

PERFORMING RIGHT IN CACHE COPYRIGHT LAW OF INDONESIA

Zulkifli Makkawaru

Faculty of Law, Bosowa 45 University Makassar

Email: zulkiflimakkawaru@yahoo.com

ABSTRACT

Performing Right (Performing Rights) in the corpus of laws in Indonesia have not been strong in the rule and the protection of the law. Although the Copyright ACT in recent times revision rule has been loaded but still very narrow so there can take to become a rule of law that can reverse engineer the behavior of society (notably the community of users of copyrighted songs and music) to stick with it.

This paper tries to do a review of the literature and the law. The birth of Act No. 28 by 2014 about copyright gives the feel of a broader legal and encouraged to provide protection of economic rights (economic right) over Copyrights in particular Performing Right with an emphasis on fostering recognition of Collective Management Institutions, as well as on Related Rights protection for emphasis that gives economic maximization of existing opportunities of performing actors, producer ponogram, and broadcasters. And thus, created a large corpus of law in the field of Performing Right in Indonesia.

Keywords: Performing Right Copyright, Related Rights, the economy, the protection of the law

INTRODUCTION

Performing Right a free translation of the "right to live" had entered a new chapter in settings copyright in Indonesia. By no means has not been prearranged but regulation and devices that support the implementation and enforcement have not been as strong as to what can be seen now in the new Copyright ACT Indonesia (Law No. 28 by 2014). Support the rule of law on which the material is considered important and done in public life are certainly very necessary, likewise an ideal thoughts of authorities of common law that embodies the behavior of society is also very important. As it appears on the new Copyright LAW have been with textual arranged about Collective Management Institutions that did not previously exist, so are the devices institutional supporters has been there.

Copyright as most conventional rights in Intellectual Property law order (HKI) progression arrangements following the disclosure of human ideas in the field of art and literature and science as well as the development of yang follow it economic rights in international trade. Development of science that hit world pushes more and more disclosure of new ideas that gave birth to the point is the work that can take human life with good, safe, comfortable, and cultural civilization.

In the field of the arts, particularly music and art song occupies an important position in the protection of intellectual works. How the wave creation songs and music of all genres and types of segments of the devotees are racing in such a way as to appear to the public to offer

bright & his latest creations as well as using such means socialization in order to quickly eaten by touched admirers. Art is an expression of taste of man symbolized in a disclosure form, sound, mannerisms, and others. The art of giving a feeling that led people to a specific achievement that brings himself into a cozy, serene, prosperous, and happy. The work of art is a work of uncovering the flavors, karsa and copyright in such a way so as to give birth to a form that can be enjoyed by himself and others.

Ponogram technology has brought the work of copyright music and art song leapt far ahead in toss names the creator, author, musician, *arranger*, background singer, dancer, entrepreneur Event Organizer (EO), record companies, broadcasters get servings sustenance from the copyrighted work. How the wave world entertainment has mastered passion of human life will be needs entertainment art music for the growth of the spirit in living a life of happiness. As if there is no empty space for the flowing out of new ideas in the creation of works of art music and songs. Almost all his life people can be colored with music and songs so that economically the music and the song entered the top position of the important asset of a country, an association and even individuals. With regard to that, the music and the song eventually became the arena of competition even fight in an era of fast-growing and rapidly to this.

Similarly, on the other hand, the technology of singing through an electronic tool called karaoke also has driven economizes music and songs are growing. Music and songs, no longer belongs to the musician or singer famous mere, he not only performed at the place of musical entertainment, hotels, restaurants, entertainment, life stage of sheer music, but the music and song have been pervasive in the home and even into our room each with easy and simple. But it is a problem then arises when all the things that relate to the development of bore such social and legal problems in it. Of course, this needs to be resolved according to the appropriate path through the regulation of the law. The regulation is not always limited to domestic regulation remain because the question of music and songs is an arena battle between countries these problems were a problem international.

DISCUSSION

The Concept of Granting Intellectual Property Rights

Review about rights in the Intellectual Property of immaterial objects that are categorized as giving such rights, rights on interest charged money, rent, building use rights, use rights, business rights over objects in the form of guarantees. He separated from the material objects that become a form of *jelmaannya* because it forms that become the object of its own property rights. Djumhanah and Djubaidillah (1997: 21) recognizes the rights of intellectual ownership is very abstract compared to the rights of possession of the object that is visible but the rights approach rights object, after all both are absolute rights are those rights.

Roscoe Pound (Djumhanah and Djubaidillah, 1997: 21) posited as a property rights arising from the work, karsa, a human, or the copyright may be referred to as rights arising from the wealth or birth of the ability of human intellect. The results of the human creativity, in a civilized society recognized that the master shall for the purpose of creating a profitable for him.

