

**THE VALIDITY OF SONG MODIFICATIONS MADE BY UNKNOWN
IDENTITIES (ANONYMOUS) UNDER THE COPYRIGHT LAW**

SKRIPSI

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PROGRAM STUDI HUKUM EKONOMI SYARIAH

FAKULTAS SYARIAH

UNIVERSITAS ISLAM NEGERI MAULANA MALIK IBRAHIM

MALANG

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2025

PERNYATAAN KEASLIAN SKRIPSI

Demi Allah,

Dengan kesadaran dan rasa tanggung jawab terhadap pengembangan keilmuan,

Penulis menyatakan bahwa skripsi dengan judul:

THE VALIDITY OF SONG MODIFICATIONS MADE BY UNKNOWN IDENTITIES (ANONYMOUS) UNDER THE COPYRIGHT LAW

Benar-benar merupakan skripsi yang disusun sendiri berdasarkan kaidah penulisan karya ilmiah yang dapat dipertanggungjawabkan. Jika dikemudian hari laporan penelitian skripsi ini merupakan hasil plagiasi karya orang lain baik sebagian maupun keseluruhan, maka skripsi sebagai prasyarat mendapatkan predikat gelar sarjana dinyatakan batal demi hukum.

Malang, 18 Juni 2025

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Ahmad Khusnan Junaidi

NIM 210202110007

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Setelah membaca dan mengoreksi artikel hasil penelitian/skripsi saudara Ahmad Khusnan Junaidi, NIM 210202110007, Program Studi Hukum Ekonomi Syariah, Universitas Islam Negeri Maulana Malik Ibrahim Malang dengan judul:

**“The Validity of Song Modifications Made By Unknown Identities (Anonymous)
Under The Copyright Law”**

Maka pembimbing menyatakan bahwa skripsi tersebut telah memenuhi syarat-syarat ilmiah untuk diajukan untuk diuji oleh Majelis Dewan Penguji.


Mengetahui,
Ketua Program Studi
Hukum Ekonomi Syariah



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Malang, 21 Mei 2025

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Judul Skripsi : The Validity of Song Modifications Made By Unknown Identities (Anonymous) Under The Copyright Law

No	Tanggal	Materi Konsultasi	Paraf
1	24 September 2024	Diskusi Proposal Skripsi	g
2	28 September 2024	Revisi Kerangka teori & definisi operasional	g
3	22 September 2024	ACC Seminar Proposal	f
4.	13 Desember 2024	Diskusi hasil seminar sempro	g
5.	26 Desember 2024	Penyusunan kerangka artikel jurnal	f
6.	20 Januari 2025	Konsultasi Artikel Jurnal	f
7.	12 Februari 2025	Diskusi dan revisi artikel jurnal	g
8.	19 Februari 2025	Revisi Pembahasan Jurnal	g
9.	21 April 2025	Penerimaan LOA artikel jurnal	g
10	21 Mei 2025	ACC naskah skripsi	g

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THE VALIDITY OF SONG MODIFICATIONS MADE BY UNKNOWN IDENTITIES (ANONYMOUS) UNDER THE COPYRIGHT LAW

Telah dinyatakan lulus dalam siding ujian skripsi yang dilaksanakan pada tanggal 13 Juni 2025

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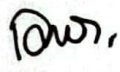
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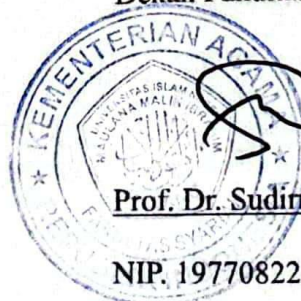
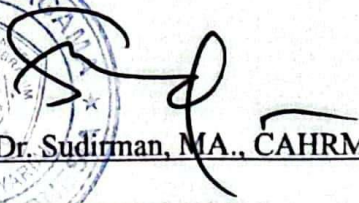
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MOTTO

“Hidup yang tidak dipertaruhkan, tidak akan pernah dimenangkan.”

- *Sutan Sjahrir*

KATA PENGANTAR

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Alhamdulillahirabbil'alamin, yang telah memberikan rahmat dan pertolongan penulisan skripsi yang berjudul: **“THE VALIDITY OF SONG MODIFICATIONS MADE BY UNKNOWN IDENTITIES (ANONYMOUS) UNDER THE COPYRIGHT LAW”** dapat kami selesaikan dengan baik. Shalawat dan salam kita haturkan kepada baginda Rasulullah Muhammad SAW yang telah memberikan uswatun hasanah kepada kita dalam menjalani kehidupan ini secara syar'i. Dengan mengikuti beliau, semoga kita tergolong orang-orang yang beriman dan mendapatkan syafaatnya di hari akhir kiamat. Amien.

