

## Application of the Fair Use Principle to Songs Modified on Digital Platforms Based on Positive Law in Indonesia

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### ABSTRACT

The song entitled "Masker dan Vaksin" released by Satuan Tugas Penanganan COVID-19 on YouTube is a modified song from the song "Galih dan Ratna" by Guruh Sukarno Putra. In addition, Indomusikgram creates video content on TikTok entitled "Tips Jaga Kesehatan" by modifying the song "Ampar-ampar Pisang" which was created by Hamiedan AC. The song contains a message to the public about preventing the COVID-19 virus. This research will focus on legal protection for the creators of modified song in digital platforms based on Law No. 28/2014 concerning Copyright. Furthermore, this research was also conducted to determine whether the fair use principle can be applied in modifying songwriting works on digital platforms based on Law Number 19/2016 concerning Information and Electronic Transactions. The writing method used is a normative juridical approach. This writing uses descriptive analytical writing specifications. In this writing phase is also done by writing literature by referring to the laws and regulations, literature and other relevant documents. The results of this research shows that songwriters have the right to include their names in uploaded content on YouTube and TikTok by Indomusicgram and Satuan Tugas Penanganan COVID-19 based on Article 44 of Law No. 28/2014 concerning Copyright. Creators also have the right to refuse if they object to the modification of the song that occurs. Furthermore, the ITE Law does not regulate the principle of fair use of copyright. So it can be concluded from Article 25 of the ITE Law, the application of the principle of fair use to song copyrighted works modified on digital platforms during the COVID-19 pandemic still refers to the Copyright Law.

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### PRELIMINARY

The birth of various digital platforms makes people's creativity even higher. Humans can create things using their minds and creativity. Thus, various forms of new creations that utilize existing technology were born, as well as various new forms of business to improve people's welfare.<sup>1</sup>The works created by this society are protected by copyright. This is a positive thing but also has a negative impact. This digital transformation makes everything

<sup>1</sup>Muh. Amirulloh, *Hukum Teknologi Informasi dan Komunikasi (TIK) Sebagai Hukum Positif di Indonesia dalam Perkembangan Masyarakat Global*, Bandung: UNPAD PRESS, 2016, p. 38-39.

disruptable, including breaking through legal norms. Apart from the enormous and positive benefits, in fact there have been many violations of privacy, unfair competition, and violations of intellectual property, especially copyrights.<sup>2</sup>

The impact of the birth of this digital platform has resulted in a change in the form of creation which was originally conventional in form into a digital form. This form of digital copyright makes it easy for creators to distribute and distribute creations by utilizing the internet network. In this case, the public can easily access a copyrighted work because digital platforms have been used by almost all groups of people. Digital creation products are generally traded and have their own consumers or markets.<sup>3</sup> So with this the use of information and communication technology related to intellectual work must be carried out responsibly by all parties.<sup>4</sup>

During the COVID-19 pandemic, many socialization movements were carried out by the government and the community as an effort to prevent the COVID-19 virus. Starting from an invitation to avoid crowds, keeping a distance, washing hands, wearing a mask, to an invitation to vaccinate against COVID-19. The socialization carried out by the government and the community began with speeches, direct socialization to the public, making advertisements, to creating content that was uploaded on digital platforms.

The government and content creators have mostly modified song lyrics for socialization during the COVID-19 pandemic. For example, the song entitled "Maskers and Vaccines" released by the COVID-19 Handling Task Force is a modified song from the song entitled "Galih dan Ratna" by Guruh Sukarno Putra. The song contains a message to the public to wear masks and vaccinate against COVID-19. This song was uploaded on the digital platform YouTube.<sup>5</sup>

In addition, content creator Indo Musik TikTok created content in the form of a video about "Tips for Taking Care of Your Health" by modifying the song "Ampar-Ampar Pisang" created by Hamiedan AC. The content contains an invitation to the public to maintain health by washing hands, maintaining food intake, and wearing masks when sick. The video also carries messages to shake hands without touching and stay away from crowds to avoid the COVID-19 virus. The content is uploaded on the digital platform TikTok.<sup>6</sup>

In practice, the modification of the song that was carried out caused problems. This modification of well-known song lyrics is related to the moral rights of the creators whose songs are changed by the content creators. This is closely related to Article 5 paragraph (1) of Law Number 28 of 2014 concerning Copyright (Copyright Law), where the Author has the right to defend his rights in the event of a modification of the work.

