

**JURIDICAL ANALYSIS OF JUDGES' CONSIDERATIONS IN
COMPENSATION DECISIONS FOR COPYRIGHT INFRINGEMENT
(STUDY OF DECISION NOMOR 92/PDT.SUS-HKI/HAK CIPTA/2024/PN
NIAGA JKT.PST**

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ABSTRACT

The research focuses on the judge's legal reasoning in the Central Jakarta Commercial Court ruling No. 92/Pdt.Sus-HKI/Hak Cipta/2024/PN Niaga Jkt.Pst regarding song copyright infringement. The purpose is to examine the basis of the judge's consideration in determining compensation and assess the accuracy of the legal basis used based on the principle of legal certainty. Normative juridical methods underpin this study, combining legislative, case, and conceptual approaches. The findings uncover that judges seek to safeguard the economic rights of creators; however, the legal foundation applied is not entirely appropriate, as it reflects a conflation of criminal and civil norms. In addition, the determination of compensation is not explained in detail and has not taken into account the royalty standards set by the LMKN. The study shed light that the decision reflects an inconsistency in the application of copyright law by combining civil and criminal legal norms in determining compensation, thereby weakening legal certainty and creating ambiguity in the legal basis for resolving song copyright infringement disputes. The novelty of this study lies in identifying inconsistencies in the judicial application of copyright law, particularly the use of criminal provisions as a basis for civil compensation. The findings highlight the need for clearer and more objective compensation standards, including the use of LMKN royalty standards to strengthen legal certainty in copyright dispute resolution.

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INTRODUCTIONS

Legal protection of intellectual works is essential in ensuring that creators can derive economic benefit from their creations (Djubaedillah & Djumhana, 2003). Without adequate protection, copyrighted works risk being used

without permission or fair compensation, which in turn diminishes creators' motivation to continue producing. Consistent enforcement of intellectual property rights is therefore vital to provide legal certainty and to serve as a guiding framework for judges adjudicating copyright infringement cases.

The advancement of digital technology has brought about significant transformation in the production, distribution, and consumption of artistic works, particularly music (Margono & Angkasa, 2002). Digitalization enables musical works to be disseminated rapidly and broadly at relatively low cost. Even so, this very ease of distribution has simultaneously heightened the risk of copyright infringement, as unauthorized use of creative works has become increasingly difficult to control through legal mechanisms (Harwanto, 2022).

This reality poses a serious challenge for songwriters seeking to protect their works from large-scale piracy. The harm caused by copyright infringement extends beyond the mere loss of royalties, it also encompasses diminished collaboration opportunities, reduced commercial value of creative works, and damage to the creator's professional reputation. Such consequences are not only detrimental to individual creators but may also impede the broader development of the music industry as a whole (Silfiani, 2022).

In the resolution of copyright disputes, judges occupy a pivotal role, as their decisions determine whether an infringement has occurred, the appropriate form of legal accountability, and the quantum of damages to be awarded (Putra & Dananjaya, 2024). Judicial decisions also serve as reference points for the resolution of analogous cases in the future, making the consistency of legal reasoning a critical factor in achieving legal certainty (Mertokusumo, 2010).

Nevertheless, judicial practice continues to reveal considerable variation in how judges approach copyright infringement cases. Divergent assessments of evidentiary standards, methodologies for calculating damages, and the legal bases invoked frequently give rise to legal uncertainty. Such inconsistency risks undermining public confidence in the judicial system and generating unpredictability for creative industry practitioners in conducting their business (Marzuki, 2011). An analytical examination of judicial legal reasoning is therefore necessary to identify more consistent patterns in the application of copyright law.

Previous studies have examined copyright law from various perspectives. Sianipar and Aisyah (2022) focused on the challenges of copyright protection in the digital environment, while Silfiani (2022) analyzed the protection of economic rights of song creators and royalty arrangements. Kristiyanti (2022) discussed the legal remedies available to copyright holders, and Praja et al. (2021) as well as Triantoro and Hadi (2019) examined the role of judges in resolving copyright disputes. Although these studies contribute to the understanding of copyright protection and dispute resolution, they have not specifically discussed the judicial considerations used to determine civil compensation in copyright infringement cases, especially when criminal provisions are used as part of the legal basis for awarding compensation. Therefore, legal consistency and the appropriateness of these considerations remain underexplored. This study seeks to fill that gap through an analysis of Decision No. 92/Pdt.Sus-HKI/Hak Cipta/2024/PN Niaga Jkt.Pst.

