



**LEGAL RESPONSIBILITY OF SINGERS OR PERFORMERS FOR THE USE
OF SONGS THAT HAVE COPYRIGHT ACCORDING TO LAW NUMBER 28
OF 2014 CONCERNING COPYRIGHT**

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Abstract

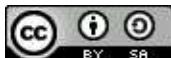
This study examines the legal liability of singers or performers for using copyrighted songs without the creator's permission in commercial activities such as concerts. The main issue discussed is the legal responsibility of singers in performing copyrighted songs and the application of copyright infringement elements as reflected in Decision Number 92/Pdt.Sus-HKI/Hak Cipta/2024/PN Niaga Central Jakarta. This research applies a normative juridical approach by analyzing relevant legislation and court decisions. The findings indicate that singers are legally obligated to obtain permission from the creator or through a Collective Management Organization (LMK/LMKN) before performing a song commercially. Furthermore, concert promoters or organizers also share legal responsibility as they derive economic benefits from such performances. The enforcement of copyright law in the music industry requires synergy between creators, singers, and collective management organizations to establish a fair and balanced creative ecosystem.

Keywords: Copyright, Singer, Concert

Abstrak

Penelitian ini membahas permasalahan mengenai tanggung jawab hukum penyanyi atau pelaku pertunjukan atas penggunaan lagu yang telah dilindungi Hak Cipta tanpa izin dari pencipta dalam kegiatan komersial seperti konser. Permasalahan yang diangkat adalah bagaimana bentuk tanggung jawab hukum penyanyi terhadap penggunaan lagu berhak cipta dalam konser, serta bagaimana penerapan unsur-unsur pelanggaran Hak Cipta dalam Putusan Nomor 92/Pdt.Sus-HKI/Hak Cipta/2024/PN Niaga Jakarta Pusat. Penelitian ini menggunakan pendekatan yuridis normatif dengan menelaah peraturan perundang-undangan dan putusan pengadilan yang relevan. Hasil penelitian menunjukkan bahwa penyanyi memiliki kewajiban hukum untuk memperoleh izin dari pencipta atau melalui Lembaga Manajemen Kolektif (LMK/LMKN) sebelum menampilkan lagu secara komersial. Selain itu, promotor atau penyelenggara konser juga memiliki tanggung jawab hukum bersama karena turut menikmati manfaat ekonomi dari pertunjukan tersebut. Penegakan hukum terhadap pelanggaran Hak Cipta di bidang musik menuntut sinergi antara pencipta, penyanyi, dan lembaga manajemen kolektif guna menciptakan ekosistem industri musik yang adil dan berkeadilan.

Kata Kunci: Hak Cipta, Penyanyi, Konser



I. INTRODUCTION

Copyright, as a form of Intellectual Property Rights (IPR), plays a significant role in ensuring legal protection for every human creation, including works in the field of music. This protection encompasses moral and economic rights granted to creators as a form of appreciation for their intellectual work. In the music industry, copyright protects song elements such as lyrics, melodies, and arrangements from unauthorized use. Law Number 28 of 2014 concerning Copyright clearly stipulates the rights and obligations of creators, including sanctions for violators. Article 9 paragraph (1) letters c and g emphasizes that any use of a copyrighted work in the form of a public performance must be based on permission or royalty payments through legal procedures. This provision is designed to ensure a sense of justice and legal certainty for all creative industry players.

Copyright infringement issues in music remain common in Indonesia, one example being the case between singer Agnez Mo and songwriter Ari Bias regarding the song "Bilang Saja." The case, which began with the unauthorized performance of the song at three commercial concerts in May 2023, culminated in a lawsuit filed with the Central Jakarta Commercial Court. In Decision Number 92/Pdt.Sus-HKI/Hak Cipta/2024/PN Niaga Jkt. Pst, the panel of judges declared Agnez Mo to have committed copyright infringement and ordered her to pay compensation of Rp 1.5 billion to Ari Bias. The judges determined that the elements of infringement were met as stipulated in Article 113 paragraphs (3) and (4) of the Copyright Law, as the concert was commercial in nature and the songs performed were performed without the creator's consent or royalty payments. This decision serves as an important reference in copyright enforcement in Indonesia and confirms that a singer's fame does not eliminate the legal obligation to respect the work of others.

