

Copyright Dispute Resolution in Indonesia

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Abstract—Settlement of Copyright disputes can be done through Alternative dispute resolution, arbitration, in the Commercial Court. Copyright violations often occur so that legal settlement is needed so that the Community as creators can obtain legal certainty. Settlement of copyright disputes in the Commercial Court, this court's competence is absolute competence (absolute competentie) because it is stated that other courts besides the commercial court are not authorized to handle the settlement of copyright disputes and other intellectual property rights, except for Trade Secrets and Plant Varieties. Settlement of copyright disputes through non-litigation is often referred to as copyright settlement carried out outside the court. The existence of dispute resolutions outside the court is a breakthrough because many cases are piling up in the court that have not been resolved.

Keywords: commercial court; copyright; copyright infringement; dispute resolution; exclusive rights

Introduction

Copyright is the exclusive right of the creator that arises automatically based on the declarative principle after a creation is manifested in a tangible form without reducing restrictions in accordance with the provisions of laws and regulations. Technological developments on the one hand make it easier for Creators, Copyright Holders, and Related Rights Holders (neighboring rights) to commercialize their creations in any form and on the other hand make it easier for unauthorized parties to violate the Creator's Rights. One example that the Author gives is the trend of re-singing an artist's song with his version and then uploading it to a social media account is a form of development that has emerged in the digital era or is generally referred to as covering songs. The problem arises when cover singers activate monetization for the songs they cover and then publish them through a Youtube channel account. If there is an economic benefit obtained, then the cover singer is obliged to pay royalties to the owner of the original song. Therefore, in order not to violate the law, the cover singer must understand the rules of the game related to Copyright (Heriani, 2023).

Copyright infringement, especially in the form of song and/or music announcements, seems to occur without any meaningful legal resolution. Adrian Sutedi said that an action can be said to violate copyright if it violates the special rights of the creator or copyright holder (Sutedi, 2013). Utilizing information, media and communication technology has changed people's behavior globally. The emergence of internet media in people's lives has experienced changes in the social, economic, and cultural fields that are taking place very

quickly. Uploading a song cover video on Youtube without copyright permission from the holder is a violation of the creator's economic rights. Currently, any party can upload the song cover video even though it turns out to be a form of copyright infringement, and this is certainly detrimental to the creator.

Other copyright infringements in the form of plagiarism also occur in the music industry, one of which is in the case of world artist Katy Perry who was found guilty of copyright infringement on July 29, 2019 based on a court ruling in Los Angeles, United States. This ruling was given based on a lawsuit by Marcus Gray and two other writers who accused Katy of plagiarizing her song entitled "Dark Horse" with the plaintiff's song "Joyful Noise" (Fitriadi, Jannah, Marlin & Zull Haq, 2023). The chronology of this case began in July 2019 when Katy Perry was sued by rapper Flame (Marcus Gray) for copyright infringement. Marcus Gray filed a lawsuit against Katy Perry regarding her song titled "Dark Horse" which was released in 2013. It is alleged that the song contains eight musical notes that are believed to be taken from his musical composition "Joyful Noise", which was released in 2009, has been widely distributed on platforms such as YouTube and Spotify. Marcus Gray's attorney stated that the beat and notes that appear in almost half of the song "Dark Horse" are substantially similar to the song "Joyful Noise" (Fitriadi, Jannah, Marlin & Zull Haq, 2023). AP News, the lawsuit had the potential to be dismissed because the case focused not on the lyrics or recording, but on the notes and beats (musical notation), where Perry played the role of singer and lyricist. However, the jury's decision found that all six songwriters and four companies that released and distributed the song "Dark Horse" were liable, and found guilty against Perry and Sarah Hudson, who wrote the lyrics, and Juicy J, who contributed the rap lyrics to the song (Fitriadi, Jannah, Marlin & Zull Haq, 2023).

