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THE FULFILLMENT OF ECONOMIC RIGHTS IN SPOTIFY: A SCOPING COMPARATIVE REVIEW BETWEEN THE UNITED STATES AND INDONESIA

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People no longer enjoy music through CDs, VCDs, and the like. People prefer to enjoy music through digital streaming platforms such as Spotify, making it easy for them to enjoy all the songs available, anytime and anywhere. However, this technological advancement does not necessarily protect creators' and copyright holders' rights to royalties. Therefore, the law must evolve to protect creators and copyright holders. In researching this matter, the authors compare the economic rights of creators and copyright holders in America and Indonesia through royalties and entities that manage royalties. The authors found that though music is protected under copyrights in both countries. Indonesia has a National Collective Management Institute, and America has a Mechanical Licensing Collective to collect royalties. However, the National Institute of Collective Management is not legally authorized to collect royalties from streaming platforms, and regulations in Indonesia do not determine limits for calculating the amount of royalties that creators and copyright holders can obtain. Thus, the Indonesian government must create new derivative regulations to ensure that every creator and copyright holder receives legal protection to enjoy their economic rights fully.

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1. INTRODUCTION

In all societies, music has an important role in the lives of all people. Music is a universal language that all societies use to express emotion, imagination, and ideas. The fact that music can be expressed through different genres proves that music is a phenomenon evident in different cultures throughout the world. In the 20th century, the internet changed the method of music consumption. The consumption of music has evolved over the years, from the consumption of vinyl records, cassettes, CDs, and VCDs. The means of consuming music have kept evolving until now, when people consume music through music streaming platforms, such as Spotify. Consuming music digitally through streaming platforms is more convenient and preferable because it sharply decreases the sales of music through CDs. People can access music through their phones and laptops anywhere and anytime. On a trend basis, the number of Spotify's paid subscribers has continued to increase in the last five years. In 2021, Spotify's paid subscribers increased by 16.12% from 155 million users in 2020 to 180 million users in 2021. Furthermore, the global revenues of digital music platforms also increased from \$4.4 billion in 2009 to \$6.9 billion in 2014. In the United States, the sales of music and licensing reached approximately \$14.6 billion in 2000.[12] However, by 2009, it sharply decreased to \$6.3 billion due to digital music platforms. Taylor Swift, a well-known American singer-songwriter, took her recordings off Spotify in 2014. Before doing so, Taylor Swift wrote in the Wall Street Journal that, "Piracy, file sharing and streaming have shrunk the numbers of paid album sales drastically, and every artist has handled this blow differently." [1] This fact proves that the economic right of an artist is jeopardized if the royalties that come from digital music platforms is not regulated.

Looking at the phenomena above, the legal protection of music must evolve in order to balance the new means of music consumption. There must be legal protection for those who create a musical work, as creators need to be compensated for their musical work in the form of royalties. All creators must benefit economically from commercializing their own creation [10]. In the United States, the Orrin G. Hatch–Bob Goodlatte Music Modernization Act ("MMA"), signed into law in October 2018, amended Title 17 of the United States Code, which is the Copyright Act of 1976 (the American Copyright Law). This Copyright law defines digital phonorecord delivery, establishes a new licensing system, and creates an entity called the Mechanical Licensing Collective (MLC) to manage and obtain royalties from music streaming platforms like Spotify. In contrast with the United States, Indonesia does not have a solid copyright protection for music streamed on musical platforms. In Indonesia, copyright is regulated under Law No.

