

PROTECTION OF PRIVATE BROADCASTING INSTITUTIONS RIGHTS PT. RAJAWALI CITRA TELEVISI FOR TELEVISION BROADCAST DISTRIBUTION WITHOUT PERMISSION

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ABSTRACT

In the fourth industrial revolution era, the world is focusing on digital technologies. The development of this technology has forced the Government to meet the needs of all people. Meeting this need requires state intervention that aims to balance the interests of the Creator with the interests of society and the State itself. The interests of the Creator are the protection given by the State to a copyrighted work. This protection is essential to encourage creative people's interest in innovation, which is expected to provide shows that are entertaining, educational, and capable of educating all Indonesian people. This protection also makes a copyrighted work of economic value to every Creator. This study aims to analyze the problems on how to regulate Copyright in Indonesia, regulate broadcasting rights in Indonesia, and legal protection provided by the Government to related rights to television broadcasts without permission in Decision Number 34/Pdt.Sus-HKI/COPYRIGHT/2019/PN Niaga Jkt.Pst. The research method uses juridical law research methods. This research is a descriptive analysis. The results of study show that has been done, legal protection of the exclusive rights of creators of phonogram broadcasters seems to have been regulated in Law Number 28 of 2014 concerning Copyright.

INTRODUCTION

In the fourth industrial revolution, focusing on digital technologies. This era makes the media get information more and more quickly accessible. Television is still the public's favorite medium to get information from the existing communication media. Patterns usage are becoming more complex thanks to the Internet. Currently, people can communicate information through television, radio, and the Internet. However, based on data from the Indonesian Broadcasting Commission (KPI) during the Covid-19 pandemic, we found that people were more confident with published media television information. In the information era, the COVID-

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19 pandemic represents an entirely unprecedented crisis situation. This combination of urgency, duration, and ambiguity makes it challenging for crisis communicators to convey vital information about the infection (Lachlan, Hutter, Gilbert, & Spence, 2021).

The public participation rate in accessing mass media is thought to be related to the availability of the information facility itself. The internet signal coverage is not evenly distributed, making electronic news unable to beat the existence of television in the community (BPS, 2016). The development of this technology forces the Government to fulfill the needs of every society. Meeting this need requires state intervention to balance the interests of the Creator with the interests of the community and the interests of the State itself (Supramono, 2010).

The interests of the Creator are protection given by the State to a copyrighted work. This protection is essential to encourage creative people's interest in innovation, which is expected to provide shows that are not only entertaining but also educational and capable of educating all Indonesian people. This protection also makes a copyrighted work of economic value to every Creator.

Intellectual property rights are fundamental to accelerating the pace of a country's economy, ultimately leading to the people's welfare. Intellectual property rights govern this legal protection. The development of a modern and effective IPR system is very much needed for the country's domestic situation. Intellectual property rights are material rights to an object that comes from the work of the brain, the work of ratios. The result of his work is in the form of immaterial objects (Saidin, 2002). The definition of intellectual property rights put forward by Jill McKeough states that intellectual property rights are rights granted by law to protect economic investment in creative businesses.

Based on Law No. 28 of 2014 concerning Copyrights, broadcasting institutions are included in the t-shareholder group that cannot be protected by Copyright. Broadcasting agencies have the right to allow or prohibit specific actions, such as bone viewing, proofreading, and television programming. The bone show is intended for those who pay the viewing fee (Otto, 2008).

A work that has been reproduced and not sold publicly without permission from the copyright owner will not benefit other people who copied the work. This violation will not harm the copyright owner, especially concerning the rights that have been violated irresponsibly. Copyright piracy does not seem to stop year after year. Not only circulated in urban areas but also arrived in remote rural areas. Understandably, the price is lower than the original, so the purchasing power is affordable for all levels of society (Supramono, 2010).