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2. Prof. Dr. Sudirman, M.A. Selaku Dekan Fakultas Syariah Universitas Islam Negeri Maulana Malik Ibrahim Malang
3. Dr. Fakhruddin, M.HI. Selaku Ketua Program Studi Hukum Ekonomi Syariah Fakultas Syariah Universitas Islam Negeri Maulana Malik Ibrahim Malang
4. Dr. Fakhruddin, M.HI. Selaku Dosen Wali penulis selama menempuh kuliah di Fakultas Syariah Universitas Islam Negeri Maulana Malik Ibrahim Malang. Terima kasih penulis haturkan kepata beliau yang telah memberikan bimbingan, saran, serta motivasi selama menempuh perkuliahan.
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REVIEW NOTES

Manuscript Title: **The Validity of Song Modifications Made y Unknown Identities (Anonymous) Under The Copyright Law**

(Please feel free to comment in English or Bahasa)

No.	Section and Indicators	Comments
1.	<p>Title</p> <ul style="list-style-type: none"> - Title represents problems discussed in the article - Title used efficient words - Contain novelty and updated legal problems 	<p>In the title section, it is necessary to emphasize about Anonymous, namely the protection of copyrighted works produced by anonymous individuals or anonymous refers to the party that modifies the song. There must be synchronization between the title and the problem.</p>
2.	<p>Abstract</p> <ul style="list-style-type: none"> - No more than 250 words - Mention research methodology - Invite reader's curiosity - Precise and representative keywords 	<ul style="list-style-type: none"> - In the keyword, the word remix should be replaced with copyright because it better reflects the discussion in the article. - In the abstract section, should be to add a short sentence explaining the originality.
3.	<p>Introduction</p> <ul style="list-style-type: none"> - Contain summary of contents - Contain research methodology - Summary of discussion section 	<ul style="list-style-type: none"> - in the introduction it states "emphasizing the importance of licenses" but the licensing issue is not reflected in the title. Please synchronize

	<ul style="list-style-type: none"> - Readability 	
4.	<p style="text-align: center;">Discussion</p> <p>Readability Discuss all required variables Coherent and systematic discussion</p> <ul style="list-style-type: none"> - Novelty on discussion - - - 	<ul style="list-style-type: none"> - In this section, it would be better to add a study of legal theory related to intellectual property such as utilitarianism theory and natural rights theory to sharpen the analysis related to copyright protection for modified or rearranged songs. - In the introduction, it is explained that this article discusses licensing, but the discussion of licensing is not explained in this section.
5.	<ul style="list-style-type: none"> - Conclusive Remarks <p>Clear, strong and</p> <ul style="list-style-type: none"> - conclusive conclusion and recommendation <p>Solution on discussed problem is highly preferable</p>	<p>It would be better to add the implications of the findings both in theory and practice.</p>
6.	<p style="text-align: center;">Bibliography</p> <p>For journal references: at</p> <ul style="list-style-type: none"> - least 15 journals. - Journal reference are at least 50% of all reference 	

Bandung, 21 April 2025

Letter of Acceptance

Hereby we acknowledge the submission of an article titled “**The Validity of Song Modifications Made by Unknown Identities (Anonymous) Under the Copyright Law**” and the manuscript has been accepted and will be published on April 2025.

This statement is made truthfully and to be used accordingly.

Sincerely,



Tresnawati, S.H., LL.M.

Editor in Chief Dialogia Iuridica

The Validity of Song Modifications Made By Unknown Identities (Anonymous) Under The Copyright Law

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ABSTRACT

The rapid development of digital technology makes it easier for someone to disseminate music content illegally which causes harm to the creators or music copyright holders as a whole. This study aims to explain and analyze the validity of exclusive rights obtained by anonymous works that modify or rearrange other people's works. The research method used is normative juridical with a Legislative Approach and Conceptual Approach. Primary and secondary legal materials collected through literature study are then analyzed descriptively. The research findings show that the exclusive rights obtained by Anonymous for modifying other people's works without permission is an act of copyright infringement. So that the work produced by anonymous is considered invalid and cannot arise copyright, nor is it allowed for other parties to make new creations without the permission of the creator and / or copyright holder. Meanwhile, YouTube and TikTok have Terms of Service that regulate content uploads. However, there is a User Generated Content clause in TikTok which states that all uploaded content is not the responsibility of the platform. This research can contribute to the development of copyright law theory, especially related to the validity of exclusive rights to copyrighted works produced by anonymous identities.

Keywords: Anonymous; Copyright; Modification

I. INTRODUCTION

One form of work that is widely traded on social media platforms is songs. The song itself has a copyright that must be protected to prevent unauthorized use or plagiarism of the work that can reduce the value of economic benefits for the copyright holder,¹ So it is possible that the offense was committed by someone with an unknown

¹ Karmila Naue, Weny Almoravid Dungga, and Mohamad Hidayat Muhtar, "RESONANSI DIGITAL DALAM PENGATURAN LISENSI LAGU REMIX DI TIKTOK BERDASARKAN UU NO. 28 TAHUN 2014 TENTANG HAK CIPTA," *SINERGI: Jurnal Riset Ilmiah* 1, no. 6 (June 13, 2024): 353, <https://doi.org/10.62335/aqkqcv79>.

identity (anonymous). Copyright to songs in Indonesia is clearly regulated in Law Number 28 of 2014 concerning Copyright. This law provides legal protection for copyright owners and regulates various aspects of the rights and obligations relating to the creation.² With this law, copyright protection in Indonesia has become more comprehensive, covering both the physical and digital realms. It ensures that the use of songs, both in offline and online contexts, is done with respect for the rights of the owners of the work and provides a strong legal basis to take action in case of infringement.³ The implementation of this law is expected to increase public awareness about the importance of respecting copyright and encourage the creation of a fairer and more conducive environment for music creators.

