

Legal Analysis of Copyright Evidence for Song Covers

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ABSTRACT

This study aims to evaluate the role and weight of evidence in copyright disputes related to song cover practices in Indonesia. The background of this research focuses on the increasing use of songs by third parties without permission from the creator, particularly through digital platforms, which has the potential to cause violations of economic rights. The issues examined include legal sanctions for copyright infringement in song cover practices and the role of evidence at the evidentiary stage. The research method used is normative legal analysis with statutory and conceptual approaches. The findings show that the use of songs in cover versions without permission may be subject to civil sanctions in the form of damages and criminal sanctions in accordance with the Copyright Law. In addition, evidence such as copyright registration certificates, work recordings, contract documents, and testimony from witnesses and experts plays an important role in proving copyright ownership. In conclusion, although copyright is declarative, the existence of evidence remains a crucial factor in determining the success of law enforcement and the resolution of copyright disputes in song cover practices.

Keywords: copyright, evidence, song cover, copyright infringement, legal proof.

INTRODUCTION

Intellectual Property Rights (IPR) are legal instruments that arise from the need to protect human creations with significant social, cultural, and economic value (Kesowo, 2021). At the international level, IPR has evolved alongside advances in technology, society, and knowledge-based economic systems. IPR protection aims not only to reward innovators but also to foster a balanced, equitable, and continuously developing innovation ecosystem. In today's digital era, IPR is one of the most adaptive areas of law, as it is closely related to information flow, communication technology, and emerging digital-based business models. These developments require legal systems to balance the interests of creators, industry actors, and society as users (Leenes et al., 2017; Riis, 2016).

Within Indonesia's regulatory framework, Intellectual Property Rights include various forms, one of which is copyright (Nur Alma et al., 2025). Copyright has a distinctive nature because it is automatically protected once a work is created in tangible form, without requiring registration as a condition for protection. This principle reflects state recognition of the personal bond between creators and their works, as well as the economic value embedded in them (Rachmad, 2025; Townley et al., 2019). However, this automatic protection also means that enforcement becomes crucial when infringement occurs, particularly in cases involving commercial use by third parties (Bar-Ziv & Elkin-Koren, 2017; Depoorter, 2019; Husovec, 2019).

Copyright, as part of IPR, plays an important role in safeguarding intellectual creations in research, art, and literary fields (Saidin, 2019). A song, as a protected work under copyright law, is safeguarded through both economic and moral rights, which arise automatically upon creation and fixation. Based on Law Number 28 of 2014 concerning Copyright, Indonesia adopts a declarative system in which copyright arises without prior

registration (Republik Indonesia, 2014). Nevertheless, in practice, proving ownership often becomes challenging, especially in disputes involving unauthorized use of songs in digital environments (Baisuni et al., 2024; Mushati, 2025).

The practice of creating cover versions of songs often raises legal debates regarding the boundaries of copyright protection. Some individuals assume that as long as they do not claim authorship, such use does not constitute infringement. However, the use of copyrighted works—particularly for commercial purposes such as monetizing content—still requires permission from the rights holder (Ramadhan, 2020).

In copyright disputes, evidence plays a central role. Copyright owners must be able to demonstrate ownership of the musical work. Registration with the Directorate General of Intellectual Property (DJKI) is one commonly used method. The registration certificate serves as documentary evidence containing information about the creator, title of the work, and date of registration, and is generally considered preliminary evidence in disputes (Ananda, 2022). Although registration is not a requirement for copyright protection, it significantly strengthens a creator's legal position in litigation (Yulia, 2021). In the context of digital song dissemination, such documentation becomes increasingly important due to the ease of copying, modifying, and distributing works without authorization (Ciriello et al., 2023; Cummings, 2017).

Previous studies have explored various aspects of copyright protection in musical works. Some highlight legal protection for composers regarding unauthorized use of songs and emphasize the role of the National Collective Management Institution (LMKN) and Collective Management Institutions (LMK) in royalty distribution (Kusumaningtyas, 2023). Other studies examine copyright management systems and their role in ensuring legal certainty for creators (Nurhayati, 2022).

