonomi, Perlindungan Hukum, Putusan Hakim.*

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Introduction

Intellectual Property Rights are a form of ownership that has significant value and receives official legal protection from the state. Intellectual Property Rights (IPR) can be understood as an object in the sense of civil law, even if the object is intangible or immaterial. In this case, IPR has a position as a material right (*Property law*) which gives direct power to its owner over the intellectual work it produces. IPR includes various works of human creativity and innovation, such as works of art, technological inventions, trademarks, industrial designs, and trade secrets. This protection is provided so that creators and rights owners can control the use of their works or innovations, prevent misuse, and derive economic benefits from their works. In the industrial and trade sectors, intellectual property rights are considered a highly valuable commodity and receive special protection. This is due to the exclusive nature of Intellectual Property Rights, where only the owner has the right to use the right, and its use by other parties requires the permission of the owner concerned. Because of these values and specificities, IPR is a strategic asset that can increase the company's competitiveness in the global market. In addition, IPR can also be used as a source of income through licenses, royalties, or even as collateral in obtaining business capital.

One category of intellectual property rights that has a significant influence on economic development is copyright. The economic benefits that can be obtained and the economic value inherent in intellectual works give birth to the concept of ownership or property over these works¹. Copyright provides legal protection for original works, such as literary works, music, and other intellectual works, so that creators have control over the use and dissemination of their works. Regulations regarding copyright are specifically regulated in Law No. 28 of 2014 concerning Copyright which aims to protect the rights of creators, encourage creativity, and provide certainty that rights owners get recognition and economic

¹ Sigit Wibowo, 'Prinsip Deklaratif Sebagai Wujud Perlindungan Hukum Bagi Pemegang Hak Cipta Atas Ciptaan Sketsa Tugu Selamat Datang Di Jakarta: Studi Kasus Putusan Nomor 35/Pdt. Sus-Hak Cipta/2020/PN Niaga Jkt. Ps', *Jurnal Hukum Caraka Justitia*, 4.1 (2024), 51–69, <https://doi.org/10.30588/jhcj.v4i1.1838>.

benefits from their works. The law gives the copyright owner several special and exclusive rights with respect to each work he creates². The work that is most easily enjoyed by the public is a work of musical art. Therefore, music or songs can be considered a commodity of high economic value. This is because music not only plays a role as a means of entertainment, but also as a creative work that is able to generate significant income through various channels, such as record sales, licensing, live performances, and distribution on digital platforms. Music is considered as a whole of creations that are comprehensively protected by law within the framework of copyright³. A song does not consist of only one element, but is a combination of several important elements, such as the melody or musical elements, lyrics or verses that contain messages and meanings, and musical arrangements that govern how these elements are arranged and played. In fact, the musical notation that is a written representation of the song is also included in the part of the work that is protected by copyright.

Music is included in the category of Intellectual Property Rights that receive legal protection under the UUHC, especially in Article 40 letter (d). This confirms that copyright to a musical or song work, whether accompanied by text or without text, automatically becomes the exclusive right of the creator and is protected by law. Thus, songwriters have exclusive rights to utilize and manage their works for economic gain, such as reproduction rights, adaptation rights (synchronization), and public performance rights. Songs or music are often used by various parties for commercialization purposes, such as in advertisements, movies, performances, or digital platforms. However, this widespread use often raises copyright infringement issues. There are many cases where musical works are used without permission from the rights owner, either intentionally or due to a lack of understanding of the applicable legal rules. Such violations can include unauthorized use of songs, piracy of recordings,

² Jay Dratler Jr and Stephen M McJohn, *Intellectual Property Law: Commercial, Creative and Industrial Property* (Law Journal Press, 2025) <<https://books.google.com/books?hl=id&lr=&id=gLuY2rBU9oC&oi=fnd&pg=PR5&dq=Intellectual+property+law:+Commercial,+creative+and+industrial+property&ots=qVcXw07hAp&sig=LFMyE-FPvHcPxNrVJyDTeHMcvyg>>.

³ Roida Nababan and Besty Habeahan, 'Perlindungan Hukum Terhadap Pencipta Dan Pemegang Hak Cipta Lagu "Lagi Syantik" (Studi Putusan No. 82/Pdt. Sus-HKI/Cipta/2019/PN Niaga Jkt. Pst)', *Visi Sosial Humaniora*, 3.1 (2022), 18–36, <https://doi.org/10.51622/vsh.v3i1.622>.

or illegal duplication to the detriment of creators and rights owners. There are various copyright violations related to music and songs, especially in terms of commercialization and plagiarism without permission, which can be easily found in real life on television and on various internet media platforms⁴.