The song "Dark Horse" is a hit single from Katy Perry's third album, PRISM. Which successfully topped the Billboard Hot 100 chart for four weeks in 2014. and received various awards, including a Grammy Award for Katy Perry, achieved Diamond certification from the Recording Industry Association of America (RIAA) and has been viewed more than 2.7 billion times on the YouTube platform which generated tens of billions in revenue. As a result of the lawsuit, Katy Perry along with her collaborators such as Dr. Luke and Max Martin, her duet partner Juicy J, and her music label Capitol Records, Warner Bros. Music Corporation, Kobalt Publishing, and Kasz Money Inc., suffered significant losses where according to AP News, Katy Perry and her team were ordered to pay USD 2.7 million or around Rp. 38.4 billion to Marcus Gray. Furthermore, Katy Perry was also required to pay compensation of USD 549,000 or around Rp. 7,800,000,000 to be held accountable to Capitol Records. The details of the losses were outlined by attorney Marcus Gray, including the revenue generated from the song "Dark Horse" and the costs incurred in making and promoting the song. "Dark Horse" made a profit of around \$ 31 million or equivalent to Rp 441 billion before deducting production costs and taxes (Fitriadi, Jannah, Marlin & Zull Haq, 2023).

After being found guilty in 2019, Katy Perry and her team appealed to the Los Angeles County Circuit Court and won the trial. The judge considered several factors, including:

A single line of lyrics with the same musical rhythm in a song is not considered original enough to warrant copyright protection;

One jury found that the eight-note ostinato (a repeating melodic form) allegedly stolen from the song "Joyful Noise" was not supported by sufficient evidence in the case;

One musicologist states that the distinguishing element of the eight-note ostinato in "Joyful Noise" is not a unique and rare combination of notes;

The eight-note combination that is the focus of the lawsuit is a relatively common musical rhythm and consists of unprotected notes that happen to be commonly played in certain musical genres, which is evidence of a lack of originality for copyright protection;

The elements that are the focus of the lawsuit are simple components that, if sued regarding copyright, will harm all songwriters and musicians because the basic building blocks of music, notes and melodies, must be available to everyone and free to express.

The testimony of several witnesses showed that none of them had ever heard the song "Joyful Noise" before the lawsuit was filed.

Plaintiffs failed to provide evidence at the request of the court Marcus Grey's legal representative pointed to the wide distribution and millions of plays of the song "Joyful Noise" on YouTube (Fitriadi, Jannah, Marlin & Zull Haq, 2023).

Several years before the copyright infringement case involving famous singers Katy Perry and Marcus Gray, a similar case occurred in Indonesia involving a suspect of musical notation plagiarism. The song in question was "Mari Bercinta" popularized by Aura Kasih which has a similar melody and musical notation to the song "Give It to You" by Eve and Sean Paul. This similarity is found in several bars in the song. Otto Hasibuan said that violations that generally occur against music are divided into 2 (two) forms, namely violations of the Creator's moral rights and the Creator's economic rights. Violations of the Creator's Moral Rights include Ignoring or not mentioning the name of the songwriter when published, not listing the Creator's name as the creator of the song, Modifying or changing the title of the song, or modifying or changing the contents of the song. Violations of Economic Rights include but are not limited to acts of singing the song in public without permission, broadcasting the song on radio or TV stations, distributing the song either physically on CD or digitally, duplicating, transforming the song (Hasibuan, 2008) In principle, the use of Creation in the form of a song Cover created and uploaded to YouTube media only by including the name of the original singer (Creator) on the cover work is certainly not enough to avoid lawsuits from copyright holders. In order not to violate copyright, to produce, record, or announce a song owned by the creator, the party should obtain permission (license) from the creator as follows (Fitriadi, Jannah, Marlin & Zull Haq, 2023):

Mechanical License, namely the right to duplicate, reproduce (including rearranging) and record a musical composition/song in the form of CDs, cassettes and other recording media; and/or

Performance Rights, namely the right to announce a song/musical work, including singing, playing, either in the form of a recording, or live performance, via radio or television.