However, existing literature has not sufficiently addressed the evidentiary value of copyright registration specifically in the context of song cover practices. Most studies discuss registration in general terms without linking it to the increasingly widespread phenomenon of digital song covers (Pratama, 2021). This gap creates uncertainty both for creators and for performers of cover versions. For creators, limited understanding of registration weakens legal standing in infringement disputes, while for cover performers, unclear boundaries increase the risk of unintentional violations (Setiawan, 2022).

Therefore, research focusing specifically on the role of copyright registration as evidence in song cover disputes is essential. This urgency is reinforced by the rising number of copyright disputes in digital platforms. The study is expected to contribute both academically to the development of evidentiary aspects in copyright law and practically to stakeholders, including creators, cover performers, and law enforcement officials (Handayani, 2023a).

The novelty of this research lies in its specific focus on the evidentiary function of copyright registration in song cover disputes, an aspect that has not been extensively examined in prior studies. While previous research has focused on royalty distribution through LMK and LMKN, this study specifically analyzes sanctions for copyright infringement in song cover practices without permission, as well as the evidentiary role in dispute resolution.

In conclusion, although prior studies have addressed royalty distribution mechanisms through LMK and LMKN, there remains a need to examine more deeply the sanctions for copyright infringement in unauthorized song cover practices and the role of evidence in such disputes. This research specifically focuses on sanctions arising from infringement and the position of copyright evidence in resolving song cover disputes.

METHOD

This research uses normative juridical research methods. Provisions in positive laws and regulations related to copyright, especially Law Number 28 of 2014 concerning Copyright and its implementing regulations, are analyzed using a juridical approach. Based on legal doctrines and the views of legal experts, a conceptual approach is used to understand the concept of copyright, the registration of works, and the burden of proof in copyright disputes

RESULTS AND DISCUSSION

Legal Sanctions for Song Copyright Infringement in the Practice of Covering Songs Without Permission

The practice of covering songs in the digital era has developed so rapidly that the line between creative expression and lawlessness is getting thinner and easier to ignore. Within the framework of Law Number 28 of 2014 concerning Copyright, any use of songs included in the form of covers that are carried out for commercial purposes without obtaining permission from the creator or copyright holder first, is expressly categorized as a violation of economic rights. This economic right includes the right to announce, reproduce, distribute, and communicate works to the public.

The commercial dimension is a crucial point in determining whether there is a violation or not. A musician who uploads a cover of a song to a platform like YouTube by enabling the monetization feature, or who sells a cover recording for a fee, has legally made commercial use of someone else's work. In this context, the provisions of Article 9 paragraph (2) of the Copyright Law affirm that permission from the copyright holder is an absolute condition that cannot be ignored, regardless of how much modification is made to the original work.

1. Civil Sanctions

From the civil side, the aggrieved creator or copyright holder can file a lawsuit for compensation through the Commercial Court. The lawsuit includes a lawsuit to stop the unauthorized use of the work as well as a claim for damages for the economic benefits lost due to the violation. The burden of strong evidence such as certificate of registration of creation, original recording, and agreement documents greatly determines the success of the lawsuit.

In addition to material damages, copyright holders can also claim immaterial damages related to damage to the reputation or integrity of the work. This becomes relevant if the song cover is done in a way that degrades or changes the substance of the work in a detrimental way so that at the same time it violates the moral rights of the creator.

2. Criminal Sanctions

From the criminal side, the provisions of Article 113 of the Copyright Law threaten perpetrators of economic rights violations with a maximum prison sentence of four years and/or a maximum fine of Rp1,000,000,000 (one billion rupiah). This criminal threat applies especially if the violation is committed for commercial purposes, so that a cover of a song that is monetised without permission directly falls into this category of offense.

In practice, the settlement of copyright cases often leads to civil proceedings, but the potential for criminal proceedings remains and cannot be ruled out, especially if violations are committed massively and repeatedly. The threat of criminal sanctions also serves as a deterrent for song cover artists to be more careful in fulfilling their licensing obligations and royalty payments.

