



Legal Protection of Copyright Holders in Remix and Mashup Work Commercialized on Social Media

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Abstract

The development of digital technology and social media has allowed the creation of remixes and mashups that are increasingly popular, but often have the potential to infringe copyright. Many remixes and mashups are commercialized without permission from the original copyright holders, causing problems in the protection of rights to the work. This research is important to provide a deeper understanding of the challenges and solutions of copyright protection in cyberspace, especially related to works that are traded on social media platforms. Remixes of songs carried out by content creators by changing the tempo of the song and the tone of the singer's voice are done without the permission of the creator and/or copyright holders. The purpose of this study is to explore a deeper understanding of copyright in the context of remix and mashup works that are rapidly developing in the digital era, especially those commercialized through various social media platforms, as well as to analyze the forms of copyright infringement that occur in remix and mashup works that are commercialized on social media. The method used is a qualitative approach with case studies, collecting data through literature studies and juridical analysis of the laws and regulations that regulate copyright in Indonesia and related international regulations. The research also involved interviews with legal experts and social media practitioners to gain practical perspectives on the implementation of copyright protection. It is hoped that the results of this research can contribute to optimizing legal protection for copyright holders of remix and mashup works commercialized on social media.

Keywords: copyright, digital law, legal protection, remix works, social media

Introduction

Technology, especially the use of the internet, is currently undergoing significant development. As we know, in ancient times only certain people could use and access the Internet, and not everyone. Now everyone has access to the Internet. Today, it is undeniable that children, teenagers, and even the elderly will inevitably access and use the Internet at some point. This is also influenced by other factors, such as the number of affordable Internet service providers and technologies to access the Internet, such as gadgets, which are now available in various versions at affordable prices and available to all walks of life. Many people have used technology in their daily activities. The development of technology in today's era shows that society can now be said to be "literate" about the use of technology, especially the internet. The Indonesian Internet Service Providers Association (APJII), stated that 73.7 percent or around 196.7 million Indonesians have begun to be literate and become internet users based on data in

the second quarter of 2020. (Saputra 2021). Information technology is currently a double-edged sword, because in addition to contributing to the improvement of welfare, the progress of civilization in the 3rd world, it is also an effective target for unlawful acts. (Istiqamah 2019).

The majority of TikTok social media users in creating video content always use songs from famous music bands. TikTok has also not issued strict regulations regarding the use of songs for TikTok video content. Copyright infringement occurs due to the duplication or change of the arrangement into a remix of a song's copyrighted work done without the permission of the creator and/or copyright holder. Copyright is one part of intellectual property rights that provides protection for works that are realized or produced in the form of works of art such as songs, music, photos, films and so on. Most TikTok users always incorporate background noises from well-known singers' or bands' songs when making videos. The issue is that the TikTok app does not include rigorous and ideal guidelines about how to use the music that are part of the TikTok movie. TikTok has been accused of violating song copyright in a number of incidents and reports. The UUHC, also known as Law Number 28 of 2014 concerning Copyright, states in Article 1 Number 1 that Copyright is the exclusive right of the creator that arises automatically based on the declarative principle after a work is realized in a tangible form without reducing restrictions in accordance with the provisions of laws and regulations.

The majority of TikTok users in creating video content always use background sounds taken from songs by famous singers or bands. The problem is, this TikTok application has not implemented strict and perfect regulations regarding the use of these songs that are included in the TikTok video. There have been several cases or reports that mention that TikTok violates the copyright of the song. According to Article 1 Number 1 of Law Number 28 of 2014 concerning Copyright (hereinafter referred to as the UUHC) which reads, Copyright is the exclusive right of the creator that arises automatically based on the declarative principle after a work is realized in a tangible form without reducing restrictions in accordance with the provisions of laws and regulations.

