

Judicial Approaches to Copyright Infringement and Compensation in Indonesia's Digital Era

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KEYWORDS	ABSTRACT
Keywords: Copyright Disputes; Judicial Decision Patterns; Moral Rights; Economic Rights, SDG 16. Conflict of Interest Statement: . Copyright © 2026 Vifada Assumption Journal of Law. All rights reserved.	Purpose: This research identifies the gap between the ideal provisions of copyright law and its implementation in Indonesia, aiming to analyze the patterns of judicial reasoning in copyright disputes through a jurisprudential approach, and to evaluate the alignment of judicial decisions with copyright protection in the digital era. Research Design and Methodology: The research employs a normative juridical method, using statute, case, and conceptual approaches, with secondary data collected through library research to analyze relevant court decisions. Findings and Discussion: The analysis identifies a common permission-centered pattern in determining liability but a sharp divergence in determining compensation. Both courts treated ownership, commercial exploitation, and the absence of authorization as decisive. In “SKJ88,” the court compensated material and immaterial with unequal but largely adequate explanation. In “Bilang Saja,” showed inconsistency by awarding material damage while denying immaterial damage without any explanation, after transforming a fundamentally royalty dispute case into a straightforward infringement from unauthorized use. The court also did not adequately address the defense that the dispute concerned unpaid royalties governed by Government Regulation No. 56 of 2021. Implications: The findings demonstrate the need for clearer standards for civil compensation, fuller judicial engagement with applicable royalty rules and the parties’ legal arguments, and more broadly, more transparent legal reasoning in court proceedings. Such measures would improve consistency, transparency, and accountability in copyright adjudication, while also accelerating the fulfillment of SDG 16 objectives in the legal system.

Introduction

The phenomenon of intellectual property disputes, particularly copyright, has become increasingly prevalent alongside the development of the creative industry and digital technology.¹ Cases of copyright infringement, such as the case of the song “SKJ88 (Senam Kesegaran Jasmani 1988)” by Djanuar Ishak, outlined in Copyright Decision Number 35/Pdt.Sus-Hak Cipta/2021/PN Jkt.Pst, and the case of the song “Bilang Saja” by Ari Bias against Agnez Mo in Central Jakarta District Court Decision Number 92/Pdt.Sus-HKI/Cipta/2024/PN Niaga Jkt.Pst, illustrate the ongoing challenges. Based on the case study of Decision Number 35/Pdt.Sus-Hak Cipta/2021/PN Jkt.Pst, the actions of PT Elang Prima Retailindo, who duplicated and commercially used the song “SKJ88” without permission from Djanuar Ishak, the creator and copyright holder, were found to be a legal violation. The unauthorized use resulted in economic loss, the loss of recognition for the work, and a tarnishing of

¹ Rahmat Shiddiq, Nurwati, and R. Yuniar Anisa Ilyanawati, “Perlindungan Hukum Terhadap Hak Cipta Pelaku Ekonomi Kreatif Bidang Industri Musik Di Indonesia,” *Karimah Tauhid* 3, no. 6 (June 2024): 6557-78, <https://doi.org/10.30997/karimahtauhid.v3i6.13595>.

the originality of the work.² The judge ruled the defendant's actions as illegal, ordering them to pay a compensation of Rp149,000,000 in full as compensation for both material and immaterial losses suffered by the plaintiff.³

On the other hand, based on the case study of Central Jakarta District Court Decision Number 92/Pdt.Sus-HKI/Cipta/2024/PN Niaga Jkt.Pst, the panel of judges assessed that the use of substantial portions of the song "Bilang Saja" by Ari Bias in the song performed by Agnez Mo without permission constituted a copyright violation.⁴ Despite modifications made to the arrangement, the significant appropriation of original elements was still deemed a violation of both moral and economic rights of the creator. In their legal consideration, the judges emphasized the importance of respecting originality and obtaining explicit permission from the copyright holder.⁵ The unauthorized use was considered damaging to the creator both financially and reputationally. Therefore, the defendant was found guilty and ordered to pay Rp1,500,000,000 in compensation to the plaintiff for the infringement.⁶

These cases demonstrate that copyright violations are frequently committed in various ways, such as modification, duplication, or publication of works without the copyright holder's permission in the digital era. In each case, civil lawsuits and claims for compensation have been used as mechanisms to seek justice and copyright protection.⁷ The decisions made by the courts recognize the rights of copyright holders and ensure compensation for those who have been harmed. However, the widespread violation of all types of copyright in Indonesia remains a significant challenge within the legal system, particularly regarding copyright protection and enforcement.⁸ This phenomenon is closely related to efforts to enforce copyright law in a consistent and transparent manner, which is part of Sustainable Development Goal (SDG) 16.⁹

The complexity of copyright protection dynamics has to be addressed extensively, as it can provide important insights to improve law enforcement, public awareness, and accessibility to the legal system.¹⁰ Law No. 28 of 2014 on Copyrights is fundamentally designed to provide legal protection for creative works in Indonesia. Normatively, the Copyright Law provides a clear legal mechanism for copyright holders to claim their rights and seek compensation for any form of infringement.¹¹ However,

² Yosepa Santy Dewi Respati, Etty Susilowati, and Siti Mahmudah, "Implementasi Lembaga Manajemen Kolektif Nasional (LMKN) Sebagai Collecting Society Dalam Karya Cipta Lagu (Menurut Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta)," *Diponegoro Law Journal* 5, no. 2 (2016): 1-16, <https://doi.org/10.14710/dlj.2016.11013>.

³ Denis Syahputra and Wilma Silalahi, "Tinjauan Hukum Terhadap Pelanggaran Hak Cipta Dalam Penggunaan Lagu Atau Musik Instrumental SKJ88 Berdasarkan Undang-Undang Hak Cipta," *Ranah Research: Journal of Multidisciplinary Research and Development* 7, no. 2 (December 2024): 962-69, <https://doi.org/10.38035/rrj.v7i2.1338>.

⁴ Muhammad Naufalurridho Febrian et al., "Review Of Legal Certainty Of Royalty Collection On Music And/Or Songs: A Comprative Study Of Indonesia And Russia," *Realism: Law Review* 3, no. 1 (April 2025): 115-43, <https://doi.org/10.71250/rlr.v3i1.57>.

⁵ Dhani Samatha and Wilma Silalahi, "Analisis Tanggung Jawab Penyelenggara Konser Terhadap Izin Penggunaan Lagu Dan Pembayaran Royalti Dalam Konser Musik Di Indonesia," *Jurnal Tana Mana* 6, no. 1 (2025): 351-55, <https://doi.org/10.33648/jtm.v6i1.1011>.

⁶ Mohamad Alen Aliansyah, "Tinjauan Normatif Kedudukan Lembaga Manajemen Kolektif Nasional (LMKN) Sebagai State Auxiliary Organ Berdasarkan Peraturan Pemerintah No. 56 Tahun 2021 Tentang Pengelolaan Royalti Hak Cipta Lagu Dan/Atau Musik," *Dialogia Iuridica* 13, no. 2 (March 2022): 001-020, <https://doi.org/10.28932/di.v13i2.4215>.