28 of 2014 on Copyright (the Indonesian Copyright Law). Furthermore, based on the principle of ‘lex specialis derogate legi generali’, the Indonesian Government enacted Government Regulation Number 56 of 2021 on Management of Song and/or Music Copyright Royalties (Government Regulation 56/2021), as well as Regulation of The Minister of Law and Human Rights of The Republic of Indonesia Number 9 of 2022 on Implementation of Government Regulation Number 56 of 2021 on Management of Song and/or Music Copyright Royalty (MOLHR 9/2022) to specifically address the issue of royalties and the entity that collect royalties. Regarding the matter of the specific amount of royalties that needs to be paid, the government issued another special act, namely the Decree of the Minister of Law and Human Rights Number HKI.2.OT.03.01-02 of 2016 (Kepmenkumham 2016). In Indonesia, the entity that collects royalties is the Lembaga Manajemen Kolektif Nasional (LMKN), which acts as the only door to collect and manage royalties. Nevertheless, these aforementioned laws have no provision that allows the LMKN to collect royalty payments from Spotify and other streaming platforms. Furthermore, these laws did not have a method to count the standard royalty rate that copyright owners should receive because of the streaming of their music. Regarding the topic of this writing, the issue: how does the Indonesian regulation, relating to the fulfillment of economic rights of the songwriter and holders of related rights in Spotify, differ from the United States?

2. METHOD

The researcher uses descriptive comparative law by collecting and describing provisions under the American Copyright Law and the Indonesian Copyright Law relating to royalty collection and the entity that collects and manages royalties. Furthermore, the researcher uses applied comparative law to analyze further the laws collected, in order to find the tertium comparationis between the American Copyright Law and the Indonesian Copyright Law to achieve the goal of finding the best solution to maximize the economic rights of every songwriter and copyright owner.

3. THE DIFFERENCE BETWEEN INDONESIA'S AND THE UNITED STATES' REGULATIONS RELATING TO THE FULFILLMENT OF ECONOMIC RIGHTS OF THE SONGWRITERS AND HOLDERS OF RELATED RIGHTS IN SPOTIFY

3.1 Music as a Work Protected by Copyright

Preliminarily, labor theory by John Locke indicates that every person creates their own property by managing and creating creations from what nature provides. All people are entitled to their own property when their labor to create the property resulted in a social value. Accordingly, musical work is also classified as a property that results from human labor. Music is a result of human creativity, born out of human skills and effort. Thus, the rights that accompany music can be classified as intellectual property rights [11]. Muhammad Djumhana & R. Djubaedillah stated, "Intellectual Property Rights are rights originating from human creative activities expressed to the general public in various forms, which have benefits and are useful in supporting human life, as well as having economic value." [2] Accordingly, music is an expressed work deriving from human creativity. This means that music is an expression of the creator's own self. That could be enjoyed by the public, for the benefit of the public, on different types of occasions, even for private use, by enjoying. The public should not harm this creation, although they can enjoy it. Parallel with this, Locke's labor theory emphasized that those who have made sacrifices to work on a creation that has a social value should be rewarded. Thus, music has a social value and an economic value. Society would reward and give economic value to music that brings social values to their lives. In the context of music, this reward is given in the form of Royalties to songwriters or composers. Ensuring that the payment of royalties is given to the songwriter is also a form of legal protection that the State gives for the creative work of its citizens. There must be sufficient rules and regulations to ensure that the works of songwriters are compensated by those who commercialize the work. This is because the law created by the State functions as a tool to protect the interests of the songwriters by giving obligations to music users [12].

Before further discussing royalties, the authors would like to elaborate on the concept of creation or work (the two terms may be used interchangeably in this article). Copyright is the right that protects the creation of literature, music, and art, which promotes creative works and expression. In the United States, although there is no specific definition of what a creation is, there is a definition of when a work is