Creations as property based on property rights in the sense that postulates the existence of which also includes the intangible property rights.

Devote the fullest intellectual strength in the form of the development of imagination, creation, skills and so on so that is poured into the form of the same work, with draining Drudge to have or produce things/stuff that can be owned. Protection of copyright can be identified with the protection of the rights to a book, a House and such. Use the intellect (imagination, creative skills, and so on) to give birth to the work that granted the right, that's the nature of the mention Intellectual Property rights (Saidin, 1995: 9).

As an Intellectual Property owner then has the right to do, to use his own by way of announcing, reproduce by various means and ways. This right shall be exercised by the holder of the rights outside the owner's Intellectual Property rights by way of granting rights through licensing.

The conception of Intellectual Property rights (HKI) according to Muhammad (2001: 1) include:

1. property rights the results of thought (intellectual), attached to their owners, are fixed and exclusive, and
2. other parties obtained permission from the owner, temporary.

Other parties obtained permission from the owner, for example the right to announce, the right to reproduce, the right to use certain products, or the right to produce a particular product.

Further Mohammed (2001: 2) outlines that the Intellectual Property is the result of the ability of human thinking which departs from the idea which was later incarnated in the form of creation or invention. On the ideas attached to an intellectual abstract predicate. Consequently, Intellectual Property becomes a separate material objects with the jelmaannya form. Exemplified as follows:

1. Copyright is an idea in the field of science called Intellectual Property rights, material things form the paper is
2. Copyright is the idea of art called Intellectual Property rights, the form is a song, dance, painting
3. The right brand is an idea in the field of science called Intellectual Property rights, material objects form is a brand that is attached on the goods/services merchandise
4. A patent is an idea in the field of technology called Intellectual Property rights, material objects form, among others, the television, and the drug manufacturing process.

So is the Intellectual Property of wealth for the owner, which can be redirected or utilization of its use to the other party so that the other party to benefit from the Intellectual Property rights. The rights of utilization or the use of these so-called rights obtained for permission (license) from the owner. An example is:

1. The right to announce or reproduce a creation (for example in book publishing) is the Intellectual Property of its owner, while the copyright is Intellectual Property rights attached to its owner.

2. The right to use the trademarks are the Intellectual Property of its owner, while the brand is an intellectual wealth rights attached to brand owners.
3. The right to use a patent by the company in the industry is the Intellectual Property of its owner, while the patent is an Intellectual Property rights attached to the owner of the patent.

The predicate of exclusive rights (exclusive right) on the Intellectual Property rights attached to the owner or holder of rights so that the other party when want to leverage or use those rights to create or produce objects form change compulsory sniper obtain a license (permission) from the owner or rights holder.

As the original nature of Intellectual Property rights, rights of exclusive right means that those rights can be maintained against any person. It has the right to demand against violations committed by anyone. The owner or the holder of the Intellectual Property rights have a monopoly, that he can use his rights by banning anyone without his consent to make creation/discovery, or use it (Djumhanah and Djubaidillah, 1997: 23)

The Economic Perspective Copyright

Using the principles of economic law in the new approach is well known. This approach consists of economic analysis of law, which is a discussion of indiscipliner which puts the law as a tool to achieve social goals. The aim is to know the influence of the law against social objectives where lawmakers must have a method to evaluate the influences of law terhada of social values. As for the task of economists estimate the effect of a policy against efficiency (Sutedi, 2009: 25)

Intellectual Property is the concept of awarding over an economic value creation and innovation which when not applied would cause a State of wherein the creators and inventors of new innovations creations were weak in morale and motivation. A masterpiece creations and innovations being the hope of the entire society so that the works and new products are always eagerly awaited because it brings comfort in use and enjoy it. How a new song or movie, novel, or the creation of architectural choreography always brings new colors of human life. Of course the public as consumers would be interesting to give the value/price of economic goods new creations and always up-to-date. Not the least of the entrepreneur/investor gives the appreciation in the Fund a process creation and new creation. But they remain reluctant to do the funding in question if they are not sure the benefit is worth.

Butt (2000: 41) mentioned that the most fundamental reason for Intellectual Property rights is that someone who has been devoting his efforts to create something has the right natural/basic to have and control anything that has been created. This approach implies reasonableness and fairness because is seems unfair if someone attempts to steal without asking for his permission first. Respect the Intellectual Property of hareus always encouraged. The person who wrote the book, music or creating works of art often do so as a livelihood.