⁷ RM Rionaldi Bakrie et al., "Pengaruh Kreativitas UMKM Serta Kontribusinya Di Era Digitalisasi Terhadap Perekonomian Indonesia," *Jurnal Ekonomi Dan Bisnis* 16, no. 2 (July 2024): 82-88, <https://doi.org/10.55049/jeb.v16i2.308>.

⁸ I Gusti Ayu Intan Purnamaningrat and I Nyoman Suryana, "Distribusi Royalti Lagu Dalam Konser Oleh Lembaga Manajemen Kolektif: Siapa Yang Membayar?," *Nusantara Hasana Journal* 5, no. 1 (2025): 98-107, <https://doi.org/10.59003/nhj.v5i1.1471>; Andrie Ayuni Naqsyabandi, Muhamad Amirulloh, and Tasya Safiranita Ramli, "Penerapan Hak Cipta Bundle of Rights Dalam Putusan Mahkamah Agung Nomor 41PK/Pdt.Sus-HKI/2021 Mengenai Pelanggaran Hak Cipta Atas Cover Lagu 'Lagi Syantik' Antara Nagaswara Dan Gen Halilintar," *Innovative: Journal Of Social Science Research* 3, no. 3 (2023): 1-13; Silvy Puspa Aulia and Rully Syahrul Mucharom, "Tinjauan Hukum Terhadap Perlindungan Metode Bisnis Dalam Kasus Hak Cipta Hasan Azhari Dan PT Gojek Tokopedia," *Media Keadilan: Jurnal Ilmu Hukum* 16, no. 1 (April 2025): 1, <https://doi.org/10.31764/jmk.v16i1.28302>; Kevin Rayindra Arnanto and dan Hervina Puspitosari, "Perlindungan Hukum Atas Inkonsistensi Penerapan Unsur 'Persamaan Pada Pokoknya' Dalam Penegakan Hukum Sengketa Merek," *UNES Law Review* 6, no. 4 (2024): 11857-68, <https://doi.org/10.31933/unesrev.v6i4>.

⁹ SDG 16 aims to specifically strengthen the justice system and ensure accountability, by emphasizing equal access to justice, effective rule of law and good governance, and transparent, effective, and accountable institutions at all levels. See Kempe Ronald Hope Sr., "Peace, Justice and Inclusive Institutions: Overcoming Challenges to the Implementation of Sustainable Development Goal 16," *Global Change, Peace & Security* 32, no. 1 (January 2, 2020): 57-77, <https://doi.org/10.1080/14781158.2019.1667320>.

¹⁰ Kevin Anandita Rukmana, "Perlindungan Hak Cipta Terhadap Pencipta Lagu Di Indonesia," *JLEB: Journal of Law, Education and Business* 2, no. 1 (April 2024): 412-16, <https://doi.org/10.57235/jleb.v2i1.1744>.

¹¹ Arnanto and Puspitosari, "Perlindungan Hukum Atas Inkonsistensi Penerapan Unsur 'Persamaan Pada Pokoknya' Dalam Penegakan Hukum Sengketa Merek."

in practice, there is a considerable gap between the normative provisions of the Copyright Law and its implementation in the field. This gap is reflected in the weak supervision of copyright violations in digital spaces, such as social media, content-sharing sites, and streaming platforms, which have become spaces for reproducing works without permission. Additionally, law enforcement against digital copyright violations still faces technical challenges, such as difficulties in tracking offenders due to the anonymity of internet users and the limited capacity of law enforcement agencies to handle technology-based cases. Subsequently, many creators still face obstacles in enforcing their rights due to the low level of public understanding regarding the importance of copyright protection.¹² Challenges in tracking infringements, coupled with lengthy legal processes and high costs, often prevent creators from obtaining the compensation they are rightfully entitled to.¹³ This situation reflects the gap between the ideal conditions set out by the Copyright Law (*das sollen*) and the reality in the field, which is seen as requiring improvements in law enforcement, public awareness, and accessibility to the legal system (*das sein*).¹⁴

Literature Review

Over the past five years, several studies have examined the complexities of copyright protection in Indonesia from various legal and social perspectives. Lestari, 2019 examined how digital technology has expanded the space for creative expression while also increasing the risk of violating the moral rights of creators due to limited control over digital works.¹⁵ However, the study did not address the legal gaps from the relevant regulatory frameworks that may have contributed to such problem. Research by Harini et al., 2021 explored that although Law No. 28 of 2014 has regulated the protection of moral and economic rights for songwriters, the royalty payment process through the Indonesian Copyright Foundation (KCI) still faces administrative and transparency challenges.¹⁶ While the highly specific focus on royalty payment processes, the study did not address how the lack of concrete digital oversight mechanisms can contribute to infringement of copyrighted works. Moreover, Putra and Disemadi (2024) highlighted in a study that there is a growing culture of counterfeit in general, which can affect many IP Rights regimes and subsequently eroding the legal culture around IP protection.¹⁷ While the empirical findings have highlighted that both the infringers and the consumers are responsible for the rise of counterfeit culture, the study did not address how courts would see such dynamic and whether or not the acknowledgment of such issue may ultimately affect disputes tied to IP Rights infringements.

Asmara et al., 2023 studied the copyright dispute case between Ahmad Dhani and Once Mekel, concluding that violations of moral and economic rights occur when works are used without the creator's permission, highlighting the importance of strict law enforcement in the music industry.¹⁸ However, the case itself did not address the digital battleground for the issue of IP Rights protection, as the analysis throughout the paper remained grounded in traditional IP Rights protection. Meanwhile, Wulandari, 2024 studied the increasing violation of digital copyrights, particularly through the illegal distribution of content on the internet in Indonesia.¹⁹ This highlights the need to strengthen the role of Collective Management Organizations (CMOs) to ensure economic rights protection and support the

¹² Antonius Ivananda Dias Wijaya and Diana Tantri Cahyaningsih, "Inkonsistensi Mahkamah Agung Dalam Menerapkan Perlindungan Hukum Terhadap Merek Terkenal Dalam Sengketa Merek," *Aliansi: Jurnal Hukum, Pendidikan Dan Sosial Humaniora* 1, no. 5 (June 2024): 72-87, <https://doi.org/10.62383/aliansi.v1i5.381>.

¹³ Fakhri Muthi, Philips A Kana, and Fitriati Fitriati, "Pertimbangan Hakim Dalam Menjatuhkan Pidana Pada Perkara Tindak Pidana Pelanggaran Hak Cipta," *Unes Journal of Swara Justisia* 7, no. 4 (January 2024): 1332-40, <https://doi.org/10.31933/ujsj.v7i4.446>.

¹⁴ Rukmana, "Perlindungan Hak Cipta Terhadap Pencipta Lagu Di Indonesia."

¹⁵ Sartika Nanda Lestari, "Perlindungan Hak Moral Pencipta Di Era Digital Di Indonesia," *Diponegoro Private Law Review* 4, no. 3 (2019): 1-11, <https://ejournal2.undip.ac.id/index.php/dplr/article/view/6550>.

¹⁶ Ni Made Harini, I Nyoman Putu Budiarta, and Desak Gde Dwi Arini, "Pelaksanaan Perlindungan Hukum Bagi Pemilik Hak Cipta Musik Dan Lagu Dalam Pembayaran Royalti Oleh Yayasan Karya Cipta Indonesia," *Jurnal Interpretasi Hukum* 2, no. 1 (March 2021): 89-94, <https://doi.org/10.22225/juinhum.2.1.3111.89-94>.