created. §101 of the American Copyright Law states that a work is created when it is fixed in a copy or phonorecord for the first time. In addition, we could infer the definition of creation from the type of work that Copyright protects. §102 (a) of the American Copyright Law states that Copyright protects original works of authorship that are fixed in tangible form of expression [3]. Accordingly, it can be inferred that a creation, in the context of music, is an original musical work of authorship fixed in a tangible form of expression. With all these elements of creation, music should not be in the stage of mere creative ideas, should not copy another songwriter's song, and should be fixed in a tangible form. §101 of the American Copyright Law defines the element of fixation in which a creation is fixed when its embodiment in a copy or phonorecord is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated. In regards to fixation, in order for a musical creation to constitute as creation to be protected by Copyright, music needs to be fixed in either a copy or a reproduced, or otherwise communicated, either directly or with the aid of a known or later developed, and from which the sounds can be perceived, motion picture or other audiovisual work, are fixed by any method now as material objects in which sounds, other than those accompanying a phonorecord [5]. §101 of the American Copyright Law defines a phonorecord to be protected by Copyright; music needs to be fixed in either a copy or a phonorecord. §101 of the American Copyright Law defines phonorecord as material objects in which sounds, other than those accompanying a motion picture or the other audiovisual work are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. §101 of the American Copyright Law defines a copy as a material object other than a phonorecord. This means that to prove the existence of a creation, music should be in a tangible form, although music can be an abstract concept. According to these concepts, §102 (a) of the American Copyright Law lists the creation of music that can be protected by Copyright, which includes musical works and sound recordings.

Article 1 (3) of the Indonesian Copyright Law stated that "creation is any creative work in the fields of science, art and literature that is produced based on inspiration, ability, thought, imagination, dexterity, skill, or expertise expressed in real form." Accordingly, a music creation is a form of art produced based on human creativity expressed in a tangible form. Only then could a creation/work be protected under Copyright because, according to article 1 (1) of the Indonesian Copyright Law, "Copyright is the exclusive right of the creator which arises automatically based on the declarative principle after a work is realized in real form." In accordance with this, article 40 (1) of the Indonesian Copyright Law includes music to be a copyrightable work [8]. Musical work in the American Copyright Law and the

Indonesian Copyright Law is generally considered to be a unity of melody, lyrics, harmony, and rhythm. After discussing the concept of creation in the American Copyright Law and the Indonesian Copyright Law, we can see a lot of similarities between the two. Both acknowledge that a creation must be the creator's creative expression expressed in a real form. However, there is a small difference in terms of copyrightable work. The American Copyright Law acknowledges the protection of musical works and sound recordings. The Indonesian Copyright Law only includes music in the list of copyrightable works. Sound recording in America is the same as the concept of related rights in Indonesia. Article 1 (5) and Article 20 of the Indonesian Copyright Law stated that related rights are the exclusive rights related to the Copyright for the moral rights of the performer, economic rights of the performer, and economic rights of the phonogram producer. This concept is the same with sound recording because §101 of the American Copyright Law defines sound recording as "works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture or other audiovisual work, regardless of the nature of the material objects, such as disks, tapes, or other phonorecords, in which they are embodied." Usually, record labels hold the rights to sound recordings, while a publishing company owns the musical composition. In Indonesia, those who contribute to the creation of a musical audio are understood to be the performer and producer, which is protected by related rights.

In Indonesia, two rights are attached to the creator for the creation as a form of protection given by Copyright. Article 4 of the Indonesian Copyright Law stated that Copyright consists of moral rights and economic rights. This means that songwriters and copyright holders have moral and economic rights to the music they create. Although this thesis only discusses economic rights, the authors will briefly touch upon the concept of moral rights. Article 5 of the Indonesian Copyright Law defines moral rights for Copyright holder as a right that is eternally inherent in creator to include or not to include creator's name on the copy of creator's publicized creation, use an alias or pseudonym, change creator's creation according to appropriateness in society, change the title and subtitle of the work, and to defend creator's rights when the creator's work is distorted, mutilated, modified, or anything that is detrimental to their personal honor or reputation. Furthermore, performers who are part of the owners of related rights also possess moral rights. Article 21 of the Indonesian Copyright Law states that Performers' moral rights are inherent in Performers, which cannot be removed or waived for any reason, even though their economic rights have been transferred [9]. In contrast with Indonesia, the United States does not have a specific provision that mentions moral rights or economic rights. However, as a member of the Berne Convention, the United States has an obligation under Article 6bis of the Berne Convention to ensure that the music