Expression or embodiment of ideas in a copyrighted work in question is that a work can not be granted exclusive rights if only in the form of ideas, but must be in real or tangible form (in foreign literature is often called fixation). The following will give an example of the difference between the idea and the embodiment of the idea (fixation):⁴ If a musician has the idea of telling the atmosphere of Malang in the form of a song, the atmosphere of Malang is something ordinary, but if the singer puts it in the form of a song and can be heard, it will become a work that can be protected by copyright.

Piracy or unauthorized use of a work often occurs among songwriters. The rapid development of digital technology makes it easier for someone to illegally distribute music content which causes losses to the creators or music copyright holders as a whole.⁵ One example is experienced by a local musician named Nadin Amizah in her song entitled “Rayuan Perempuan Gila” which was later modified/arranged into a Remix format. This

² Muhammad Azhari Hsb, “PERLINDUNGAN HUKUM BAGI PEMEGANG HAK CIPTA ATAS PELANGGARAN MODIFIKASI DAN PENGGUNAAN MUSIK ATAU LAGU BERDASARKAN UNDANG-UNDANG NOMOR 28 TAHUN 2014 TENTANG HAK CIPTA,” *Jurnal Notarius* 1, no. 2 (July 2, 2022), 218, <https://jurnal.umsu.ac.id/index.php/notarius/article/view/13963>.

³ Gde Arya Surya Dharma and Kadek Julia Mahadewi, “Perlindungan Hak Cipta Dalam Industri Musik Digital di Indonesia: Studi Normatif Terhadap Perlindungan Hak Cipta Penggunaan Musik Digital,” *Jurnal Kewarganegaraan* 7, no. 1 (May 10, 2023), 452, <https://doi.org/10.31316/jk.v7i1.4815>.

⁴ Khoirul Hidayah, *Hukum Hak Kekayaan Intelektual* (Malang: Setara Press, 2017), 30.

⁵ Putri Nadia Zaelani, Diva Mega Aulia, and Happy Yulia Anggraeni, “PERLINDUNGAN HUKUM TERHADAP HAK KARYA MUSIK NADIN AMIZAH YANG BERJUDUL RAYUAN PEREMPUAN GILA,” *Jurnal Ilmu Pengetahuan Sosial* 11, no. 7 (June 13, 2024), 2909. <http://dx.doi.org/10.31604/jips.v11i7.2024.2908-2915>.

was done by an anonymous identity who was then uploaded on several platforms such as YouTube, TikTok and Instagram.⁶

This case illustrates a clear violation of both moral and economic rights protected under Indonesia's Copyright Law. The anonymous modification and commercial distribution of the song without proper authorization disregards the creator's exclusive rights, including the right to be acknowledged as the author and the right to control the use and adaptation of the work. It exemplifies the ongoing challenges faced by artists in the digital age, where the ease of content dissemination often outpaces the enforcement of copyright protections, thereby necessitating stronger legal mechanisms and platform accountability.

In the context of song modification by an anonymous identity in this research, an Anonymous does create a work in the form of a song rearranged into Remix, speed up or reverb format. The work is a derivative work of art based on the work of others which is then re-modified to make it more interesting. Judging from the dynamics of the economy, modification of music or songs is done in order to match the character of the performer who performs the music or song or even to adapt it to a certain language.⁷ The word “arrangement” refers to the contribution of an original expression, such as a musical work that includes the composition of an instrumental accompaniment before the musical work is completed. Intellectual property rights carry an exclusive and absolute nature. The holder of intellectual property rights has a monopoly on his or her work.

This research differentiates itself from previous studies by emphasizing the importance of licenses in the use of copyright works on digital platforms, as well as addressing the lacunae in existing reporting systems, especially in connecting copyright holders with unidentified infringers. In previous research, Performers' rights reform may be the most effective and fair legal solution to regulate the use of Deepfakes.⁸ Metadata

⁶ Smartlegal.id, “Nadin Amizah kesal lagunya di-Remix tanpa izin, melanggar hak cipta.” (2023, 30 Agustus). *Hukum yang Cerdas*. R <https://smartlegal.id/hki/hak-cipta/2023/08/30/nadin-amizah-kesal-lagunya-di-Remix-tanpa-izin-melanggar-h>

⁷ Destiara Meisita Fafitrasari, Kholis Roisah, and Mujiono Hafidh Prasetyo, “Perlindungan Hukum Lagu Yang Diaransemen Ulang Berdasarkan Undang-Undang Hak Cipta,” *Notarius* 14, no. 2 (December 30, 2021): 772, <https://doi.org/10.14710/nts.v14i2.43748>.

⁸ Mathilde Pavis, “Rebalancing Our Regulatory Response to Deepfakes with Performers' Rights,” *Convergence: The International Journal of Research into New Media Technologies* 27, no. 4 (August 2021): 974, <https://doi.org/10.1177/13548565211033418>.

masking and encryption can help protect social media users' identities from sophisticated tracking.⁹ MetaScribe helps trace the origins of AI-generated content so that it is clearer who the creator is and can be trusted.¹⁰ So, digital duplicates can be created if there is permission, they are useful, their use is clear, they are safe, and they do not replace the essential presence of the original.¹¹ This research is relevant because it analyzes the validity of the exclusive rights obtained by anonymous for his work of modifying or rearranging other people's works. This research contributes to the development of copyright law theory, as well as increasing the understanding and awareness of the public, especially digital content creators, of the importance of protection of copyrighted works and the legal implications that can arise from such infringement.