Butt (2000: 175) subsequent mention Intellectual Property is very important in the trade of goods and services both international and domestic. HKI add value to an item that will be traded. The INTELLECTUAL PROPERTY is very large trade in value. Import about HKI has contributed to

the improvement of technology and industry. It also helps in increasing the productivity and help the marketing of a specific product. If a citizen of Indonesia plagiarizing Intellectual Property for use in Indonesia would limit the transfer of knowledge as a whole.

If INTELLECTUAL PROPERTY is managed effectively then open opportunities for companies to use its INTELLECTUAL PROPERTY assets in order to increase the advantage in competition and strategy. Is a better means to do commercialization of invention, brand marketing, design or copyright, licensing expertise, hold joint ventures and contractual agreements only simply the pursuit than the INTELLECTUAL PROPERTY protection of the INTELLECTUAL PROPERTY by the State. Products, brands and creative designs appear on a daily basis in the market are the result of human creativity and innovation. Is an important asset that can be lost so only if the market is not the INTELLECTUAL PROPERTY is protected to the maximum. By taking advantage of the INTELLECTUAL PROPERTY system to fully allow companies to benefit from the innovative ability and creativity that drive innovation further funding and help.

Performing Right in the Copyright

Musicians, playwrights, and other artists whose work can be in the form of performances it was revealed is the main subject in the study of the Performing Right in copyright law. This right gives the possibility to the creator to earn royalties from the performances of a commercial nature. Within the scope of international Rights to this show is set in the Berne Convention, the Universal Convention and even its own Convention in Rome.

Performing Right is clearly the rights given to creators of any work derived from his ideas that may include economic rights (economic right) that gives economic benefits from the use of the use by others based on a licence where the licensee shall pay royalties to the creator. It is basically the right type of economy that can be obtained is not the same among one type of Intellectual Property rights. Economic rights on patents and brands more limited when compared to the economic rights of copyright which includes eight types of economic rights, the rights of reproduction rights i.e., adaptation, distribution, performance rights, the right to broadcast, cable programme rights, droit de suite, and loan society (Djumhanah and Djubaidillah, 1977: 66, Muhammad, 2001: 19).

Performing rights are the translations of the Performing Right or some call it Performance Right/Public Performance Right. Performing rights are granted to the creator to obtain economic benefits from other parties who use it. The economic benefits embodied in the form of receipt of an amount of money as royalties from other parties who use the copyright based on the permissions granted to it. Internationally, performing rights (performing right) is set by the Berne Convention, the Universal Convention (Universal Copyright Convention/UCC), and in a separate special conventions i.e. Convention of Rome. In the Berne Convention, the right of the show is set in article 11 paragraph (1), which specifies that (translation Expert Serie B Clinic Foundation, 1999: 732):

”The creators of drama, musical drama and music copyright works has special rights over the authority:

- (i) Public performances of copyrighted works they include public performances by a variety of means or processes
- (ii) Each public communication of performances of copyrighted works they

Article 11 paragraph (2) determines that:

”The creators of copyrighted works of drama or musical drama has, during the period of their full rights in the work of the original copyright work –, the same rights with regard to the translation of those rights”

The meaning of the article specifies that the creators of copyrighted works of drama or musical drama have their rights over the sample's work during the period of protection by law, the same rights apply to the translation of works of copyright the copyright.

Performing rights are essentially found in article I and article IV *Universal Copyright Convention* (UCC). This article determines that:

”Each signatory State provides to protect effectively the rights of creators and other copyright holders in literature, science, and art works, including writings, music, drama and cinematography, and paintings, engravings and sculpture”

As for Article IV bis determines that:

”The right that shows on the article I will cover fundamental rights guarantees the economic interests of creators, including the exclusive right to reproduce authorized through several methods, public performances and *broadcasting*”

The second article above (chapter I and Chapter IV bis UCC) may note that designated in section I include the fundamental rights that guarantee the economic interests of creators, including the exclusive right to reproduce through public performances and some of the ways *broadcasting*.

The 1961 Rome Convention i.e. *International Convention Protection for Performers, Producers of Phonograms and Broadcasting Organization* the rights specifically set up has to do with the show. In this Convention the conception of Intellectual Property is often categorized as Copy Rights (*Neighboring Right*), who in Act No. 19 of 2002 and the new Copyright ACT (Act No. 28, 2014) referred to the rights associated with it. Your own copy then right gets settings in Act No. 7 of 1987 on article 1 point 8, 9, 10 and article 43 c. terms which appear in article 1 points 10, 11, 12 and section 49 of ACT No. 19 of 2002 combined with Article 1 point 9 as rights Related notions of formulation. Whereas in Act No. 28 2014 Rights Related appear more widely as a form of protection is the development of a strong economy as right. Related rights arise in article 1 point 5 article 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30.