creator still possesses the right to claim authorship of the music even after transferring economic rights to another party. Moving on to the discussion of economic rights, articles 8 and 9 of the Indonesian Copyright Law provide an understanding of economic rights. When applied in the context of music, it is stated there that economic rights are the exclusive rights of the songwriter or copyright holder to obtain economic benefits by publication of music creation, multiplying music creation in, showing the music, announcing the music, and communicating the music. In the United States, §106 of the American Copyright Law allows musical work Copyright owners to economically exploit the music creation by reproduce the musical work in copies or phonorecords, to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, to display the musical work publicly, and in the case of sound recordings, to perform the music publicly by means of a digital audio transmission. Under §114 (a) of the American Copyright Law, sound recording copyright also enjoys the same aforementioned right of musical work Copyright holder. Notice that the public performance right for sound recording is only applicable for digital audio transmission. This exploitation of music on both the American Copyright Law and the Indonesian Copyright law will result in the copyright owners receiving royalties. Accordingly, Article 1 (21) of the Indonesian Copyright Law stipulates that royalties are compensation for the use of the economic rights of a work or related rights product received by the creator or owner of the related rights. In the United States, the obligation to pay royalties in the digital transmission of music is stipulated under §115 (c) (1) (B) (C) of the American Copyright Law. Now, moving to the contentious part of this section, we will discuss the payment of royalties in Spotify through a royalty collection entity. The author will compare and contrast Indonesia and the United States on the regulations regarding royalty collection entities, the legal protection of creators and Copyright owners on Spotify. Lastly, the author will discuss the mechanism of royalty in Spotify.

3.2 The Difference between The Royalty Collection Entity in Indonesia and The United States

Royalty Collection Entity in Indonesia

In Indonesia, the royalty collection entity is regulated by several regulations, namely the Indonesian Copyright Law, Government Regulation 56/2021, and the MOLHR 9/2022. Accordingly, Article 89 of the Indonesian Copyright Law stipulates that LMKN is tasked with collecting and managing royalties for copyright holders and holders of related rights for the commercialization of music. This matter is further regulated under Article 1 (11) of the Government which stated that the LMKN Institute is a

government institution established based on the Law on Copyright which has the authority to take, collect and distribute royalties as well as manage the economic rights interests of Creators and owners of Related Rights in the field of songs and/or music. In conducting this role, articles 10 and 12 of the Government authority to collect and manage royalties. This could create confusion about which entity has the sole authority to manage the royalties of songwriters and copyright holders. In any event, LMKN still serves as a one-door entity to collect royalties, whose function is to set the royalty rate that could be obtained from third parties as stipulated under Article 12 of Government Regulation 56/2021 [6]. In conducting this, Article 14 of Government Regulation 56/2021 states that LMKN will manage and work with music databases. Besides this, Article 9 of Government Regulation 56/2021 also stipulates that third parties must obtain music licensing through LMKN. Accordingly, LMKN manages royalties as well as music licenses. Article 18 (5) of the Government Regulation 56/2021 stated that the role and organizational structure of LMKN are regulated by the Ministry Regulation. Article 5 of the MOLHR 9/2022 stated numerous roles of LMKN as an entity that manages royalties, creates operational procedures for managing royalties, creates the system and the mechanism to count all relevant information regarding the music created by songwriters.

Royalty Collection Entity in the United States

Now moving to analyzing the royalty collection in the United States as regulated in §115 of the American Copyright Law. §115 (3) (C) of the American Copyright Law gives the MLC several authorities and functions. The author will only mention the relevant functions, namely, to offer and administer licenses from digital music platforms, to collect and distribute royalties from digital music platforms, maintain musical work databases for the purpose of licensing and royalties, and administer the process of claiming ownership of musical works. In addition to this, §115 (3) (E) of the American Copyright Law states that MLC will establish and maintain music databases for the musical work with all relevant information relating to it. This is because the MLC only distributes royalties for the mechanical reproduction of musical work and not sound recording or the public performance of musical work and sound recording. §115 (3) (F) of the American Copyright Law also states that MLC will receive, review, and confirm or reject licenses from digital music platforms [12]. Furthermore, §115 (3) (G) of the American Copyright Law states that after receiving reports from digital music platforms, MLC will try to identify the owner of the musical work and confirm the proper payment of royalties due to the songwriter or copyright holder. MLC only collects royalties for the mechanical reproduction of musical works. Third