The research method used in this research is normative juridical, focusing on analyzing the legal validity of anonymous modification of works. This method involves a Legislative Approach, which examines and analyzes the legal provisions and provisions of the Copyright Law. In addition, the Conceptual Approach is used to analyze how the concept of legal protection is applied to anonymous works and song modifications. This approach aims to evaluate the existing policies in the Copyright Law regarding the validity of song modifications originating from anonymous creators. This research uses primary legal materials, including laws and regulations related to Copyright, such as Law Number 28 of 2014 concerning Copyright. This primary legal material is complemented by secondary legal materials, which include books, journal articles, websites that discuss the modification of copyrighted works as well as legal consequences according to the platform policy and the broader Copyright Law. The analysis of legal materials uses descriptive analysis, which involves a thorough description and in-depth analysis related to the validity of modification of copyrighted works by anonymous identities. This descriptive analysis is designed to reveal the exclusive rights obtained by anonymous

⁹ Mohammed Khader and Marcel Karam, "Assessing the Effectiveness of Masking and Encryption in Safeguarding the Identity of Social Media Publishers from Advanced Metadata Analysis," *Data* 8, no. 6 (June 13, 2023): 105, <https://doi.org/10.3390/data8060105>.

¹⁰ Maria Joseph Israel and Ahmed Amer, "Rethinking Data Infrastructure and Its Ethical Implications in the Face of Automated Digital Content Generation," *AI and Ethics* 3, no. 2 (May 2023): 427, <https://doi.org/10.1007/s43681-022-00169-1>.

¹¹ John Danaher and Sven Nyholm, "The Ethics of Personalised Digital Duplicates: A Minimally Viable Permissibility Principle," *AI and Ethics*, July 15, 2024, 4. <https://doi.org/10.1007/s43681-024-00513-7>.

modification of songs, which ultimately provides insight into the things that must be fulfilled in the creation of a modified work.

II. DISCUSSION

1. The Legality of Song Modifications Made by Unknown Identities (Anonymous) Under the Copyright Law

Song modifications with Remix, reverb and speed up types are often found daily on social media platforms such as Tiktok, Instagram and Youtube. Remix songs are also often used by content creators as accompanying songs in their content because they are considered more entertaining and also more fun.¹² Article 5 paragraph (1) explains that the concept of Song Modification which is the result of re-arrangement or transformation of the song created by others is allowed, and can not arise copyright if it does not get permission from the creator or copyright holder.¹³ It is explained in Article 9 paragraph (1) of the Copyright Law that the creator or copyright owner has full power over his work, both rearrangement and re-transformation and also prohibits others from re-arranging / transforming his song without permission especially if it is done by an anonymous identity for commercial purposes.

Copyright License is a legal agreement to give permission to the use of a copyrighted work regulated in article 80 to article 83 of the copyright law,¹⁴ meaning that the use of licenses is highly recommended in order not to eliminate or take over all of the creator's exclusive rights over the creator, especially to maintain the integrity and identity.

In a song there are two rights that arise for the creator of his creation, namely Moral Rights and Economic Rights. The concept of moral rights is explained in Article 5 paragraph (1) of the Copyright Act that copyright is an award to the creator because the copyrighted work is a personal reflection of the creator so that it can not be divided and

¹² Kezia Regina Widyaningtyas and Tifani Haura Zahra, "Tinjauan Hak Cipta Terhadap Kewajiban Pembayaran Royalti Pemutaran Lagu dan/atau Musik di Sektor Usaha Layanan Publik," *Padjadjaran Law Review* 9, no. 1 (August 19, 2021), 5. <https://jurnal.fh.unpad.ac.id/index.php/plr/article/view/487>.

¹³ Karmila Naue, Weny Almoravid Dunga, and Mohamad Hidayat Muhtar, "RESONANSI DIGITAL DALAM PENGATURAN LISENSI LAGU REMIX DI TIKTOK BERDASARKAN UU NO. 28 TAHUN 2014 TENTANG HAK CIPTA" 1, no. 6 (2024), 354.

¹⁴ William Jaya Suprana, "Lisensi Hak Cipta dan Perlindungan Hukum Hak Cipta atas Konten Fotografi dan Potret Dalam Penggunaan Instagram," *Binamulia Hukum* 9, no. 2 (December 17, 2020): 183, <https://doi.org/10.37893/jbh.v9i2.183>.

can not be changed or modified.¹⁵ In line with the theory of natural rights put forward by John Locke in 1689,¹⁶ that the rights obtained by the creator are pure and inherent naturally since a work is created.

Regarding the economic rights owned by the creator is described in Article 9 paragraph (1) of the Copyright Act including:¹⁷ (1) Performing Rights or the announcement of the work, is the right granted to use a copyrighted work includes the activities of singing, playing, and / or playing songs for commercial purposes described in Article 9 paragraph (1) letter g of the Copyright Act; and (2) Mechanical Rights or arrangement or transformation of the work is the right of the creator to embody a work of his creation that already exists into a new work of creation described in Article 9 paragraph (1) letter d of the Copyright Act.¹⁸

In the concept of song modification, the work that has been produced by anonymous is a work that most of the material in it comes from songs belonging to other musicians which are then changed according to their creativity.¹⁹ Accounts with anonymous identities that produce various song modifications have quite a lot of followers. So this phenomenon shows that there are many song modification lovers, even though legally it violates song copyright. The output produced from anonymous work has the potential to violate the exclusive rights of the creator.

