Legal Protection On Song Creators Royalties That Doesn't Paid By Karaoke Business Actor That Violence The Law Of Number 28 Of 2014

Aghne Rizky Syafrida Intan Pratama¹*, Sri Maharani MTVM²

¹Faculty of Law, Universitas Pembangunan Nasional “Veteran” Jawa Timur, Indonesia, Email: rghnes@gmail.com
²Faculty of Law, Universitas Pembangunan Nasional “Veteran” Jawa Timur, Indonesia, Email: runnei2014@gmail.com

Abstract

The development of the karaoke business has a very broad prospect in the business world as evidenced by the large profits that have triggered many karaoke businesses to play and broadcast songs for commercial purposes. Karaoke business actor who have used commercial copyright are obliged to pay a fee or royalty to the song creators. The collection of royalties is carried out by the Collective Management Institute (LMK) to karaoke entrepreneurs with the aim that song creators obtain their rights, namely economic rights. A karaoke business actor that carries out business activities for commercial purposes, namely broadcasting songs without paying royalties to the song creators, the impact will be detrimental to the song creators. The method used in this study is the normative juridical approach, this research is in accordance with the laws and regulations relating to copyright, namely Law Number 28 of 2014. The purpose this study is to reduce the actions of karaoke business actors who do not pay royalties to the creator song, then Law Number 28 Year 2014 provides legal protection to song creators from the rise of commercialization actions done by karaoke business actors without paying royalties to song creators by providing legal protection to song creators through repressive efforts, legal remedies that can be done song creators based on Law Number 28 of 2014 can be reached through litigation and non-litigation. By optimizing Law Number 28 of 2014, the protection of song creators can be carried out perfectly. Sanctions imposed on karaoke business actors who do not pay royalties can be carried out in a civil and criminal manner, to guarantee legal protection for songwriters or copyright holders there must be cooperation not only from the Directorate General of Intellectual Property and LMK, but from business actors, community and law enforcement.

Keywords : Legal Protection, Creator, Royalty

I. Introduction

A copyrighted work in the form of a song cannot be created by anyone easily but only a handful of people who have the ability in their field so that they can create a songwriting work. A creator who is able to produce a work of copyright will be given an appreciation by the state because the creator in producing a work does not only require an ability in his field but also requires the sacrifice of time, energy, and cost. The results of a song’s work are used for commercial purposes or gain an advantage in its business or business activities, therefore a song creators creator requires a legal protection from the actions of other parties who have used a work for commercial purposes.

Technological advances that occur very rapidly resulted in the opening of access to other parties to utilize song works for commercial purposes such as playing songs performed
by karaoke entrepreneurs in order to obtain economic benefits obtained through payments by business visitors to the karaoke business owned by the businessmen.

Before making use of a copyrighted work in the form of a commercially intended song, it is required by permission of the creator of the song's copyrighted work. In Law Number 28 of 2014 concerning permission is said to be a License. License, namely the granting of written permission by the copyright holder or the owner of a related right to another party who is a user of the copyright to exercise the economic rights of his creation with the condition. Permission is granted but there are conditions. The granting of the permit is accompanied by a royalty obligation and must be registered.

The collection and acquisition of royalties through licensing agreements is not easy for song creators. Song creators may not be able to conduct surveillance and reach out to violations of a work done by users such as business people, namely karaoke entrepreneurs or public facilities with commercial purposes at different times and places or regions, therefore requires an institution in the field of songwriting that is a collective administration agency. Related institutions are used by song creators or copyright holders in carrying out supervision of their work by beginning with the granting of power of attorney, in addition to the relevant institutions issuing a license to the user of the copyrighted work.

As the development of a karaoke business that has a very broad business prospects so that it can make a business land that provides great benefits, therefore karaoke businesses that run their business with commercial purposes, namely by announcing, displaying, broadcasting, playing or playing work songwriting without doing a royalty payment to the song creators or copyright holder. One example of the case occurred was the case between Untung Agustamto as the phonogram producer PT. Ebony Delapan Belas through its attorney represented by LMK (Lembaga Manajemen Kolektif) ASIRINDO (Asosiasi Industri Rekaman Indonesia) reported karaoke belonging to Rasa Sayang, Veranzal Broadway outlet Bar-Karaoke-Lounge located on Mayjend Sungkono number 180 Surabaya, Ivan Kuncoro to KP3R (Koordinator Pelaksana Penarikan. Penghimpunan, dan Pendistribusian Royalti) for not paying royalties and thus violating the economic rights of the creator.