Another case is the case of computer software piracy. Reported through the Global Software Piracy Study in 2013, the level of piracy in Indonesia increased to 86 percent, placing Indonesia at the top of ASEAN countries in terms of computer software piracy. The value of losses caused until the end of 2012 reached \$ 1.487 billion (Ngazis, 2023). The Business Software Alliance (BSA) assesses that piracy in Indonesia is very rampant due to the lack of law enforcement against copyright violations, where BSA revealed that 83 (eighty-three) percent of software in Indonesia uses pirated software (CNN Indonesia, 2019). Based on the 2018 Global Software Survey, the use of pirated software in companies in Indonesia only fell by 1 (one) percent, where in 2015 pirated software in Indonesia reached 84% and fell to 83% in 2017. BSA assesses that the use of pirated software has the potential to cause malware attacks on the company, where losses due to the malware can reach US \$ 359 billion per year (CNN Indonesia, 2019).

Software piracy in Indonesia occurred in 2016 when the Subdit Indag Ditreskimsus Polda Metro Jaya arrested a seller of pirated Microsoft Windows Corporation Software in the Glodok area, Mangga Dua, Central Jakarta at a price of Rp 500,000 to Rp 750,000. From the two stores, the police confiscated 289 (two hundred and eighty-nine) pirated Microsoft Windows Corporation Software Compact Discs (CDs), 30 (thirty) sheets of Windows license stickers and 1 purchase receipt. According to Head of Unit III Subdit Indag Ditreskimsus Polda Metro Jaya, Commissioner Faisal Febriyanto, the two suspects sold the pirated software through online shopping sites and physical stores, and the suspects carried out the act for 1 (one) year so that Microsoft had suffered losses of Rp 1,000,000,000 (one billion rupiah). The beginning of the discovery of this practice was when a user complained that the software he was using could not be upgraded and it turned out that after checking the product key of the software was not recognized (Amelia R, 2016).

Another case of copyright infringement is film piracy. In 2020, the Indonesian film industry's revenue dropped by 97 (ninety) percent. This is certainly inseparable from the piracy factor. The General

Chairperson of the Film Producers Association, Edwin Nazir, said that every year the national film industry experiences losses of up to 5 (five) trillion rupiah due to piracy. Referring to the Pirates in The Outfield report, Akamai 2022 State of the Internet/Security Report, in the period January-September 2021, Indonesia ranked 9th in the list of visits to pirated websites with a total of 3.5 billion visits. A survey conducted by YouGov also revealed that almost two-thirds or around 63 (sixty-three) percent of Indonesians watch pirated websites.

Jovitain his article entitled "Condolences for the Indonesian Film Industry" he stated that the data proves that public awareness in appreciating a creative work is very low, whereas the public should appreciate a creative work that has been created by its creator. In fact, the digitalization era that we are currently living in provides many options for the public to support Indonesian films. By subscribing for Rp50,000–Rp150,000 per month, the public can watch more than one film through legal film streaming sites, such as Netflix, Disney Hotstar, and so on (Jovita, 2023).

Jovita said that one of the factors is the culture of society that normalizes piracy. Society has reached the stage of 'enjoying' watching pirated films. This is a habit that is done repeatedly until it gives birth to a culture in the country. Not only has it become a culture, this phenomenon has also been considered commonplace by some Indonesian people. Putri Titian uploaded several clips of the Korean Netflix series Squid Game through her Instagram. Then, she re-uploaded one of her followers' stories who watched Squid Game through an illegal site. The re-upload made many comments against her so that Putri Titian defended herself. According to her, watching illegal films is okay because not everyone has the money to subscribe to Netflix. Then, Putri Titian talked about her teenage years when she often bought pirated DVDs. Seeing this, it is clear that the majority of Indonesian people have romanticized and normalized piracy behavior. However, there are still some people who oppose piracy behavior (Jovita, 2023).

