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Legal Analysis of the Status of Song Copyright Royalties as Joint Assets in Divorce Proceedings (A Study of Judgment Number 1622/Pdt.G/2023/PA.JB)

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Abstract

This study analyzes the status of copyright royalties for musical works as joint assets following divorce, based on the case in Judgment No. 1622/Pdt.G/2023/PA.JB. Methodology employed combines a normative legal approach with a literature review. The analysis demonstrates that copyright royalties can be classified as joint assets because they constitute ongoing income derived from works created during the marriage. A spouse who contributed to the creation of intellectual assets has the right to a share of the assets, even if they are not the rights holder. Although this is not explicitly provided for in copyright law, as seen in Judgment No. 1622/Pdt.G/2023/PA.JB, this does not preclude the possibility of dividing the royalties. In the proceedings of this case, the judge referred to theory distributive justice and ensured that the distribution of royalties was proportional and fair, based on the contributions and roles of each party within marital relationship. In accordance with the provisions of matrimonial law based on the Marriage Act, the Civil Code, and the Compilation of Islamic Law, the same result would apply when dividing copyright royalties as joint assets, with receiving half of the joint assets.

KEYWORDS
Song Royalty, Join Assets, Divorce

Introduction

Intellectual Assets Rights are rights arising from human intellectual endeavors that produce works of economic value. Under the Indonesian legal system, intellectual assets rights are protected so that creators or rights holders receive recognition and economic benefits from the works they produce. A person who creates something from their own thoughts not only uses it for themselves but also reproduces it so that others may use it and benefit from it.[1] Most well-known forms of intellectual assets rights is copyright. Copyright is an exclusive right that arises automatically for the creator is embodied in a tangible form, subject to the limitations set forth in applicable laws and regulations.

Copyright grants creators two main types of rights, moral rights and economic rights.[2] Moral rights protect the owner right to be acknowledged as the author of the work and to preserve the integrity and integrity of their creation from harmful alterations or distortions without their consent. Meanwhile, economic rights grant creator the authority to derive financial benefits from their works, such as through direct sales, licensing to third parties, or receiving royalty payments from the use of the work in various forms of commercial exploitation.[3] Thus, these two rights complement each other to protect the non-material and material aspects of creative works. Royalties are payments received by creators or copyright holders for the use of their copyrighted works by others. In the music industry, royalties are one of the primary sources of income for songwriters and musicians for the works they create.

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[1] Gatot. Supramono, *Hak Cipta Dan Aspek-Aspek Hukumnya* (Jakarta: Rineka Cipta, 2010).
[2] 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, no. 1 (April 20, 2021): 9–17, https://doi.org/10.52005/rechten.v3i1.22.
[3] Rahmi Jened, *Hukum Hak Cipta (Copyright Law)* (Bandung: PT. Citra Aditya Bakti, 2014).

Over time, the creative industry, particularly in the music sector has experienced rapid growth. This has led to an increase economic value music produced by musicians. The Directorate General of Intellectual Assets notes that the number of copyright registrations in Indonesia continues to rise each year. According to data from the Directorate General of Intellectual Assets (DJKI) of the Ministry of Law and Human Rights, number copyright registrations in 2025 has reached over 200,000 applications. This number reflects the growing public awareness of the importance of copyright protection, a trend driven by advancements in digital technology, the proliferation of creative content on online platforms, and more extensive educational campaigns by the government and relevant agencies. This growth not only indicates heightened interest from individual creators and corporations alike but also serves as a positive indicator for the strengthening of the national creative industry ecosystem amid evolving economy.

The rise in economic activity within the creative industries also has the potential to give rise to legal disputes, whether regarding copyright infringement or disputes related to ownership or the distribution of economic benefits from such creative works. Copyright-related disputes in Indonesia itself continue to increase. Based on case data published through the Directory of Decisions of the Supreme Court of the Republic of Indonesia, various copyright-related cases have been adjudicated by courts, both in the Commercial Court and other courts, indicating that copyright disputes remain a legal issue in Indonesia.