The Supreme Court, through Decision Number 825 K/Pdt.Sus-HKI/2025, at the cassation level granted Agnez Mo's petition and overturned the previous court's decision. In its considerations, the Court stated that there had been an error in the application of legal norms and an error in determining who should be sued. The lawsuit was deemed formally flawed (error in persona) because the event organizer, PT Aneka Bintang Gading, should have been named the primary defendant, not merely a co-defendant. Furthermore, the Court emphasized that the National Collective Management Institute (LMKN) is the institution authorized to manage and facilitate royalty payments in accordance with Article 23 paragraph

(5) of the Copyright Law. Based on these reasons, the Supreme Court ruled that the plaintiff's lawsuit could not be continued and was declared inadmissible.

This case demonstrates that copyright issues in the music industry concern not only the substance of the infringement, but also the clarity of the legal entity responsible for the commercial use of works. This dispute also highlights the importance of the LMKN's role as a liaison between songwriters and users of works to ensure fair royalty distribution. This phenomenon of copyright infringement can cause economic losses and hinder the creativity of artists if not strictly regulated. Therefore, careful, fair, and comprehensive application of the law is key to realizing an effective copyright protection system. Based on this, this study attempts to examine in more depth the legal protection of copyright for songs in the context of concert performances, with a focus on the legal responsibility of singers or performers through an analysis of Decision Number 92/Pdt.Sus-HKI/Hak Cipta/2024/PN Niaga Central Jakarta as a concrete example of the application of copyright law in Indonesia.

II. THEORITICAL STUDIES

Copyright is a branch of Intellectual Property Rights (IPR) that provides legal protection for works they create in the realms of science, art, and literature. This protection arises automatically from the moment a work is manifested in a visible or audible form, without prior registration. Within the national legal framework, the mechanisms and scope of copyright protection are comprehensively regulated in Law Number 28 of 2014 concerning Copyright, designed to address the challenges of the digital era and global dynamics. From a philosophical perspective, copyright illustrates the relationship between the creator and their work, reflecting human values. Therefore, it is not merely viewed as an economic asset but also as a form of respect for creativity, freedom of expression, and the creator's dignity. This thinking is based on moral principles, justice, and respect for the individual's ability to produce ideas and intellectual works.

Conceptually, copyright comprises two main aspects: moral rights and economic rights. Moral rights are inherent in the creator for life and are non-transferable, including the right to be identified as the creator, to maintain the integrity of the creation, and to modify the work according to personal wishes. On the other hand, economic rights relate to the creator's right to financially benefit from the use of their work, such as through publication, performance, or broadcasting. Gatot Supramono emphasized that copyright is a form of recognition of human

creativity, which has both social and economic value, making it a crucial foundation for the development of the creative industry sector.

Internationally, copyright regulations are regulated by the Berne Convention (1886) with the principles of automatic protection and national treatment, which Indonesia ratified through Presidential Decree No. 18 of 1997. The philosophy of copyright aligns with John Locke's theory of ownership, which states that a person has the right to the fruits of their labor because they have invested their energy and thought in something previously unowned. Thus, copyright provides moral recognition and an economic incentive for creators to continue creating.

From an economic perspective, copyright serves as an instrument to encourage innovation and creativity, as it guarantees compensation for the work produced. In practice, copyright can be transferred through agreements, licenses, or inheritance, but must still respect the creator's moral rights. Copyright law enforcement in Indonesia still faces challenges in the form of piracy and unauthorized infringement, which can be resolved through civil and criminal channels. Collective Management Institutions (CMOs) play a crucial role in managing royalties and ensuring fair compensation for creators. Overall, copyright reflects a balance between protecting individual rights and the public interest, and demands adaptive legal adjustments to technological developments and globalization to remain relevant in protecting human intellectual works.