This is also related to the principle of fair use regulated in the United States Copyright Law (USCL). This principle is a limitation in copyright that allows the public to use a copyright without being deemed to have violated copyright, but under certain conditions. The existence of this principle is an attempt to balance the interests of the Author and society in general for a work of art.

In the Copyright Law there are also provisions that are similar to the fair use principles in the USCL. This is related to Article 44 of the Copyright Law which regulates reasonable actions on copyright for certain purposes. The use and modification of works in whole or in substantial part is not considered a copyright infringement if the source is stated for the purposes of lectures aimed at education and science.<sup>7</sup>

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<sup>2</sup>Tasya Safiranita Ramil (et.al), "Aspek Hukum Atas Konten Hak Cipta Dikaitkan Dengan Undang-Undang Nomor 19 Tahun 2016 Tentang Informasi dan Transaksi Elektronik", *Jurnal Legislasi Indonesia*, Vol. 17 No. 1, p. 67, (2020)

<sup>3</sup>Khwarizmi Maulana Simatupang, "Tinjauan Yuridis Perlindungan Hak Cipta Dalam Ranah Digital", *Jurnal Ilmiah Kebijakan Hukum*, Vol. 15, No. 1, p. 68.

<sup>4</sup>Yusran Isnaini, *Hak Cipta dan Tantangannya di era Cyber Space*, Bogor: Ghalia Indonesia, 2009. p 28.

<sup>5</sup>Suaradotcom, Saling Melengkapi, Masker dan Vaksin Merupakan 'Dua Sejoli' saat Pandemi, 2021, (<https://www.youtube.com/watch?v=NoekkV-6vHQ>), accessed on January 10, 2022

<sup>6</sup>Indomusikteam, Tips Jaga Kesehatan, 2021, (<https://vt.tiktok.com/ZSeQ5y3qP/>), accessed on January 10, 2022

<sup>7</sup>See Article 44 paragraph (1) letter c of Law Number 28 of 2014 concerning Copyright

Based on the things that have been described above, there are problems that must be studied in this study. The first is how legal protection is for songwriters modified during the COVID-19 pandemic on digital platforms based on Law Number 28 of 2014 concerning Copyright. Furthermore, how is the application of the principle of fair use to songs modified on digital platforms during the COVID-19 pandemic based on Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions. This interest the author to discuss further.

The purpose of conducting this research is to analyze the legal protection of creators of copyrighted songs modified on digital platforms associated with the principle of fair use under the Copyright Law. Furthermore, this research was conducted to determine whether the principle of fair use can be applied to copyrighted songs modified on digital platforms during the COVID-19 pandemic based on Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Transactions Electronics (UU ITE).

## METHOD

The author uses normative juridical research methods. The normative juridical method is carried out by examining library materials or secondary data in the form of theories, concepts, legal principles, and statutory regulations as the main research material.<sup>8</sup>This research on the application of the principle of fair use to copyrighted songs will analyze and examine data in the form of positive law, legal theory, and legal rules related to copyright law, as rules that serve as a benchmark for human behavior in life.<sup>9</sup>

The specification of the research used by the writer is descriptive analytic. The purpose of this research is to explain and analyze the facts that occur in society in a systematic, factual and accurate manner by taking into account the data and applicable regulations relating to the problems above.<sup>10</sup>

This study emphasizes library data by collecting secondary data. Library research was conducted to obtain secondary data relating to the legal issues being studied, so that premier, secondary and tertiary legal materials could be obtained. Primary legal materials are legal materials in the form of legislation, secondary legal materials are legal materials that provide explanations from primary legal materials and are closely related to primary legal materials such as literature, theses, journals, and tertiary legal materials are materials that have relevance to the main issues and provide explanations on primary legal materials and secondary legal materials such as the Black's Law Dictionary, encyclopedias, magazines, and so on.

## RESULT AND DISCUSSION

### 1. Legal protection for creators of copyrighted works modified on digital platforms associated with the principle of fair use under Law Number 28 of 2014 concerning Copyright

The development of information and communication technology that is happening at this time also makes the development of thinking in society. The ability to think broadly makes the creativity and ideas possessed by the community also increase very rapidly. This gave rise to many intellectual works which are used as instruments for expressing thoughts and as instruments for self-actualization. In this case the personality of a creator can be seen from something he creates because creative works are considered as an extension of his personality.

