

Analysis of Legal Protection of Intellectual Property Rights From a Criminal Law Perspective

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Abstract

This research is to analyze the legal protection of song copyright on TikTok video content from a criminal law perspective and to identify the principles that can be applied to improve the effectiveness of law enforcement against copyright violations. The research method used in this study is the normative legal method with a statutory approach and specifications of descriptive analytical, which means that the data is analyzed based on applicable legal provisions and relevant literature studies. A crime is an unlawful act that is detrimental to society, and the perpetrator can be subject to criminal sanctions and TikTok is one of the most popular social media among the public. This issue is important to study because the rampant use of songs without permission by TikTok users shows weak legal awareness and minimal enforcement of intellectual property rights, especially copyright. This practice is economically detrimental to rights holders and has the potential to hinder the development of the creative industry in Indonesia. The results of the study show that Criminal law has a strategic role in providing protection for song copyright, especially through the application of criminal sanctions against perpetrators of violations. Effective law enforcement requires synergy between law enforcement and digital platforms, as well as increasing legal education for users. An appropriate law enforcement mechanism can have a deterrent effect, provide legal certainty for rights holders, and support the creative economy ecosystem. The novelty of this study lies in its focus on the TikTok platform as one of the media often used in creating video content involving music or songs as the main element.

Keywords: Copyright; Criminal Law; Intellectual Property Rights; Legal Protection; TikTok

1. INTRODUCTION

The urgency of this study arises because of the increasing copyright violations in the digital era, especially on social media platforms such as TikTok, which threatens legal protection of intellectual property rights (IPR) and has the potential to hinder the growth of the creative industry in Indonesia. TikTok, as a short video-based social media, has become a popular tool for people to express their creativity, including using song clips as background content. The resulting song snippet video can be uploaded via the TikTok application and distributed to other social media such as Instagram, Facebook, X, or other social media applications. However, the use of these songs is often done without permission from the copyright holder, resulting in a violation of the creator's economic rights.

Criminal law consists of norms, including orders and prohibitions, which legislators associate with a penalty in the form of punishment.¹ According to Sudarto, Punishment is suffering or sorrows that are deliberately imposed by the authorities on someone who has

¹ P.A.F. Lamintang and Franciscus Theojunior Lamintang, *Dasar-Dasar Hukum Pidana Di Indonesia* (Jakarta: Sinar Grafika, 2014).

committed an act that violates the rules of the penal code,² including the protection of intellectual property rights. Criminalization in the context of IPR is needed as a preventive and repressive effort so that society does not commit acts that violate the rules, provide a deterrent effect, and maintain legal certainty. A criminal act itself is an unlawful act that harms society, and the perpetrator may be subject to criminal punishment. According to Moeljatno, the definition of a criminal act is an act that is prohibited by law and contains threats (sanctions) in the form of certain punishments for those who violate the prohibition.³ Meanwhile, Adami Chazawi defines criminal acts as actions that are prohibited by law, which are accompanied by criminal threats.⁴

The Penal Code (KUHP) classifies criminal acts into two types, namely crimes and violations. A crime is a criminal act that is punishable by a fine, imprisonment, or a death sentence, while for violation the penalty only in the form of a fine or imprisonment. However, a violation always results in losses, both material and immaterial. A violation of something could be caused by a gap between certain parties who feel they have the ability to do that thing.

Rapid technological advances, especially in the fields of communication and information, are creating new communication spaces. The development of communication technology has given rise to a new media called social media, which makes it easier for users to interact and communicate online. TikTok has become a popular platform due to its ability to present creative content that combines audio-visuals. Moreover, the TikTok application also automatically gets song snippets that can be used by other users according to their respective styles through videos. Unfortunately, many users take advantage of the music feature on TikTok without considering the legal aspects of the songs used. This causes legal conflicts related to copyright violation, especially the economic rights of the work owner.

Article 8 of Law Number 28 year 2014, which states that "Economic Rights are the exclusive rights of the Creator or Copyright Holder to obtain economic benefits from the Creation." However, in practice, many parties use songs in the TikTok application without permission, which can harm the creator or copyright holder, both material and immaterial, and indicates the weak legal awareness in society regarding the importance of copyright protection.

