

ANALYSIS OF THE FAIR USE PRINCIPLE IN AI-GENERATED SONGS ON THE SPOTIFY PLATFORM BASED ON LAW NUMBER 28 OF 2014 ON COPYRIGHT

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Abstract: This research examines the application of the fair use principle to AI-generated songs published on Spotify under Indonesian Copyright Law. The research employs anormative legal research, utilizing statutory and conceptual approach. Legal material collected through literature review and online resources and analysed using deductive reasoning to systematically interpret legal norms. The research highlights key criteria for fair use such as non-commercial use, benefits to the original creator, and the absence of objection from the creator , which would apply to AI-generated songs. However, the commercial use of AI-generated songs, particularly when monetized on platforms like Spotify, raises concerns regarding royalty obligations and economic rights for original creators. The research also address the need for adaptive regulations to ensure the balance between protecting creators rights and fostering AI innovation in the music industry. The findings suggest that while AI-generated songs may qualify as fair use in certain cases, the legal implications are complex, and stricter guidelines are needed to govern AI technology's role in music reduction. This research contributes to the ongoing discussion on AI's impact on intellectual property rights, proposing recommendations for legal framework to accommodate the evolving nature of creative technologies and protect the interest of creators in the digital environment

Keywords: Artificial Intelligence; Copyright; Fair Use Principle

INTRODUCTION

The rapid development of digital technology, especially with the emergence of Artificial Intelligence (AI) as a complex technology, has been identified by the World Economic Forum as one of the greatest global risks humanity will face in the near future ("Ministry of Communication and Information Technology," n.d.). According to the Directorate General of State Assets (DJKN) under the Ministry of Finance, AI is a field of computer science that develops systems that mimic human intelligence tasks such as voice recognition, facial recognition, and decision-making("Artificial Intelligence," n.d.). The use of AI has increasingly expanded in Indonesia, with more than 24 billion visits to 50 popular AI

tools between September 2022 and August 2023, ranking Indonesia third globally ("Top 10 Countries Using AI, Indonesia Among Them - GoodStats Data," n.d.). In the creative industry, AI is capable of creating works of art, including music, as exemplified by Suno AI and Udio AI, which generate songs automatically based on text inputs ("RRI.co.id - Just One Click, Songs Created Through AI," n.d.). However, this development raises concerns regarding the copyright ownership of such AI-generated songs. According to Law Number 28 of 2014 concerning Copyright, songs/music are protected as copyright objects, divided into music, songs with lyrics, and arrangements. Article 1 paragraph (2) defines the creator as

a person who produces a creation characterized by uniqueness and personal expression, while Article 1 paragraph (4) defines the copyright holder as the creator or a legitimate party who receives the rights. Since AI is a non-human system, it cannot be considered a legal subject or direct copyright holder. Article 34 of the Copyright Law stipulates that if a creation is designed by one person and realized by another under their supervision, the designer is considered the creator. Therefore, individuals who direct AI in the creation of songs are still considered the creators, which is supported by the opinion of Roqi Akbar Mustofa (2024), stating that copyright over AI-generated songs should be granted to the person inputting the text description and directing the AI during the music creation process (Mustofa, 2024).

AI-generated works published on platforms such as Spotify have raised new issues, including the removal of approximately 7% of AI songs from Boomy following copyright infringement claims by Universal Music Group, as well as the viral circulation of AI songs that imitate the voices of famous artists (“Viral AI-Generated Drake Song ‘Heart on My Sleeve’ Removed from Spotify, YouTube,” n.d.). Similar concerns were expressed by musician Indra Aziz, who linked the controversy over AI to the previous debate surrounding Auto-Tune, highlighting that AI can produce lyrics and vocals without personal expression and can even closely resemble original artists without permission (“Indra Aziz Links AI Use in Music to Auto-Tune Debate,” n.d.). The misuse of voices and works harms original musicians and the integrity of the music industry, while uploaders of AI songs and technology companies benefit without regard to copyright and royalties. From an Islamic legal perspective, QS. An-Nisa verse 29 prohibits the unlawful exploitation of others’ property, which can be analogized to intellectual works. However, the Copyright Law recognizes the principle of fair use, which allows the use of copyrighted works without permission for education, research, and

scientific work as long as it is non-commercial and the source is properly credited (Vitriana and Febrianti, 2023). An example is the RIAA case against Suno and Udio, accused of copyright infringement but defended with the argument of fair use since copyrighted materials were only used to train AI, not to copy the original works (“Fair Use Argument by Startups Regarding the AI and Music Industry Controversy - Kompas.com,” n.d.). The fair use principle, serving as a limitation on exclusive rights, aims to balance the interests of rights holders and users of works, in accordance with Article 13 of the TRIPs Agreement, which permits exceptions only in special cases that do not harm the rights holders’ interests (Aini and Wauran, 2021). Indonesia, having ratified TRIPs through Law No. 7 of 1994, has adjusted its intellectual property protection accordingly, including Article 43 letter d of the Copyright Law, which allows the distribution of copyrighted content without commercialization or the creator’s objection. The fair use principle has three main conditions: non-commercial use, benefits to the creator or related parties, and no objection from the creator (Dwitriani et al., 2022). Pursuant to Article 44 paragraph (1) of the Copyright Law, the use of works for education, research, scientific writing, security, educational lectures, and free performances is not considered infringement as long as it does not harm the interests of the creator or rights holder.