The development of information and communication technology is directly proportional to the development of the internet today. This development gave birth to various

<sup>8</sup>Soerjono Soekanto dan Sri Marmudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, Jakarta: PT Raja Grafindo Persada, 2003, p. 13.

<sup>9</sup>Amiruddin dan H. Zainal Asikin, *Pengantar Metode Penelitian Hukum*, Jakarta: PT Raja Grafindo Persada, 2006, p. 118.

<sup>10</sup>Maria Sumardjono, *Pedoman Pembuatan Usulan Penelitian*, Yogyakarta: Fakultas Hukum UGM, 1989, p. 6.

digital platforms that have been used by the whole community. This digital platform has been used in almost all aspects of life, especially as a means of entertainment for the community.

Based on a report from We Are Social, the number of active social media users as of January 2022 in Indonesia is 191 million people. This number has increased by 12.35% when compared to 2021 which amounted to 170 million people. The development of active social media users from 2014 to January 2022 is as follows:

**Image 1. Number of Active Social Media Users in Indonesia**



**Source: Social Media Users in Indonesia Reach 191 Million in 2022. DataIndonesia.id.**  
<https://dataindonesia.id/digital/detail/pengguna-media-sosial-di-indonesia-capai-191-juta-pada-2022>.

Digital platforms that are widely used as a means of entertainment by the public today are YouTube, TikTok, and Instagram. These three platforms can be said to be platforms with the most users, especially in Indonesia. With so many users of Youtube, TikTok and Instagram, a lot of content is created to be enjoyed. What's more, users of the platform are currently competing to create interesting content so that the content created goes viral. These content creators are often called content creators.

*Content creators* is a phenomenon that occurs as a result of the development of digital platforms. They are competing to create something creative with content that is unique, creative, and attracts the attention of the public. The content created can be in the form of images, music, songs, films, and so on.

Content that results from creativity or ideas that are created into a tangible form is something of value that is protected by copyright. This copyright is a right protected by the state Copyright Act. Copyright gets protection based on the declarative principle, where protection is given to someone's work that has been declared to the general public.

Copyright that arises as a result of creation is an exclusive right given to the Creator. This exclusive right consists of moral rights and economic rights. Exclusive rights are rights reserved for the Author, so that other parties cannot take advantage of these rights without the permission of the Author. The creator is given the right to regulate the use of his work.<sup>11</sup> Copyright holders who are not Authors can only have economic rights from this exclusive right.<sup>12</sup> The existence of exclusive rights granted to the Creator is a legal protection to the

<sup>11</sup>Rika Ratna Permata (et.al), "Pelanggaran Kekayaan Intelektual Dalam Cloud Computing", *Jurnal Ilmu Kenotariatan Fakultas Hukum Unpad*, Vol. 4 No. 2, P. 229, (2021)

<sup>12</sup>See explanation of Article 4 of Law Number 28 of 2014 concerning Copyright

Creator for a created work. Provisions regarding moral rights and economic rights in copyright have been regulated in the Copyright Law.

The phenomenon of modifying songs is mostly done on digital platforms. The occurrence of modifications to copyrighted works on digital platforms is closely related to the moral rights and economic rights of the creators. In this study, examples were taken of modifying the lyrics of a song entitled "Ampar-Ampar Pisang" by Hamiedan AC by Indomusikgram on Youtube and TikTok and a song entitled "Galih dan Ratna" by Guruh Sukarno Putra by the COVID-19 Handling Task Force on Youtube.

When it comes to legal protection for songwriters whose songs are modified on digital platforms, Article 40 of the Copyright Law letter (d) states that protected works include works in the fields of science, art and literature consisting of songs and/or music with or without text. In this case the song "Ampar-Ampar Pisang" and the song "Galih dan Ratna" are included in works that are protected by copyright. With this, Hamiedan AC as the composer of the song "Ampar-Ampar Pisang" and Guruh Sukarno Putra as the composer of the song "Galih dan Ratna" have moral rights and economic rights over the song they created.

With regard to moral rights, Article 5 paragraph (1) of the Copyright Law regulates the moral rights of creators. In this case Hamiedan AC and Guruh Sukarno Putra have the moral right that is inherent perpetually to continue to include or not to include their names in connection with the use of their Works for the public and to defend their rights in the event of modification of Works, or things that are detrimental to their self-respect or reputation.