Legal protection for song copyright holders for unauthorized use on the TikTok application can be carried out based on Law Number 28 year 2014 concerning Copyright. This law provides a legal basis for creators or copyright holders to claim their economic rights, either through litigation or non-litigation. In addition, the application of the law also

² Muladi and Barda Nawawi Arif, *Teori-Teori Dan Kebijakan Hukum Pidana* (Bandung: Alumni, 1992).

³ Moeljatno, *Asas-Asas Hukum Pidana*, Edisi revisi IX (Jakarta: Rieneka Cipta, 2017).

⁴ Adami Chazawi, *Pelajaran Hukum Pidana Bagian 1* (Jakarta: Raja Grafindo, 2013).

includes criminal and civil sanctions, which aim to provide a deterrent effect on perpetrators of violations and protect the exclusive rights of copyright holders.

A study on the legal protection of intellectual property rights for copyright holders of songs in TikTok video content has been conducted in previous studies, for example, in research conducted by Pamungkas.⁵ This article examines the legal relationship between TikTok app users and copyright holders of uploaded songs, as well as the users' responsibilities towards copyright holders. The results of the research concluded that the legal relationship is regulated in a cooperation agreement contained in User Generated Content. This research highlights the contractual aspects between platforms and users, but has not yet discussed in depth the role of criminal law in prosecuting massive copyright violations that occur on these platforms. Furthermore, research from Aditya.⁶ This research analyzes the causes of copyright infringement of songs on the TikTok platform and explains the legal consequences of unauthorized rearrangements. The results of the research show that the causes of copyright violations on the TikTok platform consist of various factors, such as economics, culture, technology, law enforcement, unemployment, and the environment. This research touches on the legal aspects of resolving unauthorized song arrangements, but the approach used is still general and places more emphasis on causal analysis rather than criminal action mechanisms for copyright violation. The last is research from Amalia.⁷ This research focuses on reviewing Indonesia's efforts to address the challenges of intellectual property protection in the digital era by exploring the policies and regulations implemented to strengthen legal protection, but it has not specifically discussed the practice of copyright violation on content-based social media such as TikTok, especially from a criminal law perspective.

These three studies make important contributions to the literature on IPR protection, but have limitations in examining aspects of criminal law enforcement in an applied manner, especially in the case of the increasing use of unauthorized songs on TikTok. This study is here to fill this gap with a more focused approach, namely analyzing the form of legal protection and the effectiveness of the application of criminal sanctions against copyright violation of songs on TikTok based on Law Number 1 year 2023 (National Criminal Code), Law Number 28 year 2014 concerning Copyright, and Law Number 1 year 2024 concerning the Second Amendment to the ITE Law. Thus, this research is expected to contribute to strengthening the criminal law system as a tool for protecting intellectual property rights in the digital era.

⁵ Revan Tri Pamungkas and Djulaeka, "Perlindungan Hukum Pemegang Hak Cipta Atas Lagu Yang Diunggah Pada Aplikasi Tiktok," *Simposium Hukum Indonesia* 1, no. 1 (2019): 394–413.

⁶ Gede Figo Krisna Aditya and I Gusti Ngurah Dharma Laksana, "Perlindungan Hak Cipta Terhadap Karya Lagu Yang Diaransemen Ulang Menjadi Musik Latar Pada Platform Tiktok," *Jurnal Kertha Desa* 11, no. 2 (2023): 1870–77.

⁷ Dian Utami Amalia et al., "Perlindungan Hukum Terhadap Kekayaan Intelektual Dalam Era Digital Di Indonesia," *Terang : Jurnal Kajian Ilmu Sosial, Politik Dan Hukum* 1, no. 1 (March 2024): 26–46.

2. METODE

A research method is a scientific activity based on a particular method, system, or way of thinking that aims to study one or more particular legal phenomena through analysis.⁸ The research method used in this study is a normative juridical method, which focuses on the analysis of laws and regulations that are relevant to the legal problems being studied. The approach used is a statutory approach, which describes the applicable laws and regulations and is linked to legal theory and implementation practices related to the problem under study.⁹ The main data source used in research using a normative legal approach is library data obtained through literature studies. The data used includes primary legal materials such as Law Number 28 year 2014 concerning Copyright, Law Number 1 year 2023 concerning the National Penal Code (KUHP Nasional) and Law Number 1 year 2024 concerning the Second Amendment to the ITE Law, as well as secondary legal materials in the form of literature related to the topic of this study such as books, articles and scientific journals. The specification of this research is analytical descriptive data analysis by interpreting the law by describing or explaining both primary and secondary data obtained, to then concluding as an answer to the problem being studied. This data analysis technique aims to provide a comprehensive picture of how the legal protection of song copyright in TikTok video content is viewed from a criminal law perspective and how criminal sanctions are applied to violations that occur.