Copyright or a work of creation can not be disseminated without the knowledge of the creator and / or copyright holder. Infringement of copyright songs will undergo prosecution under criminal law as stated in article 105 of the copyright law or civil described in article 96-99 Copyright law, if a person or a party using copyrighted works

¹⁵ Sartika Nanda Lestari, "PERLINDUNGAN HAK MORAL PENCIPTA DI ERA DIGITAL DI INDONESIA," *Diponegoro Private Law Review* 4, no. 3 (November 28, 2019), 5. <https://ejournal2.undip.ac.id/index.php/dplr/article/view/6550>.

¹⁶ Andi Zahidah Husain et al., "PERLINDUNGAN HAKI DALAM PANDANGAN FILSAFAT SEBAGAI HAK ALAMIAH BERDASARKAN PADA TEORI JOHN LOCKE," *Jurnal Filsafat Terapan* 1, no. 1 (January 31, 2023), 8. <https://journal.forikami.com/index.php/praxis/article/view/168>.

¹⁷ Mohamad Thaufiq Rachman, "PENGELOLAAN ROYALTY DARI PENCIPTA LAGU YANG TIDAK TERDAFTAR DI LEMBAGA MANAJEMEN KOLEKTIF OLEH LEMBAGA MANAJEMEN KOLEKTIF NASIONAL," *Jurnal Program Magister Hukum FHUI* 2, no. 2 (December 12, 2022), 998. <https://scholarhub.ui.ac.id/dharmasisya/vol2/iss2/35/>.

¹⁸ Hsb, "PERLINDUNGAN HUKUM BAGI PEMEGANG HAK CIPTA ATAS PELANGGARAN MODIFIKASI DAN PENGGUNAAN MUSIK ATAU LAGU BERDASARKAN UNDANG- UNDANG NOMOR 28 TAHUN 2014 TENTANG HAK CIPTA", 220

¹⁹ Abdi Dzil Ikram, "Eksistensi Grup Dj Vibetronic Sebagai Penyaji Electronic Dance Music di Kota Surabaya," *Virtuoso: Jurnal Pengkajian dan Penciptaan Musik* 2, no. 1 (May 17, 2020): 28, <https://doi.org/10.26740/vt.v2n1.p28-33>.

of music or songs by not obtaining permission from the copyright holder, especially used commercially.²⁰ Infringement of economic rights can occur because content creators benefit in the form of money generated from endorsement video content or promotional video content. This violates the economic rights of the song's creator and/or copyright holder.

The case experienced by Indonesian musician Nadin Amizah in her song entitled “Rayuan Perempuan Gila”. The song was modified with the Speed Up format and commercialized to several platforms such as YouTube and TikTok by an anonymous identity without clear permission and license to the creator.²¹ It cannot be denied that Anonymous does have a work in the form of rearrangement of works, but it certainly must be accompanied by a license from the creator or copyright holder. Anonymous's exclusive rights to modify songs remain a contentious issue, as utilizing copyrighted works cannot be done independently without the consent of the creator or copyright holder.²² This aligns with Article 9, Paragraph (3) of Law Number 28 of 2014 on Copyright, which prohibits anyone from reproducing or commercially exploiting a work without proper authorization.

Based on this description, the above case shows that the modification or rearrangement of a work by anonymous without permission is an act of copyright infringement because clearly such actions are only allowed to be done if you get permission from the creator and / or copyright holder. So that the value of the validity of the modified work of the song by anonymous is questionable because it is contrary to the essence of the protection of copyrighted works in the Copyright Act so that it will harm the creator and / or copyright holder. Therefore, to deepen the validity of the modified song by anonymous, a review of the anonymous work must be carried out through 2 (two) stages:

²⁰ Bagus Rahmanda and Kornelius Benuf, “Perlindungan Hukum Bagi Pemilik Lagu Terkait Cover Lagu dan Penggunaan Suara Latar Pada Platform Youtube,” *Gema Keadilan* 8, no. 2 (October 31, 2021), 6. <https://doi.org/10.14710/gk.2021.12643>.

²¹ Panji Adela and Agri Chairunisa Isradjuningtias, “Perlindungan Hukum Terhadap Pemegang Hak Cipta Musik Berdasarkan Peraturan Pemerintah Nomor 56 Tahun 2021 Tentang Pengelolaan Royalti Hak Cipta Lagu dan Musik,” *Jurnal Kewarganegaraan* 6, no. 3 (October 31, 2022), 6547. <https://doi.org/10.31316/jk.v6i3.4164>.

²² Muhammad Raihan and Tashya Panji Nugraha, “PERLINDUNGAN HUKUM HAK CIPTA LAGU YANG DIARANSEMEN ULANG (REMIX) DAN DIUNGGAH PADA APLIKASI TIKTOK TANPA IZIN PENCIPTA DAN/ATAU PEMEGANG HAK CIPTA,” *Diss. Universitas Muhammadiyah Surakarta* 1, no. 1 (November 13, 2023), 3. <http://eprints.ums.ac.id/id/eprint/118030>.

a. Review of the work produced.

