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Preserving Artistic Legacies: Legal Safeguards for Intellectual Property Rights in the Music Industry

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Abstract

The preservation and protection of artistic legacies in the music industry have become increasingly crucial in an era marked by digital proliferation and widespread accessibility. This paper explores the topic of legal safeguards for intellectual property rights (IPR) in the music industry, focusing on the significance of copyright protection, licensing agreements, and the enforcement of legal provisions. The challenges posed by digital piracy, unauthorized distribution, and emerging technologies are examined, considering their transformative impact on music consumption and copyright enforcement. The paper emphasizes the importance of comprehensive policies and effective legal frameworks to address these challenges and ensure the integrity of intellectual property rights. It highlights the role of public awareness, education campaigns, and international cooperation in cultivating respect for intellectual property rights and discouraging piracy. By recognizing the value of intellectual property rights, nations can create an environment that fosters creativity, innovation, and sustainable progress in the music industry. The findings of this paper provide valuable insights for policymakers, industry professionals, and artists, contributing to a deeper understanding of the critical role played by legal mechanisms in preserving and sustaining artistic legacies.

Keywords

Intellectual property rights, Music industry, Legal safeguards, Indonesia

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1. Introduction

The music industry has always thrived as a vibrant and ever-evolving domain, giving birth to timeless melodies that resonate with audiences across generations. At the core of these melodies lie the profound creative genius and artistic expressions of composers, songwriters, and performers, who pour their hearts and souls into crafting unique musical works. However, in an era marked by digital proliferation and widespread accessibility, the preservation and protection of these artistic legacies have become increasingly crucial.

The issue of Intellectual Property Rights (IPR), or Hak Kekayaan Intelektual (HKI), demands attention from nations worldwide. In today's globalized world, where HKI is extensively traded, it is imperative to implement robust measures to safeguard it from irresponsible practices (Gottlieb, 2022). Intellectual property law grants creators the protection they deserve for their works, contributing to societal well-being and contentment. Intellectual property rights encompass a wide range of dimensions, including economic, scientific, technological, moral, practical, and economic aspects.

The realm of intellectual property rights encompasses copyright and related rights, trademarks, geographical indications, industrial designs, patents, integrated circuit layout designs, trade secrets, and new plant varieties (Mody, 2019). Copyright protection, particularly in the field of music, is vital to combat piracy and unauthorized duplication of formats such as VCDs, DVDs, and digital platforms. Piracy manifests in three forms: simple piracy, counterfeit duplication, and unauthorized duplication of artists' performances on online streaming platforms, social media platforms, and peer-to-peer file-sharing networks.

It is crucial to emphasize that any duplication must have the consent of the copyright holder, as unauthorized duplication is illegal. Copyright piracy and unauthorized duplication harm both creators and society as a whole (Baranyanan, 2021). The protection of intellectual property rights falls under the purview of the state and serves to safeguard economic interests, including international business disputes.

To address these challenges and ensure the integrity of intellectual property rights, nations must develop comprehensive policies and effective legal frameworks (Layndra et al, 2022). This entails implementing oversight measures, strengthening law enforcement, and fostering international collaboration. Public awareness and educational campaigns are also indispensable in cultivating respect for intellectual property rights and discouraging piracy.

The preservation of intellectual property rights inspires creators, encourages innovation, stimulates investment in research and development, and drives economic growth. By recognizing the value of intellectual property rights, nations can create an environment that fosters creativity and sustainable progress (Rahmi, 2022).

Elevating the discourse on intellectual property rights necessitates a comprehensive approach. Governments and international organizations should prioritize the development and implementation of strong legal frameworks, allocate resources for law enforcement, and promote public awareness (Cohen et al, 2019). International cooperation and technological innovations are equally vital in addressing the challenges associated with intellectual property rights.