III. RESEARCH METHODS

This research employs a normative legal research method, a type of research that focuses on written legal materials as the primary source. The analysis focuses on legislation, court decisions, legal scholar opinions, and other relevant legal documents. This research does not rely on field data, but rather examines in-depth the legal norms governing copyright protection for songs in the context of concerts.

Several approaches were employed in this research, namely the statute approach, the case approach, and the conceptual approach. The statute approach was applied to explore positive legal provisions, specifically Law Number 28 of 2014 concerning Copyright and Article 1365 of the Civil Code concerning unlawful acts, to assess the legal liability of singers or performers. The case approach was used by examining the Decision of the Central Jakarta Commercial Court Number 92/Pdt.Sus-HKI/Hak Cipta/2024/PN Niaga Central

Jakarta to demonstrate how copyright norms are implemented in judges' decisions and how elements of infringement are assessed in judicial practice. A conceptual approach was used to clarify fundamental concepts, such as creators, performers, copyright infringement, and forms of protection for musical works from an intellectual property law perspective. These three approaches enabled a more comprehensive and in-depth research analysis.

The legal sources in this research comprised primary and secondary legal materials. Primary legal materials included statutory regulations, namely Law Number 28 of 2014 concerning Copyright, Article 1365 of the Civil Code, and court decisions, which were the focus of the research. Secondary legal materials included reference books, scientific articles, legal journals, and official documents published by the National Collective Management Institute (LMKN) and the Directorate General of Intellectual Property (DJKI). Both categories of legal materials were analyzed in an integrated manner to strengthen theoretical understanding and provide an argumentative basis for the issue of copyright infringement in musical works.

The legal material collection technique involved an inventory and categorization of primary legal materials and a library study of secondary legal materials. A systematic search was conducted of literature, journals, and credible academic sources, both print and online, to obtain relevant and up-to-date data.

The legal analysis technique used is normative analysis, which involves interpreting, connecting, and examining legal norms to find answers to the problem formulation. This analysis aims to produce objective and ideal legal conclusions regarding the legal responsibility of singers for copyright infringement of songs based on the provisions of laws and judicial practices in Indonesia.

IV. RESEARCH RESULTS

Copyright for songs and/or music, as stipulated in Law Number 28 of 2014 concerning Copyright, is a form of protection for intellectual creations that arises automatically when the work is manifested in physical or audible form, without requiring a registration procedure. Songs, as works, are protected from the melody, lyrics, and accompanying arrangements. This law emphasizes that every musical work contains two categories of rights: moral rights and economic rights. Moral rights are personal, non-transferable, and vest in the creator for life. These rights include the right to be identified as the creator, the right to use a different

name, the right to maintain the originality of the work, and the right to reject changes that could damage the work's value or dignity. In the context of song use, moral rights require that the creator's name be included whenever the work is performed or distributed to the public. Violations of moral rights can result in legal consequences as they are deemed detrimental to the creator's dignity.

Meanwhile, economic rights grant the creator or copyright holder exclusive authority to obtain material benefits from the work. These rights can be transferred or delegated to another party through an agreement or license. Based on Article 9 of Law Number 28 of 2014, economic rights include the authority to reproduce, announce, broadcast, distribute, and perform works to the public. In the music industry, singers and performers are required to request prior permission if they wish to use a song for commercial purposes, such as concerts, advertisements, or broadcasts. To ensure the proper distribution of royalties, the state has established Collective Management Institutions (LMK), such as KCI and WAMI, which are tasked with collecting and distributing royalties to creators. This provision is emphasized in Article 87 paragraph (1) and Government Regulation Number 56 of 2021 concerning the Management of Song and/or Music Copyright Royalties, including the existence of a Song and/or Music Information System (SILM) that facilitates monitoring the digital use of works.

However, in practice, singers or performance organizers still find themselves using musical works without permission, either due to a lack of understanding or disregard for legal obligations. In fact, Article 113 paragraph (2) of Law Number 28 of 2014 stipulates that violations of economic rights are punishable by up to four years in prison or a maximum fine of one billion rupiah. This demonstrates the state's commitment to protecting the economic rights of creators and encouraging the creation of a fair and sustainable music industry. Copyright protection also has moral and social dimensions, as respecting creative works means valuing the creator's creativity, dedication, and contribution to the development of national culture. Therefore, singers and performers are obligated to understand and comply with copyright regulations to maintain a balance between economic interests, respect for creators, and the sustainability of the music industry.

