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## **ANALISIS PERLINDUNGAN HUKUM HAK CIPTA PENCIPTA LAGU TERHADAP COVER LAGU CIPTAANNYA OLEH MUSISI LAIN DI PLATFORM MEDIA SOSIAL TIKTOK**

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### **Abstrak**

Penulisan hukum ini bertujuan untuk mengkaji perlindungan hukum hak cipta karya lagu yang dilakukan oleh pencipta lagu terhadap penampilan cover lagu ciptaannya oleh musisi lain di platform media sosial TikTok. Penelitian ini merupakan yuridis normatif dengan pendekatan perundang-undangan dan studi kasus. Jenis dan sumber data yang digunakan mencakup bahan hukum primer, sekunder, dan tersier. Teknik pengumpulan data dilakukan melalui studi pustaka (library research), sementara analisis data menggunakan metode deduksi. Hasil penelitian menunjukkan bahwa perlindungan hukum hak cipta terhadap karya lagu yang diunggah di platform TikTok sering kali dilanggar oleh pihak yang tanpa hak melakukan cover lagu. Pencipta lagu berhak atas perlindungan berdasarkan Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta, khususnya Pasal 9, Pasal 23, serta Pasal 43 yang mengatur hak moral dan ekonomi pencipta. Kasus penampilan cover lagu di TikTok menunjukkan pentingnya pengawasan dan upaya yang lebih efektif untuk melindungi hak cipta karya lagu. Hasil penelitian ini diharapkan dapat memberikan panduan hukum dan rekomendasi kebijakan bagi pihak terkait, serta mendorong perbincangan lebih lanjut tentang dinamika hak cipta dalam konteks penampilan musik di era digital.

**Kata kunci :** Perlindungan Hukum, Hak Cipta, Media Sosial

### **Abstract**

*This legal writing aims to examine the legal protection of copyrighted song works performed by songwriters against the appearance of cover songs created by other musicians on the TikTok social media platform. This research is normative juridical with a statutory approach and case studies. The types and sources of data used include primary, secondary, and tertiary legal materials. Data collection techniques are carried out through library research, while data analysis uses the deduction method. The results showed that copyright legal protection of song works uploaded on the TikTok platform is often violated by parties without the right to cover songs. Songwriters are entitled to protection under Law Number 28 of 2014 concerning Copyright, specifically Article 9, Article 23, and Article 43 which regulates the moral and economic rights of creators. The case of song cover performances on TikTok shows the importance of supervision and more effective efforts to protect the copyright of song works. The results of this research are expected to provide legal guidance and policy recommendations for relevant parties, as well as encourage further discussions on copyright dynamics in the context of music performance in the digital era.*

**Keywords:** *Legal Protection, Copyright, Social Media*

## **INTRODUCTION**

The development of digital technology has brought major changes in the music industry, especially with the presence of social media platforms such as TikTok. TikTok has become one of the media that is widely used by musicians and content creators to display musical works, both in the form of original and cover songs. Cover songs, which are renditions of existing songs with different styles and arrangements, are becoming an increasingly popular trend among TikTok users. However, the phenomenon of song covers on digital platforms raises various legal issues, especially related to copyright. Law No. 28/2014 on Copyright in Indonesia stipulates that songwriters have exclusive rights to their creations, including moral rights and economic rights. Moral rights include recognition of the creation of the work, while economic rights give the creator the right to obtain financial benefits from the use of his or her work. In practice, many musicians cover songs on TikTok without the permission of the original creator, raising questions about the legality and protection of the songwriter's copyright.