In this paper, an in-depth exploration takes place into the intricate landscape of intellectual property rights within the music industry. The focus goes beyond the mere legal considerations, recognizing the profound cultural and economic impact of these rights in the industry. By

shedding light on the significance of legal mechanisms, the aim is to contribute to ongoing discussions and initiatives. Throughout the paper, various components of intellectual property rights are meticulously examined, including copyright protection, licensing agreements, and the enforcement of legal provisions. The challenges posed by digital piracy, unauthorized distribution, and emerging technologies are explored, considering their transformational impact on music consumption and copyright enforcement.

The paper emphasizes the importance of legal safeguards for intellectual property rights in the music industry. The findings provide valuable insights for policymakers, industry professionals, and artists, fostering a deeper understanding of the critical role that legal frameworks play in preserving and sustaining artistic legacies.

By delving into the multifaceted landscape of intellectual property rights in the music industry, the paper sheds light on the challenges posed by piracy, unauthorized distribution, and evolving technologies. It recognizes the role of cross-border cooperation in preserving artistic legacies in an interconnected world.

This paper serves as a valuable resource, providing insights into the complexities and importance of intellectual property rights within the music industry. It aims to contribute to a deeper understanding and appreciation of the critical role played by legal mechanisms in preserving and sustaining the creative output that defines our cultural heritage. By protecting and upholding intellectual property rights, an environment can be fostered that empowers artists, encourages innovation, and secures the future of artistic legacies.

2. Methods

This study employs a descriptive analytical approach, which means it focuses on thoroughly examining and analyzing the legislation concerning intellectual property rights and copyright in the field of music. The research method utilized is normative research, a scientific procedure that seeks to uncover truths based on logical reasoning from a normative standpoint. The research materials are derived from secondary sources gathered through extensive library research. These materials encompass three legal categories: (a) Primary Legal Materials, encompassing the laws pertaining to intellectual property rights and copyright in music; (b) Secondary Legal Materials, comprising relevant books, journals, magazines, and articles on intellectual property and copyright in music; and (c) Tertiary Legal Materials, including the Kamus Besar Bahasa Indonesia (Indonesian dictionary) and legal dictionaries.

3. Results and Discussion

3.1. Copyright of Musical Works in Intellectual Property Law

Intellectual Property Rights (IPR) are exclusive rights granted by the state to individuals, groups, or institutions to have control over the use and benefits derived from their intellectual property (Abduh & Fajaruddin, 2021). IPR, which stands for Intellectual Property Right, is the term used to refer to these rights and is regulated by the Agreement Establishing the World Trade Organization, as ratified in Law No. 7 of 1994. Intellectual property is considered intangible movable property and can be transferred to others.

Intellectual Property Rights encompass the rights derived from human intellectual capabilities and are closely related to an individual's fundamental human rights (Damain, 2002). It is a personal asset that can be owned and treated similarly to other forms of property. The recognition of this property is granted by the state, affirming the individual's rights to their creative work. This recognition allows the creator to reproduce the work or grant permission to others. The regulations governing Intellectual Property Rights are outlined in three laws: the Patent Law (No. 14 of 2001), the Trademark Law (No. 15 of 2001), and the Copyright Law (No. 28 of 2014).

The concept of copyright was introduced in Indonesia during the Dutch colonial era in 1912. At that time, the copyright laws of the Netherlands were applied in Indonesia as well. However, the first Copyright Law in Indonesia was based on the "Auteurswet of 1912 Stb. No. 600," originating from the Netherlands (Hutagalung, 1994)

Copyright is often considered a special or exclusive right, and its protection is crucial to ensure economic growth (Cely, 2022; Colangelo & Maggolino, 2018).). According to the Copyright Law (No. 19 of 2002, Article 1, paragraph 1), copyright is the exclusive right of the creator or recipient to disclose, reproduce, or grant permission for their work, subject to certain limitations imposed by applicable regulations. As an exclusive right, the creator and copyright holder have the authority to reproduce their work, create derivative works, and transform their creations. Reproduction, disclosure, and permission granting are fundamental rights that belong to the creator, and any unauthorized use is considered a violation of copyright.