Copyright is one of the parts of intellectual property rights (hereinafter referred to as IPR) that provides protection for works that are realized or produced in the form of works of art such as songs, films, photographs, paintings, dances, computer programs and so on (Wahidji 2022). Song Copyright is the Exclusive Rights of the creator that arises automatically based on the declarative principle after a song can be heard. The copyright of the song is born automatically not when the song is recorded, but the copyright of the song is born automatically when the song can be heard, as evidenced by the existence of musical notation and/or without verse. This is in accordance with the definition of Copyright, namely: the exclusive rights of the creator that arise automatically based on the declarative principle after a work is realized in a tangible form without reducing restrictions in accordance with the provisions of laws and regulations (Article 1 number 1 of the 2014 UUHC). If you want to enjoy economic rights to someone else's work so as not to infringe copyright, it is necessary to obtain permission (license) from the creator/copyright holder (Kusherawati and Lesmana 2024).

Formulation of the Problem, which will be examined How is the legal protection for copyright holders against remix and mashup works commercialized on social media? And what is the legal settlement mechanism in the event of a music copyright infringement on the TikTok application? The Urgency of this research is that this research is very important considering the phenomenon of the rapid development of social media as a content sharing platform, which also triggers the growth of creativity in the form of remix and mashup works. These works often incorporate elements of copyrighted works without the copyright holder's permission or license. While it allows for innovation and creative expression, it often ignores the rights of the original copyright holders, potentially harming them economically and morally. On the other hand, despite the regulations governing copyright, the implementation of its protection in the

digital context and social media still faces various challenges, especially related to law enforcement mechanisms that are not yet fully effective in addressing copyright infringement involving remix and mashup works. Therefore, this study is very relevant to examine the extent to which legal protection for copyright holders can be applied in the context of remix and mashup works commercialized on social media, as well as to provide policy recommendations that can strengthen copyright protection in the digital world.

The results of this study are expected to provide in-depth insights into legal protection for copyright holders in the context of remix and mashup works that are commercialized on social media. In addition, this research will also offer recommendations related to legal and regulatory policies that are more adaptive to the development of digital technology and the wider commercialization of creative works in the social media era. Thus, this research is expected to contribute to developing an understanding of copyright in the digital world and provide solutions for copyright holders, creators of remixed works, and social media platforms in managing and protecting the works involved.

Methods

This study uses a qualitative literature study approach to analyze legal protection against copyright holders in remix and mashup works commercialized on social media. The qualitative approach was chosen because the main objective of this research is to explore a deep understanding of copyright in the context of remix and mashup works that are growing rapidly in the digital age, especially those that are commercialized through various social media platforms. This literature study refers to the collection and analysis of relevant sources of information, which include scientific journals, books, legal articles, related regulations, and other literature that delves into legal issues regarding copyright, remixes, and mashups. These sources will be used as a basis for building a theoretical understanding of copyright and its limitations in the context of remixes and mashups, as well as the implications of commercializing the work on social media.

The data collection process is carried out by identifying relevant literature that discusses copyright, particularly in the context of remix and mashup works. In addition, special attention will be paid to sources that review the application of copyright in the digital world, both at the international level and Indonesian national law. Relevant regulations, such as the Copyright Law (Law No. 28 of 2014), as well as international conventions such as the Berne Convention and the rules of the World Intellectual Property Organization (WIPO) will be an important basis for the analysis. After the literature collection is carried out, the next stage is to conduct content analysis of existing sources. This analysis aims to explore themes related to copyright protection in remix and mashup works, as well as how copyright is maintained and applied in works that have been modified and commercially published on social media. Through this approach, researchers will identify important issues, such as the difference between original and derivative works, the challenges in protecting the copyright of remixed works in the digital age, and the role of social media platforms in regulating and supervising commercialized works.

Qualitative analysis is carried out by organizing and filtering the information obtained to obtain findings that are relevant to the research question. Researchers will use content analysis techniques to identify patterns, themes, and relationships between existing issues, as well as provide legal perspectives relevant to the research topic. In addition, this research will also explore the potential for improvement or renewal in copyright regulations that can answer the challenges that arise along with the development of technology and the increasingly massive use of social media.