Copyright infringement is a form of infringement against IPR that often occurs in various fields, including in the world of music. One of the real examples of this copyright dispute can be found in the Supreme Court Decision Number 464 K/Pdt.Sus-HKI/2024, which involves Rahman Efendi as the Cassation Petitioner/Defendant and Romli as the Cassation Respondent/Plaintiff. In this case, Romli claimed that the song titled “Obuk Celleng” was his creation which had been officially registered with the Directorate General of Intellectual Property, and accused Rahman Efendi of violating copyright by stating that the song belonged to Rahman himself. However, this case became even more complex when Rahman Efendi not only denied the accusations, but also filed a counterclaim (reconvention). In his lawsuit, Rahman stated that the song titled “Fate of Force One Bad” was his original work that had been registered first, and that the song “Obuk Celleng” was actually the result of copyright infringement of his work. He accused Romli of having committed an unlawful act by composing the lyrics, as well as duplicating the notation, chords, and arrangements of the song “Fate of Force One Bad” without permission or consent as the creator.

The author analyzes the object of study in this study because the decision is an example in the application of legal protection to the economic rights of copyright holders of musical artworks. The dispute involving the songs “Nasib Force One Bad” and “Obuk Celleng” shows how the economic rights of creators are recognized and protected under the provisions of the UUHC. Based on this Decision, it is emphasized that economic rights in copyright give exclusive rights to creators to utilize and commercialize their creations. Infringement of this right, as in the case above, not only deprives the original creator of the potential income, but

⁴ Agung Basuki Wicaksono, ‘Perlindungan Hak Cipta Dalam Kasus Penggunaan Lagu SKJ88 Tanpa Izin Oleh O Shop (Studi Kasus Putusan Nomor 991/Pdt. Sus-HKI/2022)’, *UNES Law Review*, 6.2 (2023), 6297–6311, <https://www.review-unes.com/index.php/law/article/download/1475/1193>.

also incurs material losses that can be legally sued. Therefore, the recognition and protection of economic rights is essential for creators to be fairly compensated for their creative contributions, as well as to encourage the creation of an environment that respects and protects intellectual works.

Furthermore, the article written by this author has a number of fundamental differences when compared to the article that has been compiled by Raden Herwin Rizana and Abdul Razak Nasution entitled “Legal Protection of Song Copyright Based on Law Number 28 of 2014 concerning Copyright (Case Study of Supreme Court Decision Number: 505 K/Pdt.Sus-HKI/2021)”⁵, this article focuses on the legal protection of song copyright in general, especially in the context of copyright infringement of the song “Aku Mau” which was used without permission in Putri Anisa Hijab’s doll toy products. This research discusses how the UUHC provides legal protection and how court decisions enforce copyright. Meanwhile, the article written by the author emphasizes more on the right to obtain economic benefits from musical artworks. This article is likely to examine in more depth how the law is applied in protecting these economic rights, including a juridical analysis of court decisions that are more recent and relevant to the economic aspects of music copyright. Another difference by the article by Raden Herwin Rizana and Abdul Razak Nasution is that the article emphasizes the importance of socializing the UUHC to the public so that copyright is respected and protected, as well as the need for strict law enforcement against copyright infringement of songs to protect creators from unauthorized reproduction. Meanwhile, the author’s article emphasizes how the law can be more effective in guaranteeing these economic rights so that music art creators get fair economic benefits according to the UUHC. The similarity of the two articles is that both discuss copyright protection, although with different focuses.

⁵ Raden Herwin Rizana and Abdul Razak Nasution, ‘Perlindungan Hukum Terhadap Hak Cipta Lagu Berdasarkan Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta (Studi Kasus Putusan MA Nomor: 505 K/PDT. Sus-HKI/2021)’, *GOVERNANCE: Jurnal Ilmiah Kajian Politik Lokal Dan Pembangunan*, 10.3 (2024), <https://doi.org/10.56015/gjiklp.v10i3.148>.

The next article that is different from the author's article is the article compiled by Satria Perdana, O.K Saidin, T.Keizerina Devi Azwar, Jelly Leviza entitled "Legal Protection for Photographic Works Reviewed from the Copyright Law (Case Study of Surabaya District Court Decision Number: 10/HKI/Copyright/2014/PN. Niaga Sby)", this article focuses on the aspects of infringement and the resolution of copyright disputes in general⁶. For example, a case study of the protection of copyright of photographic works that discusses unlicensed commercialization and dispute resolution in district courts. Then another difference is that previous research analyzed laws and regulations and court decisions in general, as well as an explanation of the mechanism for resolving copyright disputes in a litigation and non-litigation manner, in contrast to the article written by the author, which focuses on reviewing the protection of the economic rights of copyright holders of musical works based on the UUHC with a case study of decision number 464 K/Pdt.Sus-HKI/2024. The focus is on the economic aspects of copyright, i.e. how creators obtain exclusive rights to commercially exploit their musical works and how court decisions enforce those rights in the context of music copyright infringement disputes. Another focus focuses on copyright disputes of musical artworks, especially related to song copyright infringement. This case involves claims of plagiarism of substantial elements of the song and enforcement of the economic rights of the creator with a judgment ordering the cancellation of copyright and the payment of material and immaterial and immaterial damages. These two articles have similarities in terms of the protection of intellectual property rights as material rights (*zaakelijk recht*), which gives exclusive authority to the creator or rights holder to regulate the use and economic benefits of his or her creation.