Copyright is a right granted to safeguard cultural, informative, and entertaining works. The term "literary and creative works" often refers to the productions of authors, playwrights, musicians, artists, and film makers (Nemlioglu, 2019). Copyright infringement does not appear to have continued from year to year. Remembering the pirated creations, not only were they circulated in urban areas, but they also reached remote villages. Not surprisingly, the community's purchasing power is affordable to all circles because the price is lower than the original price.

Based on the description above, this paper is interested in raising the legal question not contained in the above case to be stated in the thesis paper entitled "Protection of Private Broadcasting Institutions Rights PT. Rajawali Citra Televisi For Television Broadcast Distribution Without Permission Decision Study Number 34/PDT.SUS-HKI/Copyright/2019/PN Commerce JKT.PST"

This study aims to find out the settings for Copyright in Indonesia, the settings for broadcasting rights in Indonesia, and the legal protection given by the Government to matters relating to the Broadcasting of television broadcasts without permission from decision Number 34/PDT.SUS-HKI/Copyright/2019/PN Commerce JKT.PST.

METHOD

A. Research Type

Research is a means to strengthen, promote and develop knowledge. This research is an attempt to analyze and build systematically and consistently. Legal research is a scientific activity based on certain methods, taxonomies, and thoughts, which aims to study and analyze one or more certain legal phenomena (Setiawan, 2022). The research type used is also known as the normative legal research method (judicial-normative) or legal-library research. This means that this research is carried out by investigating additional legal or secondary data (Soekanto, 2007).

B. Data Source

The source data in research is secondary data. The secondary is data material to obtain from this library following (Soekanto, 2007):

1. Material Law Primary

According to Peter Mahmud Marzuki, the main adjunct to a legal adjunct is authoritative, meaning that it has no authority (Sunggono, 2003). In writing the thesis, the writer uses material law primary as follows:

- a) Basic Law of the Republic of Indonesia in 1945
- b) Law No. 28 the Year 2014 About Copyrights
- c) Law No. 32 the Year 2002 About Broadcasting

2. Material Law Secondary

The secondary legal material is a supplementary legal text that helps the writer analyze and understand the primary legal supplementary text. The types of secondary legal sources can be in the form of textbooks, legal dictionaries, legal journals, and court decisions. Secondary legal material also cannot be interpreted as an unofficial legal publication (Sunggono, 2003).

C. Data collection techniques

The technique of collecting data in the research of normative law or library law is carried out utilizing a literature study, namely writing that is carried out through a literature study of statutory regulations, official documents, and publications (Ali, 2009).

The data collection tool for this writing is not document research. Documentary research is the collection and use of documents and signs that are needed for research problems so that you cannot work on problems related to the research subject (Irianto, 2011). Scrutinizing the journal's in-depth research includes applicable statutory regulations, intellectual property book books, broadcasting institution copyrights, dissertations, Internet, court decisions, and court rulings, source of information.

D. Data analysis technique

The secondary data was then analyzed using qualitative data analysis, the research method that produced descriptive data that came from t-sentence or talk and observed behavior. Qualitative data analysis describes the data in the best sentence format. Conclusions are not drawn (Asshofa, 2010). The conclusions are formulated in a deductive manner.

The deductive method in concluding is a general proportion that is not known to be accurate and does not end with a more concrete conclusion (new knowledge) (Sunggono,

2003). The analysis of the data in writing of this paper. It is explained and not explained by linking to the rules of copyright law, a broadcasting institution, so that it can be interpreted to conclude the deductive answers to the questions.

RESULTS AND DISCUSSION

A. Overview General About Copyright in Indonesia

1. Understanding Rights Intellectual Property

Intellectual property rights are substantive property that arises from total labor. The result of his hard work is in the form of an intangible object, an intangible object. For example, in an essay writing a song the work requires total brain power work, hashtags cannot produce a tone. According to research, the total pressure is responsible for experiencing art, imagination, and spirituality, including the ability to socialize and control emotions. These features are nonverbal, figurative, intuitive, and holistic and generally cannot process information (Saidin, 2002).