¹⁷ Muhammad Deovan Reondy Putra and Hari Sutra Disemadi, "Counterfeit Culture Dalam Perkembangan UMKM: Suatu Kajian Kekayaan Intelektual," *KRTHA BHAYANGKARA* 16, no. 2 (April 5, 2024): 297-314, <https://doi.org/10.31599/krtha.v16i2.1215>.

¹⁸ Callesta Aydelwais De Fila Asmara, Zaenal Arifin, and Fahrudin Mubarak Anwar, "Penyelesaian Sengketa Hak Cipta Antara Pencipta Lagu Dan Penyanyi," *Jurnal USM Law Review* 6, no. 2 (September 2023): 860-72, <https://doi.org/10.26623/julr.v6i2.7499>.

¹⁹ Fenny Wulandari, "Problematisasi Pelanggaran Hak Cipta Di Era Digital," *Journal of Contemporary Law Studies* 2, no. 2 (May 2024): 99-114, <https://doi.org/10.47134/lawstudies.v2i2.2261>.

sustainability of the national creative industry. While crucially addressing the digital nature of IP Rights infringement, the study did not reconcile differences between enforcement, particularly surrounding commercial and non-commercial dissemination in the digital space, with no specific focus on how judicial approaches may affect enforcement. Overall, these findings suggest that while copyright protection has been regulated, issues surrounding its enforcement is inherently limited, particularly in the digital context, where ambiguities and the lack of dedicated digital infringement rules may be exploited and create differences in how disputes surrounding IP Rights infringements are treated before the court.

Based on this literature review, there is a prevailing gap surrounding the connection between normative gaps in the Indonesian copyright regime and how judges approach cases of copyright infringements conducted in the digital space. This gap is what this study is specifically aiming to fill, while also serving as its primary novelty. This gap is aimed to be addressed by bridging doctrinal insights from Law No. 28 of 2014 on Copyrights with actual enforcement of the law's normative architecture before the court, with the specific focus on two different cases, namely the dispute between Djanuar Ishak and PT Elang Prima Retailindo concerning the unauthorized duplication and commercial use of the song "SKJ88," as adjudicated in Decision No. 35/Pdt.Sus-Hak Cipta/2021/PN Jkt.Pst, and the dispute between Ari Bias and Agnez Mo concerning the unauthorized commercial performance of the song "Bilang Saja," as adjudicated in Decision No. 92/Pdt.Sus-HKI/Cipta/2024/PN Niaga Jkt.Pst. This study contributes to the growing body of literature around copyright protection in the digital space, by offering practical insights into potential regulatory developments in the IP Law domain of Indonesia, as the country continues to rapidly develop its economy by utilizing various digital spaces. Additionally, this study strengthens Indonesia's position in the effort to achieve SDG 16 through more just and effective law enforcement. However, the limitations of this research lie in the scope of data, which focuses only on a select number of court decisions within a specific time period.

Research Design and Methodology

This research uses a normative juridical research method, which focuses on examining the application of legal norms in resolving copyright disputes in Indonesia.²⁰ The normative juridical research method is a legal research approach that studies law as a set of norms outlined in legislation, court decisions, and applicable legal doctrines. This method is considered relevant as the study focuses on analyzing the application of legal norms in resolving copyright disputes, requiring an evaluation of consistency, legal certainty, and the alignment of judicial reasoning with copyright protection. The approaches used include the statute approach, case approach, and conceptual approach. The type of data used in this research is secondary data, which is obtained indirectly through library research. The secondary data in this study consists of legal materials, including the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), Law No. 28 of 2014 on Copyrights (Copyright Law), Copyright Decision No. 35/Pdt.Sus-Hak Cipta/2021/PN Jkt.Pst, and Decision No. 92/Pdt.Sus-HKI/2024/PN Niaga Jkt. Pst. The selection of these two cases are based on their application of the Indonesian Copyright Law, along with their digital context and digital-adjacent element used within the adjudication process.

The core limitation of this study lies in the lack of primary empirical evidence to confirm broader enforcement data, as it relies on secondary data in the form of primary law sources. Data analysis is conducted through a descriptive-qualitative technique, focusing on classifying patterns of decisions, judicial reasoning, and their relevance to legal objectives.²¹ The statute approach is used to examine the legal norms that apply to intellectual property protection, such as the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), Law No. 28 of 2014 on Copyrights, Copyright Decision No. 35/Pdt.Sus-Hak Cipta/2021/PN Jkt.Pst, and Decision No. 92/Pdt.Sus-HKI/2024/PN Niaga Jkt. Pst. The case approach (case approach) is used to analyze the content of court decisions based on jurisprudence/legal decisions that have binding and final legal force. Additionally, the conceptual approach is employed to explore relevant legal concepts to strengthen the argumentation and

²⁰ Kornelius Benuf and Muhamad Azhar, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Gema Keadilan* 7, no. 1 (April 2020): 20-33, <https://doi.org/10.14710/gk.2020.7504>.

²¹ Hari Sutra Disemadi, "Legal Aspects of 'Gali Lubang Tutup Lubang' in Fintech P2P Lending Business During Covid-19," *Talrev* 6, no. 1 (2021): 237-51, <https://doi.org/10.31843/jmbi.v6i1.187.2>.

theoretical foundation of the research.²² Data collection is carried out through systematic review of legal documents. The data analysis technique is descriptive-qualitative, focusing on classifying patterns of decisions, judicial reasoning, and their relevance to legal objectives.²³ The analytical landscape of this study is comprised of four stages: the extraction of material facts, the identification of judicial considerations, the comparison of reasoning and compensation outcomes, and the evaluation of said findings against the normative architecture of Law No. 28 of 2014 on Copyrights.

Findings and Discussion

Judicial Considerations and Decisions in Resolving Copyright Disputes in Indonesia Based on Court Decisions Data

Copyright disputes in Indonesia have been on the rise due to the growth of the creative industry and the ease of distributing works through digital media. According to the Annual Report of the Directorate General of Intellectual Property (DJKI), Ministry of Law and Human Rights, the number of intellectual property infringement cases in Indonesia has fluctuated in recent years, with an average of 296 cases reported between 2019 and 2025.²⁴ In this context, law enforcement authorities, particularly judges, play a crucial role in ensuring legal protection for creators through fair decisions.²⁵ Judicial reasoning should not only be based on the analysis of statutory law or normative principles but also on substantive justice that ensures fairness for all parties involved. In practice, the principle of substantive justice used by judges must consider good faith, the degree of intent, the impact of the damages, and the purpose of the use of the work (commercial or non-commercial). Therefore, analyzing judicial decision patterns is crucial to understanding the consistency or differences in the application of legal norms.²⁶ Thus, judicial reasoning reflects the relationship between written law and the needs of justice in society.