3. RESULTS AND DISCUSSION

3.1 Legal Protection of Intellectual Property Rights for Song Copyright Holders in TikTok Video Content from a Penal Code Perspective

Intellectual Property Rights (IPR) are rights that arise from the results of human thought, which produce a product or process that is useful for humans.¹⁰ In essence, it can be interpreted as property rights that arise due to human intellectual abilities.¹¹ Copyright is part of Intellectual Property Rights (IPR), which is protected by Indonesian law. Copyright is an executive right of the creator that consists of moral and economic rights.¹² In Indonesia, Copyright is regulated in Law Number 28 year 2014 concerning Copyright. Moral rights are rights that are inherent in the creator and cannot be revoked, removed, or deleted without cause, even though they have been transferred, while economic rights are the right to obtain economic benefits from creative work.¹³

The development of digital technology, especially in the field of communication and information, has created various social media platforms that make it easier for users to

⁸ Sigit Sapto Nugroho, Anik Tri Haryani, and Farkhani, *Metode Riset Hukum* (Surakarta: Oase Pustaka, 2020).

⁹ Hamidi, *Metode Penelitian Hukum Kualitatif* (Malang: UMM Press, 2004).

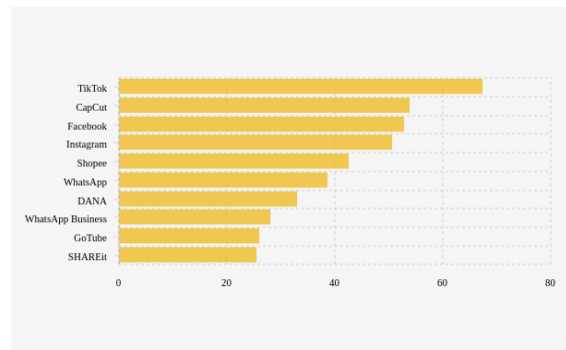
¹⁰ Syafrinaldi, Fahmi, and M. Abdi Almaktur, *Hak Kekayaan Intelektual* (Pekanbaru: Suska Press, 2008).

¹¹ Dudung Indra Ariska, "Implementasi Penegakan Ketentuan Pidana Terhadap Pelanggaran Hak Kekayaan Intelektual Regim Hak Cipta," *Yustisia*, n.d.

¹² Daria Hasnadiba, "Perlindungan Hukum Terhadap Pencipta Lagu Atas Perubahan Lirik Tanpa Izin Pemegang Hak Cipta Di Aplikasi Tiktok" (Universitas Lampung, 2023).

¹³ Ibid.

interact online and facilitate the distribution of content in the form of images and videos. TikTok is a social media platform that is currently becoming an idol among the public. Active TikTok users in Indonesia currently reach 157.6 million as of July 2024, an increase of around 15 times in at least the last 6 years.¹⁴ Based on data obtained by the author, throughout 2023, TikTok is the most downloaded application.¹⁵



Sumber : katadata.co.id (2023)

The image shows that TikTok obtained the highest number compared to other applications such as CapCut, Facebook, and Instagram, showing that TikTok is one of the most dominant platforms for sharing video content that often involves copyrighted works. Active TikTok users in Indonesia currently reach 157.6 million as of July 2024, an increase of around 15 times in at least the last 6 years.¹⁶ This reinforces the importance of studying legal protection to prevent unauthorized exploitation of intellectual property rights, especially song copyrights.

As we all know, TikTok is a short video-based social media application that contains features for creating and editing various short videos equipped with filters and songs as support. On this platform, music is often used as the main element in making videos, which indirectly involves the use of song copyrights. TikTok is also a popular platform for finding popular trending songs, and some musicians even use it as a space to release their new songs exclusively. According to research conducted by TikTok officials, TikTok has had a huge impact in increasing value for artists through streaming and encouraging the discovery of new music.¹⁷ Not only that, changes in news/information search patterns pioneered by

¹⁴Galuh Putri Riyanto and Yudha Pratomo, "Indonesia Pengguna TikTok Terbesar Di Dunia, Tembus 157 Juta Kalahkan AS," *Kompas.Com*, 2024, <https://tekno.kompas.com/read/2024/10/25/15020057/indonesia-pengguna-tiktok-terbesar-di-dunia-tembus-157-juta-kalahkan->.