Intellectual property rights are not the rights to economically enjoy the results of intellectual creativity (Firmansyah, 2008). The rights that arise as a result of human intellectual activities that provide economic benefits. The concept of intellectual property protection is based on the notion that intellectual works created by humans require the sacrifice of energy, time, and pouring. The absence of this sacrifice gives an economic value to the work created for the benefit of someone who can enjoy it. Based on this concept, we encourage the need to evaluate the services offered in the form of legal protection for intellectual property rights.

2. Definition of Copyright

Copyright consists of two words: copy and rights. In the Indonesian dictionary, the word "rights" means the authority that is given to certain parties and may not or cannot be used freely. The words "copyright" or "creation" refers to the work of humans using thoughts, emotions, knowledge, imagination, and experience. Because of that, Copyright cannot be interpreted as closely related to human intelligence.

The concept of Copyright was first put forward by Sultan Mohammad Syah, SH, at the Cultural Conference in Bandung in 1951 (later approved by DPR). The impression "restricted" means that the Copyright is not the only thing that is a copyright, or if not, it is related to manufacturing. The term rights itself comes from Dutch language *tauteurs Rechts* (Usman, 2003).

3. Subject of Copyright

Creator and copyright ownership are the essential points of copyright law. The Creator must have an identity and a status to determine the ownership of the rights. Basically, the person who creates a particular work is not the copyright owner (Paserangi & Ahmad, 2011).

B. Legal Regulation About Copyright in Indonesia

1. Regulation Copyright Copyright in Law Number 28 the Year 2014

In Law Number 28, the year 2014, Article 1 paragraph 1:

"Copyright rights are not exclusive text rights of the creator that arise automatically based on declarative principles after a creation has not been realized in a tangible form without reducing restrictions in accordance with the provisions of the law."

This exclusive text right means no other person can use this title without the Creator's permission. In economics, the benefits obtained or felt are the result of the

Creator's hard work. This is because every activity that allows the reproduction of and publication of creation, or reproduction and participation of other parties in creation, is based on commercial considerations.

As explained in Article 1 paragraph (1) of Law No. 28 the year 2014, Copyright includes several elements, namely (Sitorus, 2016):

- a) Exclusive text rights, which are not owned by an author to not create or create a creation, and no other person may not do so, except with the author's permission.
- b) Creator, a person who can create a creative work based on his imagination.
- c) The recipient of the rights, the person or the legal entity who received the rights, is a person who is the Creator whom the agreement gave the rights.
- d) Announcing, broadcasting, or spreading a hashtag creation cannot be heard and not known to others.
- e) Multiply, add, or create a creation or work in the same form.

2. Scope of Copyright

- a) Types creation protected copyright

Law Copyright Number 28 the Year 2014 states that creation is science knowledge and art on created basis inspiration, ability, power thought, power imagination, dexterity, dexterity, or expertise which is poured in the form concrete (the Republic of Indonesia, Law Number 28 of 2014 concerning Copyright, Article 1 Number (3) This article 40 Number 1, Law number 28 Year 2014 concerning copyright provision clearly explains the creation that is protected case. This is complete explains some parts of creations protected by Copyright

- b) Term Period protection copyright Copyright.

As regulated in article 58-60 Law Copyright, all works in fields science art literature and can be Copyright by laws copyrights countries period time protection this depends on type work and type rights exclusive With regard with rights moral these rights restricted, the right entrepreneur has period ime protection which differs depending on type work.

- c) Types of Created Copyright

The law on Copyright Number 28 Year t2014 states that creation is not science, knowledge, and art. What was created is based on insight, ability, ingenuity, and agility (Article 1, 2014b). This article clearly explains protected creations in Article 40 (1) of Law Number 28 Year 2014 regarding copyright rights. This provision completely describes some parts of the creation protected by Copyright.

