

Research Article

Digital Initiative in the System of Withdrawal, Collection, and Distribution of Song and/or Music Copyright Royalty in Indonesia

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ORCIDDiana Silfiani: <https://orcid.org/0000-0002-5640-1319>**Abstract.**

The COVID-19 pandemic has accelerated digital disruption in various aspects of human life, one of which is the change in the lifestyle of music fans and connoisseurs from physical to digital forms. The proliferation of various applications and digital platforms that contain song and/or music copyrights around the world has directly and indirectly affected the way music and songs are enjoyed in Indonesia. In countries that are both technologically advanced such as the United States, various technological innovations have been created to be able to provide optimal legal protection against the use of copyright songs and/or music on digital platforms. This paper discusses about digital initiatives that have been and should be carried out by Indonesia in order to provide optimal legal protection against the use of song and/or music copyrights on digital platforms. This legal writing is empirical juridical research and is prescriptive, in nature, to provide solutions to the problems faced.

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1. Introduction

Digital disruption has changed people's lifestyles in enjoying entertainment, and this has been further accelerated by the COVID-19 pandemic. The introduction of digitalization and the use of electronic media provides benefits and at the same time raises difficulties that have never been experienced before [1]. The COVID-19 pandemic that has hit the world since mid-March 2020 is a very crucial changing factor for all industries, including the music industry. Digitalization of the production and distribution of works containing copyrighted songs and music is a game changer in the music industry throughout the world, including in Indonesia.

The ease of producing and distributing recorded works or phonograms seems to make the path easier for artists, or in statutory regulations defined as performers. The conventional music industry has limitations, namely that recorded works produced

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in physical form require expensive costs, specific skills, special equipment and other factors which cause the music industry not to be carried out by just anyone. If a musician has a song or voice that is good and pleasant to listen to, he may not necessarily be able to become a recording artist because of the various limitations of the conventional music industry. With the development of recording and distribution technology, anyone can easily become an 'artist'. Recorded works can be produced yourself with compatible equipment and a home computer. There are also many applications circulating that help musicians perfect and produce their own recorded works. And currently almost all music distribution activities are carried out using Digital Electronic Music Distribution (DEMD), whether carried out by musicians themselves as performers or by music aggregators. A music aggregator is a party that helps record owners or phonogram producers to distribute their recorded works on digital music platforms. Aggregators operate on business-to-business market, where one group of contractors are record labels or individual artists, and the other group are digital music stores[2].

In terms of song and music copyright, the digitization of recorded works is a breath of fresh air for indie songwriters, because it expands the monetization of copyright of song and music which will bring economic benefits to authors. The use of song copyright is not limited to just one recorded work, and monetization can be done through various mediums that continue to develop in line with technological advances.

Royalty management held by the author himself is rarely found for various reasons. Administratively it will be difficult for an author to regulate the use of the song and music; and deal with many distributors and users. For example, if songs and music will be distributed not only using physical media such as vinyl, cassettes, CDs, or DVDs but also distributed digitally (DEMD) in the form of music distribution on digital platforms, and in the form of RBT (Ring Back Tone), Full Track Download and others; it is unimaginable the amount of effort, time and costs that must be spent by the author of the song and/or music. The writer's bargaining power over users will be low if he only creates one or a few songs, especially for writers who are just starting their careers in the world of music and do not have a large number of streams/viewers with high economic value. This is also a problem that songwriters and music authors must face. In managing the copyright of his songs and music. Another reason is that the ability of authors to collect copyright royalties for their songs and/or music commercially is more effective and efficient if done together with other authors. Therefore, most songwriters will join as members of music publishers and the Authors Collective Management Organization[3].

The development of digitalization on the use of song and music copyright must be balanced with a good, reliable and accountable system of withdrawal, collection

and distribution of song and music copyright royalties. A good system of withdrawal, collection and distribution of song and music copyright royalties will certainly guarantee legal protection and certainty regarding the enforcement of the rights of authors and music copyright holders in Indonesia.

The Indonesian government has attempted to develop several technological innovations that can be classified as digital initiatives in the system of withdrawal, collection and distribution of song and/or music copyright royalties in Indonesia. This article will discuss digital initiatives that have been carried out and/or are in the process of being implemented by the Indonesian Government in the system of withdrawal, collection and distribution of song and/or music copyright royalties in Indonesia.

2. Methods

This research is empirical juridical research that is prescriptive in nature and provides solutions to the problems faced. The author will use a statutory approach and a comparative approach to gain a more comprehensive understanding. Data will be collected through literature searches and references collected by the author and from interviews with competent parties.