Likewise a useful supporting institutions to take care of the interests of users of copyright works, organizing themselves in a container called a *Public House Society*. These institutions are organizing people or bodies of broadcasting is also a place that often provide entertainment in it

like a ship, an airplane, a gambling place, shops, hotels, restaurants. Agencies that specialize in order to take care of the use of this work (for quite a long time) does not yet exist in Indonesia (Djumhanah and Djubaidillah, 1997: 69). But with the birth of Act No. 28, 2014 has been in chapter XII, Article 87 up to Article 94 regarding Collective Management Institutions whereas the understanding contained in Article 22 1 point which is referred to as the institutions that shaped the non-profit legal entity authorized by the creators, copyright holders, and/or related rights owners to manage the economy in the form of rights to gather and distribute royalties.

Exercise of exclusive economic rights, especially given the creator's right to carry out itself the copyright it, one form of implementation is the right to "announce". The activities carried out in the form of announcements announced as for the definition of "announcement" listed in Act No. 28 by 2014 the number 11 of article 1, which determines that :

”The announcement was read, broadcast, exhibit a creation using any tool either electronic or non-electronic or perform in any way so that a creation can be read, heard or seen by others”

So, a creator or copyright holder have the right reading, broadcast, exhibition intended as a valuable economic right. Thus, the other party shall execute such deeds must obtain permission from the creator or copyright holder.

As for how the readings, exhibition and broadcasting, it can be done in a variety of ways that lead to the ciptaan can be read, heard, and viewed both electronically and non-electronically. Phrase "electronic and non electronic" is not mentioned in the copyright ACT earlier. Announcement of creation so that it can read can be a kind of alphabet song text impressions in such audiovisual media through television, film, slide.

An announcement of creation so that it can be heard through radio broadcasting or transmission of other tools, while the announcement of creation so it can be seen on the side of the can through tv footage can also be through live performances on stage, or other good performances in the arena of open space or indoors such as hotels, restaurants, karaoke (sing's House) and others.

The activities are categorized "performing rights" include: organizes and displays in public. Organizes a copyright work means bringing either direct or other audio visual works, demonstrate images in each set, or create accompanying songs which can be heard. So does the conduct here is not just a show with a tool or process anything (Alces and See, 1994: 118-119). This has been the real Copyright ACT mentioned in the new.

Cinematic action is also used in addition to the hosts. Beverages, according to the Alces and See (1994: 119) means shows a slogan directly, or with the understanding-understanding of film, slide, television image, or any other tool, process, move the picture or other audiovisual work, perform a series of individual images. Good performance in the sense of rights to organize as well as in the sense of cinematic diisarakatkan that shows it is in public.

As for the scope of organizing or expose a work in public it (Alces and See, 1994: 119) means:

1. Organise or display in a place open to the public or in some places where the substance of the number of people present outside of the normal amount. Its size is outside of a circle of family and relatives who gathered.
2. Sent through transmission or broadcasting an event or performance of a work on a public place with the use of some tool or process, provided that if members of the public capable of receiving the performance or event to receive it in the same place or in separate places and at the same time or at different times.

Limits for knowing a show said to be public, viewable from three streets, first, if it happens in a place open to the public. Second, if there is one place where the substance of the number of persons outside of a normal circle of a family or relatives gathered. Here is not the place to be pretty important but whether the determination of the people in attendance was limited to the family environment or relatives. Third, public performances through the transmission of a work to the place where the number of people out of the amount collected or through the transmission to the public. Similar transmission does not need to make a place to live where the audience are gathered, or open to members of the general public but may be on the respective place of residence elsewhere (Alces and See, 1994: 119-120).

The copyright to the public performances are always implies the meaning of commercial made through fundraisers, previous performances, ticket levies for the use of a copyright, though known to some restrictions to it. So real that any persons or entities that display or perform a work of copyright, must request permission from the copyright owner.

As an economic rights, implementation of this right has got a growing political recognition all over the world especially in Europe even got a place on the Berne Convention, the Universal Convention (*Universal Copyright Convention/UCC*) and even in the Convention of Rome as a special Convention. Community institutions and Governments in various countries have economic rights implementation trip coloring right performances.

At the very least, seen two-way interest with regard to the implementation of the rights of the show. The first, seen from the interests of the owner of the rights to the show, and the second, seen in terms of the interests of the user rights of the show to commercial interests. Each point of interest then self-organizing to simplify use of the affair and the acquisition of the economic rights.

Agencies that take care of the interests of creators, musicians, composers and other copyright works Publisher known by the Performing Right Society. Obtain permission from the performances of a work will be easier through the services of this institution, in addition to its role in collecting the royalties paid by the party which hosts the show.