The conflict began in Rasa Sayang's karaoke room which showed songs where one of the songs was titled 'Aw Aw Aw' and 'Jangan Paksa Aku' which was delivered by
Supergirlies and 'Janda Juga Manusia' where the song was sung by Ayunia whose related rights owned by Untung Agustamto as phonogram producer PT. Ebony Delapan Belas. The action is considered to have resulted in a violation of exclusive rights, namely the economic rights of the creator or copyright holder, namely Untung Agustamto as the Phonogram Producer of PT. Ebony Delapan Belas, because karaoke Rasa Sayang did not do permission and did not pay royalties to song creators or copyright holders.

Actions of karaoke business actors who do not pay royalties require a variety of hard efforts from business actors and the government to combat this copyright infringement. It is expected that there is legal protection for the creator or copyright holder, because of the impact copyright infringement, there are many creators or copyright holders who suffer economic rights from the actions of karaoke businesses that benefit themselves.

II. Method

This study uses the normative legal research method, because the system used in this study is the research object of literature related to trade secrets regarding legal protection for owners of trade coffee powder trade secrets that are violated based on the laws and regulations in Indonesia.

In the study, researchers used 3 (three) types of data namely primary legal materials, secondary legal materials and tertiary legal materials. Primary legal material is legal material that has the authoritatity and nature required as from the legislation that is bound with the purpose of observation, namely: the Civil Code and Law No. 28 of 2014 concerning Trade Secrets. Secondary legal materials is all publications regarding the rule of law that are not from official documents. Secondary legal materials are usually in the form of legal books, legal journals and research results in order to examine the contents of the core issues examined. And tertiary legal materials is a legal material that explains the direction or analysis of the meaning of primary legal material and secondary legal material, usually consisting of a legal dictionary and encyclopedia.

For the collection of data itself by using literature or document studies. As for the data analysis method, it is descriptive analysis so that the data analysis used is a qualitative approach to secondary legal materials.

III. Main Heading of the Analysis or Results
A. Forms Of Royalti Violation On Song Creations According To Law Number 28 Of 2014 Concerning Copyright

The number of karaoke business actors who carry out business activities with commercial purposes, namely by announcing, showing, broadcasting, playing or playing song copyright works without making royalty payments to the song creators or copyright holder. The actions of karaoke business actors who do not pay royalties to song creator or copyright holder, as a result of this copyright violation, the song creator or copyright holder has been harmed by the economic rights of his work up to billions of rupiah from the actions of the karaoke business actor who benefit himself.

Forms of copyright infringement include taking, quoting, recording, announcing part or all of a person’s work taken without permission directly to the creator or copyright holder and taking actions contrary to applicable laws, so that before carrying out business activities which is commercial, it is absolutely necessary to have permission from the song creators or copyright holder in question.

Based on Article 8 of Law Number 28 Year 2014, economic rights are exclusive rights owned by the creator or copyright holder in obtaining economic rights over their creations. The form of protecting the economic rights of a song creator or copyright holder is to publish a work, duplicate a work in all its forms, translate a work, adapt, arrange or transform a work, distribute the work or copy, display the work, announce the work, communicate the work, and rent the work. This indicates that only the creator or copyright holder has the right and cannot be done by someone else but with a prior permit or license. This copyright infringement case was carried out by a karaoke business actor, Karoke Rasa Sayang, Veranzal Broadway outlet Bar-Karaoke-Lounge Surabaya, located at Jalan Mayjend Sungkono number 180, owned by Ivan Kuncoro.