3. Results and Discussion

Intellectual Property is a private right[4]. Economic rights are the exclusive rights of the Author or Copyright Holder to obtain economic benefits from the Creation. This means that for the use of the copyright of his songs and/or music, the author and/or Copyright holder is entitled to economic benefits.

Song and music copyright in Indonesia is a type of copyright that receives quite detailed and in-depth protection both in statutory regulations and in industrial practices in Indonesia, especially when compared to other copyrights regulated in the Copyright Law. The Indonesian government has issued Law no. 28 of 2014 concerning Copyright, Government Regulation no. 56 of 2021 concerning Management of Song and/or Music Copyright Royalties and Regulation of the Minister of Law and Human Rights No. 9 of 2022 concerning the Implementation of Government Regulation no. 56 of 2021 concerning Management of Song and/or Music Copyright Royalties as a rule that is the basis for the protection, management and implementation of song and music copyright in Indonesia.

The essence of copyright is to obtain exclusive economic benefits from the exploitation of creations[5], so that song and music authors are entitled to royalties for commercial use of their creations. Song and music copyright royalties are one of the appreciations received by authors for the commercial use of their creations. By its nature, song and music copyright consists of moral rights and economic rights[6]. Royalties are a contravention of economic rights over song and music copyrights that are used commercially by users.

Protection by the state in a balanced manner based on the principle of equitability (fair and just) in the distribution of IPR control, including through various IPR legal regulations and competition law regulations[7]. The state must provide optimal protection not only to protect the rights of authors and copyright holders for the economic benefits of their creations, but also provide equal justice for commercial users of song and music copyright by establishing conditions and a legal system that protects both equally.

The digital initiative is one of the legal protections sought by the state to protect the rights of authors. Digitalization is the answer to increasingly advanced technological developments throughout the world that involve the use of copyrighted works.

In the realm of song and music copyright, the digital initiative is intended to record, regulate and create a system for withdrawing, collecting and distributing song and music copyright royalties in such a way as to create legal certainty regarding the use and payment of song and music copyright royalties.

Several digital initiatives that have been initiated by the Indonesian government are the Daftar Umum Ciptaan General Register of Creations ("General Register of Works /DUC"), the Pusat Data Lagu dan/atau Musik ("Song and/or Music Data Center /PDLM"), the Sistem Informasi Lagu dan/atau Musik ("Song and/or Music Information System /SILM"), the Pusat Data Nasional Kekayaan Intelektual Komunal ("National Data Center Communal Intellectual Property /PDN KIK"). Several song copyright management organizations in Indonesia also use a system for withdrawing, collecting and distributing song copyright royalties to their members, for example using ASABA and BMAT.

The Daftar Umum Ciptaan is a collection of data where copyright is registered with the Directorate General of Intellectual Property, Ministry of Law and Human Rights of the Republic of Indonesia. The Daftar Umum Ciptaan does not only contain copyrights for songs and/or music, but also other creations such as paintings, dances, photographs and others. The Copyright Law regulates at least 14 (fourteen) types of copyright.

Pusat Data Lagu dan/atau Musik are regulated in PP 56/2021. PDLM is a data center that contains song and music copyrights that have been recorded in the DUC accompanied by relevant data. Furthermore, PDLM is a data feeder for the Sistem Informasi Lagu dan/atau Musik.

The presence of SILM as regulated in PP 56/2021 has actually been previously mandated in Article 6 (six) of the Copyright Law. To protect the copyright of songs and music, authors can have copyright management information or electronic copyright information. Basically, SILM as an information system collects and compiles copyright management information and electronic copyright information, so that it is an embodiment of song and music copyright protection as mandated by Article 6 (six) of the Copyright Law[8].

Article 1(one) number 13 PP 56/2021 states that SILM is an information and data system used in the distribution of song and music royalties. SILM is a new breakthrough in the world of Indonesian copyright, in this case song and music copyright. The SILM is something new for the world of Indonesian song and/or music copyright. The construction and development of SILM will be carried out by LMKN in collaboration with third parties in accordance with applicable statutory provisions[8].