Based on the points mentioned above, Hamiedan AC and Guruh Sukarno Putra have the right to have their names printed if their creations are used publicly and they also have the right to defend their rights in the event of modifications to the songs they create. So the content uploaded on TikTok and Youtube by Indomusikgram which is the result of a modification of the song "Ampar-Ampar Pisang" must include the names Hamie and AC who are the creators of the song "Ampar-Ampar Pisang". Likewise, the content uploaded on YouTube by the COVID-19 Handling Task Force which is the result of a modification of the song "Galih dan Ratna" must also include the name Guruh Sukarno Putra as the composer of the song "Galih dan Ratna".

Furthermore, in this case Hamiedan AC and Guruh Sukarno Putra have the right to defend their rights if there is a modification to the song they created. So Hamiedan AC and Guruh Sukarno Putra can refuse if they have any objections to the song modification that has taken place. Lawsuits can be made if there is a violation of moral rights. This is stated in Article 98 paragraph (1) of the Law on Rights. Furthermore, because Hamiedan AC is known to have died, his heirs can file a lawsuit against the party violating Hamiedan AC's moral rights.

Modification of this song is also related to the economic rights of the Author. This economic right is a right that allows creators or copyright holders to carry out commercial activities and enjoy economic benefits from the works they create. Economic rights themselves have a validity period. The validity period of the economic rights to the song is valid as long as the Author lives and will continue for 70 (seventy) years after the Author dies, starting from January 1 of the following year. Based on the author's findings, Hamie and AC died December 10, 1997.<sup>13</sup> So in this case the song "Ampar-Ampar Pisang" will still be protected by economic rights until 2068. The heirs of Hamiedan AC have the right to enjoy economic benefits from all forms of activity which include the economic rights of the song "Ampar-Ampar Pisang". Furthermore, the song "Galih dan Ratna" composed by Guruh Sukarno Putra, which is still alive today, is still protected by economic rights.

The modification of song copyrights carried out by Indomusikgram and the COVID-19 Handling Task Force is related to the activities stipulated in Article 9 paragraph (1) letter d, which states that one of the economic rights granted is the right to adapt, arrange, or

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<sup>13</sup>Nur Afitria, "Lirik Lagu Ampar-ampar Pisang Karya Hamiedan AC, Lagu Daerah Asal Kalimantan Selatan", 2022, (<https://sulsel.suara.com/read/2022/03/06/171500/lirik-lagu-ampar-ampar-pisang-karya-hamiedan-ac-lagu-daerah-asal-kalimantan-selatan?page=all>), accessed on 22 May 2022

transform a creation. This modified song is also uploaded on the digital platforms YouTube and TikTok. By doing this upload, it is possible for the uploader to get economic results. So it can be said that the activity is a commercial activity.

Everyone who exercises economic rights over a creation must obtain permission from the creator or copyright holder. This permit to carry out economic activities is called a license. The creator or copyright holder who grants this license will receive compensation for the use of the economic rights of a work in the form of royalties. So hereby, based on the provisions of the Copyright Law, Hamiedan AC and Guruh Sukarno Putra are entitled to compensation from those who modify their songs. If the creators of this song feel that their economic rights have been violated, they have the right to file a civil lawsuit to obtain compensation to the Commercial Court or to report it to the competent authorities in a criminal manner. However, before filing criminal charges,

But on the other hand, song copyrights that are protected by moral rights and economic rights do not make these rights absolute rights. There are restrictions on copyright. This limit is called the principle of Fair Use. Copyright restrictions are regulated in the Copyright Act and the Fair Use Principle is regulated in the United States Copyright Law (USCL). This provision is a limitation in copyright that allows the public to use a copyright without being deemed to have violated copyright, but under certain conditions. The existence of this principle is an attempt to balance the interests of the Author and society in general for a work of art. In this case there are certain activities which if done are not considered to violate copyright.

In the case of modifications made by Indomusikgram and the Task Force for Handling COVID-19, the purpose of modifying the copyrighted work must be seen first. This is intended to find out whether the actions taken fall into the category of copyright restrictions in the Copyright Act or the Fair Use principle in the USCL.