The case of film piracy that occurred in Indonesia was the case of the piracy of the film "Keluarga Cemara" by Visinema Group in which the convict Aditya Fernando Phasyah was proven legally and convincingly to have violated Copyright and was sentenced to 14 (fourteen) months in prison and a fine of Rp. 500,000,000 (five hundred million rupiah) which if not paid will be replaced with imprisonment for one month. Not only that, in investigating this piracy case, AFP has pirated around 3,000 local and imported film titles since 2018. The defendant did this to seek profit from the registered advertisements, considering that the titles of these films are quite well-known (Plasmanto, 2021). For that reason, Copyright Protection needs to be improved. Jacques de Werra said that there are three approaches to copyright protection for digital works, namely (Jaman, 2021): First: Copyright Protection through conventional Copyright: Second: Copyright Protection through technical protection/security technology. Third: Copyright Protection through legal protection of technical protection/security technology.

The chronology of the case began when convict Aditya Fernando Phasyah reported by PT Visinema Pictures in April 2020 on suspicion of criminal piracy of the film Keluarga Cemara produced by Visinema. The defendant was then arrested by investigators from the Cyber Crime Directorate of the National Police Criminal Investigation Unit on Tuesday, September 20, 2020, in the Hok area, South Jambi District, Jambi City. Meanwhile, his colleague, RBP, who was involved in the hijacking, is still a fugitive to this day (Jaman, 2021)

Another case of piracy that occurs is book piracy. Book piracy in Indonesia has become an industry whose products are widely sold in the marketplace. This illegal practice has the potential to kill creativity and harm many parties, from writers, editors, designers, illustrators, translators, adapters, printers, publishers, to bookstores. Based on a survey by the Indonesian Publishers Association (IKAPI) in 2021, around 75 (seventy-five) percent of publishers found their published books pirated and sold in the marketplace. This survey involved more than 130 publishers. Losses due to piracy are estimated to reach hundreds of billions of rupiah. Book actors, especially authors, are the parties most disadvantaged by book piracy. This is because they lose their right to receive royalties. The book industry also involves other components, such as editors, translators, adapters, illustrators, designers, printers, publishers, and bookstores. While the

production of pirated books only bears the printing costs. Broadly speaking, book piracy or creative economy copyright infringement is divided into two. First, piracy of the entire contents of the book sourced from leaked soft files. After that, the book is printed and sold in bulk. Second, duplicating part of the contents of the book like in a photocopy shop. This practice has been going on for a long time because there is a permissive attitude when it comes to education, especially on campuses (Sinaga, 2023).

Eddy Damianstated that the phenomenon of copyright infringement was influenced by several factors, namely the low level of public understanding of the function of copyright, the desire to obtain trade profits easily and the low level of law enforcement in the field of copyright (Damian, 2005). In line with this, the Government in this case the Deputy for Intellectual Property Rights Facilities and Regulation of the Creative Economy Agency (Bekraf) Ari Juliano Gema, revealed thatIndonesia is in the top 10 countries with high piracy rates. In fact, pirated products harm creators, the government, and consumers. Bekraf noted that the country lost around 20 trillion from pirated products. A joint survey with the Faculty of Economics and Business, University of Indonesia in 2017 found that film piracy in four cities resulted in losses of 1.4 trillion. Other losses came from the music and software sectors. The Indonesian Recording Industry Association (ASIRI) recorded losses in the music sector of 8.4 trillion in 2017. In the software sector, the country lost 12 trillion based on data from the Indonesian Anti-Piracy Society (Tuasikal, 2019). Ari Juliano Gema, piracy arises due to three factors, namely cheaper pirated prices, wider distribution, and people's habits. Price and distribution factors can be overcome with the presence of streaming facilities on the internet. However, he said, habit factors are still difficult to change. One of the most common examples of people is looking for links to new films that appear in cinemas. In addition, awareness of Intellectual Property Rights (IPR) in society is still low. A survey with the Central Statistics Agency (BPS) in 2016 found that out of 8.2 million creative business units, only 11 percent had registered IPR (Tuasikal, 2019). Various cases presented previously illustrate the losses that can be caused by copyright infringement, one of the points of renewal in the Copyright Act is the effective resolution of disputes through mediation, arbitration or court processes, as well as the application of complaint offenses for criminal prosecution.