Based on Article 1 Point 3 of the Copyright Law, copyrighted works protected under copyright are creations produced in the fields of science, art, and literature. Then if you look at Article 40 paragraph (1) of the Copyright Act, there are examples of copyrighted works referred to arrangements, modifications and other works of transformation.²³ As for seeing anonymous works such as a song titled “Rayuan perempuan Gila” which is modified into a Speed Up format without the permission of the creator, it actually belongs to the field mentioned in the Copyright Law. As for the legal requirements of a work of arrangement, modification of songs or transformation of creation, according to article 9 paragraph (2) of the Copyright Act is required to obtain permission from the creator or copyright holder. Then continued in article 9 paragraph (3) of the Copyright Act that any person without the authorization of the creator or copyright holder is prohibited from duplicating and / or commercial use. So, there are conditions and rights that must be met by the perpetrators of modification and arrangement of songs against the creator or copyright owner in the Copyright Act in the form of permission from the creator or copyright holder. Therefore, when viewed in terms of the definition of the definition of creation, the anonymous modification of the song should be able to obtain copyright protection but if done without permission or license from the creator then the exclusive rights obtained by anonymous are considered invalid and constitute copyright infringement. The theory of Utilitarianism or intensive theory by John Stuart Mill in 1861,²⁴ mentioned that in its application to provide a balance between the community with the owner of exclusive rights, but it is a monopoly right of the creator of his work so it needs to be limited to sustain the creativity of a person to create a new copyrighted work.

However, in reviewing it must be done in depth by looking at other legal aspects. As if examined, modification or rearrangement of creation can and is allowed to be done when the fulfillment of moral rights as Article 5 paragraph (1) of the Copyright Act and get permission from the creator or copyright holder in Article 9 paragraph (2)

²³ Laila Fauziyyah Shabrina Najla Az Zahra, “Perlindungan Hak Cipta Terhadap Pencipta Lagu yang Diunggah Ulang Melalui Aplikasi Tiktok,” June 11, 2024, <https://doi.org/10.5281/ZENODO.11576084>.

²⁴ Endang Pratiwi, Theo Negoro, and Hassanain Haykal, “Teori Utilitarianisme Jeremy Bentham: Tujuan Hukum Atau Metode Pengujian Produk Hukum?,” *Jurnal Konstitusi* 19, no. 2 (June 2, 2022): 268, <https://doi.org/10.31078/jk1922>.

and (3) of the Copyright Act so that, the two articles actually confirm that “Modification of Creation” is permitted as long as it meets the elements specified in the Copyright Act, namely “Permission from the creator”.

According to the provisions of the Copyright Act, if a Song Modification is made by rearranging or changing someone else's song without the permission of the creator/copyright holder, it cannot be considered copyrighted. This is due to the fact that the creator/copyright holder has full authority to arrange and change the song they have created. In addition, it is not allowed for other parties to carry out new arrangements of the song without the permission of the creator/copyright holder in line with Article 9 paragraph (1) of the Copyright Law

b. Review of the originality of the work

One of the main components of the protection of a work in copyright is to have the value of originality because it can represent the novelty of the work. This component shows a person's intervention in the process of creating a copyrighted work. If it is associated with the work of anonymous song modification, the value of originality is done through an analysis of three (3) stages, namely: the process of preparation, implementation, and finalization of the work.²⁵ These stages include:

First, the process of making the concept of the work. The concept stage is carried out by providing a foundation in the form of ideas or ideas of someone against a copyrighted work that he wants to make. So that in this process is the basic foundation of a person in making copyrighted works. *Second*, the process of making the work. That is the process of realizing ideas or ideas for the next stage in the creation of the work. Article 41 of the Copyright Act explains that an idea or idea will not obtain copyright protection as long as the copyrighted work does not yet have a real form. This process has a dominant position of the creator in the process and will give authenticity to his copyrighted work because everyone has creativity and distinctive features in the creation of the work. *Third*, the process of finalizing the work. Is a stage where the final sentuan or refinement of a work. In this case, it is done by making improvements or editing so that a copyrighted work can and is ready to be

²⁵ P. Bernt Hugenholtz and João Pedro Quintais, “Copyright and Artificial Creation: Does EU Copyright Law Protect AI-Assisted Output?,” *IIC - International Review of Intellectual Property and Competition Law* 52, no. 9 (October 2021): 1190, <https://doi.org/10.1007/s40319-021-01115-0>.

published.

Looking at the three stages, the process of making modified works by anonymous in the whole process does meet the three stages, however, before the finalization process and then published, it is not valid a modified work by Anonymous if it does not have permission or license from the creator / copyright holder, so according to article 9 paragraph (3) of the Copyright Act the exclusive rights obtained by anonymous are considered legally invalid and included in copyright infringement. In order to be able to use economic rights in the form of Performing Rights or the announcement of the creation and / or arrangement or transformation of the creation / Mechanical Rights then the user is required to obtain permission in the form of a license in article 80 paragraph (1) of the Copyright Act and / or pay compensation in the form of royalties to the creator or copyright holder in article 80 paragraph (3) of the Copyright Act.²⁶

2. Legal Consequences obtained from Song Modification made by Anonymous according to Platform policy and Copyright Law

Remixed songs or accelerated/slowed tempo, plus other music or sounds have become commonplace, Remix songs are often used by content creators as accompanying songs on their content on social media, especially on the TikTok platform because they are considered more fun and entertaining. Modifying a song into Remix music is included in the arrangement activity.²⁷ In this case, the act of arranging or modifying copyrighted works of songs without permission by the creator / copyright holder has violated the moral rights of the creator, which only the creator or copyright holder may exploit the creation in terms of arranging music, unless the user / content creator has requested license permission to the copyright holder.