The case of Djanuar Ishak against PT Elang Prima Retailindo, with Decision Number 35/Pdt.Sus-Hak Cipta/2021/PN Jkt.Pst, serves as an important example in demonstrating the judicial decision-making pattern.²⁷ In general, the core of Decision 35/Pdt.Sus-Hak Cipta/2021/PN Jkt.Pst states that:

Table 1.
Case Overview and Decision Outcome of Case No. 35/Pdt.Sus-HK/2021/PN Jkt.Pst

No.	Lawsuit	Decision Outcome
35/Pdt.Sus-Hak Cipta/2021/PN Jkt.Pst	1. Djanuar Ishak, the creator of the song "Senam Kesegaran Jasmani 1988 (SKJ88)," sued PT Elang Prima Retailindo. 2. The defendant allegedly duplicated, distributed, and used the song SKJ88 for commercial purposes without permission. 3. The plaintiff sought compensation for economic losses, loss of recognition as	1. The court recognized Djanuar Ishak as the creator and copyright holder of "SKJ88" and as the owner of the economic rights in its sound recording. 2. PT Elang Prima Retailindo was held liable for reproducing and commercially using the song and phonogram in an advertisement without permission. 3. The defendant was ordered to pay Rp149,000,000 in material damages.

²² David Tan, "Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum," *NUSANTARA: Jurnal Ilmu Pengetahuan Sosial* 8, no. 5 (2021): 2463-78, <https://jurnal.um-tapsel.ac.id/index.php/nusantara/article/view/5601>.

²³ Disemadi, "Legal Aspects of 'Gali Lubang Tutup Lubang' in Fintech P2P Lending Business During Covid-19."

²⁴ Agatha Olivia Victoria, "Kemenkum Catat 296 Perkara Pelanggaran KI Terjadi Dalam Tujuh Tahun," *antaranews.com*, 2025.

²⁵ Nizla Rohaya and Sumarni Sumarni, "Dinamika Hukum Perdata Dalam Penyelesaian Sengketa Hak Cipta Berdasarkan UU Hak Cipta Di Indonesia," *Sanskara Hukum Dan HAM* 3, no. 03 (April 2025): 125-31, <https://doi.org/10.58812/shh.v3i03.542>.

²⁶ Aidil Firmansyah et al., "Putusan Pengadilan Sebagai Sumber Hukum Yurisprudensi," *Wathan: Jurnal Ilmu Sosial Dan Humaniora* 1, no. 2 (June 2024): 136-46, <https://doi.org/10.71153/wathan.v1i2.79>.

²⁷ Ferdinand Yusuf Marcelino Sihite and Hernawan Hadi, "Perlindungan Hukum Terhadap Hak Ekonomi Pemegang Hak Cipta Atas Mechanical Rights Yang Dikomersialkan Tanpa Izin," *Amandemen: Jurnal Ilmu Pertahanan, Politik Dan Hukum Indonesia* 1, no. 2 (March 2024): 147-60, <https://doi.org/10.62383/amandemen.v1i2.149>.

the creator, and damage to the originality of the work.

4. The defendant was separately ordered to pay Rp5,000,000,000 in immaterial damages.

Source: Decision Number 35/Pdt.Sus-Hak Cipta/2021/PN Jkt.Pst, 2021.

In Decision No. 35/Pdt.Sus-Hak Cipta/2021/PN Jkt.Pst, the court's reasoning followed three connected considerations. The plaintiff's authorship and economic rights in "SKJ88" were established through KCI documentation;²⁸ the song and phonogram had been reproduced and synchronized with the Bodimax Running Machine advertisement without his permission;²⁹ and the advertisement was produced for the defendant's commercial promotion. Although O Channel produced the program,³⁰ the court attributed responsibility to PT Elang Prima Retailindo primarily due to the fact that it was the company behind the request for the promotional content, for advertising purposes. When it comes to the considerations that led to the decisions, the court crucially took into account the plaintiff's ownership, the absence of permission, the commercial character of the infringement, and most importantly, the defendant's connection to the infringement and the benefit from the advertisement. From this standpoint it is apparent that the court did not utilize a generalized "digital distribution trace" to account for the damages. However, beyond the Rp149,000,000 of material damage, which the court tied to the potential gross revenue from the sale of 50 Bodimax Running Machine units at Rp2,980,000 per unit, the court also awarded Rp5,000,000,000 in immaterial damage to the plaintiff. Despite explaining why immaterial damage existed, the court did not provide any explanation as to why it amounted to such figure. Nevertheless, it represented a strong emphasis on the protection of moral rights, along with the focus on protecting the integrity of copyrighted works.

In the case of Ari Bias against Agnez Mo, Decision Number 92/Pdt.Sus-HKI/Copyright/2024/PN Niaga Jkt.Pst, it is stated that:

Table 2.

Case Overview and Decision Outcome of Case No. 92/Pdt.Sus-HKI/Copyright/2024/PN Niaga Jkt.Pst

No.	Lawsuit	Decision Outcome
92/Pdt.Sus-Hak Cipta/2021/PN Jkt.Pst	1. Ari Bias (creator of the song "Bilang Saja") sued Agnez Mo for performing his song without permission at three commercial concerts (Jakarta, Surabaya, Bandung, May 2023). 2. Ari sought material compensation of Rp1.5 billion and immaterial compensation of Rp1 billion.	1. The judge declared Ari Bias as the rightful creator and copyright holder of the song "Bilang Saja." 2. Agnez Mo was found to have violated Articles 9 (2) & (3) of Law No. 28/2014 by using the song commercially without permission. 3. The lawsuit was partially accepted: Agnez Mo was ordered to pay Rp1.5 billion in material compensation. 4. The claim for immaterial compensation of Rp1 billion was rejected due to insufficient evidence. 5.

²⁸ Recordation serves an evidentiary function in copyright disputes in Indonesia. See Meirina Dewi Pratiwi, Kartika Sasi Wahyuningrum, and Erniwati Erniwati, "Pelindungan Hukum Terhadap Pendaftaran Kekayaan Intelektual Secara Online: Manfaat Hukum," *Judge : Jurnal Hukum* 6, no. 2 (2025): 56-64, <https://doi.org/10.54209/judge.v6i02.1288>.

²⁹ In the case, this involves the unauthorized dissemination of the copyrighted work through O Channel and the defendant's YouTube channel, which in itself constitutes an infringement. See Prishela Wandu Kaunang, Toar Neman Palilingan, and Marthin Lambonan, "Tinjauan Tentang Perlindungan Hak Cipta Di Internet Menurut Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta," *Jurnal Lex Crimen* 11, no. 4 (2022): 1-13, <https://ejournal.unsrat.ac.id/v3/index.php/lexcrimen/article/view/42046>.

³⁰ O Channel's absence from the proceedings can perhaps be identified as an unresolved, separate question of PT Omni Intivision's corporate responsibility for production and music-selection decisions undertaken by its personnel within their assigned functions. This particular problem revolves around Article 1367 of the Civil Code in Indonesia, and it indicates that a company may remain responsible for employee conduct connected to assigned duties and business operations, even where internal procedures or authority have been exceeded. See Retno Andarini, Lu Sudirman, and Hari Sutra Disemadi, "Business Liability For Off-Procedure Consumer Transactions: An Analysis Of Ultra Vires and Vicarious Liability," *Wijaya Putra Law Review* 4, no. 2 (October 2025): 189-216, <https://doi.org/10.38156/wplr.v4i2.315>.

Agnez Mo was required to pay legal costs.

Source: Decision Number 92/Pdt.Sus-HKI/Copyright/2024/PN Niaga Jkt.Pst, 2024.