The dimension of sanctions in the practice of song covers cannot be understood separately from the obligation to pay royalties regulated in Government Regulation Number 56 of 2021 concerning the Management of Song and/or Music Copyright Royalties. This regulation was born as a form of operationalisation of the provisions of the Copyright Law and specifically regulates the technical mechanism for the withdrawal, collection, and distribution of royalties through the Lembaga Manajemen Kolektif Nasional (LMKN) (Handiriono et al., 2024).

Article 3 of GR 56/2021 emphasises that every person who makes commercial use of songs and/or music in the form of commercial public services is obliged to pay royalties to creators, copyright holders, and/or related rights owners through LMKN. This means that the obligation to pay royalties does not only apply to large companies, but also to individuals who cover songs commercially, including on digital platforms.

Interestingly, GR 56/2021 also regulates forms of public services that are commercial in nature and are obliged to pay royalties, including music concerts, performances, karaoke businesses, and digital broadcasting platforms. This directly confirms that the performance of song covers at commercial venues as well as in paid digital content falls within the scope of this obligation. Non-compliance with this obligation not only has the potential to lead to lawsuits from individual creators, but also opens the door for LMKN to take action to collect royalties according to its authority.

To fully understand why royalty obligations are an important element in song copyright protection, including in the practice of song covers, it is necessary to further examine the legal objectives behind the enactment of Government Regulation Number 56 of 2021. This regulation does not only establish a technical payment mechanism, but also contains more fundamental legal values that are closely related to the principles of protection, justice, legal certainty, and usefulness that form the basis of intellectual property law in Indonesia.

One of the most fundamental goals of GR 56/2021 is to create legal certainty regarding how royalties are managed and to whom they should be paid. Before this regulation existed, the practice of paying royalties in Indonesia was still sporadic and non-standardised, so many creators did not receive their rights proportionately even though their works were used extensively.

Through GR 56/2021, the state emphasised that royalty management is carried out centrally by LMKN based on data integrated into the song and/or music data centre managed by the Direktorat Jenderal Kekayaan Intelektual. The system is designed so that no royalties are lost in transit due to unclear distribution mechanisms. For songwriters, the existence of this system provides a guarantee that any commercial use of their work — including covers — will be tracked and recorded within a transparent and accountable royalty mechanism.

GR 56/2021 is also an instrument for the protection of the economic rights of creators, functioning as an extension of the constitutional guarantees in Article 28C of the 1945 Constitution. The right to obtain economic benefits from copyrighted works is an inseparable part of the fundamental rights of every citizen who creates. When a song cover is used commercially without paying royalties, the creator is visibly deprived of these economic rights.

In this context, the function of LMKN as an institution authorised to collect and distribute royalties carries enormous significance. Article 12 of GR 56/2021 stipulates that LMKN collects royalties not only for creators who have become members of a Lembaga Manajemen Kolektif (LMK), but also for creators who have not yet been registered. This shows that the protection of the economic rights of creators is universal and does not depend on membership formalities.

The principle of justice is one of the main pillars of GR 56/2021. The provisions of Article 13 stipulate that in collecting royalties, LMKN is obliged to coordinate and determine the amount of royalties to which each LMK is entitled, in accordance with prevailing norms and based on justice. The phrase "based on justice" is not merely rhetorical, but reflects the state's commitment to ensuring that the distribution of royalties is carried out proportionately and in accordance with the real contribution of each party.

The transparency of the system is strengthened through the audit obligations stipulated in Article 17, whereby LMKN is required to carry out financial and performance audits by public accountants at least once a year, with the results announced to the public. This mechanism is important for preventing the misuse of royalty funds while giving creators confidence that their economic rights are well managed and accountable.

Beyond the aspect of protecting creators, GR 56/2021 also serves a preventive legal purpose: encouraging a culture of legal compliance among users of musical works. By clearly establishing the obligation to pay royalties and the mechanism for doing so, this regulation provides concrete guidance for all parties who wish to use songs commercially — including song cover artists — on what must be done for their use to be legally valid.