¹⁵ Nabilah Muhamad, "Tiktok, Aplikasi Yang Paling Banyak Diunduh Di Indonesia Pada 2023," *Katadata.Co.Id*, 2024, <https://databoks.katadata.co.id/teknologi-telekomunikasi/statistik/5b44b118b594168/tiktok-aplikasi-yang-paling-banyak-diunduh-di-indonesia-pada-2023>.

¹⁶Galuh Putri Riyanto and Yudha Pratomo, "Indonesia Pengguna TikTok Terbesar Di Dunia, Tembus 157 Juta Kalahkan AS," *Kompas.Com*, 2024, <https://tekno.kompas.com/read/2024/10/25/15020057/indonesia-pengguna-tiktok-terbesar-di-dunia-tembus-157-juta-kalahkan->.

¹⁷ *Ibid*.

Generation Z have made TikTok not only an entertainment space, but also a means of searching for the latest information and news. This further strengthens TikTok's role as a multifunctional platform that combines entertainment, creativity, and information in one digital ecosystem.

The problem that is often encountered in creating TikTok video content is that users, while creating content, tend to insert songs as background sound so that the video is more interesting and doesn't feel dull. However, users often do not know whether the songs used have received official permission from the original creator or copyright holder, thereby giving rise to the potential for copyright infringement. Legal protection of song copyright is important considering that copyright violations often occur, such as the use of songs without permission from the rights holder. In cases like this, problems are often encountered regarding copyright, especially song copyright.¹⁸

Before taking further, it is important to understand the meaning of creator and creation first. Based on Article 1, point 2 of Law Number 28 year 2014 concerning Copyright, a Creator is a person or several people who, either individually or together, produce a creation that is special and personal. Meanwhile, creation in Article 1, point 3 of Law Number 28 year 2014 concerning Copyright is defined as a creative work in the fields of science, art, and literature which is produced based on inspiration, ability, thought, imagination, dexterity, skill, or expertise as stated in real form.

Song copyright is not specifically regulated in Law Number 28 year 2014 concerning Copyright, Article 9 only states that the creator or copyright holder has the exclusive right to publish or reproduce their creation. This means that Song Copyright is an exclusive right of the creator that arises automatically based on declarative principles after the song can be heard. Song copyright arises automatically, not when the song is recorded, but when the song is heard, which is proven by the existence of sheet music and/or the existence of poetry.¹⁹ Any use of songs for commercial purposes without permission from the copyright holder can be considered a violation. Therefore, uploading commercial songs to the TikTok application without the creator's permission has legal consequences regarding the creator's copyright royalties. Songs are one of the copyrighted works that are protected by law as regulated in Article 40 paragraph (1) letter d of Law Number 28 year 2014 concerning Copyright. Basically, every song in the TikTok application has permission from the copyright holder. TikTok users who cut and/or edit songs to make them interesting and match them to whatever they want are violating copyright.

Legal protection is protection to preserve human rights that are violated by other people. This protection can be provided to all levels of society so that they can enjoy all

¹⁸ Bagus Rahmanda and Kornelius Benuf, "Perlindungan Hukum Hak Cipta Musik Yang Diupload Di Aplikasi Tiktok," *Law, Development & Justice Review* 4, no. 1 (May 2021): 29–44.

¹⁹ *Ibid.*

rights arising from the law.²⁰ Rational legal protection for Intellectual Property Rights is provided because of the recognition that every individual has legal ownership rights to something that belongs to them²¹. Legal protection of Intellectual Property Rights aims to protect the owner's interests in obtaining exclusive rights over the results of his work. The creator of the work, in this case, is the songwriter or copyright holder who has economic rights to the work produced. Other people may not duplicate or do anything else that is detrimental to the interests of the copyright holder.²²

In accordance with Article 25 of Law Number 1 year 2024 concerning the Second Amendment to Law Number 11 year 2008 concerning Electronic Information and Transactions, electronic system operators are obliged to maintain the reliability and security of their electronic systems, including in terms of managing intellectual property. This article is a form of protection of intellectual property rights through special internet facilities regarding copyright.²³

In connection with Philipus M Hadjon's theory of legal protection, which emphasizes legal protection for society.²⁴ The Government, through Law Number 28 year 2014 concerning Copyright, seeks to provide preventive and repressive legal protection. Preventive legal protection focuses on prevention efforts. Preventive protection is realized by regulating the obligations of digital platform operators to ensure that content uploaded by users does not violate copyright. The preventive protection provided by the Government to songwriters is by recording or registering their creations in the hope of preventing disputes in court. Meanwhile, repressive protection is carried out by providing criminal sanctions for perpetrators of copyright violations in accordance with applicable regulations.