On the other hand, not all song covers can be categorized as copyright infringement. In copyright law, there is the concept of "fair use," which in some circumstances allows the use of copyrighted works without permission, such as for educational or critical purposes. Rogate (2024) state the legal purpose of a copyright is to prevent a product called an individually created work from being copied or published without owner's permission. However, the application of this concept on digital platforms such as TikTok is debatable, especially when cover songs generate financial benefits for the creators without compensating the original creators. Moreover, a major challenge in copyright protection in the digital age is the lack of an effective mechanism to enforce songwriters' rights on social media. Unlike YouTube, which has a Content ID system to distribute royalties to copyright owners, TikTok still faces various obstacles in managing music licenses. This causes many songwriters to feel disadvantaged because their works are used without permission or without proper compensation. The appearance of song covers on social media platforms raises questions about how copyright is protected and respected in this new context. While the intentions of the musician performing the cover may be positive, such as honoring the song's creator's work or providing entertainment for fans, the issue of copyright infringement remains a serious issue. Songwriters have the exclusive right to control the use of their work, and a lack of understanding or lack of regulation can have a negative impact on the music industry as a whole. (Nyoman, dkk., 2024).

Based on these problems, researchers want to conduct research to analyze the protection of copyright law for songwriters against the phenomenon of cover songs on TikTok. This study aims to understand the extent to which existing regulations can protect songwriters' rights and explore the challenges and solutions that can be applied in enforcing copyright in the digital era.

## **RESEARCH METHODS**

The research method of this journal is normative juridical research, which is research that focuses on applicable legal norms. According to Soerjono Soekanto (2008): Soekanto explains that normative juridical legal research is research that focuses on the study of written legal norms, such as laws, government regulations, court decisions, and other legal sources. This research aims to explore the rules of law that apply to solve the legal problems at hand. The statutory approach is used to examine legal regulations relating to copyright, such as Law Number 28 of 2014 concerning Copyright and other relevant regulations. A conceptual approach

is used to understand the basic concepts of copyright, legal protection, and the legal implications of unauthorized use of copyrighted works on digital platforms. Types and Sources of data consist of 3 types and sources of data, namely data sources consisting of primary, secondary, and tertiary legal materials. According to Subekti (2001), primary legal materials are sources of law that are directly applicable and can be used to establish rights and obligations in legal practice. According to Soerjono Soekanto (2009), secondary legal materials are literature that reviews or provides further interpretation of primary legal materials. According to Soerjono Soekanto (2009), tertiary legal materials are references that facilitate the search for primary and secondary legal materials, such as bibliographies or encyclopedias.

The data collection technique in this research was carried out through literature study or library research. According to Nazir (2014), in his book *Research Methods* (p. 53), literature study is a data collection method carried out by utilizing existing library materials, be it in the form of books, journals, or articles that support research topics. The data analysis technique used is Thematic Analysis. According to Braun & Clarke (2006) Thematic analysis is a method for identifying, analyzing, and reporting patterns or themes that emerge from data. This method is used to organize and explain data in detail and thoroughly. Meanwhile, Boyatzis (1998:4) emphasizes that thematic analysis is the process of understanding scattered data into a complete meaning. On the other hand, Sutopo (2006) explains that thematic analysis is done by identifying themes in the collected data and linking them to the research objectives.

## **RESULTS**

The results show that this research reveals the copyright infringement that often occurs on TikTok, especially related to song covers without the original creator's permission. Based on Law No. 28/2014, songwriters have moral and economic rights over their works. However, many song cover videos on TikTok do not compensate the creators, causing them losses. This song cover phenomenon provides a big challenge for creators because TikTok does not have an automated system to distribute royalties. Furthermore, TikTok has licenses with some record labels, but these licenses do not specifically cover all songs or cover activities by individual users. Thus, not all cover performances on TikTok constitute lawful use. Also, the principle of fair use is still difficult to apply in the context of song covers on TikTok because most uses of songs are entertainment, not transformative, and do not contribute to education or criticism of the original work. The application of the fair use principle in song covers on TikTok is also debated because many do not meet the legal criteria.