parties will have to pay royalties directly to the music publisher for the mechanical reproduction of the sound recording. On the other hand, the Performing Rights Organization will collect royalties for the public performance of musical works and sound recordings both on digital platforms and non-digital platforms. §101 of the American Copyright Law stipulates that Performing Rights Society is an association, corporation, or other entity that licenses the public performance of nondramatic musical works and the collection of royalties on behalf of copyright owners of such works, such as the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and SESAC, Inc.

From the information elaborated above, we can conclude that there is a striking similarity between NMCI and MLC as well as the Performing Rights Society. All these entities have the right to collect and distribute royalties from third-party users to copyright owners, and to administer music licenses. However, if we look into these regulations, Indonesia has a better mechanism of the entity in charge of royalty collection. NMCI is in charge of collecting royalties from all platforms, whether digital or non-digital. Accordingly, Indonesia has only one royalty collection entity [4]. Contrastingly, the United States has three methods of collecting royalties, which are the MLC and the Performing Rights Organizations, and direct negotiation with the label.

3.3 The Difference Between the Legal Protection of Copyright Owners in Spotify

In Indonesia, as stipulated under Article 2 (1) of the Government Regulation 56/2021, the commercialization activity in which the LMKN could collect royalties is only from the show of music, announcement of music, communicating the music (public performance in the United States), and not the reproduction of music. Despite Article 2 (4) of the Government Regulation 56/2021 stating that this public commercialization of music can be in the form of digital or analog, Article 3 of the Government Regulation 56/2021 did not mention music streaming services such as Spotify as the object from which royalties could be collected. LMKN can only collect royalties from public activities such as commercial seminars and conferences, restaurants, cafes, pubs, bars, bistros, nightclubs and discos, music concerts, airplanes, buses, trains and ships, exhibitions and bazaars, cinema, call waiting tone, banks and offices, shops, recreation center, television broadcasting institutions, radio broadcasting institutions, hotels, hotel rooms, hotel facilities and karaoke business. Referring from Article 12 and 13 of the Government Regulation 56/2021, Copyright holders must make sure that they are a part of LMK, because only then LMKN could collect and distribute royalties from these objects of royalties to the copyright holder through their respective LMKN, with the royalty rates that is determined by LMKN and confirmed by the Ministry. Meanwhile if

we investigate the royalty rates determined by LMKN under Kepmenkumham, music streaming services are not included in it. Based on this concept, LMKN could not collect royalties from Spotify even if Spotify is an object that commercializes music. As stipulated under Article 1 (24) of the Indonesian Copyright Law, commercialization is the act of gaining economic benefit from various sources or paid. Spotify allows users to stream music through a paid subscription or for free. In both scenarios, Spotify commercializes music as even users who do not subscribe to Spotify are given advertisements between music streams, which generates income for Spotify [7]. From this analysis, we can see that there is no legal protection from the government of Indonesia in terms of the certainty of royalty payments from Spotify or other music streaming services to copyright holders, even if there exists LMKN as the one and only body that is authorized to collect royalties.

In contrast, the American Copyright Law has an established legal protection and system for collecting royalties from MLC. Firstly, as it has been discussed earlier, § 106 of the American Copyright Law regulates the rights of musical works, in which § 106 (1) states that copyright owners could mechanically reproduce musical works in phonorecords. The American Copyright Law provides a legal definition of a phonorecord. “Phonorecord” in § 101 of the American Copyright Law defines phonorecord as:

“...material objects in which sounds, other than those accompanying a motion picture or other audiovisual work, are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term “phonorecords” includes the material object in which the sounds are first fixed.”

