

**ANALYSIS OF COPYRIGHT INFRINGEMENT OF COVER SONG DISPLAYED ON
YOUTUBE (CASE STUDY OF SUPREME COURT DECISION NUMBER 41
PK/PDT.SUS-HKI/2021)**

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ABSTRACT

In the era of globalization and digitalization, communication technology plays an important role in accelerating the development of digital activities. YouTube has become one of the popular platforms for sharing content, including song cover videos made by individuals or groups. Although it offers convenience and a means of creativity, song cover activities on YouTube have the potential to cause copyright infringement, especially related to musical works protected by law. Many users are unaware that uploading song covers without permission can violate copyright, which risks harming the creator and the music industry. This study aims to analyze copyright infringement in song cover activities on YouTube, focusing on a case study of the Supreme Court Decision Number 41 PK/Pdt.Sus-HKI/2021. The method used is normative legal research with a case study approach, which aims to provide an understanding of copyright protection in the digital world. The results of the study show that the Supreme Court's decision regarding copyright infringement in the case of "Lagi Syantik" by Gen Halilintar reflects the

importance of more effective education and law enforcement to protect copyrighted works on digital platforms. This study is expected to contribute to the understanding of copyright compliance in the use of YouTube and other digital platforms.

Keywords: Copyright, YouTube, song covers, violation of law, Supreme Court, Digitization.

INTRODUCTION

In the era of increasingly developing globalization, communication technology has a very important role in accelerating the development of digital activities Pandito and Malim (2024: 23 (Malim, 2024). YouTube has become a very popular medium for sharing various types of content, including music and video content. This platform makes it easy for its users to upload and watch videos in various forms, such as song cover videos made by individuals or groups. This activity is often used as a means to develop creativity, attract audience attention, and increase the number of views.

However, the activity of song covers on YouTube has also caused debate, especially among song lovers and creators, because it has the potential to open up opportunities for copyright infringement, especially related to musical works that are protected by law. This copyright infringement often occurs due to a lack of user understanding of copyright rules. Many YouTube users are unaware that uploading song covers without permission from the copyright owner can be considered a violation of the law, which risks harming the creator of the work and the music industry as a whole.

Copyright Law No. 28 of 2014 provides legal protection for creative works, including music, from unauthorized use.(Harwanto, 2023). However, many creators on the YouTube platform are not aware of the importance of permission in creating and uploading song covers, which can lead to copyright infringement.(Irianto, Copyright Piracy on the Youtube Site Reviewed in Law Number 28 of 2014 Concerning Copyright, 2024). This copyright infringement not only harms the creator, but can also reduce the reputation of the platform used, as well as cause financial losses, especially for copyright owners.

Copyright infringement cases, such as the one between PT Nagaswara Publisherindo and Halilintar Anofial Asmid in the case of the song "Lagi Syantik", show the importance of enforcing copyright law in the digital world. In the Supreme Court decision No. 41 PK/Pdt.Sus-HKI/2021, it was emphasized that copyright does not only apply in a physical context, but also in the digital space, where works are easily copied and distributed without permission.(Lookman, 2024). This case also reflects the urgency of education about copyright and the need for more effective law enforcement mechanisms in the digital world.

Based on this background, the author feels it is important to conduct further research on copyright infringement related to song covers broadcast on YouTube, with the focus of the problem being Supreme Court Decision Number 41 PK/Pdt.Sus-HKI/2021 and How did the judge consider in handing down a verdict against the Defendant in Supreme Court Decision Number 41 PK/Pdt.Sus-HKI/2021 and the implementation of copyright protection for musical works in the form of song covers on YouTube based on Court Decision Great Number 41 PK/Pdt.Sus-HKI/2021. This research is expected to contribute to a deeper understanding of how the law protects copyright in the digital world, as well as the importance of copyright compliance in the use of platforms such as YouTube.

METHOD/IDEA

This study uses a normative or doctrinal legal research type. The main objective of this study is to find out the legal problem cases objectively and clearly. The study was conducted by reading, identifying, reviewing, and interpreting relevant laws and regulations as the main source in compiling(Marzuki, 2014). The process is then linked to the case being studied and identified with provisions relating to the research topic.

This study uses a jurisprudence approach, namely legal research that focuses on analyzing court decisions to understand the application of law in practice. This approach is used to find patterns of legal application and judge interpretation in a case.

Data Collection and Analysis:

Data collection:

Identify and collect relevant court decisions.

Access the decision through the court's official website or legal database.

Selecting a decision that is appropriate to the research topic.

Data analysis:

Analyze the legal reasons in decisions, including norms and judges' interpretations.