Copyright protection for songwriters in Indonesia is explicitly regulated in Law Number 28 Year 2014 on Copyright, specifically in Article 9, Article 23, and Article 43. In these provisions, songwriters are granted two main types of rights, namely moral rights and economic rights. Moral rights include the right to be recognized as the creator and the right to maintain the integrity of the work from modifications or uses that could damage the creator's reputation. Moral rights involve the creator's right to be recognized as the original creator of his/her work, as well as the right to maintain his/her honor and reputation. In the context of songs, this right allows the creator to prohibit changes that harm the original work or that may damage the creator's reputation. For example, a songwriter can sue if his or her song is used in an inappropriate context or altered without permission (such as in a parody that does not match the value of the original work). This right to be recognized is especially important in social media such as TikTok, where musical works are often reused without crediting the original creator or without proper acknowledgement. In this case, the songwriter has the right to ensure

that his/her work is properly recognized and not altered or misused for other purposes that harm his/her reputation.

Economic rights entitle the creator to be compensated for any form of utilization of his/her copyrighted work, including reproduction, distribution, and announcement. Economic rights give the creator the right to be financially compensated for the use of his or her copyrighted work. This right includes the right to authorize or prohibit others from performing acts such as circulating, copying, or publishing the work. In the context of TikTok, the cover of a song by an unauthorized user clearly violates the creator's economic rights because the song is used without providing royalties or compensation to the original creator. In many cases, musicians or content creators on TikTok may benefit financially through advertising, endorsements, or otherwise, without compensating the songwriters whose works they use. In the context of social media such as TikTok, the use of songs by users in the form of covers is included in the activity of "announcement" or publication of works, which according to Article 9 paragraph (1) can only be done with the permission of the creator or copyright holder. However, reality shows that many TikTok users-both professional and amateur musicians-cover songs without permission, even though the songs are used to gain attention, self-promotion, or even financial gain.

These legal protections still face major challenges in their application, some of the major challenges in their application: First, Limited control for songwriters songwriters often have no direct control over how their works are reused on platforms like TikTok. This could potentially lead to their work being used unlawfully without consent or in the absence of financial compensation. While some platforms, including TikTok, offer copyright infringement reporting systems, songwriters typically do not have direct control to regulate the use of their songs on social media. Second, digital licensing is not comprehensive Although TikTok has licensing partnerships with major record labels, these licenses are limited to most songs in the labels' catalogs, and do not cover all musical works used on TikTok. This has led to many songs not listed in these licenses being used by users without permission.

In other words, although TikTok has taken steps to comply with copyright regulations by providing licenses for certain songs, many songs uploaded by users still violate copyright if there is no permission from the creator or copyright holder. Third, song covers as a form of announcement based on Article 9 paragraph (1) of the Copyright Law, announcement activities (publication or dissemination of copyrighted works) can only be carried out if obtaining permission from the creator or copyright holder. In this case, the performance of song covers by TikTok users-both by amateur and professional musicians-can be categorized as an announcement activity that requires permission from the creator or copyright holder. Many song covers uploaded to TikTok use existing songs without obtaining permission from the original songwriters, which can be categorized as copyright infringement. Fourth, Failure to provide an automatic licensing system for individual users TikTok and other social media platforms often do not provide an automatic licensing system for individual users who wish to use copyrighted songs in their videos. This means that even though TikTok users may want to cover songs for non-commercial or entertainment purposes, they still have no way to obtain valid permission from the song creators.

An automated digital license system that can grant permission for legitimate use of songs is a necessity to facilitate content creators and songwriters, and ensure fair compensation for songwriters. Fifth, TikTok and similar platforms tend to rely on a content removal system if they are found to be infringing copyright, based on reports from copyright holders. However, this

mechanism is reactive rather than preventive. This means that while copyright-infringing content can be removed following a report, it does not prevent infringement in the first place. A more proactive approach, where platforms automatically grant permission or royalties to songwriters, would be more effective in protecting copyright and ensuring that works are not used without permission.