As the sales of music are modernized from conventional CDs and VCDs to streaming platforms, this phonorecord term has been elaborated to be the term digital phonorecord delivery. § 115(d) of the American Copyright Law stated:

“...‘digital phonorecord delivery’ means each individual delivery of a phonorecord by digital transmission of a sound recording that results in a specifically identifiable reproduction by or for any transmission recipient of a phonorecord of that sound recording, regardless of whether the digital transmission is also a public performance of the sound recording or any musical work embodied therein, and includes a permanent download, a limited download, or an interactive stream. A digital phonorecord delivery does not result from a real-time, noninteractive subscription transmission of a sound recording

where no reproduction of the sound recording or the musical work embodied therein is made from the inception of the transmission through to its receipt by the transmission recipient in order to make the sound recording audible.”

Accordingly, Spotify under the American Copyright Law constitutes as a platform that digitally transfers a phonorecord (fixed musical work) in the form of an interactive streaming. The terms permanent download, a limited download, or an interactive stream in the definition of digital phonorecord above is called covered activities. Furthermore, interactive stream is defined by § 115 (e) (7) of the American Copyright Law as a digital transmission of a sound recording of a musical work in the form of a stream. An interactive stream is the same as digital phonorecord delivery. Thus, Spotify is a covered activity in the form of an interactive stream that delivers a digital phonorecord of a musical work. Because of this, Spotify must have the right to reproduce a musical work mechanically. In addition to this, Spotify must pay for the public performance royalty of a musical work as obligated under § 106 (4) of the American Copyright Law.

In regard to sound recording, Spotify must also pay royalties for the public performance of the sound recording right as stipulated under § 106 (6) of the American Copyright Law as well as the mechanical reproduction of the sound recording as stipulated under § 106 (1) and § 114 (a) of the American Copyright Law. The payment of public performance royalty for sound recording is unique only to the digital phonorecord delivery and not to other conventional music sales. Thus, playing the sound recording on the radio would not require the radio to pay for public performance royalties on the sound recording, as it does not constitute a digital phonorecord delivery.

In relation to the amount of royalty paid, §801 of the American Copyright Law states that Copyright Royalty Judges determine the rate of royalty using the “willing-buyer” standard, which considers factors such as economic, competitive, and programming information in order to set the royalties rate. To conclude, in the United States, Spotify must pay for the mechanical reproduction of musical work and sound recording as well as the public performance of a musical work and sound recording. In Indonesia, however, the American Copyright Law did not stipulate any provision regarding collecting royalties from music streaming services. Even if there is, then Spotify should only collect the royalty to announce the music (similar to the public performance right in the United States) to be given to the Copyright owner and related rights owners.

3.4 Mechanism of Royalties Distribution in Spotify in the United States and Indonesia

According to Spotify's website, Spotify pays two types of royalties: recording royalties and publishing royalties. Recording royalties are the same as sound recording royalties in the United States, or the royalties for related rights owners in Indonesia, that are paid to artists through the licensor who delivered their music. On the other hand, publishing royalties are the same as the mechanical reproduction royalties for musical works in the United States or for songwriter copyright holders in Indonesia. Spotify receives revenue from premium subscriptions and advertisements, which is used to give royalties to rights holders. Regarding the system of royalties distribution, firstly, the artist or songwriter must be a part of the digital aggregator, which functions as a digital label that works together with Spotify. If the artist or musician is a part of a conventional label, then the label will work with the digital aggregator to upload the music to Spotify.