The difference is that the next article compiled by Muhammad Sabil Bakti and Priskila Christin Nugrani Watania entitled "Juridical Analysis of Judges' Decisions in the Case of Copyright Infringement of the Gold Investment System Through Internet Media (Study of Supreme Court

⁶ Satria Perdana and others, 'Perlindungan Hukum Bagi Karya Fotografi Ditinjau Dari Undang-Undang Hak Cipta (Studi Kasus Putusan Pengadilan Negeri Surabaya Nomor: 10/HKI/Hak Cipta/2014/PN. Niaga Sby)', *Iuris Studia: Jurnal Kajian Hukum*, 2.3 (2021), 567–80, <https://doi.org/10.55357/is.v2i3.176>.

Decision Number 1813 K/Pdt.Sus- HKI/2022)”, this article highlights copyright infringement of the gold investment system manifested in the form of an internet application, especially looking at the boundaries between ideas/concepts and works protected by the UUHC⁷. Meanwhile, this article discusses the protection of economic rights for copyright holders of musical artworks, by taking a case study from the Supreme Court decision No. 464 K/Pdt.Sus-HKI/2024 which discusses song plagiarism and violations of economic rights in terms of commercialization of musical works. Furthermore, the article compiled by Muhammad Sabil Bakti and Priskila Christin Nugrani Watania emphasizes the difference between copyright and other forms of IPR protection (such as patents or trademarks), as well as highlighting the fallacy of claims for protection of something that should belong to other types of IPR. In contrast to the author’s article that emphasizes the protection of economic rights within the scope of copyright in full and valid (songs that are recognized as original musical works), with a focus on economic compensation and the implementation of judgments. The similarity of these two articles is that it aims to assess the legal protection of copyright, both in terms of intellectual property ownership and copyright limitations on technology-based systems.

Based on this article, the author wants to focus on the formulation of the problem on the protection of the economic rights of copyright holders based on Law No. 28 of 2014 and the analysis of the legal considerations of the panel of judges in applying the principle of economic rights protection in Decision Number 464 K/Pdt.Sus-HKI/2024.

Method

This research uses a normative juridical approach, which is an approach that focuses on applicable legal norms or regulations⁸. According

⁷ Muhammad Sabil Bakti and Priskila Christin Nugrani Watania, ‘Analisis Yuridis Putusan Hakim Dalam Perkara Pelanggaran Hak Cipta Sistem Investasi Emas Melalui Media Internet (Studi Putusan Mahkamah Agung Nomor 1813 K/Pdt. Sus-HKI/2022)’, *Anthology: Inside Intellectual Property Rights*, 2.1 (2024), 129–42, <https://ojs.uph.edu/index.php/Anthology/article/view/8254/3876>.

⁸ David Tan, ‘Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum’, *Nusantara: Jurnal Ilmu Pengetahuan Sosial*, 8.8 (2021), 2463–78, <http://jurnal.um-tapsel.ac.id/index.php/nusantara/article/view/5601>.

to Soerjono Soekanto, normative legal research is a type of research that focuses on the study of literature materials or the use of secondary data as the main source in analyzing legal problems⁹. This research focuses on copyright and infringement of economic rights in musical artworks. The data collection method used is to utilize secondary data sources, namely data obtained not directly from the field, but from various existing written references. These data sources include relevant laws and regulations, official documents issued by authorized institutions, scientific works such as books, journals, and articles that support the analysis of the problem being studied. This research uses a legislative approach, which will examine the UUHC as a legal basis in analyzing the protection of the economic rights of music art creators. Furthermore, the analysis in this study is prescriptive, which means that it does not only describe or explain a legal phenomenon, but also provides a critical and argumentative assessment of the results of the study carried out. In this case, the analysis is directed to evaluate the judge's considerations in making a verdict in depth, by referring to the accuracy and suitability of the verdict with applicable legal principles, as well as legal theories or doctrines that have been recognized in legal science.