Another information system is PDN KIK, which is used to record and inventory communal intellectual property owned by indigenous communities. PDN KIK records various communal intellectual properties such as regional dances, regional songs, and others. The Directorate General of Intellectual Property at the Ministry of Law and Human Rights itself has a Communal KI page which is claimed to be a database of Indonesian culture[9]. The site page explains that traditional cultural expressions are all forms of expression of creative works, whether in the form of objects or intangibles, or a combination of both, which shows the existence of a traditional culture that is held communally and across generations. On November 23, 2021, the Directorate General of Intellectual Property at the Ministry of Law and Human Rights stated that it would launch an application update for the National Data Center for Communal Intellectual Property (PDN KIK) as the only data center that will be the inventory of Communal Intellectual Property, including folk songs and music in Indonesia[10]. The unification of all data on the PDN KIK is referred to as the embodiment of Presidential Regulation No. 39 of 2019 concerning One Indonesian Data.

There is no information yet whether for regional songs, the PDN KIK database will be connected to PDLM or become a feeder for SILM. It would be very useful if PDN KIK was connected to PDLM or became a feeder for SILM because this means that for

every use of regional songs and music, there will be economic benefits in the form of royalties paid to the community that supports it.

The National Collective Management Organization, as mandated by PP 56/2021, has attempted to make a breakthrough in withdrawing and collecting royalties online through the portal www.lmkn.id/lisensi. However, there is still no explanation whether the online license is part of SILM or not.

Indonesia has a system that was developed privately by the private sector, namely ASABA Innotech, a music royalty platform[11]. Asaba is used by several music publishers in Indonesia to identify the use and royalty value of song and music copyrights.

That legal science has a universal reach, beyond the legal boundaries of a particular nation and country. He observed law as a phenomenon in human society[12]. With the background of the IPR regime coming from a developed country, especially with its attachment to the WTO, Indonesia needs to learn from developed countries, especially regarding regulations[13].

Comparative law is a legal study method that studies the differences in legal systems between one country and another[14]. It is important for Indonesia to learn and adapt rules and policies that suit Indonesia's needs and characteristics, in this case the relevant rules and policies related to song and music copyright in Indonesia.

In comparison, the music world acknowledges DRM or Digital Rights Manager[3]. DRM is a technology that explains and identifies the protection of digital contents through intellectual property rights and enforces rules as stipulated through the rights holder or described through the law governing the digital content itself[15].

Several international systems accommodate the process of withdrawing, collecting and distributing song and/or music copyright royalties. For example, MINT Services was initiated by SESAC and SUIA. On its official website, MINT services states that Mint Companies license and/or administer copyrights for multi-territorial online usage on behalf of songwriters, composers, and music publishers. Mint Digital Services is the alliance between the only U.S Music Rights Organization, SESAC, and Swiss collection management organizations, SUIA[16].

Another system that is widely used by Collective Management Organizations (CMOs) throughout the world is the system developed by BMAT. BMAT claims itself as the operating system for music industry[17]. BMAT is a technology company that designs and develops digital music products and services.

JASRAC and Nextone use Fluzo, a system to make copyright clearance efficient and to improve its accuracy in digital content distribution business[18]. JASRAC stands

for Japanese Society for Rights of Authors, Composers and Publishers, the biggest collection management organization in Japan who manages the rights of authors, composers and music publishers. NexTone is the other CMO in Japan.

The digitization of the system for withdrawing, collecting and distributing song and music copyright royalties in Indonesia deserves appreciation, although it would be better if everything was part of a comprehensive and synergistic grand design. With the existence of various digital initiatives related to systems for withdrawing, collecting and distributing song and music copyright royalties, it is hoped that this will create a conducive ecosystem in Indonesia. Digitalization is an adaptation to current developments that can provide protection for the rights of authors whose works are used commercially by users. Legal protection will provide legal certainty for all stakeholders in the song and music copyright ecosystem. In this way, the economic benefits of authors and copyright holders, namely song copyright royalties, can be withdrawn, collected, and distributed in accordance with the prevailing laws and regulations in Indonesia.

4. Conclusion

Digital initiatives in the system of withdrawal, collection and distribution of song and/or music copyright royalties in Indonesia urge to be continued and perfected to achieve their goals. Digitalization of the system of withdrawal, collection and distribution of song and/or music copyright royalties will increase legal protection for song and music copyrights used by users. Users will also find it easier to obtain permission to use songs and gain more legal certainty regarding the royalty value that must be paid to authors and copyright holders.

Various digital systems were initiated and implemented by the Indonesian government, including the Daftar Umum Ciptaan, the Pusat Data Lagu dan/atau Musik, the Sistem Informasi Lagu dan/atau Musik, and the Pusat Data Nasional Kekayaan Intelektual Komunal. All of these are government efforts to guarantee legal protection and certainty for authors and copyright holders so that they can obtain their rights, namely economic benefits from song copyrights in the form of royalties.

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