Accordingly, the distribution of royalties will first come from Spotify to the digital aggregator, to the label, and then to the artist or songwriter. Suppose we apply the Indonesian Copyright Law and Government Regulation 56/2021 to Spotify's royalty collection mechanism. In that case, as discussed in the previous sub-chapter, Indonesia does not have a regulation to collect royalties from Spotify. Spotify's royalty mechanism is Spotify's own mechanism to make sure that Spotify does not violate the rights of artists or musicians. However, suppose we are to assume that LMKN can collect royalties from Spotify. In that case, Spotify will only pay the public performance rights (the term in the United States) or announcing rights in Indonesia, of the sound recording and musical work. LMKN would have to pay the royalties given from the digital aggregator to the label so that the label can give the royalties to the songwriters, artists, or musicians. Because LMKN does not have the authority yet, the digital aggregator directly pays Royalties to the label.

In the United States, using the discussion from the previous sub-chapters, Spotify would have to pay the public performance royalty as well as the mechanical reproduction royalty. Public performance royalties consist of the royalty for sound recording and musical work, while mechanical royalties also consist of the royalty for sound recording and musical work. If the digital aggregator had to work with LMKN in Indonesia, then in the United States, the digital aggregator would have to work with MLC and Performing Rights Organizations to distribute the royalties to artists, musicians, and songwriters. In any event, Spotify cannot use the Fair Use principle to justify the action of not paying royalties to the Copyright

holders. This is because Spotify commercializes the music through the paid subscription or advertisements.

4. CONCLUSION

The American Copyright Law gives MLC the exclusive right to manage, collect, and distribute royalties from music streaming platforms such as Spotify. However, the Indonesian Copyright Law does not have any specific provision that gives the right of NMCI to authorize the collection of royalties from music streaming platforms. In contrast, it authorizes the collection of royalties from other conventional businesses. As a result, there is no legal protection in Indonesia regarding the collection of Royalties from music streaming platforms, particularly regarding the authority to collect royalties and the standard rate of royalties collection. In contrast with the United States, music streaming platforms in Indonesia manage to collect and pay royalties by themselves using a song-by-song agreement with the copyright holder.

REFERENCES

- [1] Annabell, T., & Rasmussen, N. V. (2024). Spotify (Un)wrapped: how ordinary users critically reflect on Spotify's datafication of the self within creative workshops. *Journal of Gender Studies*, 00(00), 1–17. <https://doi.org/10.1080/09589236.2024.2433674>
- [2] Bagus Rahmarda, P., Prasetyo Adhi, Y., & Benuf, K. (2021). Law Enforcement In The Field Of Music In The Spotify Application Program. 5(2), 155–166. Retrieved from <https://journal.unnes.ac.id/nju/index.php/jpcl>
- [3] Dwisvimiari, I., Adani, F. M., & Gunawati, A. (2022). Copyright Protection of Song in the form of Barcode in Spotify Application for Commercial Purposes. *Nagari Law Review*, 6(1), 12. <https://doi.org/10.25077/nalrev.v.6.i.1.p.12-24.2022>
- [4] Gaffar, H., & Albarashdi, S. (2024). Copyright Protection for AI-Generated Works: Exploring Originality and Ownership in a Digital Landscape. *Asian Journal of International Law*, 1–24. <https://doi.org/10.1017/S2044251323000735>
- [5] Keyes, J. M. (2003). Musical musings: the case for rethinking music copyright protection. In *Mich. Telecom. & Tech. L. Rev.* (Vol. 10).
- [6] Litoama, F., & Purgito. (2023). The Legal Certainty of Legitimate Ownership in Copyright Works of Songs or Music, as well as Associated Rights in Non-Declarative Recording in accordance with the Royalty Management System under Government Regulation No. 56 of 2021 (Case Study on Copyright). *Sinergi International Journal of Law*, 2(1), 1–13. <https://doi.org/10.61194/law.v2i1.102>

[7] Rahmasari, K., & Purwaningtyas, M. P. F. (2022). The Extended Self: Youth's Identity in the Music Consumption of Indonesian Spotify Users. *Jurnal Riset Komunikasi*, 5(2), 187–206. <https://doi.org/10.38194/jurkom.v5i2.548>

[8] Rahmatian, A. (2024). The Musical Work in Copyright Law. *GRUR International*, 73(1), 18–33. <https://doi.org/10.1093/grurint/ikad105>