The provisions of Article 9 of GR 56/2021 stipulate that everyone may make commercial use of songs and/or music by submitting a licence application to the copyright holder through LMKN. The existence of this structured licensing pathway should make it easier for song cover artists to legitimise their activities, rather than circumvent them. In other words, GR 56/2021 not only creates obligations, but simultaneously provides a means of compliance.

An equally important legal purpose of GR 56/2021 is the integration of information technology into the national royalty management system. Through the establishment of a Sistem Informasi Lagu dan/atau Musik (SILM) managed by LMKN and a song data centre managed by the Direktorat Jenderal, this regulation seeks to build a digital infrastructure that allows real-time tracking of song usage and more targeted distribution of royalties.

In the context of covering songs on digital platforms, the existence of SILM has the potential to be a highly effective instrument. Every report on the use of songs required by Article 9 paragraph (3) of GR 56/2021 will be recorded in this system, ensuring that the royalty distribution database becomes more accurate. This is the legal answer to a real challenge in the digital age: how to ensure that the economic rights of creators remain protected even as their works spread so widely and rapidly throughout cyberspace.

The Position of Copyright Evidence in Song Cover Disputes: Between Declarative Principles and the Need for Proof

One of the fundamental issues in copyright disputes involving song covers is the question of how to prove ownership of the rights to a work in a legal system that adheres to declarative principles. The declarative principle means that copyright arises automatically once the work is realised in tangible form, without the need for prior registration. In litigation practice, however, this principle creates its own challenges: if copyright does not require registration, how can an author prove that he or she is the rightful owner of a work when a dispute actually occurs?

This is where it becomes important to comprehensively understand the evidentiary weight of various pieces of evidence in the context of copyright, because no single piece of evidence stands alone as absolute and conclusive proof. Judges in copyright cases will assess the entire body of evidence holistically, based on the evidentiary principles of civil procedure law.

A certificate of registration of works issued by the Direktorat Jenderal Kekayaan Intelektual (DJKI) is administrative evidence that carries the most significant evidentiary weight in song copyright disputes. This certificate serves as *prima facie* evidence, meaning that it is considered true and valid until another party can prove otherwise with stronger evidence.

The recording of works is carried out through the mechanism stipulated in Article 4 of GR 56/2021, whereby the application is submitted electronically to the Minister by the creator, copyright holder, or their authorised representative, producing data that is then entered into the song and/or music data centre. The data in this centre contains complete information, including the identity of the creator, song title, year of fixation, music publisher, and international copyright codes. The completeness of this data gives the registration certificate a higher evidentiary weight than mere oral claims.

Nonetheless, this certificate is not an absolute guarantee. In judicial practice, the DJKI certificate can be rebutted if the opposing party can show that the registration was carried out in bad faith, or that they are in fact the creator who first realised the work.

Therefore, the registration certificate must always be supported by other corroborating evidence.

In song cover disputes, evidence of fixation — that is, evidence showing that a work has been manifested in tangible form at a specific point in time — plays a highly strategic role. Such evidence may include an original recording in digital format, dated music notation, an audio file with creation-date metadata, or other documents that can establish when a song was first created and by whom.

The importance of fixation evidence is directly related to the declarative principles adopted by the Indonesian copyright law system. Since copyright arises from the moment the work is realised, the party who can prove the earlier realisation with more convincing evidence holds the stronger legal position. In the context of a song cover, the original creator who possesses a demo recording, a digital audio workstation (DAW) project file, or a dated creation document will be in a far stronger position than a party who relies solely on memory or unilateral acknowledgment.

Licence agreements and contract documents are crucial evidence in determining whether or not a song cover constitutes lawful use. If a song cover artist can demonstrate that they obtained a valid licence from the copyright holder through the mechanism stipulated in Article 9 of GR 56/2021 — namely by submitting a licence application to the copyright holder or related rights owner through LMKCN — the use cannot be categorised as copyright infringement.