In addition to disputes in the field of intellectual assets, legal issues also frequently arise in the context family law, particularly regarding divorce and division marital assets. According to data from the Central Statistics Agency (BPS), the number of divorces in Indonesia in recent years has been quite high. In 2025, more than 300,000 divorce cases in Indonesia were adjudicated by both religious courts and district courts. This high divorce rate naturally leads to an increase in disputes regarding the division of joint assets between spouses following dissolution marriage.

The concept of joint assets as one fundamental principles governing the assets of spouses. Pursuant to Law No. 1 of 1974, "Marriage Law", as amended by Law No. 16 of 2019, assets acquired during marriage is, in principle, deemed joint assets, unless otherwise specified in a prenuptial agreement. This provision applies unless there is a prenuptial agreement that clearly stipulates the separation of assets. Such an agreement must be drawn up prior to the marriage and must satisfy the formal and substantive requirements under applicable law.

When assets gained during marriage are not tangible items such as land, houses, or vehicles, but rather intangible assets such as intellectual assets rights. Legally, copyright is an exclusive right inherently vested, granting monopoly over the use of creative works such as songs, books, or other forms of art. However, on the other hand, income derived from the exploitation of such copyright, such as song royalties, can be viewed as economic proceeds obtained during the marriage.

One of the cases analyzed by the author is the divorce case between Inara Rusli and Virgoun Teguh Putra, which was decided by the West Jakarta Religious Court through Judgment No. 1622/Pdt.G/2023/PA.JB. In this case, the plaintiff also sought the issue of joint assets related to royalty income from the defendant as a as a musician and songwriter. This issue is of particular interest because the copyrighted songs owned by the defendant generate royalties that hold economic value, thereby raising legal questions regarding whether such royalties can be categorized as part of the marital assets or remain the personal rights of the creator.

This case illustrates the intersection of two distinct areas of law: intellectual assets law and family law. Under intellectual assets law, copyright is an exclusive right granted to a creator over the work they produce. This right authorizes the creator to publish, reproduce, and derive economic benefits from their work, including through the payment of royalties for the use of the work by third parties.[4] Such exclusive rights are essentially personal in nature because they are directly linked to the relationship between the creator and the work they have produced.[5]

Under marriage law, there is the concept of community assets, which refers to assets acquired during the marriage that, in principle, belong jointly to both the husband and wife.[6] Community assets stems from marital bond, which creates a legal relationship between husband and wife not only in personal matters but also in economic matters. Therefore, all forms of income earned during the marriage can generally categorized as joint assets, the division of which may occur in the event of a divorce.[7]

The differences in characteristics between these two areas of law have the potential to raise issues in practice, particularly in determining the legal status of royalties generated from musical compositions created during the marriage. On the one hand, copyright is an exclusive right vested in the creator as a form of protection for the intellectual work they produce. On the other hand, royalties as the economic benefit derived from the use of such copyrighted works can be viewed as economic proceeds obtained during the course of the marriage.[8]

Theoretically, it can be assumed that copyright as both a moral right and an exclusive right, remains inalienably attached to the creator and cannot be separated from them. However, the economic benefits arising from the exercise of such copyright, such as royalties, may potentially be classified as part of the marital assets if they are obtained during the marriage. Thus, it is suggested that what may be subject to division in a dispute over joint assets is not the copyright itself.

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[4] Eddy. Damian, *Hukum Hak Cipta* (Bandung: Alumni, 2014).
[5] Budi Santoso, *Pengantar Hak Kekayaan Intelektual*, *Semarang: Pustaka Magister* (Semarang: Pustaka Magister, 2017).
[6] M Y Harahap, *Hukum Perkawinan Nasional* (Jakarta: Sinar Grafika, 2015), https://books.google.co.id/books?id=DZtnAQAACAAJ.
[7] Abdulkadir Muhammad, *Hukum Perdata Indonesia* (Bandung: Citra Aditya Bakti, 2010).
[8] Sudaryat., Sudjana., and Rika Ratna. Permana, *Hak Kekayaan Intelektual: Memahami Prinsip Dasar, Cakupan, Dan Undang-Undang Yang Berlaku* (Bandung: Oase Media, 2010).