One concrete example is the case of Jawsh 685's "Savage Love" which was initially used widely on TikTok without proper compensation, before a legal settlement was reached in favor of the original creator. Similarly, other popular songs such as "Blinding Lights" by The Weeknd and "Shape of You" by Ed Sheeran were also widely used without a valid license. In addition, many influencers also engage in copyright infringement when using licensed songs for sponsorship or endorsement content without permission. This shows that copyright infringement on TikTok is not only by ordinary users, but also by large creators with economic benefits.

The principle of fair use in Indonesian copyright law is referred to as an "exception to copyright" and is regulated in Article 44 of Law No. 28 of 2014. Fair use allows unauthorized use of copyrighted works under limited conditions, such as for educational purposes, research, criticism, or parody. However, the application of fair use in the context of song covers on TikTok is difficult to justify legally because, First, the purpose is entertainment and self-promotion, not education or legitimate criticism. Second, it is not transformational, meaning it does not change the original work or add significant new value. Third, it is done widely and massively, which has the potential to harm the creator economically. Some may argue that reworking a song with a different arrangement is a legitimate form of expression. However, in practice, if the song cover does not meet the fair use criteria (such as not in the context of education, commentary, or parody), then the use is still considered copyright infringement. Especially if the results of the cover video are used to generate profits, whether from advertising, endorsements, or other monetization.

In addition, TikTok does not have an ideal system to bridge users with songwriters, for example through an automatic license system or a transparent digital royalty sharing system. Most of TikTok's actions are still reactive, such as removing reportedly infringing content, rather than preventive or educative. The legal responsibility for copyright infringement lies directly with the user who uploaded the unauthorized song cover. However, digital platforms such as TikTok also have a role as intermediaries in the dissemination of content, so they are ethically and functionally responsible for copyright protection efforts. Unfortunately, law enforcement in the digital era faces many obstacles such as the lack of legal education to social media users regarding the importance of permission in using other people's works, the absence of an automatic digital license system that makes it easy for non-commercial users to access songs legally and the weak coordination between creators, collective management institutions, governments, and digital platforms in building a comprehensive protection system.

Given the complexity of the problem, more comprehensive and innovative digital legal solutions are needed to maintain the balance between creators' rights and users' freedom of expression. Some solutions that can be taken include: (1) Education and Socialization of Copyright Law: The government and educational institutions should actively socialize the importance of respecting copyright through public campaigns, digital education curriculum, and training for content creators, (2) Strategic Cooperation between Government, Platforms, and Creators: Platforms like TikTok need to expand cooperation with collective management institutions to ensure that the licensing system is fair and automated, and royalties are

distributed transparently, (3) Third, Adaptive Technical Regulations: The government needs to draft implementing regulations or revise the Copyright Law to include technical provisions for the use of songs on social media, an online licensing system, and measurable sanctions for violators, (4) Fourth, Algorithm-Based Royalty System: It is necessary to build a digital system that can detect the use of copyrighted works and automatically distribute royalties to creators, even from non-commercial users. With a more proactive, collaborative, and adaptive legal approach to the digital era, copyright protection for songwriters can be realized better, without limiting the creativity of social media users. This also answers the importance of the balance between legal protection and the development of an ever-evolving digital culture.

## CONCLUSION

This research shows that copyright infringement on TikTok, specifically related to the use of song covers without permission from the original creators, is a considerable problem. Although songwriters have moral and economic rights stipulated in Law Number 28 of 2014 on Copyright, many cover videos uploaded on TikTok do not provide proper compensation to songwriters. This phenomenon creates an imbalance between the use of copyrighted works and the economic rights of creators. In addition, the application of the principle of fair use in Indonesian law cannot be broadly applied to the practice of song covers on TikTok, as most uses are entertainment in nature, not transformative, and done for personal gain. Therefore, this activity remains an infringement of copyright if it does not obtain permission from the right holder. And, copyright law enforcement in the digital era is still weak due to the limitations of automated licensing systems, lack of education to users, and weak collaboration between platforms, governments, and copyright owners. TikTok as a platform has also not fully fulfilled its responsibility in supporting an efficient and fair copyright protection system.

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