The use of songs by singers or performers in commercial activities, such as concerts or musical performances, has important legal implications because it is directly related to copyright protection. Under Law Number 28 of 2014 concerning Copyright, any public

performance of a song is considered a form of announcement or communication of the work to the public, requiring permission from the creator or copyright holder. This permission is granted through a written license, as stipulated in Article 80, which allows the user of the work to exercise the creator's economic rights for a specified period in exchange for royalties. Without this permission, the use of a song in a concert could constitute copyright infringement, subject to criminal and civil penalties.

To ensure the orderly licensing and royalty payment process, the government established Collective Management Institutions (LMK), such as Karya Cipta Indonesia (KCI) and Wahana Musik Indonesia (WAMI). In accordance with Article 87 paragraph (1) of the Copyright Law, any party using a song for commercial purposes is required to channel royalty payments through the LMK. This provision was further emphasized in Government Regulation Number 56 of 2021 concerning the Management of Song and/or Music Copyright Royalties, which also established the Song and/or Music Information System (SILM) as a national database to monitor song usage more transparently. In practice, concert organizers are required to provide a song list to the LMK before the event so that royalty calculations can be adjusted according to the duration and scale of the event.

Although creators retain exclusive rights to their musical works, the law stipulates several exceptions that permit unauthorized use, such as for education, research, criticism, or news coverage, as stated in Article 43. However, concerts and all forms of commercial performances are not included in these exceptions. Therefore, any use of songs for commercial purposes still requires official approval. Furthermore, copyright protection for songs lasts for the lifetime of the creator and continues for 70 years after their death, before the work enters the public domain.

Violations of copyright provisions are subject to criminal penalties of up to four years in prison or a fine of up to one billion rupiah, as stipulated in Article 113 paragraph (2). The dispute between Agnez Mo and Ari Bias is a concrete example of the importance of complying with licensing and royalty payment regulations. Therefore, both singers and performance organizers have a moral obligation and legal responsibility to respect copyright as a form of professionalism and support for a fair, transparent, and ethical music industry in Indonesia.

Figure 1. Process of Using Songs for Concerts



Source: Researcher's Compilation

Copyright grants creators absolute authority over their works, including music and songs. In the music industry, copyright infringement often arises due to a lack of understanding or negligence on the part of singers and event organizers regarding their obligations to obtain permission and pay royalties. One case that highlighted this issue was the dispute between Agnez Mo and Ari Bias, where Agnez Mo was accused of performing the song "Kangen" at a paid concert without obtaining the creator's consent. This case later became an important reference in assessing the singer's liability in cases of copyright infringement, as stipulated in Law Number 28 of 2014 concerning Copyright.

In that case, Ari Bias argued that his copyright had been infringed because he never provided direct consent for the use of his song, even though the concert organizer claimed to have made payment through a LMK. This situation raises the question of who should bear the legal consequences of such violations: the singer, the promoter, or the organizer. From a legal perspective, the singer, as the party performing the work in a public space, still has an obligation to ensure that official permission for the use of the song has been obtained before the performance.

Articles 8 and 9 of the Copyright Law affirm that creators retain economic rights over the reproduction, publication, and performance of their works. Performing works without permission, particularly in commercial activities such as concerts, is considered a violation of these economic rights. Furthermore, Article 5 of the Copyright Law also protects the creator's moral rights, namely the right to retain their name and the right to retain the original form of

the work. If a song is performed without crediting the creator or is modified without their consent, both rights have been violated.

Regarding liability, singers cannot claim ignorance of applicable legal obligations. Article 113 paragraph (2) stipulates that violations of economic rights are subject to criminal sanctions, including imprisonment of up to four years or a maximum fine of one billion rupiah. In addition to criminal penalties, the provisions of Articles 95 and 96 provide opportunities for creators to seek civil damages. Therefore, singers who profit from the unauthorized use of copyrighted songs can still be held accountable, either by paying compensation or by suspending use of the work. A singer's legal liability can be divided into three forms:

1. Civil, which involves the obligation to pay compensation for material and immaterial losses to the creator.
2. Criminal, which involves deliberate action, such as the unauthorized use of a song for a paid concert.
3. Administrative, which involves a warning or sanction from the Ministry of Law and Human Rights to promoters or singers who fail to comply with royalty obligations.