A karaoke business place that uses songs as a support for a business or business with the aim of commercial or profit making is required to pay royalties as performing rights, namely conducting business activities that announce, display, broadcast, play or play songs of song creations. Karoke Rasa Sayang Veranzal Broadway Bar-Karaoke-Lounge Surabaya outlet acts to violate the economic rights of song creators or copyright holders due to carrying out public performance performances to karaoke entertainment connoisseurs or for commercial purposes, without first not making royalty payments to Collective Management Institute (LMK).
The obligation to pay royalties is regulated in Article 87 paragraph 2 of Law Number 28 Year 2014, namely users of copyright and related rights that use public copyright for commercial purposes are required to make royalty payments through LMK, so Karaoke business as a business in the form of public services which can be interpreted commercially is also recommended to pay royalties to LMK which will be distributed to the song creators, copyright holder, or owner of related rights.

The collection and acquisition of royalties through licenses is not easy for song creators to do. The implementation of royalty payments is as follows:

1. Directly

Song creators or copyright holders who are not members of a Collective Management Institute (LMK), business actors are required to make permits and make royalty payments directly to the song creators or copyright holder.

2. Through the Collective Management Institute (LMK)

Businesses that use song copyright works to support a business or business for commercial or profit-making purposes are required to make royalty payments. The implementation of royalty payments through LMK are as follows:

1) The copyright user or business actor must be a member and registered as an active member of an LMK;

2) The copyright user or business actor must make a license agreement related to the obligation to pay royalties with LMK;

3) Copyright users make royalty payments to LMK.

4) LMK distributes royalties to song creators or copyright holders through the transfer of the account of the creator or copyright holder or hand over directly to the creator or copyright holder.

The composer of the songs entitled ‘Aw Aw Aw’ and ‘Don’t Forced Me‘ by Supergirlies and ‘Widows Also Humans‘ by the singer Ayunia has given a power of attorney to managing the song’s copyright works to the copyright holder, the phonogram producer PT. Ebony Eighteen named Untung Agustamto. Based on Article 87 Paragraph 1 of Law Number 28 Year 2014, before obtaining an economic right the creator or copyright holder must be registered active member of a Collective Management Institute (LMK) to
obtain compensation or royalties from copyright users who use commercial works of a commercial nature through a license agreement. PT. Ebony Eighteen registered as a member of LMK, to authorize the management of copyrighted works to LMK.

Based on Article 87 paragraph 3 of Law Number 28 Year 2014 which states that users of copyright and related rights in the form of public services that are commercial are required to enter into an agreement that is carried out with the Collective Management Institute (LMK) where the agreement is about the obligation to make payments royalties for the use of copyright. Karaoke players as copyright users are required to enter into agreements called licensing agreements that contain obligations, one of which is the obligation to pay royalties. Karaoke Rasa Sayang Veranzal Broadway Bar-Karaoke-Lounge Surabaya outlet has entered into an agreement or agreement with LMK as the Collective Management Institution gives a license or permission to Karoke Rasa Sayaang outlet of Veranzal Broadway Bar-Karaoke-Lounge Surabaya to use and play the copyrighted songs or music with royalty payments.

Charity business actors Rasa Sayang Verranzal Broadway Bar-Karaoke-Lounge Surabaya outlet exploits copyright by not paying royalties violating the economic rights of song creators (performing rights) based on Article 87 Paragraph 2 of Law Number 28 Year 2014, where violations occur because of committing public performance performances for connoisseurs of karaoke entertainment or for commercial purposes, without first not making royalty payments to the Collective Management Institute (LMK).

**B. Legal Protection For Song Creators On The Action Of Karaoke Business Activities That Do Not Pay The Royalti By Law Number 28 Of 2014 On Copyright**

Song creators or copyright holders often do not get rewards or royalties for their works from karaoke entrepreneurs who announce, display, broadcast, play or play songs of song creations for commercial purposes in this case conducted by karaoke Rasa Sayang outlet outlet Veranzal Broadway Bar- Karaoke-Lounge Surabaaya, which does not pay royalties, as a result of copyright infringement, is the creator of a song or copyright holder who has lost economic rights to his work due to the actions of karaoke businesses that benefit himself, so it is very much necessary to have legal protection to protect creator rights or copyright holders ..
Legal protection carried out as copyright protection for the creator or copyright holder whose work is used by karaoke business actors without royalty payments, namely a form of repressive legal protection which is the final protection in the form of sanctions such as fines, imprisonment, and additional penalties given if it has occurred a dispute or a violation has been committed. Repressive legal protection in practice in civil law is often in the form of compensation. Compensation is an unlawful act that causes harm to others to be used as a substitute for the harm caused.