Preventive protection regulated in Articles 64 – 67 of Law Number 28 year 2014 includes monitoring efforts, copyright registration, and implementation of a copyright information system. This provision's intention is to ensure that intellectual property rights, including copyright, can be protected more effectively from the start so that the potential for infringement can be minimized. Preventive protection will not be effective without supervision and adequate monitoring. Even though Law Number 28 year 2014 concerning Copyright has regulated copyright protection through preventive measures, so far, the government still has minimal supervision over the exploitation of music arrangements,

²⁰ Nindi Bimantari, Sekaring Ayumeida Kusnadi, and Fifin Dwi Purwaningtyas, "Perlindungan Hukum Bagi Korban Kejahatan Love Scam," *Jurnal Ilmu Hukum Wijaya Putra* 1, no. 2 (2023).

²¹ Iwan Purwanto and Tini Rusmini Gorda, "Perlindungan Hukum Bagi Pemilik Hak Kekayaan Intelektual Terhadap Gambar Yang Diambil Dari Internet Untuk Manfaat Ekonomi," *Jurnal Analisis Hukum* 2, no. 2 (September 2019): 194–210.

²² Kristianto Oktavian Saragih, Siti Fatimah Madusila, and Ratu Ratna Karompot, "Perlindungan Hukum Pencipta Lagu Yang Karyanya Dipakai Di Aplikasi Tiktok," *INSANI: Jurnal Pengabdian Kepada Masyarakat* 1, no. 3 (October 2024): 211–21.

²³ Nynda Fatmawati Octarina, *Hukum, HAM Dan Siber : Konsep, Pengaturan Dan Pelanggaran Di Media Sosial* (Malang: Setara Press, 2022).

²⁴ Philipus Hadjon, *Perlindungan Bagi Rakyat Di Indonesia Cetakan Ke-3* (Surabaya: Bina Ilmu, 1987).

especially on digital platforms such as TikTok. As a result, there are still many TikTok users who freely arrange music without permission from the creator.²⁵

This phenomenon shows that there is a crack in the implementation of intellectual property rights protection, where even though there are clear regulations, implementation in the field still faces challenges, especially in monitoring content circulating on digital platforms. Without strict supervision, the potential for copyright violations increases and harms copyright holders, including songwriters who do not obtain the rights to their works that are used without permission. To prevent violations, TikTok itself has Terms of Service regarding uploading content. TikTok is not responsible for all content uploaded by users and published by third parties. This means that the responsibility for uploaded content is borne by the user themselves.

Repressive legal protection is an effort made by the Government to overcome song copyright violations, one of which is through cutting songs or rearranging songs uploaded by users on the TikTok application service without permission. Law Number 28 year 2014 concerning Copyright provides legal protection for creators or copyright holders for content uploaded on TikTok. A penal approach in protecting Intellectual Property Rights, especially Song Copyright, is very important to ensure that intellectual property rights resulting from a work are respected in society. In a penal context, song copyright protection aims to provide a deterrent effect to violators, protect the rights of creators or copyright holders, and encourage respect for intellectual works, in this case, songs as created products that have economic and moral value. The Imposition of criminal sanctions for copyright violations, such as piracy, counterfeiting, and unauthorized use, is important to provide a deterrent effect to perpetrators of violations while protecting the interests of rights owners and creating legal certainty in society so that the digital ecosystem can run more fairly and prioritize respect for intellectual property rights.

However, although normatively Law Number 28 of 2014 concerning Copyright has provided sufficient protection for song copyright, the legal system in Indonesia still faces a number of obstacles in its implementation, especially in the context of digital platforms. One of the main weaknesses is the slow law enforcement process and the lack of understanding of the authorities regarding the ever-evolving forms of digital violations. In addition, the absence of derivative regulations that specifically regulate the obligations and responsibilities of digital platforms for copyright violations weakens the effectiveness of legal protection. TikTok and similar platforms often hide behind user-generated content policies, which put the responsibility on users without a clear mechanism for taking action against violative content. The lack of strict supervision and low public awareness of the importance of copyright further exacerbate this condition. As a result, copyright

²⁵ Saragih, Siti Fatimah Madusila, and Ratu Ratna Karompot, "Perlindungan Hukum Pencipta Lagu Yang Karyanya Dipakai Di Aplikasi Tiktok."

infringement on digital platforms often escapes legal sanctions, which ultimately harms songwriters and weakens legal certainty in the realm of digital intellectual property.