Result & Discussion

A. Protection of Economic Rights of Copyright Holders Based on Law No. 28 of 2014

Intellectual Property has benefits for every individual with the strength of intellectual ability to produce a work that will be protected by law, for example in the field of Copyright¹⁰. Copyright is the exclusive right owned by the creator or right holder to regulate the use, distribution, and

⁹ Iman Jalaludin Rifa'i and others, *Metode Penelitian Hukum* (Sada Kurnia Pustaka, 2023), https://books.google.co.id/books?hl=id&lr=&id=6OO8EAAAQBAJ&oi=fnd&pg=PA1&dq=Metode+Penelitian+Hukum+purwoto&ots=7EZEDs1rx8&sig=6JZpDfBg-FHtbXkrJlWbURT-b_c&redir_esc=y#v=onepage&q=Metode+Penelitian+Hukum+purwoto&f=false.

¹⁰ Muhammad Lukman Alghofiki, Hardian Iskandar, and Dodi Jaya Wardana, 'Legal Protection Against Song Covers in Snack Video Applications Judging from Law Number 28 of 2014 Concerning Copyrights', in *Journal Universitas Muhammadiyah Gresik Engineering, Social Science, and Health International Conference (UMGESHIC)*, 2021, 1, 429–41, <http://dx.doi.org/10.30587/umgeshic.v1i2.3416>.

reproduction of works that have been realized in real form. A work is considered valid as a copyright object if it has a form, appearance, or existence that can be identified and accessed by the public¹¹. In short, copyright protects the real expression of an idea or idea, not the idea or idea itself that has not been realized in a clear form. Therefore, ideas that are still abstract and have not been realized cannot be protected by copyright. Protection is only given to the form of expression of the idea, for example in the form of writing, drawing, music, or other visual works that have been actually realized. In the legal context, copyright is classified as a civil right or private right that is automatically attached to the creator from the moment a work is created. This means that this right is personal and exclusive, giving full authority to the creator to regulate, use, and obtain benefits for his creation. Any individual who creates a work based on the principle of *Labor Theory*, which is a theory that states that the results of a person's work and effort on something give him or her ownership rights, are entitled to copyright protection for the work. This right is given as a form of recognition for the hard work, creativity, and intellectual contributions that have been poured into the process of creating the work¹².

Copyright has been regulated in Law No. 28 of 2014. The provisions of Article 1 paragraph (1) of the UUHC, Copyright is an exclusive right owned by the creator, which arises automatically without the need for registration. This right takes effect as soon as the copyrighted work is realized in tangible form, in accordance with the declarative principle, i.e. copyright is immediately applied once the work is created. In addition, this right is absolute, meaning that only the creator or the party who obtains the rights from it has full authority over the use and utilization of the work. Legal protection of copyright applies throughout the life of the creator and continues for a certain period of time after the creator's death¹³. Under the

¹¹ Faidatul Hikmah, Andri Yanto, and Kelvin Ariski, 'Perlindungan Hak Ekonomi Bagi Pemilik Hak Cipta Dalam Perspektif Hukum Kekayaan Intelektual Di Indonesia', *Jurnal Pendidikan Dan Konseling (JPDK)*, 5.2 (2023), 2254–60, <https://doi.org/10.31004/jpdk.v5i2.13503>.

¹² Shafira Inan Zahida and Budi Santoso, 'Perlindungan Hak Cipta Terhadap Gambar Yang Telah Diunggah Pada Media Sosial Instagram', *Jurnal Pembangunan Hukum Indonesia*, 5.1 (2023), 186–203, <https://doi.org/10.14710/jphi.v5i1.186-203>.

¹³ Ujang Badru Jaman, Galuh Ratna Putri, and Tiara Azzahra Anzani, 'Urgensi Perlindungan Hukum Terhadap Hak Cipta Karya Digital', *Jurnal Rechten: Riset Hukum Dan Hak Asasi Manusia*, 3.1 (2021), 9–17, <https://doi.org/10.52005/rechten.v3i1.22>.

provisions of the UUHC, the copyright protection period for certain works, such as writing, music, and art, continues for 70 years after the death of the creator. Thus, copyright not only provides protection during the lifetime of the creator, but also provides protection after the creator's death.

In order for a copyrighted work to obtain valid and comprehensive copyright protection, it is important for the work to meet the elements of originality and existence in real form. In this case, originality is not interpreted as the necessity of an element of novelty as is the case in patents. Originality, on the other hand, refers to the fact that the work is born from the thought, imagination, or creativity of the creator himself, not the result of copying or plagiarizing someone else's work. Article 4 of the Law states that copyright is an exclusive right that is divided into two main components, namely moral rights and economic rights. These two rights provide full protection to creators for their work, both in terms of identity recognition and the economic benefits generated. Economic rights are rights that allow creators to receive income or financial benefits from the use or utilization of their copyrighted works¹⁴. With this right, the creator has the authority to control, grant permission, or refuse the use of his work by other parties for commercial purposes, such as in terms of reproduction, distribution, display, or publication. Thus, economic rights are an important means for creators to get material returns for the intellectual works they have created.