In Decision No. 92/Pdt.Sus-HKI/Cipta/2024/PN Niaga Jkt.Pst, the court did not determine infringement through substantial similarity, appropriation of original elements, or modifications to the song's arrangement. Instead, it recognized Ari Bias as the creator and copyright holder and classified Agnez Mo as a performer of the song, acknowledging that she had recorded in one of her albums. From this standpoint, Agnez Mo's use of the song "Bilang Saja" at three different commercial concerts was framed as defendant illegally exercising the economic right of Ari Bias under Article 9(1)(f) of the Copyright Law. Therefore, the court concluded that the performances violated Article 9(2) and Article 9(3), with the primary reasoning on ownership, the exercise of a protected economic right, the commercial nature of the performances, and most importantly, the absence of permission. The Rp1,500,000,000 material award was calculated at Rp500,000,000 for each of the three concerts. The court accepted the plaintiff's reliance on the maximum criminal fine prescribed by Article 113(2) of the Copyright Law as the benchmark, with the additional reference to the concerts' locations in major cities and their presumed attendance. Conversely, the separate claim for Rp1,000,000,000 in moral-rights damages was rejected because it was not supported by sufficiently strong evidence.³¹ Although the court made no further explanation regarding this, it can perhaps be attributed to the fact that the song was performed without modification that would otherwise damage the reputation and integrity of the song as a copyrighted work, hence the denial of moral rights damages.

Furthermore, it is important to synthesize the findings comparatively, to identify common denominators and the broader pattern of precedence within the Indonesian legal system, from the two cases that have been analyzed. This comparative synthesis is crucial to ensure that cross-case law analysis can systematically extract useful doctrinal insights.³² This is based from the fundamental understanding of doctrinal work itself, which can involve the analysis of multiple case laws, for the purpose of systematizing legal materials and identify what the authorities collectively establish, including gaps and inconsistencies.³³ Below is the table that synthesizes the earlier findings into a coherent cross-case law analysis.

Table 3.

Comparative Analysis of Judicial Reasoning and Compensation Awards in Selected Copyright Cases

Comparative point	"SKJ88" decision	"Bilang Saja" decision	Comparative significance
Nature of the infringing use	Reproduction and synchronization of a song and phonogram with commercial audiovisual advertising.	Live performance of a song at three commercial concerts.	The cases concerned different economic rights: reproduction and synchronization in one case and performance in the other.
Pattern of judicial considerations	Ownership, absence of permission, commercial use, and the defendant's responsibility for and benefit from the advertisement.	Ownership, classification of the defendant as a performer, exercise of the performance right, commercial use, and absence of permission.	Both courts followed permission-centred reasoning, although they applied it to different forms of exploitation.

³¹ Rusdinah Rusdinah, Seselia Ongso, and Clarrance Mackinnley Filan, "Analisis Yuridis Terhadap Penyalahgunaan Lagu Tanpa Lisensi Dalam Pertunjukan Komersial (Studi Putusan No. 92/Pdt.Sus-HKI/Cipta/2024/PN Niaga Jkt.Pst)," *Anthology: Inside Intellectual Property Rights* 3, no. 1 (2025): 323-339.

³² William Baude, Adam S. Chilton, and Anup Malani, "Making Doctrinal Work More Rigorous: Lessons from Systematic Reviews," *The University of Chicago Law Review* 84 (2017): 37-58, <https://lawreview.uchicago.edu/print-archive/making-doctrinal-work-more-rigorous-lessons-systematic-reviews>.

³³ Stefan Theil, "Carefully Tailored: Doctrinal Methods and Empirical Contributions," *Oxford Journal of Legal Studies* 45, no. 4 (December 10, 2025): 1047-75, <https://doi.org/10.1093/ojls/gqaf029>.

Basis of material compensation	of Rp149,000,000, corresponding to the potential gross revenue from 50 products priced at Rp2,980,000 each.	Rp1,500,000,000, calculated as Rp500,000,000 for each of three concerts by reference to Article 113(2).	The courts used different benchmarks, neither of which was based on a proven licence fee or lost royalty.
Moral or immaterial damages	or Rp5,000,000,000 was awarded without an equally concrete calculation of the amount.	Rp1,000,000,000 was rejected because of insufficient supporting evidence.	The courts applied different evidentiary treatment to non-economic harm.
Overall analytical implication	The compensation was linked to the potential gross revenue of the advertised product.	The compensation was linked to a statutory criminal fine multiplied by the number of performances.	Liability reasoning was broadly similar, but compensation quantification lacked a consistent civil methodology.

Source: Researchers' analysis, 2026.

The comparison demonstrates a common pattern in determining liability in copyright disputes. Both courts began by establishing the plaintiff's ownership, identifying a commercially exercised economic right, and determining whether the defendant had obtained the required permission. The primary difference from the two cases stem from the nature of the activity where the infringement happens. The "SKJ88" case involved the reproduction and synchronization in commercial advertising. The "Bilang Saja" case, on the other hand, involved live performances using copyrighted word, where the performer illicitly exercised the economic right of the copyright holder behind the song "Bilang Saja". However, it is imperative to note that substantial similarity, modification, and appropriation of original elements were not utilized as decisive considerations in either case. This is tied to both cases' overwhelming focus on determining whether a specifically protected economic use had been undertaken commercially without authorization.

The constellation of reasonings displayed in the two case laws perhaps have created a paradox in the comparative analysis, as both cases display a sharp divergence in the determination of compensation. The court in the "SKJ88" case determined the material damage from potential gross revenue for the advertised product, while the court in the case law "Bilang Saja" utilized the maximum criminal fine under Article 113(2) of the Copyright Law for each of the performance that the defendant, Agnez Mo, did. While these reflected the lower level of complexity in the two cases, the differences ultimately point to the same anchor of unauthorized usage, with the latter case using a more established legal basis by stating that the defendant was exploiting the economic rights of the copyright holder behind the song "Bilang Saja".

The complexity of the comparative synthesis becomes more pronounced when the context of immaterial damage is taken into account. Despite taking similar approaches in nature, the two case laws differ in the principle decision around immaterial damages. The court in the "SKJ88" case granted a substantial amount to the plaintiff for immaterial damages suffered, by acknowledging that the infringement affected the plaintiff's moral and economic interests, including appreciation for the work and its authenticity. This is based on the detail that the copyrighted work that the defendant used illicitly "was not the complete song but had been cut or mutilated."³⁴ Moreover, this is well within the judge's authority and discretion as allowed within the Indonesian legal system.³⁵ On the other hand, the court in the case "Bilang Saja" did not grant the plaintiff any acknowledgement of immaterial damage, with the thin of reasoning of "insufficient evidence". The court in the case also provided no

³⁴ Doctrinally, this is often the case with copyright disputes as alteration does not only damage the economic rights of the copyright holder, but also the integrity of the copyrighted work itself, which directly translates to the moral rights attached to the copyright holder. See Catherine Bond, "Moral Rights in Australia: A Case Law Retrospective—Part 2," *Journal of Intellectual Property Law and Practice* 20, no. 3 (March 21, 2025): 139-46, <https://doi.org/10.1093/jiplp/jpae090>.

³⁵ Devina Puspita Sari, Siti Rohani, and Angga Prihatin, "The Urgency of Arrangement Regarding Immaterial Compensation in Civil Law in Indonesia," *DiH: Jurnal Ilmu Hukum* 19, no. 1 (February 27, 2023): 23-38, <https://doi.org/10.30996/dih.v19i1.7988>.

further explanation as to what would have been enough, or give any implication regarding how such insufficiency does not translate to damaged moral rights of the copyright holder.