Results and Discussions

A. Copyright Protection on Remix and Mashup Works on Social Media

Copyright protection of remixes and mashups on social media presents a very complex legal challenge. Remixes and mashups are often derivative works that combine or alter elements of the original work to create something new. In this context, copyright regulations govern the division of rights between the creator of the original work and the creator of the remix. However, the main issue that arises is how to determine the extent to which a remix work can be considered a work new and distinct enough to obtain copyright protection without infringing on the rights of the original copyright holder. In some cases, a remix can be considered an infringing work if the changes made are not significant or creative enough, so they still violate the copyright of the original work (Nauval Fadillah 2023).

In Indonesia, Law Number 28 of 2014 concerning Copyright stipulates that copyright owners of original works have economic rights and moral rights. This economic right involves the right to derive financial benefit from the work, while moral rights involve the right to remain recognized as the creator of the original work and prohibit alterations that undermine the integrity of the work. In the context of remix and mashup works, there are often questions about the limits of the use of original works. If the creator of the remix does not obtain permission or license from the copyright holder of the original work, then they may face the risk of copyright infringement, even though the remix may be categorized as a new creative work. On the other hand, many creators of remix work argue that they should have copyright protection for the work they created, as they have made significant changes to the original material. In the digital world, remix works often become very popular, and with the advancement of technology, remix creators can easily leverage other people's work to create new, more engaging content. This raises questions about who is entitled to the economic rights to the work, especially when remixes or mashups are used for commercial purposes on social media. Platforms like YouTube, Instagram, and TikTok allow content creators to make money through ads or endorsements, which adds complexity in determining who should get royalties from the work (Indarinul Mufidah and Saini 2023).

However, although many creators of remix works hope to gain recognition and profit from their remixes, copyright regulations still view remix works as derivative works that require permission or license from the original copyright holder. Therefore, it is important for remix creators to understand the importance of obtaining permission or negotiating regarding the use of copyrighted material. This also applies to social media platforms that often play a role in enforcing copyright rules, such as using automated content recognition technology to detect and remove copyright-infringing content. While remix and mashup works offer tremendous creative opportunities, copyright protection remains essential to ensure that creators of original works and remix creators get their rights fairly (Yodo 2017). This research shows that the balance between protecting the copyright of original works and supporting creativity in the creation of remixed works is essential for the development of the creative industry in the digital world. Therefore, more flexible and fair regulations are needed that can accommodate both parties in this growing world of social media.

B. Challenges in Copyright Enforcement on Social Media Platforms

Copyright enforcement on social media platforms presents significant legal challenges, especially when it comes to detecting and dealing with copyright infringement that occurs very quickly and massively. Platforms such as YouTube, Instagram, and TikTok allow users to upload works that may involve copyrighted elements in the form of remixes, mashups, or other original content. When a work is copyrighted, the copyright holder has the right to control how his or her work is used, including the right to monetize or prohibit the use of the work. However, with the rise of freely shared content on social media, copyright enforcement has

become more difficult. One of the main challenges in copyright enforcement on social media platforms is the incredible speed of content distribution. In a matter of seconds, a remix or mashup can be widely distributed around the world. This makes it difficult for copyright holders to actively monitor and claim the rights to their works used without permission. Automated content recognition systems like YouTube Content ID have helped address some of this problem by making it easier for copyright holders to identify works that are being used without permission. However, this technology also has limitations, such as misidentification and incorrect copyright claims, which often harm legitimate content creators (Muthmainnah 2022).