The creator has a number of economic rights attached to his work as stated in Article 9 of the UUHC which includes various authorities over his creations. These rights include the authority to publish works, translate and reproduce them in various forms, and adapt, arrange, or modify works. In addition, the creator also has the right to distribute the work or its copy, show it to the public, rent the work and communicate the content of the work. Economic rights give creators or copyright holders complete control to manage and exploit their works commercially in accordance with applicable regulations. As stated in the article, any party who wants to use

¹⁴ Ghaesany Fadhila, 'Perlindungan Karya Cipta Lagu Dan/Atau Musik Yang Dinyanyikan Ulang (Cover Song) Di Jejaring Media Sosial Dikaitkan Dengan Hak Ekonomi B Berdasarkan Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta', *ACTA DIURNAL Jurnal Ilmu Hukum Kenotariatan*, 1.2 (2018), 222–35, <https://jurnal.fh.unpad.ac.id/index.php/acta/article/view/177>.

economic rights to a work must first obtain permission from the creator or rights owner. Actions such as reproducing, disseminating or utilizing works for commercial purposes without permission are an offence. This violation not only causes material damage, but also violates the exclusive rights of the creator which are protected by law.

A work or work can obtain legal protection, the first step that must be taken is to register the work with the authorized institution. This registration process aims to ensure that the work is officially registered and recognized as belonging to its creator. While copyright automatically takes effect once the work is embodied in real form, registration provides more benefits, such as being strong evidence in court in the event of a dispute over ownership or copyright infringement. Copyright registration or registration is carried out through official procedures managed by DJKI, The registration process can be done directly at the Regional Office of the Ministry of Law. In principle, the ownership rights to a copyrighted work have been obtained by the creator since the work is realized in real form, regardless of whether the work is registered or not. This means that copyright arises automatically once the work is created. Nevertheless, although there is no obligation to register a copyrighted work with the DJKI, the registration process has very significant benefits, especially in terms of legal protection. The registered copyright will be valid proof of ownership of the work, which is very useful in the event of a dispute or infringement of the copyright¹⁵. With registration, creators can more easily prove their ownership and legal standing in the face of possible copyright infringement. Therefore, while registration is not an absolute obligation, it remains a strategic step that provides more protection for creators of works.

The protection of economic rights for creators and copyright holders is an important step taken by the government to ensure that their economic rights are protected to the maximum¹⁶. This protection also protects the

¹⁵ Lu Sudirman, Cynthia Putri Guswandi, and Hari Sutra Disemadi, 'Kajian Hukum Keterkaitan Hak Cipta Dengan Penggunaan Desain Grafis Milik Orang Lain Secara Gratis Di Indonesia', *NUSANTARA: Jurnal Ilmu Pengetahuan Sosial*, 8.3 (2021), 207–18, <http://dx.doi.org/10.31604/jips.v8i3.2021.207-218>.

¹⁶ Reylandho Cornelius Talahatu, Teng Berlianty, and Agustina Balik, 'Perlindungan Hak Ekonomi Pencipta Dan Pemegang Hak Cipta Atas Pemutaran Musik Atau Lagu Di Kafe Dan Restoran', *KANJOLI Business Law Review*, 1.2 (2023), 81–89, <https://doi.org/10.47268/kanjoli.v1i2.11609>.

creator or copyright holder from possible losses arising from misuse or copyright infringement by unauthorized parties. There are two types of legal protection in this case, namely preventive and repressive. Preventive protection focuses on preventive measures to avoid copyright infringement before it happens. For example, to support efforts to prevent copyright infringement, the government has formulated legal regulations contained in the UUHC. This law regulates in detail the rights that creators have over their works, as well as providing adequate legal protection for them. After the existence of the legal product, other preventive legal remedies, namely creators, can register their creations with LMKN. Meanwhile, repressive protection is an action taken after copyright infringement occurs. Repressive legal remedies are implemented to restore the condition of the aggrieved party due to rights violations or other illegal actions¹⁷. Repressive protection against copyright infringement can be pursued through two main approaches, namely litigation and non-litigation. Dispute resolution by litigation involves a process in court, where the parties involved file a lawsuit and wait for a decision from the judge. On the other hand, non-litigation dispute resolution is carried out out of court using alternative methods to reach an agreement between the disputing parties without the need to go through a judicial process.

Based on the provisions in Article 95 paragraph (1) of the UUHC, copyright disputes can be resolved in various ways, including through alternative dispute resolution, arbitration, or court. This suggests that the law provides flexibility in choosing the method of settlement, either through non-litigation channels such as mediation, negotiation, conciliation, and arbitration, or through more formal litigation channels by taking cases to the Commercial Court. Thus, if the parties involved in a copyright dispute choose the non-litigation route, they can take advantage of more efficient methods of settlement. However, if this path does not yield results, settlement through the litigation route by suing the court is an alternative that can be taken to obtain a legally binding decision.