One decision particularly worthy of scrutiny is the enactment of the decision 92/Pdt.Sus-HKI/Hak Cipta/2024/PN Niaga Jkt.Pst, involving Ari Bias as the composer of the song "*Bilang Saja*" against Agnez Mo and PT Aneka Bintang Gading as the concert organizer. Ari Bias alleged that the defendants had performed his composition at three concerts without authorization, thereby infringing the moral and economic rights protected under Law 28 of 2014 on Copyright. As mandated under this statute, the commercial use of a copyrighted work is fundamentally contingent upon obtaining prior authorization from the creator or copyright holder (Damian, 2021; Margono & Angkasa, 2002)

The defendants, on the other hand, contended that the obligation to pay royalties rested not with the performer but with the event organizer. This argument was grounded in enactment No. 56 of 2021 of the Government, which stipulates that commercial use of songs or music in public services must be accompanied by royalty payments

channeled through the National Collective Management Organization (LMKN). On this basis, PT Aneka Bintang Gading, as the concert organizer, was regarded as the party responsible for fulfilling this obligation (Djubaedillah & Djumhana, 2003; Silfiani, 2022).

Furthermore, the defendants argued that invoking Article 113 of the Copyright Law as the basis for awarding damages was legally inappropriate, given that this provision governs criminal fines as a penal sanction rather than civil compensation. Nonetheless, the panel of judges retained this provision as one of the grounds for ruling in favor of the plaintiff, reasoning that the defendants' conduct had infringed the plaintiff's economic rights and caused demonstrable harm, thereby warranting the award of damages under the Copyright Law and regulation No. 56/2021 enacted by the Government.

From a strictly juridical point of view, the more appropriate legal basis for awarding damages in copyright cases would be Article 95 of the Copyright Law which grants creators and copyright holders the right to file civil compensation claims, in conjunction with Article 1365 of the Civil Code on unlawful acts. These provisions are more pertinent as they are oriented toward the recovery of actual losses suffered by the creator. In the context of legal protection, identifying the correct basis for liability is a fundamental prerequisite for ensuring legal certainty and safeguarding the rights of the aggrieved party (Kristiyanti, 2022). Reliance on Article 113 of the Copyright Law, a provision of criminal law in civil proceedings risks introducing juridical complications and reflects an inconsistency in the court's ratio decidendi (Soekanto, 2014). It is therefore imperative to conduct a rigorous analysis of the judicial reasoning employed and the appropriateness of the legal grounds applied in determining the quantum of damages in this case.

Based on the discussion above, this study aims to examine: (1) the legal considerations used by the judge in awarding compensation to the defendants in Decision No. 92/Pdt.Sus-HKI/Hak Cipta/2024/PN Niaga Jkt.Pst; and (2) the legal basis used in determining the amount of compensation awarded for copyright infringement. This study contributes to copyright law studies by providing a critical assessment of the consistency of judicial considerations, the appropriateness of the legal basis applied in awarding compensation, and the implications of these considerations for legal certainty in copyright dispute resolution.

METHODS

This study is a normative legal research (yuridis normatif) that relies on positive legal norms to explain, connect, and systematize legislation as well as identify legal principles relevant to the issues studied. The approaches used in this study include the statute approach, case approach, and conceptual approach. The statute approach is used to examine various regulations related to copyright protection, particularly Law Number 28 of 2014 concerning Copyright and Government Regulation Number 56 of 2021 concerning the Management of Royalties for Song and/or Music Copyrights. Through this approach, the researcher analyzes the legal provisions governing copyright protection and royalty management in Indonesia (Damian, 2021).