Several previous studies have addressed similar topics but with different focuses. Dyandra Mahardika (2018) discussed the application of fair use in the sale of pirated books, while Arifah Dwitriani et al. (2022) researched copyright protection for cover songs on Instagram. Fadhilah Shiddiq (2023) examined fair use in the airing of movie clips on YouTube. Meanwhile, Roqi Akbar Mustofa (2024) studied the copyright status of AI-generated music from an administrative law perspective. However, no research has comprehensively analyzed how the fair use principle applies to AI-generated songs uploaded to music streaming platforms

such as Spotify, particularly in the context of the Indonesian Copyright Law.

The aim of this research is to legally analyze the fair use principle regarding AI-generated songs published on Spotify and to identify the legal consequences arising from their use based on Law No. 28 of 2014 on Copyright. This research is new and distinct as it combines copyright law issues with the development of AI technology in digital music distribution platforms. The focus on AI-generated songs on Spotify makes this research unique, as most previous studies have not addressed fair use in the context of AI-based content and its distribution through global platforms. The results of this research are expected to contribute to the development of more adaptive regulations regarding the evolution of AI-based creative technology in Indonesia.

METHOD

The research method used in this study is normative juridical, focusing on analyzing the application of the fair use principle to AI-generated songs on the Spotify platform. This method involves a Statutory Approach by examining and analyzing Law Number 28 of 2014 concerning Copyright, particularly regarding the use of copyrighted works in the context of artificial intelligence. In addition, a Conceptual Approach is employed to explore legal doctrines and principles related to copyright and fair use, especially considering the absence of specific regulations governing AI-generated content. Furthermore, a Comparative Approach is used to assess the similarities and differences between Indonesian copyright regulations and those of other countries, aiming to evaluate the effectiveness of each legal system in addressing copyright challenges in the era of AI. This research utilizes primary legal materials, including legislation and official documents, supported by secondary legal materials such as academic books, journals, and expert opinions related to

copyright, fair use, and artificial intelligence. Tertiary legal materials, such as legal dictionaries, encyclopedias, and online news, are also included to provide supporting information. The collection of legal materials is conducted through library research and internet-based searches. The analysis technique applies deductive reasoning to systematically interpret the legal norms and assess the implications of fair use principles for AI-generated songs in the Indonesian legal framework.

ANALYSIS AND DISCUSSION

A. The Principle of Fair Use in AI-Generated Songs Published on the Spotify Platform Based on Law Number 28 of 2014 on Copyright

From a copyright law perspective, songs are one of the categories of protected works. Under international intellectual property (IP) law, songs and music are referred to as musical works, which typically consist of four key components: melody, lyrics, arrangement, and notation. These elements may be created by one or more individuals separately, allowing for a single musical work to have multiple copyright holders. The Berne Convention recognizes musical compositions as protected works, whether with or without accompanying lyrics, in order to ensure the creator's exclusive rights. (Aini and Wauran, 2021) Similarly, Indonesian law provides protection for songs and music, as stipulated in Article 40 paragraph (1) letter (d) of Law No. 28 of 2014 on Copyright, which states that songs and/or music, with or without lyrics, are protected creations.

A musical work encompasses two main types of rights held by the creator: moral rights and economic rights. Moral rights are personal rights inherent to the creator, as provided in Article 5 paragraph (1) of the Copyright Law:

- a) the right to include or not include their name on copies of the work used publicly;
- b) the right to use a pseudonym or alias;
- c) the right to make alterations to the work in accordance with community standards;
- d) the right to modify the title and subtitle of the work; and
- e) the right to defend the integrity of the work against any distortion, mutilation, modification, or acts that may harm the creator's honor or reputation.

The creator's economic rights include various forms of utilization and commercialization of the work, including use on music streaming platforms. Within such platforms, two primary forms of economic rights usage exist:(Naue et al., 2024)

- a) Performing rights, which refer to the right to publicly perform, play, or communicate the work for commercial purposes;
- b) Mechanical rights, which relate to the right to arrange or transform a work, thereby allowing the creator to adapt or convert an existing work into a new creation.