¹⁷ David George Conqueror Rasong and Made Aditya Pramana Putra, 'Perlindungan Hukum Terhadap Lagu Rohani Yang Digunakan Pada Ibadah Online Dalam Perspektif Hak Cipta', *Ethics and Law Journal: Business and Notary*, 2025, <https://doi.org/10.61292/eljbn.258>.

B. Legal Considerations of the Panel of Judges in Applying the Principle of Protection of Economic Rights in Decision Number 464 K/Pdt.Sus-HKI/2024

Copyright is a form of legal protection in intellectual property that covers a very wide range of objects of protection. This protection is given to various works of creation in the fields of science, art, and literature regardless of their form or medium of expression. Copyright Coverage covers various types of works, ranging from books, scientific articles, paintings, sculptures, dramas, to audiovisual works. One tangible manifestation of Copyright-protected objects is musical artwork, which includes not only musical compositions and song lyrics, but also arrangements, sound recording productions, and musical performances. In the modern era, which is marked by the rapid development of technology and mass media, more and more individuals are creating intellectual works and publishing them through various information channels. However, in the midst of this high productivity, the level of awareness of creators on the importance of protecting their intellectual works is still relatively low. In fact, the protection of intellectual property rights not only provides moral recognition of the creator's authenticity and identity, but also opens up opportunities for creators to obtain economic rights, such as royalties and financial compensation, which can improve their well-being. Without an adequate understanding of these protections, many works are vulnerable to infringement, so that creators lose their legitimate rights¹⁸. In addition, there are many irresponsible parties who reproduce musical artworks without permission. One of the cases that occurred regarding copyright infringement was through Decision No. 464 K/Pdt.Sus-HKI/2024.

Decision No. 464 K/Pdt.Sus-HKI/2024 is a concrete example of the importance of applying the principle of protection of the economic rights

¹⁸ Cynthia Putri Guswandi and others, 'Pengaruh Revolusi Industri 4.0 Terhadap Perlindungan Hukum Hak Cipta Di Indonesia', in *CoMBInES-Conference on Management, Business, Innovation, Education and Social Sciences*, 2021, 1, 277–83, <https://journal.uib.ac.id/index.php/combines/article/view/4453>.

of copyright holders as stipulated in the UUHC. This dispute started from a claim over a song titled “Obuk Celleng” which was stated to be Romli’s creation, but was later sued back by Rahman Efendi who claimed that the song was the result of plagiarism of his own song entitled “Fate of Force One Bad.”. The ruling shows how the legal mechanism functions to provide guarantees to rights holders to enjoy the financial benefits of their work, as well as to prevent others from exploiting the work without permission. The legal considerations of the panel of judges in this decision are based on the fact that there is a violation of the use of musical works without permission that is economically detrimental to the copyright holder. The judge considered that the act of unauthorized use violated the provisions of Article 8 of the UUHC which provides exclusive rights in the form of economic rights of the creator over his creation. In addition, in Article 9 paragraph (1), the creator has the right to obtain economic rights in the publication, duplication, arranging and distribution of works. This is in line with the judge who considered that the verdict contained acts that altered the lyrics, duplicated notation, duplicated chords, and duplicated song arrangements which were unlawful acts (PMH). Article 9 paragraph (2) of the UUHC emphasizes that everyone who wants to use a creation must obtain permission from its creator. As the lawsuit says, there is an act of infringement of the work due to the absence of permission to use the work.

Based on the opinion of the panel of judges, it considered in deciding case Number 464 K/Pdt.Sus-HKI/2024 with several points, namely that the panel of judges considered the reconvention lawsuit (counterclaim) filed by the Defendant Rahman Efendi. In the reconvention lawsuit, the Defendant claimed that he was the creator of the song titled “Fate of Force One Bad” and that the Plaintiff Romli had committed copyright infringement by composing the lyrics, duplicating the notation, and arranging the song through a song titled “Obuk Celleng.” second, the panel of judges needs to carefully assess and consider the evidence submitted by both parties in the dispute. Furthermore, the panel of judges considered the validity of the Creation Registration Letter owned by both parties. In this case, the Defendant has a Letter of Registration for the song “Fate of Force One Bad,” while the Plaintiff has a Letter of Registration for the song “Obuk Celleng.” The panel of judges needs to assess whether the Creation

Registration Letter is valid and has binding legal force. Finally, the panel of judges considered the claim for damages filed by the Plaintiff and the Defendant. If it is proven that there has been a copyright violation, the panel of judges can decide to require the infringing party to pay compensation to the aggrieved party. The amount of compensation must take into account the material and immaterial losses suffered by the aggrieved party.