When viewed from the example of the modification of the song "Ampar-Ampar Pisang" and the song "Galih dan Ratna", the original song lyrics were changed to song lyrics containing a message of outreach to the public to maintain health and vaccinate against COVID-19. This can be proven by the snippet of the lyrics of the song "Ampar-Ampar Pisang" which was changed into a song containing the following lyrics:

*Hello friends*

*take care of your health*

*Hands are washed so that germs run away*

*Hands are washed so that germs run away*

*Don't eat carelessly*

*Always be on the lookout*

*If you are sick, you must wear a mask*

*If you are sick, you must wear a mask*

*Shake without touch away from the crowd*

*Shake without touch away from the crowd*

From the snippet of the modified song lyrics above, it can be seen that the song modified from the song "Ampar-Ampar Pisang" contains an invitation to the public to always be vigilant about maintaining health by washing hands, maintaining food intake, wearing

masks when sick, and staying away from crowds to prevent transmission of the COVID-19 virus.

Furthermore, the following are the lyrics of the song "Galih dan Ratna" which were changed to the following lyrics:

*Two lovebirds in love  
Love blossoms during a pandemic  
Masks and Vaccines tie the knot  
Promises of loyalty, eternal loyalty  
Oh Mask, oh Vaccine you are a true duo  
Come on Mask, come on Vaccine  
Nothing can take away your health*

If we look at the modification of the song lyrics above, it can be seen that the modification of the song lyrics aims to provide information about health and teach the public to take actions related to preventing the spread of the COVID-19 virus.

Based on the provisions of Fair Use in USCL, there are 4 (four) factors that must be considered in assessing whether an action can be categorized as Fair Use. These 4 (four) factors will later be considered by the judge in deciding whether a use of copyrighted work is included in the principle of fair use or not.

The first factor is the purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes. This factor assesses the purpose of copyright use. If the modification of the song is carried out with the aim of increasing knowledge in the community and is not used for commercial purposes, then the modification of the song lyrics can be included in Fair Use. In this case, the purpose of modifying the song by Indomusikgram and the COVID-19 Handling Task Force is to educate the public about health. However, when discussing commercial interests, it can be taken as an example that uploading content carried out by Indomusikgram and the COVID-19 Handling Task Force on YouTube can be judged to generate profits from AdSense. This can be seen when the author opens the video content on YouTube, the author finds that there is an advertisement before the video can be broadcast. With these ads, the YouTube Channel that displays this content will get AdSense from YouTube.

The second factor is the nature of the copyrighted work. This assessment is seen from the nature of the copyrighted work used. The song "Ampar-Ampar Pisang" and the song "Galih dan Ratna" are very popular songs in the community. The reason for the parties modifying these songs is certainly because these songs are familiar to the general public

The third factor is *the amount and substantiality of the portion used in relation to the copyrighted work as a whole*. This factor assesses how many parts are used. In the case of modifying songs "Ampar-Ampar Pisang" and the song "Galih dan Ratna", modifications were made to all the lyrics of the song.

The fourth factor is *the effect of the use upon the potential market for or value of the copyrighted work*. This fourth factor assesses the effect of modifying the song carried out by Indomusikgram and the COVID-19 Handling Task Force on the market from the original song, namely the song "Ampar-Ampar Pisang" and the song "Galih dan Ratna". In this case the author believes that the effect of modifying this song has no effect on the target market for the original song, namely the songs "Ampar-Ampar Pisang" and the song "Galih dan Ratna".

The regulation of the fair use doctrine in the United States is more abstract in nature when compared to the regulation in Indonesia which is more concrete in nature.<sup>14</sup> The use of the principle of fair use in the United States does not explain which activities to use works that can be applied to the principle of fair use. Determining the principle of fair use takes into account the intent of the user of the work, which includes whether a work is used for

<sup>14</sup>Rika Ratna Permata, (eds), "Regulasi Doktrin Fair Use Terhadap Pemanfaatan Hak Cipta Pada Platform Digital Semasa dan/atau Pasca Pandemi Covid-19". *Dialogia Iuridica: Jurnal Hukum Bisnis dan Investasi*, Vol. 13 No. 1, 130-148, P. 145, (2021)

commercial purposes or for non-profit educational purposes; the nature of the copyrighted work itself; substance used in connection with the copyrighted work as a whole, the impact of the user on the potential market value or value of the copyrighted work.