C. Regulation of Broadcasting Rights in Indonesia

1. Definition of Broadcasting

In Law Number 32 of 2002 concerning Broadcasting (Article 1, 2002)

- a) The broadcast is a message or a series of messages in the form of voice, image, or voice and image or that is not in graphic form, characters, whether it is interactive or not, what is received but received through broadcast.
- b) Broadcasting is spreading broadcasts through broadcasting facilities and transmission facilities on land, at sea, or in space by using a radio frequency spectrum via air, cable, and other media to be received simultaneously and simultaneously by the public with broadcast receiving equipment.

2. Organizing Broadcasting

Broadcasting is based on Pancasila and the Basic Law of the Republic of Indonesia in 1945. It has the principles of practicality, justice and justice, legal certainty, security, and stability. Prosperity broadcasting must strengthen national unity, promote national character and identity, who are faithful and devoted, educate the nation's life, promote the general welfare of the people, are independent, and build the welfare of the people in general. To grow the Indonesian broadcasting industry ([Article 3, 2002](#)). For that reason, in the organization of Broadcasting in the country, it is necessary to direct the direction of ([Article 2, 2002](#)):

- a) Upholding the implementation of Pancasila and the Basic Law of the Republic of Indonesia in 1945
- b) Maintain signs and improve morality and religious values as well as national identity
- c) Improving the quality of human resources
- d) Maintain and strengthen national unity and national unity
- e) Increase awareness of law compliance and discipline
- f) Distributing general opinions and encouraging the active role of the community in national and regional development and preserving life
- g) Prevent monopolies of ownership and support healthy competition in Broadcasting
- h) Encouraging the improvement of the people's economic capacity, achieving equity, and strengthening the nation's competitiveness in a globalized context
- i) Providing correct, balanced and responsible information
- j) Advancing national culture.

3. Broadcasting Rights

Broadcasting rights are an essential product in the broadcasting business. Broadcasting rights are the rights of individuals or legal entities to broadcast something. The rights are rights related to Copyright. Broadcasting rights are included in Copyright Law Number 28 the Year 2014, and broadcasting activities are included in Broadcasting Law Number 32 the Year 2002. Individuals or legal entities who wish to broadcast a program have the right to obtain prior permission from the rights owner ([Indonesian Dictionary, n.d.](#)).

4. License

- a) Definition of license

A license is a written license granted by the copyright owner or the owner of the related rights to the party ([Article 1, 2014a](#)). From the licensed activities that are carried out). The license is not in the form of a grant of title and cannot be text-exclusive or non-exclusive for the said period. This is because granting rights is not deemed insufficient if the LicensorLicensor wants to carry out the "perfect unification ."This is not only in rights but also the obligation to comply with and enforce all orders issued, including the operational implementation system.

The license works because of a license agreement made by the parties, namely the LicensorLicensor and the licensee ([Lindsey, 2006](#)).

- 1) Owners of intellectual property can use rights to obtain additional benefits in the form of income from royalties paid by the licensee to the LicensorLicensor.
- 2) Users other than the owner cannot license the rights of the product and process it because it is often more efficient than its use alone. This is not, in turn leading to more innovation and economic growth.
- 3) Licensing is currently an essential activity in most domestic economic activities. Access to intellectual property rights is often an essential part of the trade.

Intellectual property rights can become more valuable as a treasure trove of business. They cannot become an essential part of the manufacturing and service industries.

b) Agreement of license

The license agreement is between the license (LicensorLicensor) and licensee recipient (licensee). The LicensorLicensor grants the LicensorLicensor a license to use their intellectual property to produce, distribute, and not sell the Licensor'sLicensor's products, and in return, receive the licensee received from the licensee. The licensed intellectual property rights may not be in the form of copyrights, trademarks, patents, trade secrets, etc.