Repressive legal protection is given to the creator when an infringement or copyright dispute has occurred. With the existence of an LMK which is tasked with supervising and monitoring the copyrighted work directly in the field if it finds a user of the copyrighted work who is a member of an LMK who has announced, displayed, broadcasted, played or played a song copyrighted song without making royalty payments to LMK, then the LMK will immediately send a warning letter to the karaoke business manager directly and are required to take responsibility by paying compensation for the LMK. Repressive legal protection aimed at song creators or copyright holders in the form of compensation payments to LMK if it cannot be settled amicably or peacefully then this can be processed in court to be settled in accordance with applicable regulations. Karaoke Rasa Sayang Veranzal Broadway Bar-Karaoke Lounge Surabaya outlet without making a royalty payment to the song creators or copyright holder, the karaoke based on Article 99 of Law Number 28 Year 2014 will be subject to compensation payments as well as termination of the karaoke business license the.

Legal remedies that can be done for song creators who do not get royalty payments from karaoke business actors through litigation and non-litigation efforts. Efforts to resolve copyright infringement are contained in Article 95 of Law Number 28 Year 2014. Song creators or copyright holders or heirs who get a loss of economic rights are entitled to compensation, that is, payment in the form of money based on a court decision that has legal force fixed (inkracht).

Freedom of choice for the resolution of copyright disputes through non-litigation efforts and litigation efforts provided for in Article 95 paragraph 1 of Law Number 28 Year 2014. Efforts to resolve copyright disputes can be carried out with alternative dispute resolution, arbitration, or courts. Efforts to resolve disputes in a non-litigation manner are carried out outside the court, in the form of mediation, negotiation or arbitration.
Dispute resolution through non-litigation or out of court efforts, is closed to the public, the proceedings are fast and efficient, a win-win solution. Litigation efforts are carried out through a court suit as regulated in Article 95 paragraph 2 of Law Number 28 of 2014 which states that settlement through a court as regulated in paragraph (1) is carried out through the Commercial Court. Settlement through this method requires a very large cost and a relatively long time.

Based on Article 99 of Law Number 28 Year 2014 the creator or copyright holder who gets the loss can file a lawsuit against Karaoke Rasa Sayang outlet Veranzal Broadway Bar-Karaoke-Lounge Surabaya who intentionally did not pay royalties to the Commercial Court, but first resolved them by mediation with Karaoke Rasa Saayang Veranzal Broadway Bar-Karaoke-Lounge Surabaya outlet, if it does not produce results can be resolved by filing a lawsuit to the Commercial Court.

IV. Conclusion

Based on the discussion raised by the author regarding legal protection for song creators against the actions of karaoke entrepreneurs who do not pay royalties, it can be concluded:

1. The form of violation of karaoke business actors who do not pay royalties for song infringement violates economic rights to song makers or performers of rights according to Article 87 paragraph 2 of the UUHC, where violations occur because they perform public performance performances to entertainment connoisseurs. karaoke or for commercial purposes, without first not making royalty payments to the Collectivite Management Institute (LMK). Impact of copyright infringement is that the creator or copyright holder loses the economic rights of his work, which directly impacts the economic income obtained by the creator as a result of the actions of the karaoke business owner who benefit himself.

2. The existence of violations of karaoke business actors who do not pay royalties for the creation of songs to the creator or copyright holder, legal protection is required for the creator of the commercial work. Legal protection is carried out to protect copyright for creators or copyright holders whose works are used by karaoke businesses without royalty payments, namely repressive legal protection. Karaoke players who do not pay royalties will be subject to
compensation and their business licenses will be revoked as stated in Article 99 of the UUHC. Legal remedies that can be carried out by song creators who do not get royalties from karaoke entrepreneurs are through non-litigation and litigation efforts. non-litigation efforts are carried out through negotiation or arbitration mediation, litigation efforts are carried out by filing compensation claims through the Commercial Court.

References