Conversely, the absence of such a licence document constitutes incriminating evidence against the song cover artist. In copyright disputes, law enforcement and judges will not simply rely on the admissions of the disputing parties, but will examine whether documents exist that prove the validity of the legal relationship between the user and the copyright holder. This is consistent with the provisions of GR 56/2021, which integrates the recording of licence agreements as part of a structured royalty management system.

In addition to written and documentary evidence, witness and expert testimony also plays an important role in song copyright disputes. Witnesses who were present during the creation of a song — such as fellow musicians, record producers, or studio assistants — can provide testimony that strengthens the creator's ownership claim.

Meanwhile, expert testimony in the fields of copyright law or musicology can assist the panel of judges in understanding the technical aspects of a case, including the originality of the work, whether there are substantial similarities between the original song and the cover, and the extent of modification made during the cover process. In complex cases where the similarity of works is a central issue, the testimony of a musicologist may prove decisive in the judge's determination.

The three aspects discussed — legal sanctions, royalty management under GR 56/2021, and the evidentiary framework — together form an interconnected system that collectively underpins song copyright protection in Indonesia. Understanding each aspect in isolation produces an incomplete picture and risks errors in the application of the law. Legal sanctions, both civil and criminal, cannot be enforced effectively without adequate evidence. Conversely, evidence of copyright ownership becomes increasingly relevant and practically meaningful within the context of a structured royalty

management system as regulated by GR 56/2021. Creators who have registered their works and whose data is integrated in the DJKI data centre are in a considerably more advantageous position — not only in receiving automatic royalty distributions, but also in defending their rights before a court in the event of a violation.

In the context of song covers specifically, this legal chain operates as follows: creators who register their works have their data integrated in the DJKI and Sistem Informasi Lagu dan/atau Musik (SILM) systems; when another party uses the song commercially in the form of a cover without permission and without paying royalties, the creator has a strong legal basis to file a claim either through LMKN or through the courts; and in the evidentiary process, the registration certificate together with fixation evidence and other supporting documents will strengthen the creator's legal position.

It is worth noting that GR 56/2021 also provides protection for creators who have not registered their works. Article 12 paragraph (2) stipulates that LMKN also collects royalties for creators who are not members of an LMK, and Article 15 paragraph (1) requires LMKN to retain and announce the royalties collected for two years so that the creator concerned may claim them. This provision reflects the spirit of inclusive protection: even where a work has not been registered, the creator retains the right to royalties from its commercial use.

However, legal reality demonstrates that registering a work remains the most strategic step a creator can take to protect it. In an increasingly complex digital music industry ecosystem — where song covers can reach millions of listeners within hours — having robust and systematic evidence is no longer merely an option, but a necessity. GR 56/2021 has provided the requisite legal and technological infrastructure; it remains to be seen how creators make optimal use of it to protect their works and economic rights.

CONCLUSION

Based on the findings of the research and discussion set out above, it can be concluded that the practice of covering songs without permission for commercial purposes constitutes a form of copyright infringement, particularly against the economic rights of creators as stipulated in Law Number 28 of 2014 concerning Copyright. The commercial use of songs through digital platforms, live performances, and other media still requires permission from the creator or copyright holder, as well as the obligation to pay royalties through the mechanism regulated by Government Regulation Number 56 of 2021. Violations of these provisions may give rise to legal consequences in the form of civil sanctions — namely compensation — and criminal sanctions in the form of imprisonment and fines. Accordingly, the practice of covering songs cannot be regarded as a mere form of creative expression, but must also take into account the legal protection of copyright.

Furthermore, the evidentiary framework in song copyright disputes plays a critically important role, particularly given that the copyright system in Indonesia adheres to declarative principles. Although copyright arises automatically from the moment a work is realised, the registration of works nonetheless carries strategic value in the evidentiary process should a dispute arise. Certificates of registration issued by the

Direktorat Jenderal Kekayaan Intelektual, proof of fixation, licence documents, and the testimony of witnesses and experts are all important elements that can strengthen the legal position of a creator before the court. Therefore, the registration of works does not serve merely an administrative function, but also constitutes a form of preventive legal protection for songwriters in the face of the increasingly complex development of the digital music industry.

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