Furthermore, Article 44 paragraph (1) of the Copyright Law states that modification of song lyrics can be categorized as not a copyright infringement if it mentions and includes the source in full, provided that it is for the benefit of lectures which are only for educational and scientific purposes, without prejudice to the reasonable interests of the Author. or Copyright Holder.

## **2. Application of the Fair Use Principle to Songwriting Works Modified on Digital Platforms During the Covid-19 Pandemic Based on Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions**

Copyright content is a very important element and has a high valuation, especially when it comes to digital platforms with digital transformation. Digital platforms such as YouTube, Instagram, and TikTok are examples of digital platforms that can only run based on content, because these platforms do not create content, but instead accommodate content uploaded by other people to be commercialized so that it can be accessed by the public.<sup>15</sup>

The principle of fair use is a principle based on the principle that creators have property rights to encourage development, and people must have the right to use certain works to realize the creative vision of a copyrighted work. This limitation is an exception to the moral rights and economic rights of the Author. There should also be no excessive monopoly on a copyrighted work in order to achieve progress, this needs to be balanced with the principle of fair use. This limitation is the right of the community to express and obtain social and cultural knowledge from a work of art. This encourages the increase of beneficial sciences and arts.<sup>16</sup>

If it is related to the ITE Law, it must first discuss the basis for the use of existing information and communication technology. In Article 3 of the ITE Law it is stated that the use of digital platforms as a place to accommodate digital copyrights must be carried out based on the principles of legal certainty, benefit, prudence, good faith, and freedom of choice of technology or technology neutral.<sup>17</sup> The rights and freedoms to utilize information technology are guaranteed by law. So, everyone can benefit from existing information technology.<sup>18</sup>

The development of internet use coupled with the rise of digital platforms that can be used by all people makes it easy for people to create content and distribute it on digital platforms. Based on Article 3 of the ITE Law, users of digital platforms must always be careful. This precautionary attitude can be exercised by looking at a potential event that will occur for the activities they carry out, namely in terms of creating and disseminating content on digital platforms, because there are many aspects in a digital content content that is created. In this case, before the song modification content is created and uploaded by Indomusikgram and the COVID-19 Handling Task Force on TikTok and YouTube, content creators must pay attention to existing regulations. In this case is the Copyright Act.

Furthermore, the use and utilization of digital platforms must also be based on the principle of good faith. Indomusikgram and the COVID-19 Handling Task Force made modifications to the song for the benefit of the wider community. Because the purpose of modifying the song that happened was intended to disseminate information to the public to

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<sup>15</sup>Tasya Safiranita Ramli, (eds), "Aspek Hukum Atas Konten Hak Cipta Dikaitkan Dengan Undang-Undang Nomor 19 Tahun 2016 tentang Informasi dan Transaksi Elektronik", *Jurnal Legislasi Indonesia*, Vol. 17, No. 1, 2020, p. 67.

<sup>16</sup>Rika Ratna Permata, (eds), "Regulasi Doktrin Fair Use Terhadap Pemanfaatan Hak Cipta Pada Platform Digital Semasa dan/atau Pasca Pandemi Covid-19". *Dialogia Iuridica: Jurnal Hukum Bisnis dan Investasi*, Vol. 13 No. 1, 130-148, P. 145, (2021)

<sup>17</sup>See Article 3 of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions

<sup>18</sup>Ahmad M. Ramli (et.al), "Pelindungan Kekayaan Intelektual Dalam Pemanfaatan Teknologi Informasi di Saat COVID-19", *Jurnal Penelitian Hukum De Jure*, Vol. 21, No. 1, p. 46, (2021)



maintain health and carry out COVID-19 vaccinations during the COVID-19 pandemic that occurred in Indonesia. So Indomusikgram and the Task Force for Handling COVID-19 have good intentions aimed at the wider community.

Furthermore, in Article 4 letters (a) and (d) of the ITE Law it is also stated that the Utilization of Information Technology and Electronic Transactions is carried out with the aim of educating the life of the nation. In this case, the modification of the song by indomuskgram and the COVID-19 Handling Task Force aimed at outreach to the public regarding prevention of the COVID-19 virus is in line with the use of information technology and electronic transactions as stipulated in Article 4 of the ITE Law.