Establish patterns or trends in the application of law by judges.

Comparing the decision with other legal regulations or doctrines to see its consistency.

RESULTS AND DISCUSSION

Judge's Considerations in Handing Down a Verdict Against the Defendant in Supreme Court Decision Number 41 PK/Pdt.Sus-HKI/2021

Based on the judge's considerations in the verdict of case Number 41 PK/Pdt.Sus-HKI/2021, this case occurred due to a song cover that was done without permission and caused losses to the owner of up to billions of rupiah. The song known to the public with the title "Lagi Syantik" which was popularized by a beautiful singer named Siti Badriyah was released since 2018 and became a popular song at that time. This song is equipped with a music video that was uploaded on the YouTube channel and managed to get an audience of more than 700 million viewers. The music label for the song entitled "Lagi Syantik" is PT Nagaswara Publisherindo (Nagaswara)(Panjaitan, 2021).¹

The song, which was released in 2018, became a phenomenon and attracted the attention of many musicians to do covers. However, Gen Halilintar's actions in uploading a cover without permission on November 15, 2018, and changing most of the original lyrics, triggered a long legal dispute. The mediation process between Nagaswara and Gen Halilintar was carried out 3

(three) times but did not find a way out. Finally, Nagaswara decided to sue by sending an official Lawsuit Letter to the Central Jakarta District Court with Case Number 82 / Pdt.Sus-Hak Cipta / 2019 / PN. Niaga. Jkt. Pst. with the contents of the lawsuit that Nagaswara is asking for compensation for what was done by Halilintar TV which caused quite large material and immaterial losses.

On March 30, 2020, the Panel of Judges examining the case related to alleged copyright infringement by Gen Halilintar filed by Nagaswara, in a decision with Case Number 82/Pdt-Sus-Hak Cipta/2019/PN Niaga. Jkt. Pst., rejected all lawsuits filed by Nagaswara, including the provision requested to be immediately terminated. In the decision, the Panel of Judges stated that there was no proven copyright infringement committed by Gen Halilintar on the work managed by Nagaswara. As a consequence of this decision, Nagaswara is required to pay court costs, which are part of their responsibility for the lawsuit filed, but not accepted by the court.

On March 31, 2020, Nagaswara was dissatisfied with the judge's decision and would file an appeal to the court. However, on September 15, 2020, the Panel of Judges rejected the appeal written in Court Decision Number 910 K/Pdt.Sus-HKI/2020 which was declared to have permanent legal force.

On December 4, 2020, the decision was notified to Nagaswara. Then on May 25, 2021, Nagaswara filed a request for a judicial review examination at the Commercial Court Clerk's Office at the Central Jakarta District Court. Then on June 10, 2021, the judicial review was notified to Halilintar and Halilintar filed a response to the judicial review on July 29, 2021, which contained a rejection of Nagaswara's judicial review application.

The final decision handed down by the Panel of Judges went through several processes that were taken into consideration. Starting from the first level decision, cassation legal efforts, to judicial review legal efforts which stated that the Gen Halilintar Party had violated Article 9 Paragraph (1) letter a, letter b, letter, 3 in conjunction with Article 9 Paragraph (2) of Law Number 28 of 2014 concerning Copyright which stated that they had carried out fixation, duplicating in digital form/electronic printing, publishing works of creation through social media and violating Article 9 Paragraph (1) letter d, letter h, in conjunction with Article 9 Paragraph (2) of Law Number 28 of 2014 concerning Copyright by transforming creations and communicating

creations. This is proven by the upload of a cover video belonging to Gen Halilintar which was uploaded on a YouTube channel called Halilintar TV with the previous link <https://www.youtube.com/channel/UCfRNJiafEm1LBBGFTTq4cXw>, which has now been taken down at the request of PT Nagaswara Publisherindo or known as Nagaswara.

The Panel of Judges in making its considerations to accept a judicial review examination is not done solely, but by considering previous decisions. As in the case faced by PT Nagaswara Pulisherindo or Nagaswara with Gen Halilintar related to this copyright infringement case, the Panel of Judges who tried and handled this case decided to accept the request for re-examination submitted by Nagaswara on the grounds that due to the consideration of the Supreme Court's *judex juris*, it turned out that there had been a clear error or mistake in deciding the case and considering the copyright violation committed by Gen Halilintar as the Defendant/Respondent for the Judicial Review. (Getting to Know *Judex Factie*" www.pa-ampana.go.id/arsip-article/1352-mengenal-peradilan-agama, 2025).²

Implementation of Copyright Protection for Musical Works in the Form of Song Covers on YouTube Based on Supreme Court Decision Number 41 PK/Pdt.Sus-HKI/2021