Copyright, as a movable asset, may be transferred through gift, inheritance, and will, or by written agreement and other means permitted by law.[9] However, to date, there remain differing perspectives, both in practice and in legal scholarship, regarding the status of copyright royalties. This situation indicates there is need for further analysis to determine how Indonesian positive law views the relationship between copyright as an exclusive right of the creator, and concept marital assets under family law.

Several similar studies relevant to the author's research have been conducted previously. The first study was written by Anandien Ayu Putri Annisti and titled "Division of Joint Assets Following Divorce (Case Study of Judgment No. 4517/Pdt.G/2021/PA.Sby)."[10] This study focuses on the division join assets according to the compilation of Islamic law as well as judicial rulings regarding the division of joint assets in court decisions. What distinguishes this study from the author's current research is that the author examines the case in Court Decision No. 1622/Pdt.G/2023/PA.JB.

Previous study was written by Tommy Kam titled "Division of Joint Assets as a Consequence of the Dissolution of Marriage According to the Civil Code."[11] This study focuses on the legal basis for the division of joint assets under the Civil Code and the division of joint assets resulting from the dissolution of marriage under the Civil Code. What distinguishes this study from the author's current research is that the author conducts an analysis of court rulings.

A previous study was written by Irma Novita, titled "A Legal Review of the Division of Marital Assets Following Divorce (Case Study of the Kudus Religious Court Decision No. 51/Pdt.G/2019/PA.Kds)."[12] This study focuses on the efforts made by the parties prior to the issuance of the religious

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[9] Adrian. Sutedi, *Hak Atas Kekayaan Intelektual* (Jakarta: Sinar Grafika, 2009).
[10] Anandien Ayu Putri Annisti, "Pembagian Harta Bersama Akibat Perceraian (Studi Kasus Putusan Perkara Nomor 4517/Pdt. G/2021/PA. Sby)" (UNIVERSITAS BHAYANGKARA SURABAYA, 2022).
[11] Tommy Kam, "PEMBAGIAN HARTA BERSAMA SEBAGAI AKIBAT BUBARNYA PERKAWINAN MENURUT KUHPERDATA" (Universitas Batanghari Jambi, 2023).
[12] Irma Novita, "Tinjauan Yuridis Terhadap Pembagian Harta Bersama Akibat Perceraian (Studi Kasus Putusan Pengadilan Agama Kudus Nomor 51/Pdt. G/2019/PA. Kds)" (Universitas Islam Sultan Agung, 2022).

court's decision regarding the lawsuit for the division of joint assets resulting from divorce and the panel of judges' considerations in determining the division of joint assets resulting from divorce. What distinguishes this study from the author's current research is that the author examines the case in decision No. 1622/Pdt.G/2023/PA.JB.

A previous study was written by Hasan Nawawi, titled "Royalties on Intellectual Assets Rights (Copyright) as Inherited Assets: A Perspective from Islamic Law."[13] This study focuses on the Islamic legal perspective regarding inherited assets in the form of copyright royalties and the mechanisms for distributing them to heirs. The distinguishing factor is that the previous study examined royalties as objects of inheritance, whereas the author examines royalties as objects of joint assets.

Finally, a study authored by Jamadi titled "Developing Intellectual Assets Rights as Joint Assets and Methods for Their Division Following Divorce Based on the Principle of Justice."[14] This study is a socio-legal study. This study focuses on intellectual assets rights as joint assets and its distribution following divorce based on the principle of justice. The difference from the author's current research lies in a more in-depth subject of study: song copyright royalties as joint assets in court rulings.

Based on the background described above, author's interested conducting paper titled "Legal Analysis of the Status of Song Copyright Royalties as Joint Assets in Divorce (A Study of Judgment No. 1622/Pdt.G/2023/PA.JB)."

Methods

This study employs a normative legal methodology, which involves legal research conducted through the examination of written materials or

[13] Hasan Nawawi, "Royalti Atas Hak Kekayaan Intelektual (Hak Cipta) Sebagai Objek Harta Waris Perspektif Hukum Islam" (Universitas Islam Indonesia, 2023).