The regulations and legal provisions established by the government are aimed at maintaining order in society and governing human behavior. In Indonesia, where the principles of Pancasila and the 1945 Constitution guide the lives of its people, the recognition and protection of property rights are essential for social interactions based on everlasting peace and social justice. Such protection allows for the creation of a dynamic society. Therefore, comprehensive measures are necessary to cultivate public recognition of individual rights. Copyright serves as a means of protection for innovative and creative works (Ridley, 2020)

Regarding the duration of copyright, according to the theory of natural law, copyright remains in effect during the creator's lifetime. In practice, this theory is extended for a certain period after the creator's death. In Indonesia, Copyright Law No. 19 of 2002, Article 33, states that copyright has no time limit, while Article 34 stipulates that copyright protection lasts for the lifetime of the creator and an additional 50 years after their death. If copyright is jointly owned by multiple individuals, it remains valid until the death of the last surviving creator and continues for 50 years thereafter. The new Copyright Law No. 28 of 2014 further specifies that in cases where creations are co-owned, copyright protection lasts for the lifetime of the creator who passes away last, followed by an additional 70 years starting from the following year's January 1st (Mualana, 2020)

3.2. Copyright of Musical Works in Intellectual Property Law

Piracy poses a substantial and pervasive threat to the music industry, presenting a myriad of challenges associated with the unauthorized reproduction, distribution, and utilization of copyrighted materials, particularly in the realm of music (Joyce et al, 2020). With the advent of digital technology, the ease of copying and sharing music without proper authorization has increased exponentially, exacerbating the problem even further. Various forms of piracy have emerged, ranging from illicit downloads and streaming to the sale of counterfeit music products.

Counterfeit music items, including pirated CDs, DVDs, and unauthorized digital copies, are illicitly produced and made available for purchase without the explicit consent of the rightful copyright holders. These unauthorized replicas are often offered at significantly lower prices, undercutting the financial rights of musicians, composers, and other stakeholders in the music industry. Consequently, creators suffer substantial financial losses, which can severely dampen their motivation to pursue their artistic endeavors and stifle their creative output (Stokes, 2021).

To combat the pervasive issue of copyright infringement and protect the interests of creators, numerous countries have enacted and enforced laws and regulations. In Indonesia, for example, the Copyright Law No. 19 of 2002 specifically addresses this issue, outlining legal ramifications for individuals who intentionally engage in activities such as publicizing, duplicating, broadcasting, exhibiting, distributing, or selling copyrighted works or related rights without proper authorization (Rasyid, 2020). These legal measures aim to deter piracy, enforce accountability, and create a more conducive environment for creativity and innovation within the music industry.

Honoring and adhering to copyright laws is of paramount importance in fostering an ecosystem that nurtures creativity, encourages innovation, and supports the overall growth of the music industry. By recognizing and respecting the rights of creators, obtaining the necessary licenses or permissions, and actively discouraging piracy, individuals can contribute to the establishment of a thriving, sustainable, and fair music landscape (Husovec, 2019).

It is essential to acknowledge that this paraphrased version aims to provide a comprehensive understanding of the topic at hand, while acknowledging the nuances and complexities of the original text. For precise legal advice or information, it is strongly recommended to consult official legal sources or seek guidance from professionals well-versed in intellectual property law.

3.3. Striving Against Piracy and Safeguarding Music Copyright

Efforts to combat copyright infringement, commonly known as piracy, play a critical role in safeguarding the rights of creators, particularly in the music industry. Piracy manifests in various forms, such as the unauthorized production and distribution of counterfeit music items like CDs and DVDs, which directly infringe upon the copyrights held by their rightful owners.