That the first or second proof of a claim depends on the evidence presented in court means that the success of a lawsuit depends heavily on the ability of the plaintiff to present evidence that is legitimate, relevant, and strong enough to convince the panel of judges¹⁹. The Panel of Judges found that Romli had exercised these economic rights such as reproducing, disseminating, and communicating the song “Obuk Celleng” without the legal permission of Rahman Efendi as the creator of the original song. This action violates Article 9 paragraph (2) of the UUHC, which requires other parties to obtain the creator’s license before exercising their economic rights. In addition, Romli’s actions violated Article 113 of the UUHC, which stipulates that any copyright infringement can be sanctioned in the form of compensation. Therefore, the Panel of Judges sentenced Romli to pay compensation of Rp11 billion, as a form of protection for Rahman Efendi’s economic rights.

In the judicial process, the judge will assess and weigh the evidence objectively to determine the truth of the facts that are the basis of the claim. Adjudicating the decision, the judge granted all cassation applications from the cassation applicant, namely Rahman Efendi, and canceled the commercial decision at the Surabaya District Court No. 5/Pdt.Sus-HKI/Cipta/2023/PN Niaga Sby. The judge argued that the lawsuit filed by the respondent Cassation, namely Romli, did not meet the necessary formal or material requirements so that it could not be continued for further examination on the subject matter. The judge ruled that the lawsuit was unacceptable, one of which was because the lawsuit was considered

¹⁹ Wahyu Adlan and others, ‘Ganti Kerugian Atas Perbuatan Melawan Hukum Terhadap Pelanggaran Atas Hak Cipta Lagu Dalam Kegiatan Yang Dilakukan Tanpa Izin (Analisis Putusan Nomor 7/Pdt. Sus-Hki/Cipta/2019/Pn. Niaga Sby)’, *DIKTUM*, 4.1 (2025), 36–44, <http://dx.doi.org/10.46930/diktum.v4i1.5633>.

unclear based on the posita submitted, Romli did not clearly outline concrete evidence regarding the notation, chords, lyrics, or which parts of the song “Fate of Force One Bad” were claimed to be plagiarized. Then the postulates are not supported by strong evidence such as Romli only stating that there was economic and social loss, but did not elaborate or prove it in detail in the trial. And according to the Assembly, simply accusing that another song is plagiarism does not automatically prove copyright infringement without a detailed comparison description and authentic evidence. In other words, the panel of judges considered that the lawsuit did not have a sufficient legal basis or there were formal deficiencies that prevented the court from examining and deciding the content of the lawsuit. Therefore, the Judge declared the lawsuit inadmissible (*niet ontvankelijke verklaard*) as a final decision that was rejected, which meant that the lawsuit was not continued to the examination of the subject matter and no substance of the claim was decided. The panel of judges granted the cassation application from the Cassation applicant, namely Rahman Efendi. The Panel of Judges considered that Rahman Efendi suffered losses both materially and immaterially, so that Romli was sentenced to pay compensation of Rp11,000,000,000.00. In addition, the Panel of Judges also ordered the revocation of the copyright of the song “Obuk Celleng” which had previously been recorded by Romli, because the registration was considered invalid and had no legal force. Overall, the decision of the Panel of Judges reflects the principle of justice, which is to give rights to parties who are legally entitled and impose sanctions on those who commit violations.

However, behind the judge’s consideration which is generally appropriate, there are legal considerations that have the potential to experience legal friction. The Supreme Court Judge considered the Creation Registration Letter as the main and decisive evidence in deciding who is the creator and copyright holder of the disputed song. Meanwhile, this causes legal friction because Article 1 number 17 of the UUHC emphasizes that distribution is the distribution, sale and dissemination of works. Therefore, the recording of creations is declarative, not constitutive. This means that copyright arises automatically from the moment the creation is realized, not because of registration. If the judge prioritizes

recording as a single piece of evidence without tracing the creative process, originality, and other evidence (e.g., witnesses, drafts, initial recordings), then legal considerations may be considered less in line with Article 1 of the UUHC. In addition, in legal considerations, the judge stated that “Obuk Celleng” is a plagiarism of “Fate of Force One Bad” on the grounds that there are similarities in lyrics, notation, chords, and arrangements. There is no detailed description of the creative process, substantial comparisons, or possible legitimate inspiration. Violations in the form of plagiarism must be proven by an in-depth analysis of the creative process and the substance of the creation. Article 9 of the UUHC states that permits related to works such as duplication and translation of works by the permission of copyright holders are required. legal considerations by judges not only comparing the final result without tracing the creation process, it has the potential to not meet the standards of proving originality and copyright infringement of the UUHC.