3.2 Criminal Sanctions for Copyright Violation of Songs in TikTok Video Content According to Indonesian Laws and Regulations

Indonesia is a country of law, meaning that law must be the basis for every aspect of people's lives. The consequence is that the law must be involved and relevant in regulating all aspects of social movement.²⁶ The rapid development of technology, especially in the digital era, requires the law to be able to adapt to changing times and the needs of society. The law is not only required to be responsive but must also be proactive in anticipating the impact of technological developments, including the protection of intellectual property rights in the digital realm.

Imposing criminal sanctions within the framework of the justice system is not the only effective way to eradicate crime, because it is very possible that the perpetrators of criminal acts are outside the framework of the justice system.²⁷ This implies that the effectiveness of the penal code cannot be accurately measured,²⁸ solely based on the number of cases convicted or trialled. Law is basically just one of the tools of social control, customary norms, and pressure from certain groups to regulate human behavior.²⁹

Although criminal law can provide a deterrent effect, in the context of copyright, it cannot be denied that other factors, such as legal awareness, education,³⁰ and effective supervision³¹ also, play a role in preventing violations. Law Number 28 year 2014 concerning Copyright is expected to provide legal certainty to creators, copyright holders, and owners of related rights. In this way, piracy or exploitation of works can be minimized, so that intellectual property rights can be respected and protected. Apart from that, this law also aims to increase public awareness regarding the importance of copyright and the criminal threats that can be imposed on violators, especially in relation to copyright infringement.

Violations that occur in the TikTok Application if the user arranging songs and/or using songs without the permission of the creator/copyright holder. And because the song creates economic benefits for the TikTok Application user, it is included in copyright violations, namely economic rights. Punishment for violating song copyright in TikTok

²⁶ Febryan Alam Susatyo and Dian Rosita, "Relevansi Pertanggungjawaban Pidana Atas Culpability Kecerdasan Buatan (Artificial Intelligence)," *Literasi Hukum* 8, no. 2 (2024): 59–68.

²⁷ Muladi, *Kapita Selekta Peradilan Pidana* (Semarang: Badan Penerbit Universitas Diponegoro, 1995).

²⁸ Barda Nawawi Arief, *Beberapa Aspek Kebijakan Pengakan Dan Pembangunan Hukum Pidana* (Bandung: Citra Aditya Bakti, 1998).

²⁹ Ibid.

³⁰ Jihan Abya et al., "Penegakan Hukum Terhadap Pelanggaran Hak Cipta: Studi Kasus Re-Upload Video Konten Kreator Sosial Media Untuk Kegiatan Komersial (Studi Putusan Mahkamah Agung Nomor 41 Pk/Pdt.Sus-Hki/2021)," n.d., doi:10.38035/jihhp.

³¹ I Made, Satya Devananda, and Ida Ayu Sukihana, "Penegakan Hukum Hak Cipta Atas Karya Lagu Yang Di Cover Pada Platform Spotify," *Jurnal Kertha Wicara*, vol. 10, 2021.

video content, according to Indonesian law, is regulated in Law Number 28 year 2014 concerning Copyright as a *lex specialist*. According to this law, the implementation of punishment for violations of Song Copyright in TikTok Content can be taken through two routes, namely, the civil route by filing a civil lawsuit and the criminal route by filing criminal charges.

Through civil lawsuits, the Civil Code (KUHPerdara) explains that legal enforcement against copyright violation can be seen through the application of article 1365 of the Civil Code which states "every act that violates the law, which causes harm to another person, requires the person who, through his fault, caused the loss, compensate for the loss." From this article, it can be seen that in carrying out a civil lawsuit for an unlawful act, the elements of an unlawful act must be met. Law Number 28 year 2014 concerning Copyright as a Lex Specialist in Article 99 explains that Copyright Holders who feel their rights have been violated are allowed to file a lawsuit in the form of a fine by receiving all or part of the profits obtained by the violator.