Methods

The research method used in this research is a normative legal research method by examining court decisions as primary legal material. Laws and regulations, books, documents, journals, and scientific works are secondary legal materials. As well as official and trusted publications as tertiary legal materials. The types of approaches used by the researcher in this study are the statute approach and the case approach. The analysis technique applied in this research is a qualitative method through literature study.

Discussion

Legal Remedies for Resolving Copyright Disputes

Article 95UUHC states that resolution of copyright disputes can be carried out through alternative dispute resolutions and arbitration, in the Commercial Court. The court referred to inUUHC (Commercial Court) is a Commercial Court. Commercial Courts in Indonesia are located in 5 (five) cities consisting of the Commercial Court at the Central Jakarta District Court, the Commercial Court at the Surabaya District Court, the Commercial Court at the Semarang District Court, the Commercial Court at the Medan District Court, and the Commercial Court at the Makassar Court. The competence of this court is absolute competence (absolute competentie) because it is stated that other courts besides the Commercial Court are not authorized to handle the settlement of Copyright disputes. Settlement of copyright disputes through non-litigation is often referred to as copyright settlement that is carried out outside the court. The existence of dispute resolution outside the court is a breakthrough because many cases are piling up in the court that have not been resolved (Asmara, Arifin & Anwar, 2023). The prevention effort that can be taken by creators is to register their copyrighted works so that they can later obtain legal protection and legal certainty regarding the rights to their creations (Yasa & Sukranatha, 2016)

Creators, Copyright Holders, or Related Rights owners have the right to file a lawsuit for damages with the Commercial Court for violations of Copyright or Related Rights products. The lawsuit for damages as referred to may be in the form of a request to hand over all or part of the income obtained from organizing lectures, scientific meetings, performances or exhibitions of works that are the result of violations of Copyright or Related Rights products. In addition to the lawsuit as referred to above, Creators, Copyright Holders, or Related Rights owners may apply for a provisional decision or interim decision to the Commercial Court for:

Requesting the confiscation of the Creations that have been Announced or Duplicated, and/or the Duplicating tools used to produce Creations resulting from Copyright infringement and Related Rights products; and/or

Stopping the activities of Announcement, distribution, Communication, and/or Duplication of Creations which are the result of violations of Copyright and Related Rights products.

Creators, Copyright holders and/or Related Rights holders or their heirs who experience economic losses are entitled to receive Compensation. Compensation is given and stated simultaneously in the court decision on Copyright and/or Related Rights criminal cases. Compensation payments to Creators, Copyright Holders and/or Related Rights owners are paid no later than 6 (six) months after the court decision has permanent legal force. In the event that the Creation has been registered with the Directorate General of Intellectual Property (DJKI), other interested parties may file a lawsuit to cancel the registration of the Creation in the general list of Creations through the Commercial Court. The lawsuit is addressed to the Creator and/or registered Copyright Holder. The creator is given exclusive rights to his/her creation by the state as an award. The creator's exclusive rights arise automatically based on the declarative principle after a creation is manifested in a tangible form without reducing restrictions in accordance with the provisions of laws and regulations. As an exclusive right, copyright contains two essences of rights, namely: economic rights and moral rights (Dewi, 2018). These economic rights are in the form of a profit in the form of money obtained because one's own use of IPR or the use of another party based on a license (Rumbekwan, 2016). Disputes and problems arise because there is a clash of interests between one and another, so that this difference of interests will cause problems and trigger the emergence of conflict on something that becomes the object of the problem (Suarbawa, 2024). Mediation and arbitration can be effective solutions in resolving transaction disputes in the Metaverse world (Romizah, 2024). To suppress the occurrence of copyright infringement, it is necessary to enforce legal protection (Febiati & Andini, 2023). Legal protection is divided into 2 parts, namely preventive and repressive (Nainggolan, Lestari & Juliyan, 2024). The method of dispute resolution is also influenced by the development of information technology (Nainggolan, Lestari & Juliyan, 2024).