The Panel of Judges in the Supreme Court Decision Number 41 PK/Pdt.Sus-HKI/2021 initially did not consider the implementation of legal protection for the rights of creators to their musical works (Supreme Court, 2021). This can be seen in the previous decision, it was proven that the panel of judges committed *judex jurist* or an error in deciding a case. However, in the end the Panel of Judges applied legal protection to the creator of the work as it should be. The song cover activity by Gen Halilintar was carried out as people should do song covers. They made a recording made by the cover artist who was not the creator or holder of the related rights of the musical work used. Re-singing a song refers to the activity of adapting a recording that contains several aspects including components, different singers, and different orchestras. If someone who does a song cover in the process arranges the song without permission from the

creator or copyright holder, then this activity can be said to be a copyright infringement. Likewise with what was done by Gen Halilintar.

The civil lawsuit filed by Nagaswara to the Commercial Court for a claim for compensation filed on behalf of the creator is an action taken based on Article 100 Paragraph (1) of Law Number 28 of 2014 Concerning Copyright. Several things requested are the confiscation of works resulting from modifications to the original work and a request to stop activities that are of a nature to publish the works produced.(Irianto, Copyright Piracy on the Youtube Site, 2024).

Singing other people's songs which are then uploaded on YouTube media actually cannot be done freely and this is often ignored by the wider community. The dispute that occurred between Gen Halilintar and Nagaswara related to the song entitled "Lagi Syantik" has violated the provisions of Law Number 28 of 2014 concerning Copyright (UUHC), specifically in Article 9 Paragraph (2) where everyone who exercises economic rights is required to obtain permission from the creator of the work or copyright holder.(Lookman, Copyright Liability of Song Covers to Creators on YouTube Digital Content, 2024). In relation to the implementation of song covers, it is said to violate moral rights if the person who does the cover does not include the name of the songwriter or music creator in their upload and is said to be a violator of economic rights if the songwriter's work does not have permission with the intention of gaining profit and commercial interests.

The granting of copyright protection is given in the form of moral rights and economic rights. Moral rights as a form of recognition of ownership of the copyrighted song works produced and economic rights are given as the right to carry out economic activities on the works produced. For example, by distributing, disseminating, trading, and others that are commercial in nature. The application of protection for the works produced is regulated in Law Number 28 of 2014 concerning Copyright (UUHC) which is given universally. In relation to the case experienced by Gen Halilintar with PT Nagaswara Publisherindo in Decision Number 41-PK / Pdt.Sus-HKI / 2021, it was implemented by providing protection in preventive and repressive actions. Preventive actions are taken to prevent copyright infringement, UUHC regulates that prevention is carried out by recording / registering copyrighted songs to facilitate proof of ownership in the event of a dispute. In the case of Decision Number 41-PK/Pdt.Sus-HKI/2021, it

has been applied that the object of the dispute in the form of a song entitled "Lagi Syantik" has been officially registered with the Directorate General of Intellectual Property as belonging to PT Nagaswara. Meanwhile, repressive actions are taken to suppress or impose sanctions on copyright violators. As seen from the case of Decision Number 41-PK/Pdt.Sus-HKI/2021, the violators are sued for compensation and are asked to confiscate and stop the use of the copyrighted work resulting from the copyright violation which is stated in the form of a lawsuit filed with the Commercial Court at the Central Jakarta District Court.

CONCLUSION AND SUGGESTIONS

Based on the description above, the author draws several conclusions from the copyright infringement case involving Gen Halilintar and PT Nagaswara Publisherindo in Decision Number 41-PK/Pdt.Sus-HKI/2021. First, the decision-making process was carried out through various considerations which culminated in the decision that Gen Halilintar violated Article 9 Paragraph (2) of Law Number 28 of 2014 concerning Copyright.

The panel of judges also considered the existence of errors in the previous decision. Second, copyright protection for creators or copyright holders is very important and is given in the form of moral rights and economic rights. This protection is regulated in the Copyright Law and is implemented through preventive measures (registration of copyrighted works) and repressive measures (sanctions against violators). In this case, the song "Lagi Syantik" in question has been registered, and sanctions in the form of compensation and termination of use of copyrighted works are applied.

Copyright infringement, such as re-singing songs uploaded on YouTube, remains a problem that harms creators, threatening their moral and economic rights. Therefore, copyright protection needs to be improved technically and substantially. The government is expected to pay more attention to implementing the rules so that there are no mistakes in deciding disputes, and the public must respect copyrighted works more, especially song copyrights owned by creators or copyright holders.

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