[14] JAMADI JAMADI, "Mengembangkan Hak Kekayaan Intelektual Sebagai Harta Bersama Dan Cara Pembagiannya Pasca Putus Perkawinan Berbasis Nilai Keadilan" (Universitas Islam Sultan Agung Semarang, 2022).

secondary data.[15] Normative legal research is a type of legal research that focuses on the analysis of existing legal norms.[16] The research sources consist of written materials and other literature related to the research problem.[17] The objective is to identify and analyze the legal rationale underlying the implementation of a piece of legislation. The normative research is presented descriptively by identifying the main and sub-topics based on the research question.[18]

This study employs a normative legal method that focuses on examining applicable laws and regulations regarding a specific legal issue. Specifically, the analysis focuses on the Decision of the West Jakarta Religious Court No. 1622/Pdt.G/2023/PA.JB as the primary case. The researcher conducts an in-depth examination of status song copyright royalties as join assets in context of divorce, while also analyzing the legal considerations and the judge's reasoning in formulating the decision, including the normative basis from the Compilation of Islamic Law and laws related to intellectual assets rights. This approach aims to reveal the consistency in the application of legal norms and its implications for legal certainty for the disputing parties.

The author used a documentary data collection technique based on a literature review aimed at obtaining secondary data. This literature review included materials from books, journals, and regulations related to song copyright royalties as joint assets, as well as those discussing court decisions in divorce cases.

The data obtained in this study were analyzed using qualitative analysis methods. The analysis began with data collection, data processing, and data presentation. The analysis was conducted by systematically interpreting the statements. By examining the legal norms set forth in the

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[15] Juliansyah Noor, *Metodologi Penelitian: Skripsi, Tesis, Disertasi & Karya Ilmiah* (Jakarta: Prenada Media, 2016).
[16] I Made Pasek Diantha, *Metodologi Penelitian Hukum Normatif Dalam Justifikasi Teori Hukum* (Prenada Media, 2016).
[17] Sutrisno Hadi, *Metode Research*, *Yogyakarta: Andi Offset* (Yogyakarta: Andi Offset, 1987).
[18] Abdulkadir Muhammad, "Hukum Dan Penelitian Hukum" (Bandung: Citra aditya bakti, 2004).

applicable laws and regulations, namely the Civil Code, Law No. 16 of 2019 Amending Law No. 1 of 1974 on Marriage, Law No. 28 of 2014 on Copyright, and court decision No. 1622/Pdt.G/2023/PA.JB, conclusions can be drawn using the deductive method, resulting in a general conclusion regarding the research problem and objectives.

Result and Discussion

1. The Status of Song Copyright Royalties as Joint Assets in Indonesia

Intellectual Assets Rights (IPR) are rights arising from human intellectual capacity that produce works in the fields of science, art, or literature possessing economic value. The state provides protection for IPR to recognize human creativity and encourage innovation and development in various aspects of life.[19] In the Indonesian legal system, one form of IPR that receives legal protection is copyright. Copyright is classified as an intangible personal assets right.[20] Copyright grants the creator exclusive rights to publish, reproduce, and exploit their work to derive economic benefits from the work they have produced.[21]

The right to the results of thought, reflection, experimentation, and the creation of inventions for industrial application.[22] These rights consist of moral rights and economic rights. Moral rights are rights that are personally inalienable to the creator and cannot be transferred to another party because they pertain to the relationship between the

[19] Suyud. Margono, *Hukum Hak Kekayaan Intelektual (HKI) : Mencari Konstruksi Hukum Kepemilikan Komunal Terhadap Pengetahuan & Seni Tradisional Dalam Sistem Hak Kekayaan Intelektual (HKI) Di Indonesia* (Bandung: Pustaka Reka Cipta, 2015).

[20] Nurwati, *Hak Cipta Karya Musik Dan Lagu* (Yogyakarta: Penerbit KBM Indonesia, 2024).

[21] Ahmad M.. Ramli, *Cyber Law & HAKI : Dalam Sistem Hukum Indonesia* (Bandung: Refika Aditama, 2017).

[22] Tyas Dian Wahyuni and Ranggalawe Suryasaladin, "Tinjauan Hukum Pembagian Royalti Paten Atas Invensi Melalui Hubungan Dinas Dengan Instansi Pemerintah," *Jurnal Pembangunan Hukum Indonesia* 5, no. 1 (2023): 11–28, https://doi.org/10.14710/jphi.v5i1.11-28.

creator and the work. Meanwhile, economic rights are rights that grant the creator the authority to derive economic benefits from the use of the work they have created.[23] One form of exercising these economic rights is through the payment of royalties for the use of the work by others.