In addition, copyright enforcement is also hampered by differences in copyright regulations between countries. Although there are international treaties such as the Berne Convention that provide general guidelines on copyright, the implementation of these regulations often differs from country to country. This creates legal uncertainty for content creators who want to ensure that their work is protected around the world. For example, if a remix work is infringed in a country with more relaxed laws, the original copyright holder may have a hard time suing or protecting their rights. Additionally, many social media platforms are not fully transparent in implementing their copyright policies. Some content creators feel that copyright claims are often made without a clear basis or without providing a fair opportunity to defend themselves. While many platforms offer an appeal mechanism, the process is often time-consuming and confusing for content creators who are unfamiliar with legal procedures (Sadda Gunawan Sandi, Imaniyati sri Neni 2022).

The study found that there is an urgent need to increase transparency and accountability in existing copyright enforcement systems, so that content creators can feel more protected and treated fairly (Hirsanuddin 2023). Going forward, potential solutions to improve copyright enforcement on social media involve improving more accurate and fair content recognition technologies, as well as increasing international cooperation in terms of digital copyright regulation. Policymakers need to work with social media platforms to develop more transparent mechanisms, as well as provide an easier and more efficient avenue for content creators to file claims or appeals. This research shows that copyright enforcement on social media must accommodate the needs of content creators while still maintaining protection for original copyright holders (I Gusti Ayu Eviani Yuliantari 2023).

C. Use of Licenses to Protect Remix and Mashup Works

One effective way to protect remix and mashup works is through the use of clear and explicit licenses. In the context of copyright, a license is a permission granted by a copyright holder to another party to use their work under certain conditions. The use of a license allows the creator of the remix to use the original work legally, without infringing on the copyright of the original copyright holder. This is important given the increasing number of commercially published remixes and mashups on social media platforms, which often involve the use of copyrighted material (Yudhistira and Riswandi 2022). Licenses can be divided into different types, including exclusive and non-exclusive licenses, as well as limited or unlimited licenses. An exclusive license gives the licensee the right to use the work in a specific way, while a non-exclusive license allows multiple parties to use the same work. In the context of remixed works, non-exclusive licenses are often a more flexible option, as they allow the creators of remixed works to use original material in their projects without restricting the original copyright holder's right to continue selling or distributing their own works (Elizabeth Sutrahitu, Selfina Kuahaty, and Balik 2021). However, the challenge that arises is the lack of understanding of licensing among creators of remix and mashup works, especially for those who are just starting out in the digital world. Many content creators may not know how to obtain a legitimate license or may not even realize that they need to ask permission to use copyrighted works. On the other

hand, original copyright holders also need to be more open about offering licenses to creators of remix works, to ensure that their works are used legitimately and provide them with the appropriate benefits (Wiratama 2022). Social media platforms play a crucial role in facilitating the use of licenses through existing copyright regulatory systems. For example, YouTube allows copyright holders to set up licenses for their content, and creators can use licensed material through the Content ID system. This system allows copyright holders to grant permission or even monetize the use of their work, while also ensuring that creators of remixed works can avoid copyright infringement. This research identifies that the use of clear and transparent licenses can reduce legal conflicts and provide certainty for both parties in relation to copyright. With the ever-evolving digital world, it's important for content creators and copyright holders to better understand the use of licenses and their benefits in managing remix and mashup works. Education on copyright licensing should be done for both creators of remix works and original copyright holders, to create a fair and sustainable environment for the creative industry. This research shows that with clear licensing and a good understanding of copyright, legal protection of remix works can be more effective and beneficial for all parties involved (Muhammad Azhari Hsb 2022).