The results of modifying this song produce content that is protected by copyright. In the ITE Law, provisions concerning copyright which are part of intellectual property can be found in Article 25. Article 25 of the ITE Law states that Electronic Information and/or Electronic Documents that are compiled into intellectual works, internet sites, and the intellectual works contained therein are protected as Intellectual Property Rights based on the provisions of Laws and Regulations. In this case, content created and uploaded on digital platforms is protected as intellectual property rights under the provisions of the Copyright Act.

In the ITE Law there are no provisions governing the principle of fair use or fair use of copyright. So it can be concluded from Article 25 of the ITE Law, the application of the principle of fair use to song copyrights modified on digital platforms during the COVID-19 pandemic refers to the Copyright Law. In the Copyright Law it is referred to as copyright restrictions which are regulated in CHAPTER VI of the Copyright Law.

In the Copyright Law there are actions which if done are not considered as violations. In the event of modifying the lyrics of the song "Ampar-Ampar Pisang" and the song "Galih dan Ratna" which were carried out by Indomusikgram and the COVID-19 Handling Task Force, it can be seen that the purpose of these modifications was to socialize to the public regarding ways to prevent the virus. COVID-19. Production of copyrighted content through information and communication technology media is not considered a copyright infringement if it is not commercial in nature and/or if the Creator benefits, or the Creator has no objections to the creation of said content.

Furthermore, in Article 44 paragraph (1) of the Copyright Law it is stated that alteration of a creation may be made and is not considered a violation if the source is stated in full for educational and scientific purposes. Modification of a work may be done if it does not harm the reasonable interests of the Author or Copyright Holder.

In the case of the song "Galih dan Ratna" which was modified by the COVID-19 Handling Task Force, it can be seen that there was a collaboration with Guruh Sukarno Putra, who incidentally was the creator of the song "Galih dan Ratna". Furthermore, the author sees that in the description of the video uploaded on YouTube, the name Guruh Sukarno Putra is written as the creator of the song "Galih dan Ratna". The video description also explains that the song entitled "Maskers and Vaccines" is an adaptation of the song "Galih dan Ratna". Furthermore, if Guruh Sukarno Putra gets compensation for the modifications made to his creation, then the activity of modifying the song "Galih dan Ratna" is not a copyright infringement.

In contrast to the modification of the song performed by Indomusikgram to the song entitled "Ampar-Ampar Pisang" by Hamiedan AC. The author sees that Indomusikgram does not mention the creator of the song "Ampar-Ampar Pisang" which they modified. The author found this in Indomuskgram's YouTube and TikTok descriptions. Even though the author considers that Indomuskgram benefits economically from this content. When viewed from this event, the conditions that must be met under Article 44 paragraph (1) of the Copyright Law have not been met. It can be said that the modification of the lyrics of the song "Ampar-Ampar Pisang" carried out by Indomusikgram is not included in fair use.

## CLOSING

Based on the results of the research conducted by the author, it can be concluded that Hamiedan AC and Guruh Sukarno Putra have the right to have their names included in content uploaded to YouTube and TikTok by Indomusikgram and the COVID-19 Handling Task Force based on Article 44 of the Copyright Law. Hamiedan AC and Guruh Sukarno Putra also have the moral right to defend their rights in the event of modifications to the songs they compose. So Hamiedan AC and Guruh Sukarno Putra can refuse if they have any objections to the song modification that has taken place.

Furthermore, Article 25 of the ITE Law states that Electronic Information and/or Electronic Documents compiled into intellectual works are protected as Intellectual Property Rights based on the provisions of Laws and Regulations. The ITE Law has not regulated the principle of fair use or fair use of copyrights. So it can be concluded from Article 25 of the ITE Law, the application of the principle of fair use to copyrighted songs modified on digital platforms during the COVID-19 pandemic still refers to the Copyright Law.

## **SUGGESTION**

There is a need for outreach to the public regarding the rules regarding copyright so that the public can be aware of the rights of the Author and know what activities cannot be carried out on someone's copyrighted work. It is hoped that with this socialization, the moral rights and economic rights of the Creator will not be violated. Furthermore, the community can also appreciate a work of creativity more, so that the community itself can be more creative.

Furthermore, it is also necessary to reform the law regarding digital copyrights, especially regarding the fair use of copyrights on digital platforms in the Copyright Law and the ITE Law. Furthermore, it is necessary to have cooperation between digital platforms which are electronic system administrators and the government to provide legal protection for users of digital platforms and also creators of copyrighted works

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