The transfer of copyright for all works to another party does not reduce the right of the creator or his heirs to sue any person who intentionally and without rights without the consent of the creator violates the moral rights of the creator (Ananto, 2023). The transfer of the economic rights of the Performer to another party does not reduce the rights of the Performer or his heirs to sue any person who intentionally and without the right and without the consent of the Performer violates the moral rights of the Performer.

Procedures for filing a lawsuit

Lawsuits for copyright infringement are filed with the Chairman of the Commercial Court. The lawsuit will be recorded by the clerk of the Commercial Court in the court case register on the date the lawsuit is registered. The clerk of the Commercial Court provides a signed receipt on the same date as the registration date. The clerk of the Commercial Court submits the lawsuit application to the chairman of the Commercial Court within a maximum of 2 (two) days. Calculated from the date the lawsuit is registered and within a maximum of 3 (three) days from the date the lawsuit is registered, the Commercial Court will determine the trial date.

Notification and summons of the Parties shall be carried out by the bailiff within a maximum of 7

(seven) days from the date the lawsuit is registered. The decision on the lawsuit must be pronounced no later than 90 (ninety) days since the lawsuit was registered. In the event that the time period as referred to cannot be met, with the approval of the Chief Justice of the Supreme Court, the time period may be extended for 30 (thirty) days. The decision must be pronounced in a public hearing. The Commercial Court decision must be delivered by the bailiff to the parties no later than 14 (fourteen) days from the date the decision is pronounced.

Legal remedies

Only a cassation may be filed against a Commercial Court decision, there is no legal remedy for an appeal against a Commercial Court decision. Legal remedy the cassation application must be filed no later than 14 (fourteen) days from the date the Commercial Court decision was pronounced in an open session or notified to the parties. The cassation application is registered with the Commercial Court that has decided the lawsuit by paying a fee the amount of which is determined by the court. The Commercial Court Clerk registers the cassation application on the date the application is filed and provides a signed receipt to the cassation applicant on the same date as the registration date. The Commercial Court Clerk is required to submit the cassation application to the cassation respondent no later than 7 (seven) days from the date the cassation application is registered.

The cassation applicant must submit a cassation memorandum to the clerk of the Commercial Court within a maximum of 14 (fourteen) days from the date the cassation application is registered. The clerk of the Commercial Court must send the cassation memorandum to the cassation respondent within a maximum of 7 (seven) days from the date the clerk of the Commercial Court receives the cassation memorandum. The cassation respondent may submit a counter cassation memorandum to the clerk of the Commercial Court within a maximum of 14 (fourteen) days from the date the defendant receives the cassation memorandum. The clerk of the Commercial Court must submit a counter cassation memorandum to the cassation applicant within a maximum of 7 (seven) days from the date the clerk of the Commercial Court receives the counter cassation memorandum. The clerk of the Commercial Court must send the cassation files to the Supreme Court within a maximum of 14 (fourteen) days from the time the defendant submits the counter cassation memorandum, which is 14 (fourteen) days.

No later than 7 (seven) days from the date the Supreme Court receives the cassation application, the Supreme Court will determine the trial day. The cassation decision must be pronounced no later than 90 (ninety) days from the date the cassation application is received by the Supreme Court. The Supreme Court Clerk is required to submit a copy of the cassation decision to the Commercial Court Clerk no later than 7 (seven) days from the date the cassation decision is pronounced. The Commercial Court bailiff is required to submit a copy of the cassation decision to the cassation applicant and the cassation respondent within a maximum of 7 (seven) days from the date the Commercial Court Clerk receives the cassation decision.