Through criminal charges, the National Penal Code (KUHP Nasional) only regulates fraudulent acts. Article 495 of the National Penal Code reads: "Any person who commits a fraudulent act that results in economic loss for another person, whether through false confessions or not disclosing the true situation, shall be punished with a maximum imprisonment of 1 (one) year or a maximum fine of class II."

Responsibility for economic rights if the songs used in the TikTok application are used commercially and it's done without the permission of the Creator/Copyright Holder is regulated in Article 113 of Law Number 28 year 2014 concerning Copyright, namely shall be punished imprisonment of at least 1 (one) year and/or a maximum fine of Rp. 100,000,000,- (one hundred million rupiah) and a maximum of 4 (four) years and/or a maximum fine of Rp. 1,000,000,000,- (one billion rupiah).

Law Number 1 year 2024 concerning the Second Amendment to Law Number 11 year 2008 concerning Electronic Information and Transactions (UU ITE) also regulates various criminal provisions related to violations in the digital space. UU ITE emphasizes the protection of digital rights, including intellectual property rights, which are often the object of violations on digital platforms. In addition to punishment, this law also encourages the responsibility of electronic system organizers to ensure that content uploaded by users does not violate the law, including copyright. Some punishments in laws relating to the protection of intellectual property rights, including song copyright in the digital context, include regulating the prohibition of distributing, transmitting, or making accessible electronic information that violates morality. If the infringement involves copyrighted works, the perpetrator may be subject to Imprisonment for a maximum of 6 (six) years and/or a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah). Regulates the prohibition of changing, adding, reducing, or deleting electronic information without

permission, which may include copyrighted works. the perpetrator may be subject to imprisonment for a maximum of 8 (eight) years and/or a maximum fine of Rp 2.000.000.000 (two billion rupiah). Then, regarding violations of electronic system management that harm intellectual property rights, including song creations, the perpetrators may be subject to additional sanctions based on the UU ITE with imprisonment for a maximum of 10 (ten) years and/or a maximum fine of Rp 5.000.000.000 (five billion rupiah).

Strict law enforcement is expected to increase public awareness of the importance of respecting IPR. Consistency in law enforcement not only provides protection for creators' rights but also plays a role in building a safe, fair, and sustainable digital ecosystem. By respecting intellectual property rights, society supports the growth of creativity and innovation that are the foundation of progress in the digital era. However, the Indonesian legal system in responding to copyright violations, especially on digital platforms such as TikTok, still faces various obstacles. One of the main criticisms that emerged was the weak effectiveness of law enforcement. Although criminal provisions and administrative sanctions have been firmly regulated in laws and regulations, their implementation in the field is still not optimal. Many cases of copyright violation do not reach the legal process due to limited resources, minimal understanding of digital issues by law enforcement officers, and a lack of synergy between authorized institutions. Furthermore, the current Indonesian legal system does not yet have regulatory instruments that are responsive and adaptive to developments in digital technology. There are no derivative regulations that specifically regulate the roles, responsibilities, and obligations of digital platforms in preventing and handling copyright violations by their users. This unclear regulation creates a legal loophole that allows violations to continue to occur without adequate legal consequences.

4. CONCLUSION

This research provides an understanding of the legal protection of Intellectual Property Rights on TikTok video content from a criminal law perspective and identifies the sanctions provided to increase the effectiveness of its enforcement. This research reveals that the legal protection of song copyright on TikTok has been regulated through various regulations, including the Copyright Act, the Penal Code (KUHP), and UU ITE. In the context of criminal law, this protection aims to provide a deterrent effect on violators by providing strict sanctions, such as fines or imprisonment, to prevent copyright violation, including piracy, unauthorized use, or changing creations without the creator's permission. The novelty lies in its focus on the TikTok platform as one of the media often used in creating video content involving music or songs as the main element. This research provides insight that in addition to sanctions, a preventive approach is also needed in order to create a balance between copyright protection and the development of creativity in the digital era.

This research is expected to be a reference for the government, law enforcers, and digital platform organizers to formulate regulations and policies that are more adaptive to technological developments and encourage public awareness of respecting intellectual property rights. The author would like to express his deepest gratitude to the Institute for Research and Community Service (LPPM) of the Muhammadiyah University of Kudus (UMKU) for the support and facilities provided during the process of compiling this research. Hopefully, LPPM UMKU will continue to provide benefits for the development of science and society.

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