The case approach is conducted by examining court decisions relevant to the object of the study, particularly Decision Number 92/Pdt.Sus-HKI/Hak Cipta/2024/PN Niaga Jkt.Pst. This approach is used to analyze the judge's legal considerations in determining legal liability and the amount of compensation for copyright infringement (Margono & Angkasa, 2002). The conceptual approach is conducted by examining the doctrines, principles, and legal theories related to copyright, economic rights, legal protection, and legal certainty as the foundation for analysis in assessing the issues studied (Djubaedillah & Djumhana, 2003).

The legal materials used in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include legislation and court decisions related to copyright protection and royalty management. Secondary legal materials consist of books, journal articles, research results, and expert opinions discussing copyright law and

copyright infringement on digital platforms. Tertiary legal materials include legal dictionaries, encyclopedias, and other reference sources that help explain the legal concepts used in the research.

The analysis of legal materials was conducted through several stages. The first stage is identifying and inventorying the legal norms governing copyright protection and royalty management based on applicable legislation. The second stage is examining and systematizing these legal provisions to obtain a legal framework relevant to the research issues. The third stage is analyzing Decision Number 92/Pdt.Sus-HKI/Hak Cipta/2024/PN Niaga Jkt.Pst by examining the legal facts, the arguments of the parties, and the judge’s legal considerations in determining the existence of infringement and the amount of compensation. The fourth stage is evaluating the results of this analysis using relevant doctrines, principles, and legal theories, particularly the theory of legal protection, the theory of economic rights, and the theory of legal certainty. The final stage is drawing normative conclusions to assess the conformity of the judge’s considerations with applicable legal provisions and formulating recommendations to strengthen copyright law enforcement in Indonesia.

In interpreting legal norms that contain ambiguity or unclarity, this study uses grammatical, systematic, and teleological interpretation methods. Grammatical interpretation is used to understand the meaning of words and phrases contained in Law Number 28 of 2014 concerning Copyright and Government Regulation Number 56 of 2021. Systematic interpretation is used by connecting one provision with other relevant provisions within a single legal system to obtain a complete understanding of copyright protection and royalty management. Meanwhile, teleological interpretation is used to examine the purpose of the formation of the legislation, particularly in protecting the economic rights of creators and realizing legal certainty in the digital music ecosystem.

RESULTS AND DISCUSSION

Results

The Judge’s Consideration in Imposing Compensation Sanctions Against the Defendant in Decision No. 92/Pdt.Sus-HKI/Hak Cipta/2024/PN Niaga Jkt.Pst

Based on Decree No. 92/Pdt.Sus-HKI/Hak Cipta/2024/PN Niaga Jkt.Pst, the panel of judges examined a dispute concerning the unauthorized use of the song “*Bilang Saja*,” composed by Ari Bias. In this case, the panel found that the defendants Agnez Mo and PT Aneka Bintang Gading had performed the song at three commercial events without obtaining written authorization from the creator.

The panel of judges determined that the unauthorized use of the song constituted an infringement of the creator’s economic rights. Accordingly, the panel referred to the provisions of Article 9 of Law 28 of 2014 on Copyright, which governs the economic rights of creators over their works (Damian, 2021).

On the basis of the evidence presented at trial, the plaintiff successfully demonstrated that the song had been used commercially on three separate occasions. The evidentiary materials submitted included concert posters, video recordings of the performances, witness testimonies, and documents pertaining to royalty management. The plaintiff further submitted a certificate issued by the National Collective Management Organization (LMKN) specifying the applicable royalty rates, along with evidence establishing that the defendants had not obtained authorization to use the song (Hutauruk, 2022).

Having assessed the totality of the evidence presented, the panel of judges concluded that the unauthorized use of the song had caused quantifiable economic harm to the plaintiff. The panel therefore granted the claim for damages and ordered the defendants to pay compensation in the amount of IDR 1,500,000,000 (one billion five hundred million rupiah). The compensations were apportioned across three separate performances, as follows:

Table 1. Compensation by Venue and Date of Performance

Venue and Date of Performance	Compensation
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W Superclub Surabaya (25th May 2023)	IDR 500,000,000
The H Club Jakarta (26th May 2023)	IDR 500,000,000
W Superclub Bandung (27th May 2023)	IDR 500,000,000
Total	IDR 1,500,000,000

Source: Research Results

In its deliberations, the panel of judges also referred to Article 113 paragraph (3) of Law 28 of 2014 on Copyright, which governs sanctions for infringement of economic rights carried out for commercial purposes (Margono & Angkasa, 2002).