Royalties are payments made to creators or copyright holders for the use of their copyrighted works. In the music industry, royalties are a primary source of income for songwriters and copyright holders of musical works that are commercially exploited by various parties. Therefore, royalties can be viewed as the economic benefits derived the use of a copyrighted protected by law.[24]

Royalties cover various types of use, such as broadcasts on radio and television, concerts, and streaming platforms. Every time a song is played or used in public, the copyright owner is entitled to receive royalties as compensation. Royalties can be earned from both physical and digital sales. The song's owner will receive a percentage of the proceeds from the song's use every time it is sold in physical form or downloaded digitally.[25]

Indonesian marriage law recognizes the concept of joint assets. Assets acquired during the marriage that, in principle, belong jointly to both the husband and wife. This concept arises as a consequence of the legal relationship within marriage, which pertains not only to the personal relationship between husband and wife but also to their

[23] Magdariza, "Analisa Yuridis Terhadap Hak Ekonomi Dan Hak Moral Berdasarkan Undang-Undang Hak Cipta Dalam Rangka Liberalisasi Perdagangan," *Unes Law Review* 5, no. 4 (2023), https://doi.org/https://doi.org/10.31933/unesrev.v5i4.590.

[24] Egi Reksa Saputra, Fahmi Fahmi, and Yusuf Daeng, "Mekanisme Pembayaran Royalti Untuk Kepentingan Komersial Berdasarkan Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta," *Jurnal Pendidikan Tambusai* 6, no. 3 (2022): 13658–378, https://doi.org/https://doi.org/10.31004/jptam.v6i3.4490.

[25] Sergio Felix, Akhsa Soendoero, and Arizal Tom Liwafa, "Mengungkap Melodi: Membongkar Hak Royalti Atas Hak Cipta Lagu Di Industri Musik Digital Indonesia," *Anthology: Inside Intellectual Assets Rights* 2, no. 1 (2024): 1–27, https://ojs.uph.edu/index.php/Anthology/article/view/8247/3869.

economic relationship.[26] Therefore, all forms of income earned during the marriage are, in principle, classified as joint assets, the division of which may occur in the event of a divorce.

In the development legal practice, scope of join assets is not limited to tangible assets such as land, houses, or vehicles, but may also include intangible assets that possess economic value. Intellectual assets rights, as a form of intangible assets, also possess economic value that can be utilized by their rights holders.[27] In the development of legal practice, not limited to tangible assets such as land, houses, or vehicles, but may also include intangible assets that possess economic value. Intellectual assets rights, as a form of intangible assets, also possess economic value that can be utilized by their rights holders.

Consequently, a debate has arisen regarding the status of copyright royalties context of the division of marital assets following a divorce. On one hand, copyright, as an exclusive right, remains vested in the creator as the rights holder of the work. On the other hand, however, the economic benefits arising from the exploitation of copyright in the form of royalties can be viewed as income earned during the marriage. It is this situation that gives rise to the legal question of whether royalties from musical compositions can be categorized as part of the marital assets or remain a personal right.

Marital assets includes all assets, with exception of assets derived from inheritance, personal income, or gifts. However, such assets still includes assets acquired through the joint efforts of the husband and wife. Article 35(1) of the "Marriage Law" explicitly "assets acquired during the marriage become joint assets." Fairness in the division of

[26] M Natsir Asnawi, *Hukum Harta Bersama: Kajian Perbandingan Hukum, Telaah Norma, Yurisprudensi, Dan Pembaruan Hukum* (Jakarta: Kencana, 2022).
[27] Arya Adhitya, "Manajemen Aset Dan Strategi Pemanfaatan Hak Kekayaan Intelektual (Hak Cipta Sebagai Aset Tak Berwujud)," *Technology and Economics Law Journal* 2, no. 1 (2023): 6, https://doi.org/https://doi.org/10.21143/TELJ.vol2.no1.1039.

assets following a divorce, where both parties have equal ownership rights over the marital assets, thereby promoting economic protection.