UUHC does not prohibit legal remedies for judicial review (PK) of cassation decisions, so UUHC allows legal remedies for judicial review (PK) of cassation decisions if they meet the provisions of Judicial Review as referred to in the provisions of laws and regulations. For example, in Decision Number 25 PK/Pdt.Sus-HKI/2023 between PT JAWAPOS MEDIA TELEVISI and MUHAMAD THAYIB where the case began with the Decision of the Commercial Court at the Surabaya District Court with Decision Number 7/Pdt.Sus-HKI/Cipta/2021/PN Niaga Sby., dated February 23, 2022 in conjunction with the Decision of the Supreme Court Number 1000 K/Pdt.Sus-HKI/2022, dated August 2, 2022 to the Judicial Review Decision Number 25 PK/Pdt.Sus-HKI/2023 dated July 24, 2023.

A judicial review (PK) in a civil case does not stop the execution or implementation of a court decision and can only be submitted 1 (one) time and a judicial review application does not suspend or stop the implementation of a court decision. The Supreme Court, in accordance with its duties and authority, examines and decides on applications for judicial review of court decisions that have obtained permanent legal force. The application for judicial review must be submitted by the parties to the case or their heirs or a

representative who is specifically authorized to do so. If during the judicial review process the applicant dies, the application can be continued by his heirs.

A civil case decision that has obtained permanent legal force, a request for judicial review may be submitted only on the following grounds:

if the decision is based on a lie or trickery by the opposing party which is discovered after the case has been decided or is based on evidence which is later declared false by the criminal judge;

if after the case has been decided, documents of evidence are found which are of a decisive nature which could not be found at the time the case was examined;

if something has been granted that was not demanded or more than what was demanded;

if a part of the claim has not been decided without consideration of the reasons;

if between the same parties regarding the same matter, on the same basis, the same court or the same level has issued a decision that is contradictory to one another;

if in a decision there is a judge's error or a real mistake

The deadline for submitting a request for judicial review based on the reasons above is 180 (one hundred and eighty) days for:

as referred to in letter a since the lie or trickery was discovered or since the criminal judge's decision has permanent legal force, and has been notified to the parties to the case;

as referred to in letter b since the discovery of the evidence documents, the day and date of discovery must be stated under oath and confirmed by an authorized official;

as referred to in letters c, d, and f since the decision has obtained permanent legal force and has been notified to the parties to the case;

as referred to in letter e since the last and conflicting decision has obtained permanent legal force and has been notified to the parties to the case.

Examination of a request for judicial review of a criminal case decision that has obtained permanent legal force uses the judicial review procedural law as regulated in the Criminal Procedure Code.

Temporary Court Order

UUHC provides space for parties who feel disadvantaged due to the implementation of Copyright or Related Rights to apply for a temporary injunction to the Commercial Court so that:

prevent the entry of goods suspected of being the result of copyright or related rights violations into trade channels.

withdraw from circulation and confiscate and store as evidence relating to the violation of Copyright or Related Rights;

securing evidence and its removal by the offender; and/or preventing

stop the violation to prevent greater losses.

An application for a temporary determination is submitted in writing by the Creator, Copyright Holder, Related Rights Owner, or their attorney to the Commercial Court by fulfilling the following requirements.

attach proof of ownership of Copyright or Related Rights.

attach initial instructions regarding the occurrence of a violation of Copyright or Related Rights;

attach clear information regarding the goods and/or documents requested, sought, collected or secured for evidentiary purposes;

attach a statement stating that there is concern that the party suspected of violating Copyright or Related Rights will remove the evidence; and

pay a guarantee in an amount commensurate with the value of the goods to be subject to temporary determination.

An application for a temporary court order is submitted to the head of the Commercial Court in the jurisdiction where the goods suspected of being the result of a violation of Copyright or Related Rights were found. If the application for a temporary injunction has met the requirements, the clerk of the Commercial Court records the application and is required to submit the application for a temporary injunction within a maximum of 1x24 (one times twenty-four) hours to the chairman of the Commercial Court. Within a maximum of 2 (two) days from the date of receipt of the application for a temporary injunction, the chairman of the Commercial Court appoints a Commercial Court judge to examine the application for a temporary injunction. Within a maximum of 2 (two) days from the date of appointment, the Commercial Court judge decides to grant or reject the application for a temporary injunction. Settlement through litigation is carried out in court by filing a lawsuit against violation of moral rights (Dewi, 2018).