D. Analysis of Decision Number 34/Pdt.Sus-Hki/Copyright/2019/Pn Niaga Jkt.Pst About Case Distribution Broadcast Television Without Permission

1. Analysis of Case

In the judge's decision, it was stated that the Plaintiff's claim was not accepted because the provisional claim that the Plaintiff's party filed had already included actions to implement the final decision. Regarding the decision, Defendants are not committed any infringement of copyright against owned related to Plaintiff, since:

- a) Broadcasting by Defendant has obtained ratification and legality permit from the competent Government based on the Decree of the Minister of Communication and Information Number 468 of 2014 concerning Licenses for Broadcasting Providers for Television Broadcasting Service Subscriptions dated April 30, 2014. Broadcasting is carried out by the laws and regulations regulated in Law Number 32 of 2002 concerning Broadcasting, Government Law Number 53 of 2000 concerning Use of Radio Frequency Spectrum and Satellite orbits, and Government Law Number 52. 2005 concerning Broadcasting by Subscriber Broadcasting Institutions, along with all procedures and mechanisms technical.
- b) The Republic of Indonesia. The procurement, import, distribution, and sale of Receivers carried out by the Defendants are by and based on licensing documents/trading business/importers, customs and customs, taxation and have received validation/standardization from the Ministry of Communications and Information Technology, Directorate General of Resources and Equipment of Post and Information Technology. Where the Garuda Matrix Receiver has received a standardization certificate No. 30277/I/SDPPI/2016 On July 14 2016, Matrix Cinema Receiver has received standardization certificate No. 47031/I/SDPPI/2016 On August 24 2016, Matrix Burger S1 Receiver has received standardization certificate No. 53755/I/SDPPI/2017 On December 5 2017, the Matrix Burger S2 Receiver has received a standardization certificate No. 54627/I/SDPPI/2018 January 24, 2018.
- c) The Plaintiff is LPS (Private Broadcasting Institution) whose Broadcasting is via terrestrial or satellite according to a permit issued by the Ministry of Communication and Information. LPS broadcasting is Free To Air (free of charge). As long as Plaintiff transmits its broadcast free-to-air (FTA) to Indosat's Palapa satellite, the signal emitted by the Palapa Satellite can be received by Parabola and Receiver. It is not only the satellite dish and STB Receiver that are sold. Plaintiff's other Subscription Broadcasting Institutions, both in the foreign and foreign countries broadcast, it can not be concluded that the broadcast that was not transmitted freely to air which later could not be accessed by the public with the unpaid broadcast cannot qualify as a content dissemination activity.

- d) Matrix TV as LPB does not broadcast MNC Group Channels. Matrix TV uses the Palapa satellite to broadcast its broadcasts, the same satellite used by the MNC Group. Matrix TV (Defendant) As LPB does not manage Free to Air (FTA) broadcasts. MNC Group FTA broadcasts can be received by all users of set up box receivers that are widely circulated in the market and are freely sold in Indonesia because the FTA MNC Group i.c Plaintiff (RCTI) broadcast is non-scrambled so that it can be caught by the Receiver/Stop Any box.

Based on those reasons, it can be concluded that none of the Defendants committed any copyright infringement. However, the violation will not occur if the Plaintiff does not transmit its broadcast in the form of free to air (FTA) which results in the Subscription Broadcasting Institution being unable to receive/access the broadcast freely unless it has obtained a license from the Plaintiff.

CONCLUSION

The Plaintiff is LPS (Private Broadcasting Institution) whose Broadcasting is via terrestrial or satellite according to a permit issued by the Ministry of Communication and Information and LPS Broadcasting is Free To Air (free of charge). As long as Plaintiff transmits its broadcast in the form of free-to-air (FTA) to Indosat's Palapa satellite, and Parabola and Receiver can receive the signal transmitted by the Palapa Satellite, then not only the satellite dish and STB Receiver sold by the Defendant who can receive the Plaintiff's broadcast content. However, Parabola and other Subscriber Broadcasting Institutions STB Receivers can also receive access to the content of the Plaintiff's broadcast works both domestically and abroad. So it can be concluded that broadcasts transmitted free to air, which the public free of charge can then access, cannot be qualified as dissemination of broadcast work content considering that there is no act of rebroadcasting broadcasts in this activity.

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