A crucial thing to note regarding the case “Bilang Saja”, is that the overwhelming center of the case itself, as taken from the nature of the infringement, is unpaid royalties, not unauthorized use of a copyrighted work, as the court itself acknowledged that song was recorded by Agnez Mo as a part of one of her albums. From this standpoint, Agnez Mo was not required to ask for permission to sing the song before every performance per Article 23(5), which permits commercial performance without prior direct permission when compensation is paid through collective management. Despite the acknowledgement of the song being a part of Agnez Mo’s discography, the court provided no explanation as to why a fundamentally a royalty dispute case was transformed into personal infringement liability against the recording artist of the song itself. The Indonesian copyright system has provided an exact mechanism for this, as described in Government Regulation No. 56 of 2021 Management of Song and/or Music Copyright Royalties, specifically Articles 3, 10, and 12. Article 10(2).³⁶ The defendant’s defense council expressly argued for this, while also citing the need to address this issue with the company that organized the concert and the (National Collective Management Organization (LMKN), but the argumentation was eventually not accepted by the court, despite it being legally precise.

Furthermore, both cases did not substantially cover the element of digital dissemination, despite the element itself being present in both documentations of the legal proceedings. While the nature of fairness is highly debatable for the second case, unlike the first case, the blindsiding of digital dissemination inherently frames both courts as rather agnostic to the impacts of digital technology, particularly in how fast and widespread it can cause a chain of infringements, as internet users can easily share what they find on many digital platforms through various methods.

Implications of Judicial Decision Patterns on Copyright Protection and the Development of a Just Legal System in the Context of SDG 16

Judges play a strategic role as enforcers of justice and guarantors of legal certainty, particularly in copyright infringement cases. In practice, judges do not merely interpret legal provisions but also establish the standards for applying the law through their decisions. For example, when assessing the boundary between economic infringement of the creator’s rights and fair use within the digital space.³⁷ These decisions then contribute to the formation of jurisprudential patterns that clarify the limits of copyright protection, especially in cases involving the use of works on digital platforms. Therefore, through their rulings, judges can ensure the protection of both the economic and moral rights of creators while providing legal certainty to the public.³⁸ Judges, as protectors of justice, make the judicial institution the last bastion for those seeking justice. Fair decisions strengthen public trust in the national legal system.³⁹ Judges must balance normative and moral aspects in each decision they issue. Consequently, copyright protection can be implemented consistently and fairly for all parties involved.

The analysis of judicial decision patterns reflects the effective application of the Copyright Law in the judicial process.⁴⁰ Judges are responsible for ensuring that each case is resolved according to the prevailing legal norms. The implementation of the Copyright Law is not only assessed based on the content of the decisions but also on the consistency in applying the principles of justice and the protection of creators’ economic rights. This includes the uniformity of judges in assessing elements

³⁶ Miliarni Deida Navydien and Aldira Mara Ditta C. P, “Perlindungan Hukum Terhadap Pencipta Atas Royalti Lagu Yang Tidak Dibayarkan Dalam Kegiatan Komersial,” *UNES Journal of Swara Justisia* 9, no. 3 (October 6, 2025): 383-96, <https://doi.org/10.31933/tvejsa28>.

³⁷ Steven Leonardo, Lu Sudirman, and Hari Sutra Disemadi, “Legal Certainty in the Enforcement of Copyright Infringement on E-Commerce Platforms in Indonesia,” *Jurnal Restorative Justice* 9, no. 1 (2025): 39-57, <https://doi.org/10.35724/jrj.v9i1.6549>.

³⁸ Muthi, Kana, and Fitriati, “Pertimbangan Hakim Dalam Menjatuhkan Pidana Pada Perkara Tindak Pidana Pelanggaran Hak Cipta.”

³⁹ Husnul Farida, “Kekuatan Mengikat Putusan Hakim Dalam Praktik Peradilan Perdata: Studi Yurisprudensi Terpilih,” *YUDHISTIRA: Jurnal Yurisprudensi, Hukum Dan Peradilan* 1, no. 3 (2023): 58-66, <https://doi.org/10.59966/yudhistira.v1i3.1681>.

⁴⁰ Putri Nabila Az-Zahra et al., “Standardizing Execution of Intellectual Property as Fiduciary Collateral: A Harmonization Approach,” *Barelang Journal of Legal Studies* 3, no. 2 (2025): 145-68, <https://doi.org/10.37253/barjoules.v3i2.11388>.

of infringement, the level of damages, and the proportionality of sanctions in cases with similar characteristics.⁴¹ In practice, this consistency remains a challenge, as reflected in the varying assessments in similar cases. For example, in disputes over the use of digital works, some rulings emphasize strict protection of creators' economic rights, while others give more weight to the public utility or non-commercial use of the works.

This difference in approach highlights the variations in applying the principle of substantive justice.⁴² Therefore, consistency in decisions is crucial to ensure legal certainty and effective protection for creators, as well as to reflect the country's commitment to respecting intellectual property rights.⁴³ The quality of legal reasoning becomes a key indicator of the successful implementation of the Copyright Law. The success of applying the Copyright Law is reflected in the alignment between theory and practice, as well as the increasing public trust in the national legal system and judiciary.⁴⁴ A judge's primary task is to enforce legal certainty and uphold social justice for all parties involved. In every copyright case, judges must consider not only the text of the law but also respect social conditions and the economic impact on both the creators and users of works.⁴⁵ The principle of substantive justice serves as a guide to ensure that decisions are not rigid or overly formalistic. Judges must be able to assess the proportionality between the creator's rights and the public interest in a balanced manner. With a humanistic approach, law becomes not only a tool for punishment but also a means of achieving peace and moral protection. This pattern shows that true justice arises from a balance between legal rules and human values. Therefore, the role of judges is crucial in ensuring that the law works for the people.

Consistency in judicial reasoning or jurisprudence is an important foundation for building legal certainty and improving the credibility of the judiciary.⁴⁶ When judges apply legal logic and consistent reasoning in their decisions, the public gains certainty about the direction of law enforcement in the future. This consistency also provides guidance for lower courts and legal practitioners. In copyright cases, uniform reasoning can prevent disparities in decisions on similar cases. Moreover, a stable jurisprudential pattern strengthens public trust in the integrity of the judicial institution. Therefore, judges not only decide individual cases but also contribute to the formation of a more structured national legal system.⁴⁷ This demonstrates that the credibility of the judiciary grows from the consistency, transparency, and accountability of decisions.

The protection of creators' economic rights is a central focus in every copyright dispute decision. Judges play a role in determining the amount of compensation that reflects the economic value of the work and serves as a deterrent to violators.⁴⁸ A decision that grants fair compensation emphasizes that intellectual works have economic value that must be respected. This also encourages creators to continue producing works with a sense of security and protection. On the other hand, strict sanctions for violators serve as a lesson to prevent repeated violations.⁴⁹ Thus, judicial decisions serve a dual function: enforcing justice and building legal awareness within society. This reinforces a culture of legal compliance and respect for intellectual works in the ever-growing creative economy.