Concept joint assets regarding song royalties requires careful interpretation. The term “acquired” in this context must be understood broadly, not limited to physical assets, but also encompassing rights that hold economic value. Song royalties received during the marriage, even if they stem from works that may have been created before the marriage, can still be categorized as income acquired during the marriage. This aligns with the principle that joint assets is not limited to physical objects but also encompasses all forms of assets and income acquired by the couple during the duration of the marital union.

Pursuant to Article 31 of “Marriage Law”, which wife’s rights and status are equal to those of her husband in family life and in social relations within the community, both parties have equal rights to engage in legal acts. Intellectual assets rights (IPR) may be owned individually or jointly by two or more persons. Joint intellectual assets rights means that such rights become part of the joint assets of the owners. This joint ownership may be established by married couples as well as by individuals who are not married. Consequently, the wife is also entitled to the royalties, particularly if the royalties have become joint assets. Means these rights become an integral part of the joint assets of the owners, thus assets such as royalties from creative works can be categorized as marital assets that must be divided fairly upon divorce.

The contributions of a spouse who is not the creator also play a role in determining whether royalties are considered joint assets. The success of a song and the amount of royalties generated depend not only on the creator’s creativity, but also on the spouse’s support, encouragement, and indirect contributions. A spouse may play a role in providing inspiration, emotional support, or even practical assistance during the creative process and the promotion of the work.[28] The occurrence of other legal events has led to the formulation of a new legal resolution, royalties are considered, the possibility of a assets division may be open.

Divorce is a possibility in marriage, and when it occurs, the joint assets must divided between the former of them. The method of dividing assets ownership regulated under Article 37 of "Marriage Law", whereby division follows applicable laws, including customary, religious, or other provisions. Furthermore, may be carried out through voluntary division, a court ruling, or a prenuptial agreement and a assets separation agreement.[29] Marriage laws, as set forth in both the Marriage Law and the Civil Code, govern the procedures for the division of joint assets following the dissolution of a marriage.

The existence of such assets must first be acknowledged, and then it must be divided fairly in accordance with applicable legal provisions, such as the principle of equality in the Compilation of Islamic Law or relevant civil regulations.[30] It depends on when the copyright was created. If it is was created during marriage, all proceeds derived from it including primary royalties and derivative income such as licensing, adaptations, or other commercial exploitations are, in their entirety, classified as joint assets.[31] Unless there is another agreement, namely a premarital agreement.

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[28] Dini Lionita Septiani et al., "Kontroversi Putusan Hukum Tentang Royalti Hak Cipta Lagu Sebagai Harta Bersama," *Al-Mizan* 21, no. 1 (2025): 1–20, https://doi.org/https://doi.org/10.30603/am.v21i1.5622.

[29] Safira Maharani Putri Utami and Siti Nurul Intan Sari Dalimunthe, "Penerapan Teori Keadilan Terhadap Pembagian Harta Bersama Pasca Perceraian," *Jurnal Usm Law Review* 6, no. 1 (2023): 433–47, https://doi.org/10.26623/julr.v6i1.6899.

[30] Asnawi, *Hukum Harta Bersama: Kajian Perbandingan Hukum, Telaah Norma, Yurisprudensi, Dan Pembaruan Hukum*.

[31] Hanifah Indriyani Anhar, "Analisis Royalti Hak Cipta Lagu Sebagai Harta Bersama Dalam Gugatan Cerai," *Jurnal Res Justitia: Jurnal Ilmu Hukum* 4, no. 1 (2024), https://doi.org/https://doi.org/10.46306/rj.v4i1.101.

As explained above, since copyright is considered joint assets, the application of any marriage law will yield the same result: copyright created during the marriage becomes joint assets. In the event of a divorce, each party receives half of the joint assets, as stipulated in Article 97 of the Compilation of Islamic Law. This division is carried out fairly in accordance with Article 128 of the Civil Code.[32]

Intellectual assets rights that are established and registered to obtain a certificate prior to the marriage are considered separate assets. However, if royalties pertaining to such rights are received after the marriage has taken place, they may be considered joint assets. This also includes proceeds from the development of intellectual assets rights that generate economic value in the form of royalties, which also constitute part of the household's assets, thus, such proceeds from development become joint assets.