The first institution that concentrates its activities as an institution the right show in Indonesia was established in 1990. Initially named Yayasan Karya Cipta Indonesia (YKCI), later called just Works Copyright Indonesia (KCI) is the agency that helped the creator, composer, musician to be able to represent the Affairs of its economic rights from the work of collecting the sample.

KCI is the private institutions as well as other institutions performing right society in the world, was founded to bridge the songwriter with songs that users are commercial ventures, where the song became one of the irreplaceable component of the consumer. Internationally known institutions such as Comfederation the International Societies of Composers of Author and Composers (CISAC).

Performing right agencies at each country held in cooperation with each other in between to spool the royalty funds across the country or otherwise. These include creators of institutions present in Netherlands BUMA, named in the United Kingdom called the Performing Right Society, Ltd. (PRS), in Japan, Japanese Society for Rights of Authors, Composers and Publishers (JASRAC), in Singapore named Composers and Authors Society of Singapore (COMPASS) Ltd., in Canada named Societe Canadienne des Auteurs Compositeurs et Editeurs de Musique (SOCAN), named France's Societe des Auteurs Compositeurs et Editeurs, de Musique (SACEM) is recorded as the oldest established 1858, named Italy's Societa Italiana degli Autori ed Editori (SIAE), in the United States named the American Society of Composers, Authors and Publishers (ASCAP).

The formation of the Organization in the latest Copyright ACT (Act No. 28, 2014) called this Collective Management Institutions in some countries shows the consistency of the community creator in the country – the country concerned to protect his rights, particularly the rights to the show. The structure of the institution seems to have gradually undergone standardisation followed by different countries.

There are six major departments are ideal in organizational structures capable of supporting the effectiveness of the Agency in the exercise of its functions, namely: (1) Department of Keanggoaaan (Membership Department), (2) Department of licensing (Licensing Department), (3) Departmental Documentation (Documentation Department), and (4) the Department of distribution (Distribution Department). This Department performs four functions of each.

Department of Keanggoaaan (Membership Department) menghimpun creator-the creator of both local and foreign, with sample papers each. A list of these works were presented in a Repertoire that reference materials for the user menjdi the music to determine the extent of the need for a license. User music (disco, karaoke, restaurants, hotels, and such) is easy to take a decision because enough related to Collective Management Institutions. Department of music users to ensure the Membership is no longer associated with individuals outside your organization.

Including the task of the Department is responsible for the Membership counter foreign repertoire to not harm foreign creators and works. In such a great Collective management agencies PRS, JASRAC and several others made the separation of international relations to handle relations with the members of the organization.

The License is in charge of searching for music users, monitor their usage of works that are licensed to him. An equally important task is to associate the royalty who may have to be

paid, and of course should be collected based on the agreed quantity or based on existing standards.

Department License must describe clearly the rates varied with the right ideas of music tariff in relation to each country's different socio-economic factors are based. The tariff is based on the following principles (pillars, 2001: 8):

1. Fixed price, set by the Department based on match the contribution given by the music to the commercial business of music users. The value of music is judged based on the criteria, if the music is to the benefit of background music in restaurants are set a fixed price (fixed fee) per specified time, while use of the portion that is a lot more to broadcasters is based on a percentage of revenues or expenditures
2. Following the Government's economic activity – legal supply and perminataan and stirring up a decent profit. Management organizations act for collectors on behalf of creators, authors, publishers set the price of a product the music. High to low prices in the market would affect the user's interest in music or products offered. No possibility that the relationship in question through the legal channels. The determination of the price of a license is a problematic for Collective Management Institutions.

As for The main task of running the established Documentation Library documentation for the creators of the works. In place of this repertoire – can be used by users of the Repertoire of music. Collective Management institutions carrying out tasks for creating, maintaining, and renewing the Repertoire library contains data works copyright owner of the work of national and international.

CISAC muster internationally list creator, author and publisher of oranisasi management of collectors all over the world. List of named CAE List (Composser, Author, and Publisher List) contains millions of creators, authors, and publishers. In addition, a list of frequency of use of copyright works in all corners of the world called WWL (World Work List) recorded the same time 500 000 frekuensi the use of musical works throughout the world. The management organization of collectors all over the world didokumentasi more than tens of millions of copyrighted musical works. Updates the list of information collected in several categories such as: "who is the creator of", "who is the author of the copyrighted work", and "who is the owner of the copyrighted work". List – a list of function of proof and a reasonable distribution of reference (pole, 2001: 11).