In the case of Agnez Mo vs. Ari Bias, legal responsibility falls not only on the singer but also on the concert promoter or organizer based on the principle of vicarious liability, which states that any party benefiting economically from the violation is also responsible. However, the singer remains obligated to conduct due diligence, ensuring that permits and royalties have been obtained before performing. The principle of strict liability also applies to copyright law, where the perpetrator remains liable even without intent.

The role of the Music and Music Information Agency (LMK) is crucial in the copyright management mechanism. Based on Article 87 of the Copyright Law and Government Regulation Number 56 of 2021, any party using a song for commercial purposes is required to obtain a permit through the LMK, which then distributes royalties to the creator through the Song and Music Information System (SILM). Failure to comply with this obligation can result in administrative and criminal sanctions.

The Agnez Mo and Ari Bias case demonstrates the low level of legal understanding among Indonesian musicians. Many singers still don't realize that permission to use a song must be obtained from the creator or LMK, not simply from the record company. This

situation underscores the need for increased education and transparency in royalty management to ensure creators' rights are protected.

Copyright disputes can be resolved through mediation at the Directorate General of Intellectual Property (DJKI) or through the commercial courts. Mediation is more aligned with the principles of restorative justice because it emphasizes restoring the creator's economic and moral rights without resorting to repressive criminal prosecution. In this case, an amicable resolution can be achieved through payment of royalty compensation and a public apology from the singer.

Overall, the Agnez Mo vs. Ari Bias case emphasizes that copyright infringement in concerts is not merely a matter of professional ethics but also a clear violation of the law. As performers, singers have a legal and moral responsibility to respect the rights of creators. Compliance with permits and royalty payments is not only a legal obligation but also a demonstration of respect for the creativity and sustainability of the Indonesian music industry.

V. CONCLUSION

The research results show that singers and performers have legal responsibility for the use of copyrighted songs, as stipulated in Law Number 28 of 2014 concerning Copyright. Every singer is required to obtain permission and pay royalties to the creator or through a Collective Management Institution (LMK) before performing another party's musical work, particularly in commercial activities such as paid concerts. This obligation includes civil liability in the form of compensation if a violation occurs, and can lead to criminal liability if the violation is intentional and results in economic loss for the creator. The case between Agnez Mo and Ari Bias illustrates that copyright infringement in concerts is not simply a matter of professional ethics, but a violation of legal norms that require compliance and legal understanding from all players in the music industry.

Based on a review of the Central Jakarta Commercial Court Decision Number 92/Pdt.Sus-HKI/Hak Cipta/2024, the panel of judges declared that the elements of copyright infringement were proven because the song was used without permission and there was economic benefit from the performance. The judge's legal considerations referred to Articles 9, 95–96, and 113 of the Copyright Law, while also considering the principles of legal certainty, justice, and good faith of the parties. This ruling has important consequences, as it

emphasizes that responsibility rests not only with singers but also with promoters and concert organizers who benefit from the proceeds. Furthermore, the ruling can serve as a precedent that strengthens the protection of creators' economic rights, particularly in the ever-evolving music and digital works ecosystem.

As a recommendation, singers, artist management, and event organizers need to improve their legal understanding of the importance of permits and royalty payments to prevent harm to creators. The government, through the Ministry of Law and Human Rights, needs to expand outreach, tighten oversight, and develop a digital royalty management system through the LMK (Credit Collection and Management Information System). Furthermore, the courts are expected to be consistent and adaptive in interpreting the Copyright Law in line with developments in information technology. The government and judicial institutions should also use this ruling as a foundation for developing national jurisprudence and encourage reform of the royalty management system to be transparent and accountable to strengthen legal protection and respect for creators' intellectual works.

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