Remixed songs that are often found on several platforms become popular songs compared to the original song. For example, Nadin Amizah's song "Rayuan Perempuan"

²⁶ Justisiari P. Kusumah, "Remix Lagu Di Aplikasi Streaming Musik, Langgar Hak Cipta?," HukumOnline.com, June 2, 2022, <https://www.hukumonline.com/klinik/a/iremix-i-lagu-di-aplikasi-istreaming-i-musik--langgar-hak-cipta-lt6298a74242297/>.

²⁷ Shabrina Najla Az Zahra, "Perlindungan Hak Cipta Terhadap Pencipta Lagu yang Diunggah Ulang Melalui Aplikasi Tiktok, 132. 2024"

Gila” was remixed by a user/content creator and uploaded on social media, including the TikTok platform. Nadin Amizah feels that she should ask permission first or pay royalties if she wants to edit someone's song, including when turning it into Remix music as a form of respect for songs created by others, especially if the music is commercialized.²⁸ Actions like this are very clearly contrary to moral rights because the original singer of the song seems to be forgotten and the content creators who Remix the song are often considered the creators. In addition, this also challenges economic rights because users/content creators who Remix songs without any license permission from the creator, copyright holder or commonly referred to as the licensing label that oversees it before they upload the creator's song that they have modified. This clearly violates the law as stated in Article 9 Paragraph (1) of the Copyright Law which reads: “any person who without the authorization of the creator or copyright holder is prohibited from copying and/or commercial use of the work.”²⁹

According to the provisions of the Copyright Act if a Remix song is made by re-composing or changing someone else's song without the permission of the creator/copyright holder, then it cannot be considered copyrighted. This is due to the fact that the creator/copyright holder has full authority to arrange and change the song they have created. In addition, it is not permitted for other parties to carry out new arrangements of the song without the permission of the creator/copyright holder in line with the provisions of Article 9 paragraph (1) of the Copyright Act. For Anonymous who deliberately arranges the work without the right / without permission from the creator or copyright holder may be subject to sanctions. The legal consequences arising from such violations are, First, civil sanctions. Described in Article 96 of the Copyright Act that the creator or copyright holder who suffered a loss of economic rights is entitled to compensation filed through the Commercial Court. Second, Criminal Sanctions. That someone without the right / without permission to transform copyrighted works can be subject to criminal sanctions in line with Article 113 paragraph (2) of the Copyright Act, violation of the economic rights of the creator relating to the transformation of copyright

²⁸ Rachman, “PENGELOLAAN ROYALTI DARI PENCIPTA LAGU YANG TIDAK TERDAFTAR DI LEMBAGA MANAJEMEN KOLEKTIF OLEH LEMBAGA MANAJEMEN KOLEKTIF NASIONAL.”, 997.

²⁹ Lestari, “PERLINDUNGAN HAK MORAL PENCIPTA DI ERA DIGITAL DI INDONESIA.”, 8.

can lead to criminal penalties with a maximum imprisonment of 3 years and / or a maximum fine of Rp500,000,000.00.

Every social media platform used basically already has provisions for its users through the Term of service that accommodates application users to understand what content is allowed and not allowed to be uploaded including on the YouTube and TikTok platforms. There are some things that are acts of modification of creation on the YouTube platform that are most closely related to copyrighted works of music and songs. one of them is cover song content, the cover song version has a new ideology in terms of contextual and instrumental when compared to the original version. The changes that occur between the original version and the cover version include changes in song arrangements and instruments, the image built by these two categories of musicians (original and cover) and the publication media used by both.³⁰ Anyone who uses or just visits Youtube is bound by the terms of service, which includes the Community Guidelines. In anticipation of violations of other people's intellectual property rights, Youtube provides a Content ID system that can automatically detect content that has similarities or indicates copyright infringement.

In terms of uploading videos on the Youtube media platform, often the video is not uploaded by the creator but by other parties (content creators) without obtaining permission or a license agreement from the previous copyright holder. This often occurs due to the inadequate legal protection offered by the YouTube platform. Why is it said that the legal protection that has been given is weak, because the Youtube media platform is only limited to the provisions contained in the Terms of Service, while in the upload procedure, the provisions provided are weak due to the incomplete system used by the Youtube media platform.

The YouTube platform allows remixes or song arrangements to circulate, provided the copyright holder grants permission through a system known as YouTube Content ID. This system scans every uploaded video to detect copyrighted material, including audio recordings, musical compositions, and visual content. In addition, Content ID places a claim on Remix videos and allocates any generated revenue to the

³⁰ Ashibly, *Hukum Hak Cipta: Tinjauan Khusus Performing Right Lagu Indie Berbasis Nilai Keadilan* (Yogyakarta: Genta Publishing, 2016), 64.

copyright holder. It also allows copyright holders to take actions such as blocking the video, muting its audio, or restricting the regions where the Remix video can be accessed.³¹ Through the Youtube Content ID system, there are consequences for Anonymous who upload remixes or rearrangements of songs without permission from the creator, namely in the form of blocking, deleting audio, and limiting the access area of the remix video.