The fourth Department is a Department in charge of distribution, examine and analyze information regarding the use of copyrighted works in a country and determine the identity of the creator – the creator used his naturally by using many documents from the Department of documentation. This is a very important task associated with the economic rights of creators, and the entire set of information from the much needed documentation its accuracy. Ability to meet expectations to meet satisfactory royalty payments would encourage a collective Manejemen Agency gets sympathy from the community creator.

Research on role-the role of Collective Management ever conducted in Makassar against businessman users music and songs (Makkawaru, 2003) and the results show that 90% of the 30

(thirty) businessman who became the sample declares the presence of copyright for creators, but from those who answer know of any copyright that may not necessarily be admitted the existence of an obligation to pay royalties to the creators that the entrepreneur did acknowledge the copyrights are reserved but the problem asking for permission to use the music/song was unnecessary since according to the respondent employers had purchased his tape. so to play the song in the tapes no longer need to ask for permission. According to him, the royalties paid by the record company to the creator so creators no longer need to collect royalties on music users. Where it is emphasized again by the results of an interview with one of the company's manager (hotel) which States: "the royalties to creators have actually retrieved from corporate partners, must be a royalty on the recording is maximized creator".

It is thus justified by the individual Investigator civil servant of Intellectual Property/COPYRIGHT/IP in 1988 that: "in the chance a few times case out top reports on several places known to KCI that they are not able to distinguish the rights of Duplication (Mechanical Rights) and the rights of the show (a Performance Right) on Copyright, so the entrepreneurs feel mind paying royalties because he said had obtained the creator of record companies, when it acquired the creator royalties from record royalties and Rights employers Doubling". Although it is difficult, but the Ministry of Justice and human rights of INDONESIA has managed to mediate the royalty payments from some of the companies who are already aware of "literacy" to KCI so some enterprise users the License Certificate of music Announcements music (SLPM) KCI (Makkawaru, 2003).

Performing Right and Related Rights

Performing Right is one form of economic rights the creation of rights (economic right) on Copyright and Related Rights (neighboring rights) are actually in the library of categorized Intellectual Property rights is not a substantial Copyright/original. According to Djened (2007: 80) that the associated rights are actually said so because no fulfillment of authenticity (originality) as copyright protection requirements according to the legal tradition of the civil law system in a high degree due to must be able to demonstrate the emphasis character individually (individual personal intellectual creation) as an element of personality are printed. Then he says that legal protection based on "related rights" granted to three of these parties as an incentive for investment and their contribution in the dissemination of copyrighted Creations. So it can be said the proximity of the two terms is in realizing the maximization of existing economic rights Copyright is very strong.

Copyright (Copyright) divided into Copyright (copyright) itself and the associated Rights (Neighboring Rights). Related rights are essentially unrelated to the idea of intellect but rather on the ability of a person or legal entity to provide a value-added economy in creation. A singer who does not create the song but with the ability to perform that song or the other way so that the public can enjoy the creations.

Hozumi (2006: 25) explains that the associated Rights are rights that are associated with whatever play an important role in the dissemination of a work to the public. According to him,

in some countries the related rights is not recognized or applied to a different subject, but Korea and Japan in China the rights given to the actors of the show, such as musicians and actors, producers of sound recordings, broadcasters, and cable broadcasters.

Related Rights are protected automatically although not through registration. Related Rights are also protected by international conventions such as the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (the International Convention on the protection of Performers, producers of sound recordings of Performances, and Broadcasters) and the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (the Convention on the protection of producers of sound recordings to the duplication of sound recordings without permission). Copyright and Related Rights protected individually and therefore need separate permission for use of the respective rights. When you reproduce a sound recording should ask permission not only of the actors performances and record producer a (related rights), but also from the author (composer) and author of the lyrics. In the new Copyright ACT (Act No. 28, 2014) mentioned that the Minister (the Minister of Justice and human rights, the author) hosted a record keeping and deletion of creation and Related Rights, although it did not constitute a condition for getting a copyright and Related Rights (article 54, paragraph (1) and (2).

Rome Convention setting a reference regarding this related, according to Article 1 (a) and (c) of the Convention is that:

“Performer means actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, or otherwise perform literary or artistic works. Producers of phonograms means the persons who, or the legal entity which, first fixes the sounds of a performance or other sounds”

Rome Convention governs the protection of related rights in matters as follows: 1) minimum protection of the perpetrators show, 2) adopts the principle of national treatment (national treatment), 3) if recordings published for commercial purposes is used for additional use of the broadcast, etc., the perpetrators of the show or the producer is given the right to claim remunerasi and 4) determination of the duration of the show.