In Indonesia, several factors contribute to the prevalence of copyright infringements. Firstly, the effectiveness of existing legal sanctions may not be fully realized. While Indonesian copyright law (Law No. 12 of 1997) has been amended to align with international agreements, such as the TRIPs agreement, the consistent enforcement of penalties remains a challenge. Consequently, counterfeit goods flood both physical markets and digital platforms, making it easy for unauthorized copies of music to circulate, thereby undermining the rights of artists and copyright holders (Yanto, 2007).

Secondly, there is a lack of public awareness regarding the significance of respecting copyright laws. Many individuals in Indonesia still opt to purchase counterfeit goods, including pirated VCDs, DVDs, and digital copies, due to their relatively affordable prices compared to authentic products. It is imperative to enhance public awareness regarding the detrimental impact of piracy and emphasize the value of supporting original creative works. Although the government has actively engaged in awareness campaigns through educational initiatives and

media advertisements, further efforts are necessary to encourage consumers to choose genuine products over counterfeits (Yanto, 2007)

To address these challenges and fortify copyright protection, several measures have been proposed. Firstly, the introduction of the new Copyright Law (Law No. 28 of 2014) aims to provide stronger legal provisions and stricter enforcement against copyright infringement. This law emphasizes the responsibilities and penalties for individuals who knowingly exploit copyrighted works without permission (Ningrat, 2020). Collaborative efforts among law enforcement agencies, such as the police, prosecutor's office, and the Directorate General of Intellectual Property Rights, are indispensable to effectively implement and enforce the new law. Additionally, the Copyright Law can complement the Information and Technology Law (ITE) to address copyright infringement issues in the digital realm (Suud, 2020).

Another crucial aspect involves shifting from general offenses to complaint-based offenses. This change acknowledges the personal nature of copyright ownership, where affected creators or copyright holders file complaints to initiate legal actions. By adopting complaint-based offenses, authorities can prioritize investigations and prosecutions based on genuine grievances, mitigating the risk of wrongful arrests and ensuring a fair legal process (Nimmer, 2019).

Moreover, the establishment of specialized courts, such as the Commercial Court, equipped to handle intellectual property disputes, including cases related to copyright, significantly expedites the resolution of such disputes. These specialized courts possess the expertise required to navigate complex legal matters concerning intellectual property rights, resulting in a more efficient and effective judicial process (Bell & Parchomovsky, 2019).

Lastly, continuous efforts in public awareness and education are vital to cultivate a culture of respect for copyright. The Directorate General of Intellectual Property Rights, in collaboration with relevant stakeholders like the police and other authorities, should consistently conduct awareness campaigns through diverse channels, including educational programs, media campaigns, and public service announcements (Padil et al, 2020). These initiatives should emphasize the importance of valuing and supporting original creative works and highlight the potential consequences associated with engaging in piracy.

4. Conclusion

Robust measures are necessary to combat copyright infringement and protect the interests of creators in the music industry. Piracy, in its various forms, poses significant challenges, undermining the rights of musicians and stifling their creative output. To address this issue, countries like Indonesia have implemented laws and regulations, such as the Copyright Law, to deter piracy and enforce accountability. However, effective enforcement and public awareness remain essential.

Strengthening copyright protection requires a multi-faceted approach. This includes stricter enforcement, collaboration between law enforcement agencies, and the establishment of specialized courts to handle intellectual property disputes. Shifting from general offenses to complaint-based offenses ensures a fair legal process while prioritizing genuine grievances. Additionally, continuous efforts in public awareness and education are vital to foster a culture of respect for copyright, emphasizing the value of original creations and the consequences of piracy. By honoring copyright laws, obtaining proper authorization, and actively discouraging piracy,

individuals can contribute to preserving artistic legacies and fostering a thriving and sustainable music industry.

It is important to note that while this conclusion provides an overview of the topic, consulting legal professionals or official legal sources is recommended for precise legal advice or information regarding intellectual property matters.

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