The panel further took into account the role of the National Collective Management Organization (LMKN) as the institution authorized to collect, manage, and distribute royalties arising from the commercial use of songs and/or music. Pursuant to Article 87 of Law 28 of 2014 on Copyright, the LMKN holds the authority to administer royalty payments and to establish standardized royalty rates applicable to commercial users of musical works (Hutauruk, 2022).

Further, regulation No. 56/2021 enacted by the Government on the Management of Copyright Royalties for Songs and/or Music formed part of the relevant legal facts in this case, as it mandates the payment of royalties through the LMKN prior to any commercial use of a song.

On the basis of the totality of evidence submitted encompassing LMKN documentation, performance recordings, promotional materials, and witness testimonies, the panel of judges declared that the defendants had commercially exploited the song “Bilang Saja” without the creator’s authorization. For this reason, the panel granted the plaintiff’s claim and imposed damages in the amount of IDR 1,500,000,000.

Discussion

The Legal Basis Used by the Judge in Determining the Amount of Compensation for Song Copyright Infringement

Decree No. 92/Pdt.Sus-HKI/Hak Cipta/2024/PN Niaga Jkt.Pst represents a particularly compelling copyright case for analysis, as it not only concerns the protection of a creator’s economic rights but also raises questions regarding the appropriateness of the legal basis invoked in awarding damages. In this case, the panel of judges determined that the defendants’ performance of the song “Bilang Saja” at three commercial events without the creator’s authorization constituted an infringement of the creator’s economic rights as protected under Law No. 28 of 2014 on Copyright.

Normatively, copyright protection is designed to guarantee recognition and safeguarding of the exclusive rights held by creators over their works (Muthmainnah et al., 2022). These exclusive rights encompass both moral rights and economic rights. Economic rights empower creators to derive economic benefit from the use of their works, including the rights to announce, reproduce, perform, and license such works to third parties. Consequently, the commercial use of a song without the creator’s authorization fundamentally constitutes a violation of economic rights that directly gives rise to harm suffered by the creator (Damian, 2021).

In its deliberations, the panel referred to Article 9 of Law No. 28 of 2014 on Copyright, which governs the economic rights of creators. The invocation of this provision is understandable given that the core of the dispute concerned the commercial exploitation of a song without the creator’s consent. The elements of economic rights infringement were thus satisfied, as the defendants had derived benefit from the use of the copyrighted work without first obtaining authorization from the creator or copyright holder.

Notwithstanding the foregoing, a legal complication arises from the panel's concurrent reliance on Article 113 paragraph (3) of the Copyright Law as part of its legal reasoning. This provision fundamentally governs criminal sanctions against parties who infringe a creator's economic rights for commercial purposes (Margono & Angkasa, 2002). The normative character of Article 113 is unmistakably penal in nature, as it prescribes sanctions in the form of imprisonment and fines. The application of this provision in a civil proceeding aimed at securing compensatory damages therefore raises legitimate concerns regarding the consistency of the legal framework employed by the panel.

From a civil law perspective, the more appropriate legal basis would be Article 95 of Law No. 28 of 2014 on Copyright, which explicitly confers upon creators or copyright holders the right to file compensation claims before the Commercial Court in the event of copyright infringement. This provision directly governs the mechanism for civil dispute resolution and the recovery of losses suffered by creators as a result of economic rights violations. Further, Article 1365 of the Civil Code about unlawful acts may likewise serve as a pertinent legal basis, given that the requisite elements namely an unlawful act, fault, harm, and a causal nexus between the act and the creator's loss which are all present (Damian, 2021).