The application for a temporary injunction is granted, the Commercial Court judge issues a temporary court injunction. The temporary court injunction is notified to the party subject to the temporary court injunction action within a maximum of 1x24 (one time twenty-four) hours. If the application for a temporary injunction is rejected, the Commercial Court judge shall notify the applicant for the temporary injunction of the rejection along with the reasons.

The Commercial Court issues a temporary ruling, the Commercial Court summons the party subject to the temporary ruling within a maximum of 7 (seven) days from the date of issuance of the temporary ruling to be questioned. The party subject to the temporary ruling may submit information and evidence regarding Copyright within a maximum of 7 (seven) days from the date of receipt of the summons. Within a maximum of 30 (thirty) days from the date of issuance of the temporary ruling, the Commercial Court judge decides to uphold or cancel the court's temporary ruling. If the court's temporary ruling is upheld, then:

The deposit that has been paid must be returned to the applicant for the determination.

The applicant for the determination may file a lawsuit for damages for copyright infringement; and/or

Applicants can report copyright infringements to the Indonesian National Police investigative officers or civil servant investigative officers.

If the court's temporary decision is cancelled, the deposit that has been paid must be handed over to the party subject to the temporary decision as compensation for the temporary decision. The interim decision is final and binding, so that no appeal, cassation or cassation review can be submitted to the interim decision.

Criminal Legal Remedies

The provisions of Article 105 of the Copyright Law explicitly state that "The right to file a civil lawsuit for violation of Copyright and/or Related Rights does not reduce the right of the Creator and/or owner of Related Rights to sue criminally. This means that the Creator or holder of copyright or related rights can still file a criminal lawsuit even though they have filed a civil lawsuit. However, if the civil lawsuit and criminal lawsuit occur simultaneously, the civil lawsuit will take precedence. In addition to violations of Copyright and/or Related Rights in the form of Piracy, As long as the disputing parties are known to exist

and/or are in the territory of the Unitary State of the Republic of Indonesia, they must first resolve the dispute through mediation before bringing criminal charges. This provision emphasizes the resolution of Copyright and/or Related Rights violations on restorative justice, however in the case of copyright violations in the form of piracy, this provision does not apply.

Evidence conducted in the examination process at the investigation, prosecution, and examination levels in court can be conducted by utilizing information and communication technology in accordance with the provisions of laws and regulations. Electronic information and/or electronic documents are recognized as evidence in accordance with the provisions of laws and regulations. This confirms that the mechanism for proving criminal cases remains subject to the provisions of the Criminal Procedure Code and Article 5 of the ITE Law. Criminal acts in the UUHC are complaint offenses, so that the perpetrator can only be prosecuted if the injured party files a complaint.

Conclusion

Settlement of Copyright disputes can be done through alternative dispute resolution, namely arbitration. Resolution of Copyright disputes can only be submitted to the Commercial Court. The competence of this court is absolute competence (absolute competentie) because it is stated that other courts besides the Commercial Court are not authorized to handle the settlement of Copyright disputes in the Commercial Court, stating explicitly that the Right to file a civil lawsuit for violation of Copyright and/or Related Rights does not reduce the Rights of the Creator and/or owner of Related Rights to sue criminally. This means that the Creator or holder of copyright or related rights can still file a criminal lawsuit even though they have filed a civil lawsuit. However, if the civil lawsuit and criminal lawsuit occur simultaneously, the civil lawsuit will take precedence.

Lawsuits for copyright infringement are filed with the Chairman of the Commercial Court. The lawsuit will be recorded by the clerk of the Commercial Court in the court case register on the date the lawsuit is registered. The clerk of the Commercial Court provides a signed receipt on the same date as the registration date. The clerk of the Commercial Court submits the lawsuit application to the chairman of the Commercial Court within a maximum of 2 (two) days. calculated from the date the lawsuit is registered and within a maximum of 3 (three) days from the date the lawsuit is registered, the Commercial Court will determine the trial date.

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