Meanwhile, moral rights pertaining the rights in question remain vested in the creator of the work or the owner of the creation. This is because the classification of assets or assets as joint assets determined by fact that their are in a marital relationship, with the exception of assets derived from an inheritance or a gift (donation), which constitutes separate/personal assets whose control falls under the personal or individual responsibility of each spouse, unless there is an agreement in a premarital agreement.

Treating song royalties as joint assets in a divorce requires a deep understanding of copyright theory and its legal characteristics. Copyright consists of two main elements: moral rights and economic rights. Moral rights are personal in nature and cannot be transferred to another party; they include the creator's recognized right to preserve the integrity of the work from alterations, distortions, or mutilations that could damage the creator's reputation. Meanwhile, economic rights are

[32] Anhar.

transferable through licensing, sale, or inheritance, and include the right to commercially exploit the work, such as the right to reproduce, distribute, display, or modify the work, including the right to receive royalties from any use or exploitation of the work by third parties.

In the context of marriage, the distinction between moral rights and economic rights serves as basis for determining the legal status of royalties. Moral rights, which are inherent to the creator, cannot be considered joint assets due to their personal and non-transferable nature. However, economic rights that generate royalties have a different nature, as they result from the commercial exploitation of the creative work. Economic rights can be treated as assets separate from the personal aspects of creation.[33]

Song royalties, as a result of economic rights, are characterized as a predictable and measurable source of ongoing income. This differs from the creative work itself, which is unique and cannot be reproduced. William Landes and Richard Posner argue that royalties are viewed as an economic incentive that allow creators to derive income. This economic perspective supports the argument that royalties can be treated as financial assets that can be divided in a divorce. The "bundle of rights" theory in copyright law also provides a theoretical foundation for understanding the division of royalties. This theory views copyright as a bundle of rights that can be separated and transferred independently. In a marriage, economic rights may be categorized as joint assets, while others remain separate assets.

[33] Paul Goldstein, *Hak Cipta: Dahulu, Kini Dan Esok* (Yayan Obor Indonesia, 1997), https://books.google.co.id/books?id=BlJF0flKvjMC.

2. The Judge's Legal Considerations in Determining Song Copyright Royalties as Joint Assets in Decision No. 1622/Pdt.G/2023/PA.JB

The ruling of this case, stems from a divorce lawsuit filed by the plaintiff (Inara Rusli) against the defendant (Virgoun Teguh Putra), a musician who composed popular songs during their marriage. In her divorce petition, Inara not only sought child custody and the division of marital assets but also requested a share of the royalties from several songs created by Virgoun. This claim encompasses income from the copyrights of popular songs in Indonesia. The four song titles at the center of the royalty dispute are "Bukti", "Surat Cinta Untuk Starla", "Saat Kau Telah Mengerti", and "Orang Yang Sama".

Not only did this ruling dissolve their marriage, but it also marks the first such decision in Indonesia to establish a legal basis for the parties involved to divide royalties as joint assets when a marriage is dissolved by a court ruling. Therefore, this ruling not only impacts the division of assets in divorce proceedings but is also significant for intellectual assets law in Indonesia. The royalties are considered joint assets because they were created and generated income during the course of their marriage.

One of the key points in the ruling is the determination that 50% of the royalties from Virgoun's songs must be awarded to Inara and their child. The court must consider various factors to ensure a fair distribution for both parties, including their children. This ruling also clarifies that royalty rights generated from creative works during the marriage do not solely belong to the songwriter, but are also part of the marital assets that can be claimed by the spouse in the event of a divorce.

The West Jakarta Religious Court ruled that these royalties fall under the category of joint assets, as the paid from them was generated during their marriage. This decision is based on provisions in Indonesian marriage law stipulating that all assets acquired during the marriage is considered joint assets, including income from intellectual assets such song royalties. Under Indonesian marriage law, this principle applies automatically unless there is a prenuptial agreement specifically providing for the separation of assets. In the case of Inara and Virgoun, there was no prenuptial agreement stating the separation of assets, so the royalties earned from Virgoun's songs during the marriage are considered joint assets to be divided. This means that income from popular songs generating royalties is also part of the assets to be divided between the two. Without such a prenuptial agreement, the court will rely on legal principles to determine the division.