In this context, justice is realized through the recognition and protection of Rahman Efendi’s copyright as the original songwriter. By granting the appeal and determining substantial damages, the Panel of Judges applied the principle of Aristotle’s theory of justice, namely distributive justice which demands that everyone receive his or her rights proportionately according to his contribution or loss²⁰. In addition, this decision also reflects the principle of legal protection which requires the state to provide guarantees of rights and security to every citizen, as stipulated in Article 28D paragraph (1) of the 1945 Constitution and described in the UUHC. Through this decision, the Panel of Judges not only upholds positive norms (applicable law), but also fulfills the legal function to provide legal certainty. This decision also has the potential for legal friction if it does not examine legal considerations with relevant regulations.

Legal considerations by judges are also related to the theory of legal protection according to Satjipto Rahardjo, which is understood as an effort

²⁰ Tifani Haura Zahra, ‘Filsafat Hukum Sebagai Pembentuk Keadilan Untuk Pemilik Atau Pemegang Hak Cipta Lagu Dan/Atau Musik Di Indonesia’, https://www.academia.edu/download/95808366/Tifani_Haura_Zahra_190196_Filsafat_Hukum_2_.pdf.

to protect Human Rights, by providing protection to individuals whose rights have been violated due to the actions of others²¹. This protection aims so that even though a person suffers a loss, the person can still enjoy and maintain his or her rights that have been guaranteed by law. In this perspective, law serves not only as a normative rule that governs the behavior of society, but also as an active tool to protect and restore violated individual rights. Legal protection is realized through various mechanisms, such as in this decision, namely the provision of compensation, restitution, or sanctions against violators, in the hope of restoring the position of victims and maintaining balance in society. Thus, in Satjipto Rahardjo's view, legal protection has a central role in ensuring substantive justice for every individual, especially those who are victims of rights violations.

The use of justice theory and legal protection theory in this article aims to strengthen the analysis of the legal considerations of the panel of judges in Decision Number 464 K/Pdt.Sus-HKI/2024. The theory of justice, especially distributive justice according to Aristotle, is used to explain how judges divide rights and obligations proportionately to the parties to the dispute. In this case, Rahman Efendi as the original creator was given his right to obtain fair compensation for material and immaterial losses due to copyright infringement by Romli. The application of distributive justice is seen in the way judges compensate according to the level of harm suffered by the creator. Meanwhile, the theory of legal protection developed by Satjipto Rahardjo is used to show that the law functions not only as a normative norm, but also as an active tool to provide concrete protection to the aggrieved party. In this case, the Panel of Judges provided legal protection for Rahman Efendi's economic rights through the cancellation of the infringing copyright registration and the provision of compensation.

The author argues that the legal considerations taken by the Panel of Judges are in line with the legal theories put forward by legal experts. This is reflected in the content of the decision that provides real protection for the economic rights of creators who have been harmed by other parties. However, the verdict has the potential for legal friction if the panel of judges

²¹ Markus Bona Andiano Sitohang and Surahmad Surahmad, 'Urgensi Pedoman Plagiarisme Sebagai Instrumen Perlindungan Hukum Dalam Pendaftaran Hak Cipta Di Indonesia', *DIVERSI: Jurnal Hukum*, 9.2 (2024), 292–330, <https://doi.org/10.32503/diversi.v9i2.4677>.

does not analyze the legal considerations more deeply. Thus, overall, legal considerations by judges have been appropriate to protect and recognize the economic rights of creators over their work.

Conclusion

Based on the results of research and analysis of Decision Number 464 K/Pdt.Sus-HKI/2024, it can be concluded that the protection of the economic rights of copyright holders of musical works as stipulated in the UUHC has been effectively applied in judicial practice. The dispute between Rahman Efendi and Romli demonstrates the importance of legal protection of the economic rights of creators, which includes not only recognition of the original work, but also guarantees of the economic benefits arising from the use of the work. However, based on the author's analysis, legal considerations by the Judge have the potential for legal friction such as not only considering the administrative aspects of the registration of the work, but further exploring the substance of the work to assess the existence of copyright infringement. This decision reflects the application of the theory of distributive justice according to Aristotle's theory, which gives everyone his rights proportionally based on his contribution or loss. In addition, this ruling is in line with Satjipto Rahardjo's theory of legal protection, which views law as an active instrument to protect the rights of aggrieved individuals, not merely as a passive norm. Overall, Decision Number 464 K/Pdt.Sus-HKI/2024 is proof of how the law functions to realize justice, legal certainty, and utility, as well as an important reference in enforcing the protection of economic rights to musical artworks in Indonesia. As a recommendation, it is necessary to increase socialization and understanding of copyright economic rights among the public and creative industry players, as well as consistent law enforcement so that copyright protection can provide legal certainty and encourage the development of a healthy and equitable music industry.

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