The use of Article 113 in civil proceedings reflects a conflation of the criminal and civil law regimes. Theoretically, criminal law and civil law serve fundamentally distinct purposes: criminal law is oriented toward the punishment of offenders in order to preserve public order, whereas civil law is directed at restoring the rights of and compensating the aggrieved party. When a penal norm is invoked as the basis for awarding civil damages, the orientation of the judgment becomes ambiguous, it is no longer clear whether the decision is intended to penalize the wrongdoer or to make the victim whole. This conflation risks introducing legal uncertainty into future copyright adjudication.

Normatively, the use of criminal provisions as a basis for consideration in determining civil compensation needs to be critically examined because the two legal regimes have different objectives. Criminal law is oriented toward punishing the perpetrator and preventing violations, while civil law aims to restore the rights and losses of the aggrieved party. In the context of copyright infringement, the main focus of a civil lawsuit should lie in the recovery of the creator's economic losses through a proportional compensation mechanism (Aliansyah, 2022). Therefore, the use of Article 113 of the Copyright Law as a basis for consideration in civil cases has the potential to create ambiguity regarding the purpose of the decision and reduce legal certainty in the resolution of copyright disputes (Aliansyah, 2022).

Beyond the question of legal basis, the methodology employed by the panel in calculating damages also warrants scrutiny. In this decision, the panel awarded total damages of IDR 1,500,000,000, allocating IDR 500,000,000 per commercial performance across three events. Yet the decision provides no detailed explanation of how these figures were derived. There is no account of the loss calculation methodology, economic valuation approach, or formula applied in arriving at the awarded sum.

The absence of any articulated methodology for calculating damages poses a significant risk to legal certainty. In copyright disputes, economic losses should ideally be quantified using objective and measurable parameters, such as the royalty value the creator ought to have received, the profits generated by the infringer through unauthorized use of the work, the frequency of such use, or the prevailing tariff standards within the relevant industry. Without clear parameters, the quantum of damages risks being perceived as the product of judicial subjectivity, thereby hindering the development of consistent standards in analogous future cases.

The absence of a detailed loss calculation method explained in the decision also has the potential to create disparities in rulings on similar cases. In copyright disputes, economic loss should ideally be linked to the royalty value that the creator should have received, the frequency of use of the work, the duration of use, and the economic benefits obtained by the infringer (Pradita et al., 2024). This approach is more objective because it is based on measurable and verifiable economic indicators. Conversely, if the amount of compensation is based solely on a

reasonableness assessment without clear parameters, it is difficult to ensure whether the awarded amount truly reflects the loss experienced by the creator (Maharani & Tarina, 2024; Suryahartati & Herlina, 2018).

In this context, the National Collective Management Organization (LMKN) assumes particular significance. Pursuant to Article 87 of Law No. 28 of 2014 on Copyright, the LMKN is vested with the authority to collect, manage, and distribute royalties arising from the commercial use of songs and/or music (Hutauruk, 2022). The LMKN also functions as the body responsible for establishing national royalty tariff standards that serve as reference points for businesses seeking to commercially exploit musical works.

The enactment of regulation No. 56/2021 by the Government further consolidates the LMKN's position within Indonesia's copyright protection framework. Article 8 paragraph (1) of that regulation affirms that every commercial use of a song and/or musical work must be accompanied by royalty payment through the LMKN. As such, the tariffs established by the LMKN ought to serve as one objective basis for calculating the economic loss suffered by a creator as a result of unauthorized use of their work.

The role of LMKN in the national copyright system is not limited to collecting and distributing royalties, but also includes providing a mechanism for determining royalty rates used in various forms of commercial exploitation of songs and/or music (Indarsen, 2023; Taopik & Yuliawan, 2023). These rates are formulated based on categories of use, type of business, and prevailing industry practices, so that they reflect the actual economic value of a musical work. Therefore, the royalty rates established through the LMKN mechanism can be used as an objective parameter in determining the amount of economic loss experienced by a creator due to unauthorized use of a song. The use of this parameter can also reduce judicial subjectivity in determining the amount of compensation and increase consistency in rulings on cases with similar characteristics (Handayani et al., 2023).