Related Rights legislation in Indonesia can be found in the setting of ACT No. 19 of 2002 Article 1 point 9 specifies that the:

"Related Rights is a right related to copyright, namely the exclusive right of the Performer to reproduce or broadcast his show; for the producer of sound recordings or lease to reproduce works or sound recordings sound recordings; and for Broadcasters to create, memperbanyak or menyiarkan works broadcast”.

From the article above referred three related rights subject i.e. Actors, producer of sound recordings and Broadcasters. Whereas in the new Copyright ACT (Act No. 28, 2014) on article 1 point 5 determined that:

"Related Rights is a right related to copyright is the exclusive right of the performer, producer of phonograms, performances or broadcasting".

Unlike in the copyright ACT formula in advance where the "perpetrator" was changed to "perpetrators of the show", "record producer" was changed to "producer of phonograms", while "broadcasters" keep using the same term. As for the meaning of each of the three holders of rights related to it can be seen in the following Diagram:

Diagram 1: term and Sound Passage Rights Related articles

The Name Of The Copyright ACT	Terms used	Article governing	the text of article
Act No. 19 of 2002 on copyright	the offender	Article 1 numbers 10	The offender is an actor, singer, musician, dancer or those who display, demonstrate, perform, sing, deliver, reciting, or play a piece of music, drama, dance, literature and other works of art.
	Producers Of Sound Recordings	Article 1 Article 11	Sound recording producer is the person or legal entity who first recorded or have the initiative to finance the activities of the sound recording or the sound of a performance or other sounds or voices
	Broadcasters	Article 1 Article 12	Broadcasters was broadcast, organizers of an organization both Government Broadcasters and Private Broadcasters in the form of a legal entity that performs work of a broadcasting broadcast using the transmission with or without wires or through other electromagnetic systems.
Act No. 28 by 2014 about copyright	Principal Performances	Article 1 Article 6	The show was an abuser or some people that are singly or together featuring and pointing to the a Creation
	Producers Of Phonograms	Article 1 Article 7	Producer of Phonograms is a person or legal entity that first record and has the responsibility to carry out the recording of sound or recording sound, recording both performances and sound recording or other sounds
	Broadcasters	Article 1 Article 8	Broadcasting is host of broadcasters, both public broadcasters, private broadcasters, community broadcasters and subscription broadcasters in

			carrying out, tasks, functions, and their responsibilities in accordance with the provisions of the legislation.
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Regulation Rights Related to copyright LAW in Indonesia begins and is a new supplement provisions in Act No. 12 of 1997 followed in Act No. 19 of 2002, updated again in Act No. 28 by 2014, where earlier in Act No. 6 of 1982 as amended by Act No. 7 of 1987 the provisions do not yet exist.

With regard to the expansion of the scope of the Copyright rules in such a way that follows the development of society and the development of trade or technological developments. Generally copyright-protected areas can be classified into three categories (Djumhanah and Djubaidillah, 1997: 61-62):

- a. Include the job that is specified in the Berne Convention, namely literature (Literary), artistic work (the artistic work), including drama, music and drama music.
- b. Categories that appear later on due to technological developments, namely such as cinematography, sound recording (broadcasting) broadcasting both radio and television.
- c. Computer-related group that is on a computer program.

From this, some areas such as work-related broadcasting does indeed appear later as the development of technology. Then internationally the WTO any interest in setting the issue in question in order to conceptualization the effects of trade in the era of globalization. The globalization of world trade forced developing countries to invest in trading principles recognized by the WTO, which is expected to harmonize legal provisions in the area of trade, including Intellectual Property rights.

Within the framework of the WTO, Indonesia as Member States need to take measures in the fields of national law (Damian in the Pro Lady Justice Years XIX No. 3 July 2001: 3) namely:

1. With regard to the things that were never regulated in the various regulations existing legislation:
 - a. revoke are not appropriate, and declared not valid;
 - b. the repeal does not match and replace them with provisions that comply with WTO;
 - c. perfecting that still fits, so being in accordance with the provisions of the WTO.
2. With regard to things that are not yet regulated, devise new legislation altogether.

The practice of the European Union concerning the setting of related Rights extended to look at the parties that resulted in the creation of a legally does not meet the requirements of originality of ideas and creativity is a creation, include (Lewinsky in Jened, 2007: 97):

1. *Editor of scientific edition.* Someone who makes of creation Science Edition whose contents are not protected by copyright, but the editors are protected for 25 years.
2. *Publisher or communicator of posthumous works.* Someone who legally publish or communicating creation has ended a period of copyright protection, are protected for 25 years.