⁴¹ Ayen Sephia Dhani, Hari Sutra Disemadi, and Lu Sudirman, "Dilema Kekayaan Intelektual Dalam Visualisasi Karakter Public Figure Dalam Fanfiksi," *Jurnal Yustisiabel* 8, no. 2 (October 2024): 268-90, <https://doi.org/10.32529/yustisiabel.v8i2.3557>.

⁴² Rufinus Hotmaulana Hutaeruk et al., "Copyright Law and Investment In Indonesia: A Legal Bridge," *Mimbar Hukum* 35 (December 2023): 197-217, <https://doi.org/10.22146/mh.v35i0.11456>.

⁴³ Fikri Ali Mufthi, Nuzulia Kumala Sari, and Ermanto Fahamsyah, "Penerapan UU Nomor 28 Tahun 2014 Terhadap Perlindungan Hukum Atas Hak Cipta Lagu Dengan Cover Lagu Di Media Sosial," *WELFARE STATE Jurnal Hukum* 3, no. 1 (2024): 25-36, <https://doi.org/https://doi.org/10.56013/welfarestate.v3i1.2746>.

⁴⁴ Rifa Nasya Shafwa and Andriyanto Adhi Nugroho, "Efektivitas Perlindungan Hukum Pemegang Hak Cipta Atas Pembajakan Film Pada Situs Online Di Indonesia," *Jurnal Interpretasi Hukum* 4, no. 3 (2023): 524-35, <https://doi.org/10.22225/juinhum.4.3.8233.524-535>.

⁴⁵ Fitri Pratiwi Rasyid, "Kajian Relevansi Delik Aduan Pada Implementasi Undang-Undang Hak Cipta," *Jurnal Mimbar Hukum* 32, no. 2 (2020): 213-27, <https://doi.org/10.22146/jmh.51060>.

⁴⁶ Faidatul Hikmah, Andri Yanto, and Kelvin Ariski, "Perlindungan Hak Ekonomi Bagi Pemilik Hak Cipta Dalam Perspektif Hukum Kekayaan Intelektual Di Indonesia," *Jurnal Pendidikan Dan Konseling (JPDK)* 5, no. 2 (2023): 2254-2260, <https://doi.org/10.31004/jpdk.v5i2.13503>.

⁴⁷ Shiddiq, Nurwati, and Ilyanawati, "Perlindungan Hukum Terhadap Hak Cipta Pelaku Ekonomi Kreatif Bidang Industri Musik Di Indonesia."

⁴⁸ Iftitah Dwi Aprilyani and Indra Yulianan, "Tinjauan Yuridis Terhadap Pelaksanaan Hak Kekayaan Intelektual Sebagai Upaya Memajukan Industri UMKM Di Kabupaten Semarang," *ADIL Indonesia Journal* 4, no. 2 (2023): 31-39, <https://doi.org/10.35473/aij.v4i2.2373>.

⁴⁹ Gentur Cahyo Setiono and Rizki Yudha Bramantyo, "Implementasi Sanksi Pidana Terhadap Pelanggaran Hak Cipta Di Indonesia," *Jurnal Transparansi Hukum* 6, no. 1 (2023): 138-45, <https://doi.org/10.30737/transparansi.v6i1.4596>.

Consistent and fair judicial decisions also support Indonesia's commitment to global copyright protection. This aligns with the Sustainable Development Goal (SDG) 16, which emphasizes the importance of strong, transparent, and accountable legal institutions. The alignment between national judicial practices and international standards strengthens Indonesia's position in the global legal arena.⁵⁰ In the realm of copyright, this demonstrates the country's commitment to ensuring justice and protection for intellectual works. A decision pattern based on universal justice principles also expands public trust in national justice.⁵¹ Therefore, consistent legal application becomes a tangible form of the judiciary's contribution to sustainable development goals. Thus, judges play a strategic role in shaping a national legal system that aligns with international justice principles.

The openness of judicial reasoning reflects transparency and accountability in the judicial process in realizing justice. Transparent decisions encourage the public to understand the legal basis and reasoning used by judges.⁵² This enhances public trust in the judiciary and encourages public oversight of legal integrity. In copyright cases, transparency also demonstrates the judiciary's commitment to protecting creators without discrimination. Accountability ensures that each decision is made through a professional and impartial process.⁵³ Therefore, justice is not only substantively achieved but also procedurally visible. High transparency and accountability will strengthen the legitimacy of the law and create a clean and integrated judicial system.

Additionally, technological advancements demand that judges adapt to the recognition of digital evidence in copyright cases. Electronic evidence such as metadata, digital recordings, and online traces have become vital tools in proving infringement.⁵⁴ The recognition of digital evidence reflects progress in the modernization of the legal system. This demonstrates that copyright protection has evolved in response to the needs of the digital era. Judges who are responsive to technological developments can achieve justice in the midst of digital transformation.⁵⁵ This strengthens legal protection for creators whose works are widely distributed in digital spaces. Thus, adapting to digital evidence is a moral responsibility to safeguard copyright in the modern era.

From the synthesis, it is apparent that the two case laws have taken similar approaches in nature, yet differ in how the decisions for immaterial damages. This difference has materialized in the differing elements expressed by both courts in their respective decisions, particularly regarding the immaterial damages. The first case regarding SKJ88 demonstrated a clear and consistent reasoning surrounding the nature of the infringement, with every reasoning sufficiently expressed and elaborated by the court. The chain of events that eventually led to the infringement were also clearly established, with no conflict with other potentially relevant provisions within the Copyright Law identified. More importantly, beyond the compensation for material damage, the court crucially awarded quite a substantial sum of compensation for immaterial damage to the plaintiff as copyright holder, after acknowledging the damages to moral rights due to the alteration to copyrighted work.

More importantly, the thin reasoning provided by the court to deny immaterial damage claims by the plaintiff in the case "Bilang Saja" is rather questionable, as it positioned the court in the middle of two doctrinal standpoints that contrast each other. While the decision and reasoning provided by the court can be considered as unsatisfactory, particularly due to the severe lack of explanation regarding the denial of precise legal argumentation provided by the defense counsel of the defendant regarding the case being fundamentally a royalty dispute, inherently framed the case, perhaps in a

⁵⁰ Loso Judijanto et al., "Challenges and Opportunities in Implementing Intellectual Property Rights Protection System for Creative Industry Development in Indonesia," *West Science Law and Human Rights* 2, no. 1 (2024): 28-35, <https://doi.org/10.58812/wslhr.v2i01.605>.

⁵¹ Imran Imran, "Pelanggaran Kode Etik Dan Pedoman Perilaku Hakim," *Jurnal Politik Dan Hukum* 12, no. 1 (2019): 1-15, <https://doi.org/10.29123/jy.v12i1.379>.

⁵² Fitri Astari Asril, Rika Ratna Permata, and Tasya Safiranita Ramli, "Perlindungan Hak Cipta Pada Platform Digital Kreatif YouTube," *Jurnal Jurisprudence* 10, no. 2 (2020): 146-62, <https://doi.org/10.23917/jurisprudence.v10i2.10368>.

⁵³ Ali Masykur Fathurrahman and Muhammad Sopiya, "Perbandingan Pemanfaatan Hak Cipta Sebagai Objek Jaminan Fidusia Di Negara Indonesia & Amerika Serikat," *Jurnal Surya Kencana Satu: Dinamika Masalah Hukum Dan Keadilan* 13, no. 2 (2022): 107-118, <https://doi.org/10.32493/jdmhkdmdhk.v13i2.25320>.