The court ruled that Inara is entitled to 50% of the royalties, in accordance with the principle of division of joint assets in divorce. This reflects the principle of fairness in Indonesian family law, which recognizes the contributions during the marriage, whether direct or indirect to the assets generated. Therefore, income from intellectual assets, even if created by one party, is still considered part of the jointly owned assets, as its financial benefits were enjoyed during the marriage.

The legal reasoning underlying this decision is that the judge determined that royalties generated from songs created, including those titled after their child constitute part of the marital assets. This aligns with the principle that assets acquired during the marriage, including intellectual assets rights, must be divided between the spouses upon divorce.

The judge also cited Article 97 of the Compilation of Islamic Law (KHI) as the basis for the division of assets, under which, in principle, the husband and wife are each entitled to half of the joint assets. This decision also reaffirms that royalties, as ongoing income generated from creative works, may be claimed for division through the courts.

The division of joint assets is, of course, inseparable from a sense of justice. In this context, the court must consider the principle of justice in its ruling. Generally speaking, justice is a relative term—what is fair for one person may not necessarily be fair for another. To maintain peace and human well-being, justice plays a crucial role in ensuring equality of rights and obligations.[34]

In his legal reasoning, the judge referred to Aristotle's theory of distributive justice. Essentially, distributive justice is the principle that each person receives what is rightfully theirs, ensuring that the distribution is proportionate to their share. The rights granted may take the form of indivisible goods, such as protection, or divisible goods, such as items that can be provided to meet the needs of the individual, their family, and their community. The distribution of assets, including royalties, is carried out proportionally and fairly based on the contributions and roles of each party in the marriage.

The legal vacuum regarding the division of royalties as joint assets in divorce cases, which has not yet been addressed in Indonesian legislation has resulted in a lack of legal certainty. Legal certainty is one of the fundamental principles of a state governed by the rule of law. Legal certainty is not only related to the existence of written laws but also to the consistent enforcement of those laws.[35] This prevents excessive judicial discretion and ensures fairness for all parties. This decision has the potential to serve as a legal precedent to fill a legal gap should the division of copyright royalties as joint assets remain unregulated in the future. Legal precedent serves as a reference in judicial practice to maintain legal certainty for couples seeking the division of joint assets upon divorce, while also addressing the diversity of marriage laws in Indonesia.

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[34] Shafa Salsabila, "Pembagian Harta Bersama Dalam Perceraian Ditinjau Dari Perspektif Teori Keadilan," *Zaaken: Journal of Civil and Business Law* 4, no. 2 (June 26, 2023): 225–41, https://doi.org/10.22437/zaaken.v4i2.27272.

[35] Ida Nurlaela Arifin, "Peran Yurisprudensi Dalam Mewujudkan Kepastian Hukum Di Indonesia: Kajian Atas Putusan Mahkamah Agung," *YUDHISTIRA : Jurnal Yurisprudensi, Hukum Dan Peradilan* 2, no. 3 (September 28, 2024): 68–75, https://doi.org/10.59966/yudhistira.v2i3.1674.

Conclusion

The rules governing the division of joint assets are set forth in laws and regulations. The division of song copyright royalties as joint assets following a divorce is not clearly regulated, however, this does not preclude the possibility of such a division, as demonstrated in Decision No. 1622/Pdt.G/2023/PA.JB. This reflects a development in the legal interpretation of joint assets in Indonesia. This court ruling explicitly recognizes that intellectual assets, particularly royalties generated from musical compositions, can be classified as joint assets if acquired during the marriage. This recognition reflects the adaptability of the Indonesian legal system to developments in the creative economy within the music industry. Where intellectual assets serves as a primary source of economic value, this ruling paves the way for fairer protection for creators and their spouses, while also fostering legal innovation to accommodate digital assets and passive income in the modern era. This ruling also safeguards the rights of each party following divorce through a fair division to maintain a balance of rights and obligations between the parties. Although there are no specific legal provisions regarding copyright royalties in divorce cases, the judge prioritized the principle of justice and compliance with positive law for the welfare of society.

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