The importance of using LMKN rates as a reference is also reflected in various studies that position LMKN as a central institution in the management of creators' economic rights (Siahaya & Asri, 2022). The existence of a nationally applicable rate standard allows loss calculation to be carried out more transparently and measurably compared to an approach that fully depends on judicial discretion. Thus, LMKN rates not only function as an instrument for royalty distribution, but can also serve as a basis for evaluating economic losses in disputes involving copyright infringement of songs and music (Giri et al., 2022).

Analyzed through the lens of legal protection theory, this decision fundamentally reflects the state's efforts to safeguard the economic rights of creators. It conveys that the unauthorized use of copyrighted works cannot be condoned and carries legal consequences in the form of a damages obligation. From this standpoint, the decision sends a powerful message to music industry actors to accord greater respect to creators' rights and to fulfill their royalty payment obligations (Nainggolan, 2023).

Viewed through the framework of Gustav Radbruch's theory of legal purpose, however, this decision does not yet fully satisfy the three foundational values of law in a balanced manner. The dimension of justice is evident in the compensation awarded to the creator whose rights were violated. The dimension of utility is reflected in the decision's deterrent effect, which may encourage greater compliance with licensing and royalty obligations among music industry participants. Yet the dimension of legal certainty remains problematic, given the application of a criminal law norm within a civil dispute and the absence of a detailed account of the damages calculation methodology (Radbruch, 1932).

The issue of the basis for calculating compensation in copyright disputes has also received attention in various recent studies on music royalty management in Indonesia. A number of studies show that although the protection of creators' economic rights has been increasingly strengthened through the Copyright Law and Government Regulation Number 56 of 2021, challenges remain in ensuring that the amount of compensation awarded is truly based on objective and uniform parameters (Mbalng & Silalahi, 2025; Silfiani & Sardjono, 2024). This condition indicates that the protection of creators' economic rights does not only depend on the recognition that an infringement has occurred,

but also on the clarity of the method used to measure the losses arising from such infringement (Gidete et al., 2022; Hamdani, 2022).

This study finds that the main problem in Decision Number 92/Pdt.Sus-HKI/Hak Cipta/2024/PN Niaga Jkt.Pst does not lie in the recognition of the existence of an infringement of the creator's economic rights, but rather in the legal basis and method used in determining the amount of compensation. Based on the analysis conducted, the use of Article 95 of the Copyright Law as the basis for civil settlement and LMKN royalty rates as the parameter for calculating economic loss would provide a higher level of legal certainty compared to the use of considerations not accompanied by a clear calculation method. This finding also indicates the need for standardization of the approach to calculating losses in copyright disputes in Indonesia.

This decision further demonstrates that the protection of creators has become a central concern of the courts, while also revealing that there remains meaningful room for improvement in the quality of legal argumentation and the consistency of legal basis employed. In the future, clearer guidelines are needed regarding the appropriate legal bases for copyright claims, as well as standardized damages calculation frameworks grounded in royalty tariffs or objective economic indicators. Only through such refinements can decisions concerning copyright infringement not only deliver justice to creators, but also foster legal certainty and consistency in Indonesian judicial practice.

CONCLUSION

Decision Number 92/Pdt.Sus-HKI/Hak Cipta/2024/PN Niaga Jkt.Pst essentially affirms the importance of protecting the creator's economic rights and the obligation to pay royalties before a work is used commercially, as regulated in Article 9 paragraph (2) of the Copyright Law and Article 3 paragraph (1) of Government Regulation No. 56 of 2021. However, the use of Article 113 paragraph (2) of the Copyright Law in the consideration of a civil case indicates a methodological problem because that provision is criminal in nature, thus potentially disrupting legal certainty. Therefore, dispute resolution should more appropriately be based on Article 95 paragraph (1) of the Copyright Law and Article 1365 of the Civil Code, referring to LMKN rates as the basis for calculating compensation. Accordingly, clear technical guidelines on compensation calculation are needed, along with harmonization of criminal and civil norms in copyright law, to ensure consistency of rulings and legal certainty in the protection of creators' economic rights.

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