⁵⁴ Raden Handiriono, Dharliana Hardjowikarto, and Fatina Rizka Sahila, "Tinjauan Yuridis Pemanfaatan Hak Cipta Sebagai Objek Kebendaan Yang Dapat Dijaminkan Dalam Suatu Perjanjian," *Hukum Responsif* 14, no. 2 (2023): 92-98, <https://doi.org/10.33603/v14i2.8723>.

⁵⁵ T. Keizerina Devi Azwar, Yati Sharfina Desiandri, and Putri Rumondang Siagian, "Economic Globalization and Legal Sovereignty: Who Owns Copyright in Indonesia?," *LITERACY: International Scientific Journals of Social, Education, Humanities* 3, no. 2 (2024): 182-201, <https://doi.org/10.56910/literacy.v3i2.3310>.

transformative yet legally questionable manner, as a copyright infringement where the core problem revolves around the absence of permission to perform a copyrighted work. If this study were to accept this position, however contrary to the provisions of Government Regulation No. 56 of 2021, the court could have been seen as more doctrinally consistent if it were to reward the plaintiff with the compensation of immaterial damage, considering the fact that performance of the song itself is often subject to alteration, albeit minor, which would provide sensible ground for the damage of immaterial damage. Yet, in both accounts, the court provided little to no detailed explanation regarding the reasonings taken.

These cases therefore reflected the issue within the Indonesian judicial system, where fair institutional performance and access to justice is not yet consistent. The thought experiment provided above regarding the position of the case and the doctrinal consistency in the approaches taken by the court in “Bilang Saja” case, highlighted the issue with access to justice and accountable institutions. The denial of precise legal argumentation, followed by the lack of explanation by the court, ultimately erode the value of justice and integrity of the Indonesian legal system, going against the noble goal of SDG 16.⁵⁶ Unlike the first case regarding “SKJ88” where the court remained largely consistent to the point of awarding compensation for immaterial damage to the plaintiff, the second case did not even provide as to why no immaterial damage occurred, despite having transformed the case from a royalty dispute to an authorized use of copyrighted work. Additionally, both courts did not take into account the true extent of digital dissemination, despite the element being present in their respect case. Specifically in the first case, this could have potentially added more reward to compensate the author whose copyrighted work and moral rights were damaged by the clear and proven unauthorized use. The lack of acknowledgement on digital dissemination, in particular, can perhaps be attributed to the existing gaps within the Copyright Law itself, particularly regarding how digital dissemination can act as a significant multiplier of moral rights damage, as sharing across many digital platforms have become overwhelmingly convenient.⁵⁷

To achieve a just and sustainable legal system, strengthening the judiciary’s capacity is required, especially for judges through continuous training in intellectual property law, the development of guidelines or jurisprudence for consistent decision-making, and enhancing technical competencies related to the digital technology developments concerning copyright violations.⁵⁸ This effort aims to enhance judges’ substantive understanding and technical abilities to handle increasingly complex cases in the digital era, ensuring that decisions are more accurate and responsive to legal developments.⁵⁹ Furthermore, developing a national jurisprudential guideline on copyright protection is crucial to create uniformity in decisions across Indonesia. This step supports SDG 16, which aims to build strong and effective legal institutions. With clear guidelines, judges can make decisions more objectively and consistently. Strengthening the judicial system will enhance public trust in law enforcement.⁶⁰ Overall, improving judges’ capacity and updating legal guidelines are key to creating fair and sustainable copyright protection.

Conclusion

The analysis of the cases have revealed a glaring inconsistency between the two cases, as they are treated as fundamentally the same, despite the material facts and the nature of the cases being different. This ultimately resulted in doctrinally clear and consistent legal reasoning in the case of

⁵⁶ Cynthia Onyinyechi Igodo, “Enforceability of Foreign Copyright in Nigeria: A Review of the Court of Appeal’s Decision in *Microsoft v. Franike*,” *Commonwealth Law Bulletin* 44, no. 2 (April 3, 2018): 227-36, <https://doi.org/10.1080/03050718.2019.1608278>.

⁵⁷ Enrico Bonadio, Nicola Lucchi, and Giuseppe Mazziotti, “Will Technology-Aided Creativity Force Us to Rethink Copyright’s Fundamentals? Highlights from the Platform Economy and Artificial Intelligence,” *IIC - International Review of Intellectual Property and Competition Law* 53, no. 8 (September 26, 2022): 1174-1200, <https://doi.org/10.1007/s40319-022-01213-7>.

⁵⁸ Hari Sutra Disemadi et al., “IPR-Based Sustainable Tourism: Comparative Analysis of Indonesia, Malaysia, and Thailand,” *Legality: Jurnal Ilmiah Hukum* 34, no. 1 (March 12, 2026): 113-36, <https://doi.org/10.22219/ljih.v34i1.43454>.

⁵⁹ Magya Ramadhania Putri, Zainur Hidayah, and Anita Maharani, “Perspectives to Strengthening Competencies of Judges in The Supreme Court of The Republic of Indonesia,” *Jurnal Manajemen* 14, no. 2 (2023): 220-239, <https://doi.org/10.32832/jm-uika.v14i2.11228>.

⁶⁰ Odi Jarodi, Muhammad Khafid, and Arief Yulianto, “From Fragmentation to Coherence: Enhancing Human Resource Capacity in Indonesian Law Reform for Effective Justice Delivery,” *Jurnal of Law Reform* 5, no. 4 (2024): 2071-92, <https://doi.org/10.15294/jllr.v5i4.18924>.

“SKJ88”, with even the immaterial damages accounted and compensated substantially. The second case, regarding the copyrighted song of “Bilang Saja”, revealed a demonstrably inconsistent doctrinal approach taken by court, with severe lack of transparency in the legal reasoning, as precise legal arguments were denied without adequate explanation, effectively transforming a fundamentally royalty dispute to a straightforward case of copyright infringement from unauthorized use. The common denominator between the two cases, however, is the lack of emphasis on digital dissemination and the extent of its implications, despite the element itself being present.

Improvements and judicial oversight is needed in Indonesia to fully realize the SDG 16 objectives in the country’s legal system, which in the second case, can involve adequate support for an appeal in response to a decision that, at least within the perspective of the party that suffers from it, is unfair. More broadly, within the context of in-court legal proceedings, judges should be required to provide sufficient legal reasoning for the denial of legal arguments, particularly when such denial clashes with primary legal sources enshrined in the codified laws within the Indonesian legal system. Within the context of digital era, courts should also be more aware of the true extent of digital dissemination, along with its subsequent implication in an infringement case. While the parties in both cases did not specifically center their argumentation around digital dissemination, the presence of the element itself should warrant an exploration that judges can address, for the sake of gathering all the necessary information and establish the material facts for damage calculation purposes.

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Statement on the Use of Generative Artificial Intelligence (AI)

The authors did not use any generative artificial intelligence or AI-assisted tools in the preparation of this manuscript. All aspects of writing, analysis, interpretation, and conclusions were independently undertaken by the authors, who assume full responsibility for the originality, accuracy, integrity, and final content of the manuscript.

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