Meanwhile, the TikTok platform has a Term of service in the content section that reads: “We, or authorized third parties, reserve the right to modify, remove, edit, or decline to publish your content at our sole discretion or that of the third parties. Additionally, we may remove, restrict, block, or delete any content you post on our Services if we believe it violates the content standards outlined in the “Your access and use of our Services” section above.”³² This shows that TikTok does not allow users to take commercial advantage of TikTok users without a license from TikTok. TikTok has a strict policy of protecting copyright and other intellectual property rights, and ensuring that TikTok users comply with the rules set by TikTok and applicable laws and regulations.

Meanwhile, there is a clause in the User Generated Content policy stating that all content submitted to the application is not the responsibility of TikTok, which reads: “we are not responsible for any content submitted by users and published by us or authorized third parties.” This clause indicates that TikTok bears no responsibility for copyright disputes between users and copyright holders.³³ In this case, TikTok platform users/content creators who are deemed to have remixed a song without obtaining permission from the creator or copyright holder and for commercial purposes are considered to have infringed copyright.

The TikTok application has explicitly stated the prohibition of content indicating copyright infringement in its Terms and Conditions, allowing creators or copyright

³¹ Rifai Imansah, “PENGELOLAAN ROYALTI MUSIK DAN LAGU DI PLATFORM YOUTUBE,” *JIPRO: Journal of Intellectual Property* 5, no. 1 (June 2022), 12. <https://doi.org/10.20885/jipro.vol5.iss1.art2>.

³² Hsb, “PERLINDUNGAN HUKUM BAGI PEMEGANG HAK CIPTA ATAS PELANGGARAN MODIFIKASI DAN PENGGUNAAN MUSIK ATAU LAGU BERDASARKAN UNDANG- UNDANG NOMOR 28 TAHUN 2014 TENTANG HAK CIPTA.”, 223.

³³ Naue, Weny Almoravid Dungga, and Mohamad Hidayat Muhtar, “RESONANSI DIGITAL DALAM PENGATURAN LISENSI LAGU REMIX DI TIKTOK BERDASARKAN UU NO. 28 TAHUN 2014 TENTANG HAK CIPTA.”, 356.

holders to report any content suspected of violating intellectual property rights (IPR). In addition to the reporting mechanism, TikTok also reserves the right to exercise control and block such content without requiring a formal report.³⁴

Fundamentally, both platforms YouTube and TikTok have implemented efforts to prevent music/song copyright infringement through their Terms of Service, which are intended to be adhered to by users. However, both platforms have certain weaknesses within their clauses. For instance, YouTube limits its provisions to the Terms of Service without integrating them into the upload procedure. Meanwhile, TikTok's User Generated Content section contains a clause stating that TikTok is not responsible for any content published. In light of these shortcomings, it is expected that both platforms will continuously update their policies and technologies to ensure better copyright protection for music creators.

The legal protection provided by the government to creators or copyright holders through the national collective management organization remains insufficient in safeguarding copyrighted works. The role of the national collective management organization, as regulated under Law No. 28 of 2014 on Copyright, has yet to effectively and objectively assess legal facts related to music arrangement infringements on the TikTok platform. As a result, loopholes exist for certain individuals to exploit works that should be protected. Legal protection refers to efforts to oversee the actions of the government or institutions through established regulations.³⁵

III. CONCLUSION

Based on the above analysis, it can be concluded that the modification or re-arrangement of a song by an anonymous individual without the permission of the original creator or copyright holder is a clear violation of copyright law. While the process of song modification may meet the stages of originality - conceptualization, implementation, and finalization - the absence of official permission or license renders the exclusive rights

³⁴ Avelyn Pingkan Komuna and A Rachmat Wirawan, "PELANGARAN HAK CIPTA PADA KONTEN VIDEO TIKTOK," *Alauddin Law Development Journal* 3, no. 3 (November 3, 2021), 487. <https://doi.org/10.24252/aldev.v3i3.24762>.

³⁵ Andree Nugroho Saragih, "Menelaah Perlindungan Hukum Bagi Hak Cipta Pencipta Lagu Terhadap Penampilan Cover Lagu Ciptaannya Oleh Musisi Lain Di Platform Media Sosial," *JISIP (Jurnal Ilmu Sosial Dan Pendidikan)* 7, no. 1 (January 13, 2023), 310. <https://doi.org/10.58258/jisip.v7i1.4199>.

claimed by the anonymous party invalid and any commercial use of copyrighted work without lawful permission is prohibited. Therefore, despite the increasing popularity and entertainment value of remixed songs on digital platforms, the legality of the modifications made by unidentified individuals is still questionable and potentially detrimental to the moral and economic rights of the original creators.

Future research should explore the implementation and enforcement of copyright protection mechanisms on digital platforms such as TikTok, YouTube, and Instagram, particularly with regard to user-generated content involving musical works. It is important to examine how existing platform policies align with national copyright laws and whether these platforms sufficiently prevent or address copyright infringement committed by anonymous users. In addition, a comparative law study involving international copyright frameworks can provide greater insight into how different jurisdictions deal with the same issues, offering a potential model for improving copyright enforcement in the digital age..

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