3. *Photographer of photograph (lack of originality)*. Someone who creation top photographers who do not meet the originality of ideas and items or the same products made by way of photography will be protected selama 50 years.
4. *Makers of database*. One maker of database as a creation of the less meet the elements of originality of ideas protected for 15 years.
5. *Producers of films*. A that produce, distribute and use for presentation in public or broadcast video or audio, the creation of the Cinematography is attached is protected for a period of 50 years.

In the Copyright ACT (Act No. 28, 2014) there are some developments that simply means a lot to the development of the protection of Copyright and Related Right Performing at once, i.e., it can be expressed, among others,:

1. The birth of a special chapter (chapter XII) concerning Collective Management Institutions contained in article 87 and Article 94. This article gives reinforcement to the Collective Management Institutions that had existed during this fell in administering its activities immediately from the challenges of the world entertainment industry such as tommyimage KCI during this time. Some important points with regard to this Collective Management Institutions:
 - 1) Creators, copyright holders, related rights owners (mandatory) Collective Management Institutions become members if you want protected its Intellectual Property to its full potential in terms of: power usage and license to distribute royalties to him excerpts (article 87, paragraph (1)).
 - 2) Companies and individuals that use or such copyright and Related Rights to pay royalties through Collective Management Institutions after first make an agreement in an official letter of agreement (article 87, paragraph (2) and (3)).
2. Collective Management institutions have gained recognition as a nonprofit institution with legal requirements as well as institutional membership/membership that is scalable, mechanism of action, as well as transparency (article 88, paragraph (1), (2), (3), article 89 paragraph (1), (2), (3), (4) and article 90.

Affirmation laws (legislation) regarding the position of the related Rights degrees setting it up with the Copyright itself so that the position of the perpetrator of the show, the producer ponogram, and broadcasters can be more secure protection of the law.

CONCLUSION

Performing Right get advance settings in Indonesia's legal system, especially in the field of Intellectual Rights (Copyright) that gives more protection after the extent of Collective Management Institutions as official agencies acknowledged the Government has embodied in the Act. Thus the whole of society, especially communities that many entrepreneurs make use of copyrighted works without the provision of adequate compensation to creators and owners of Related Rights has had to give a good response was for the protection of copyright law according to in Indonesia. Similarly Related Rights that had yet to gain protection through regulatory

legislation, then with the publication of the latest Indonesia Copyright ACT (Law No. 28 as of 2014) strengthened with the placement settings are more assertive.

REFERENCES

- Alces, Peter A. dan See, Harold F. 1994. *The Commercial Law of Intellectual Property*. Little, Brown and Company, New York.
- Butt, Simon. 2000. *Intellectual Property Right (Elementary)*. Asian Law Group, Jakarta.
- Damian, Eddy. 2001. "Pengaturan dan Pengertian Hak Cipta Sebagai Hak Milik Intelektual" dalam *Majalah Hukum Pro Justitia* Tahun XIX No. 3 Juli 2001
- Djened, Rahmi. 2007. *Hak Kekayaan Intelektual Penyalahgunaan Hak Eksklusif*. Airlangga University Press, Surabaya.
- Djumhanah, Muhammad dan Djubaidillah R. 1997. *Hak Milik Intelektual, Sejarah Teori dan Prakteknya di Indonesia*. Citra Aditya Bakti, Bandung.
- Hozumi, Tamotsu. *Asian Copyright Handbook*. ACCU-IKAPI, Jakarta
- Makkawaru, Zulkifli. 2003. "Perlindungan Hak Pertunjukan Musik di Kota Makassar". *Tesis*. Pascasarjana Universitas Hasanuddin, Makassar
- Muhammad, Abdulkadir. 1994. *Hukum Harta Kekayaan*. Citra Aditya Bakti, Bandung.
- 2001. *Kajian Hukum Ekonomi Hak Kekayaan Intelektual*. Citra Aditya Bakti, Bandung.
- Saidin 1995. *Aspek Hukum Hak Kekayaan Intelektual (Intellectual Property Right)* . Rajagrafindo Persada, Jakarta.
- Sutedi, Adrian. 2009.
- Tiang, Ang Kwee. 2001. *Collective Management of Right in Musical Work*. Makalah pada WIPO National Roving Seminars on Collective Management of Right in Musical Works, Makassar 9 Pebruari 2001.
- Yayasan Klinik HaKI. 1999. *Kompilasi Undang-undang Hak Cipta, Paten, Merek, dan Konvensi-konvensi di Bidang Hak Kekayaan Intelektual (HaKI) Seri A*. Citra Aditya Bakti, Bandung
- 1999. *Kompilasi Undang-undang Hak Cipta, Paten, Merek, dan Konvensi-konvensi di Bidang Hak Kekayaan Intelektual (HaKI) Seri B*. Citra Aditya Bakti, Bandung.