D. Moral Rights in Remix and Mashup Works

Moral rights are one of the important elements of copyright protection, which ensures that the creator of the original work remains recognized and respected for his work. In the context of remix and mashup works, moral rights play a significant role, as remix works often involve alterations or modifications to the original work (Isnaina 2016). Moral rights holders have the right to prohibit changes that could damage the integrity or reputation of their work. This is important when a remix can create a different impression or even contradict the original message that the original creator wanted to convey. In many cases, the creator of a remix or mashup can make significant changes to the original work, but those changes are not always in accordance with the will or intent of the creator of the original work. Moral rights provide protection for the work, even if the work has been modified. This moral right aims to ensure that the original work is not used in a way that is detrimental to the reputation of its creator, even if the work has been substantially altered (Ujang Badru Jaman 2021). However, the challenge that arises is how to balance moral rights with the creative freedom of the creator of the remix work. Remix creators often feel that they have made a significant contribution to the original work by turning it into something new. However, moral rights provide a restriction on the type of alterations that can be made to the work, taking into account aspects of integrity and respect for the original work (Adela 2022). This research shows that it is important for remix creators to understand the boundaries of moral rights, as well as for copyright holders to have a more open understanding of how their work can be used without damaging their reputation. In Indonesia, moral rights are listed in the Copyright Law, which stipulates that creators of works have the right to be recognized as creators and prohibits uses that may damage their reputation. However, in the increasingly digital world, this recognition of moral rights is often overlooked, especially when remix works are published online. Remix creators who don't get permission or ignore the moral rights of copyright holders can face protracted legal disputes, which can be detrimental to both parties.

This study found that in the world of social media, the protection of moral rights often does not receive enough attention. Many creators of remix work feel that they don't need to get permission or give recognition to the original copyright holder, because they consider the remix work to be an entirely new creation (Rahminda and Benuf 2021). Therefore, greater efforts are needed in educating content creators about the importance of moral rights and how they can maintain the integrity of original works while still maintaining creativity in creating legitimate remix works.

E. Solutions to Resolve Copyright Conflicts in Remix and Mashup Works

Dealing with copyright conflicts in remix and mashup works requires more holistic and systematic solutions, both in terms of policy, technology, and legal approaches. One of the solutions proposed in this study is the development of a more flexible and transparent licensing system that can give creators of remixed works clear access to use copyrighted works with legal permission. In this case, social media platforms have an important role to play in providing a system that allows copyright holders and content creators to easily negotiate licenses or usage permissions (Hikmah 2023). One of the steps that can be taken is through improvements in the automatic content recognition system used by social media platforms. These technologies, such as YouTube Content ID, have helped in identifying and handling copyright claims automatically. However, the system needs to be improved to be more accurate and can accommodate situations where remix work is done with a valid permit or license. In addition, this technology also needs to reduce the number of false or unauthorized claims, which often harms legitimate remix creators. In addition, there needs to be collaboration between policymakers, copyright holders, and creators of remix works to create fairer rules in terms of copyright protection in the digital world. In many cases, the remix creator's ignorance of copyright rules often leads to unnecessary conflicts. Therefore, education about copyright, licensing, and moral rights needs to be further promoted among the creative community. This research shows that with a clear, transparent, and educational system, copyright in remix and mashup works can be better protected, providing benefits to all parties involved. Efforts are also needed to raise awareness about the importance of respecting copyright and moral rights in remix works. Content creators need to better understand their role in maintaining the integrity of original works and respecting the rights of copyright holders. With a more open approach and a more constructive dialogue between the creators of remix works and copyright holders, it is hoped that mutually beneficial solutions can be created and support the sustainable development of the creative industry.

Conclusions

The study concludes that copyright protection of remix and mashup works commercialized on social media faces a number of complex legal challenges. Although copyright regulations, both at the national and international levels, provide a legal basis for protecting original works, the implementation of this protection has become difficult in the rapidly evolving digital context. Especially when it comes to the use of original works for commercial purposes through social media platforms, where copyright claims are often affected by automated technology and legal differences between countries. Therefore, it is important to improve the existing licensing system and law enforcement mechanisms to be more transparent and fair for both parties. In addition, an understanding of moral rights and economic rights is indispensable to create a balance between the rights of the creator of the original work and the creator of the remixed work. Effective resolution can be achieved by involving more in-depth education regarding copyright, as well as closer collaboration between content creators, copyright holders, and social media platforms. Increased transparency in copyright policies and clear use of licenses can reduce legal conflicts and ensure that the rights of all parties involved are respected, as well as support the development of a more sustainable creative industry in the digital world.

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