[9] Silfiani, D. (2022). Indonesian Legal Protection for Song Commercialization and Music Copyrights in Digital Platforms. *Padjadjaran Jurnal Ilmu Hukum*, 9(2), 152–169. <https://doi.org/10.22304/pjih.v9n2.a1>

[10] Sugianto, Fajar; Indradewi A, Astrid; Valencia, C. D. (2024). BETWEEN VALUATION AND MONETIZATION OF EFFICIENCY IN ECONOMIC ANALYSIS OF LAW : IS IT POSSIBLE ? Fajar SUGIANTO Astrid Athina INDRADEWI Keywords : Journal of International Trade, Logistics and Law, 10, 286–294.

[11] Sugianto, F., Indradewi, A. A., & Maretta, Y. (2024). Book Pirates and Copycats : Infringement That Speaks For Itself. 2(1), 259–269.

[12] Zeehan Fuad Attamimi, A. A. T. (2024). The Role of Music Aggregator Distribution Toward Music Performers in View of the Three Pillars of the Copyright System. *Journal of Law and Legal Reform*, 5(1), 6.

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EL CUMPLIMIENTO DE LOS DERECHOS ECONÓMICOS EN SPOTIFY: UN ANÁLISIS COMPARATIVO DE ALCANCE ENTRE ESTADOS UNIDOS E INDONESIA

RESUMEN

La gente ya no disfruta de la música a través de CD, VCD y similares. Prefieren disfrutar de la música a través de plataformas de streaming digital como Spotify, lo que les facilita disfrutar de todas las canciones disponibles, en cualquier momento y lugar. Sin embargo, este avance tecnológico no protege necesariamente los derechos de regalías de los creadores y titulares de derechos de autor. Por lo tanto, la legislación debe evolucionar para proteger a los creadores y titulares de derechos de autor. Al investigar este asunto, los autores comparan los derechos económicos de los creadores y titulares de derechos de autor en Estados Unidos e Indonesia a través de las regalías y las entidades que las gestionan. Los autores concluyeron que, si bien la música está protegida por derechos de autor en ambos países, Indonesia cuenta con un Instituto Nacional de Gestión Colectiva, mientras que Estados Unidos cuenta con un Colectivo de Licencias Mecánicas para recaudar regalías. Sin embargo, el Instituto Nacional de Gestión Colectiva no está legalmente autorizado para recaudar regalías de las plataformas de streaming, y la normativa indonesia no establece límites para el cálculo de las regalías que pueden obtener los creadores y titulares de derechos de autor. Por lo tanto, el gobierno indonesio debe crear nuevas regulaciones derivadas para garantizar que todos los creadores y titulares de derechos de autor reciban protección legal para disfrutar plenamente de sus derechos económicos.

Palabras clave: derechos económicos, royalties, licencias, Spotify, análisis comparativo

Spotify 中的经济权利实现：美国与印度尼西亚范围比较研究

摘要

人们不再通过 CD、VCD 等设备欣赏音乐。人们更喜欢通过 Spotify 等数字流媒体平台欣赏音乐，这样他们就可以随时随地轻松欣赏所有歌曲。然而，这项技术进步并不一定能保护创作者和版权持有者的版税权利。因此，法律必须不断发展以保护创作者和版权持有者。在研究中，作者通过版税和管理版税的实体比较了美国和印度尼西亚创作者和版权持有者的经济权利。作者发现，尽管两国的音乐都受到版权保护，但印度尼西亚设有国家集体管理机构，而美国设有机械许可集体来收取版税。然而，国家集体管理机构无权向流媒体平台收取版税，而且印尼的法规并未明确计算创作者和版权持有者可获得的版税金额。因此，印尼政府必须制定新的衍生法规，以确保每一位创作者和版权持有者都能获得法律保护，充分享有其经济权利。

关键词：经济权利、版税、许可、Spotify、比较研究