Furthermore, Article 8 of Law No. 28 of 2014 states that the creator or copyright holder has exclusive rights, including the economic rights to derive financial benefits from their work. Article 9 paragraph (1) elaborates that copyright holders have the right to exploit their creations in various ways, such as publication, reproduction, adaptation, arrangement, transformation, performance, and public communication of the work. Paragraph (2) emphasizes that any party wishing to use these economic rights must obtain permission from the creator or copyright holder.(Yambormias et al., 2024) In the context of music, these provisions are further reinforced by Government Regulation No. 56 of 2021 concerning Royalty Management of Copyrighted Songs and/or Music. Article 3 paragraph (1) of said regulation mandates that any person who uses songs and/or music commercially in public

services must pay royalties to the creators, copyright holders, and related rights owners through the National Collective Management Organization (LMKN). LMKN is tasked with collecting, managing, and distributing royalties to entitled rights holders.(Glheysia et al., 2024) Therefore, any commercial use of songs or music must follow licensing procedures and royalty payments to ensure legal certainty and economic protection for creators and copyright holders.

In relation to fair use, applying this principle in the context of AI-generated music could serve as a bridge between technological innovation and copyright protection. On one hand, creators and rights holders must continue to receive legal safeguards for their works; on the other, AI development should not be unduly restricted given its potential in the creative industry. The fair use principle permits the use of copyrighted songs and/or music, with or without lyrics, so long as it complies with applicable laws and specific conditions.(Hidayah, 2017)

The Fair Use Doctrine functions as a limitation on copyright, permitting the use of protected works without the author's consent under certain circumstances. It regulates exceptions to exclusive rights, especially in the use of copyrighted works for specific purposes, provided the use remains reasonable and within the boundaries of applicable legal provisions.(Ramadhan, 2022) Although the term "fair use" is not explicitly mentioned in Law No. 28 of 2014 on Copyright, the concept is acknowledged under the term "reasonable use," which refers to balancing the economic utilization of a work. In copyright law, limitations and exceptions to exclusive rights are recognized to maintain equilibrium between the interests of rights holders and users of creative works.

Experts concur that fair use permits limited use of copyrighted works without the creator's permission. Joseph Turow asserts that individuals or companies may utilize small portions of a work without approval, while Professor Eddy Damian states that fair

use is a legal mechanism allowing third parties to use works within permitted boundaries. Paul Goldstein also supports this concept as a privilege granted to users who are not copyright owners. Under Indonesian law, copyright is not absolute and must consider its social function. (Margaritha Rami Ndoen, 2020) Therefore, limitations and exceptions, including fair use, exist to maintain a balance between the creator's rights and public interests. Thomas G. Field regards fair use as a crucial but complex limitation in copyright law that permits use without authorization under certain conditions. (Aini and Wauran, 2021)

As a party to the 1994 TRIPs Agreement, Indonesia has established limitations and exceptions to the creator's exclusive rights in Chapter IV, Articles 43 through 51 of Law No. 28 of 2014 on Copyright. The fair use principle in Indonesia allows the use of copyrighted works without infringement provided the source is clearly cited and usage is restricted to non-commercial purposes. (Aini and Wauran, 2021) Article 44 paragraph (1) of Law No. 28 of 2014 on Copyright reads:

"Use, reproduction, and/or modification of a work and/or related rights product in whole or substantial part shall not be deemed copyright infringement if the source is properly mentioned or fully cited for purposes of:

- a) Education, research, scientific writing, report preparation, critique, or review of an issue without harming the legitimate interests of the Creator or Copyright Holder;
- b) Security and administration of government, legislature, and judiciary;
- c) Lectures solely for educational and scientific purposes; or
- d) Unpaid performances or presentations, provided that they do not harm the legitimate interests of the Creator."

Article 46 paragraph (1) states:

"Reproduction for personal use of a work that has been announced can be made in one (1) copy without the permission of the Creator or Copyright Holder."

Paragraph (2) of Article 46 further clarifies exceptions to personal use reproduction, excluding;

- a) Architectural works in the form of buildings or other constructions;
- b) Entire or substantial parts of books or musical notation;
- c) Entire or substantial parts of digital databases;
- d) Computer programs."

The phrase "legitimate interests" remains vague and open to interpretation. Therefore, the drafters of the Copyright Law clarified in the Explanation of Article 44 paragraph (1) letter a that "legitimate interests of the Creator or Copyright Holder" are based on a balance in obtaining economic benefits from the work. The academic manuscript of the Copyright Bill under Prof. Dr. Abdul Gani Abdullah, S.H., similarly defines legitimate interests as referring to economic benefit balance. (Abdul Gani Abdullah, 2008) These provisions reflect Indonesia's compliance with Article 13 of the Trade-Related Aspects of Intellectual Property Rights (TRIPs) Agreement, which states: (Ash Shiddiq, 2023) "Member shall confine limitation or exception to exclusive rights to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interest of the right holder."

The legitimate interests referenced in Article 44 paragraph (1) of the Indonesian Copyright Law can be equated with the concept of Legitimate Interest in Article 13 of the TRIPs Agreement. Thus, interpretation of legitimate interests may draw on various interpretations developed for this phrase. The WTO Analytical Index: Guide to WTO Law and Practice explains: (Ash Shiddiq, 2023)

“The ordinary meaning of the term ‘interests’ may encompass a legal right or title to a property or to use or benefit of a property (including intellectual property). It may also refer to a concern about a potential detriment or advantage, and more generally to something that is of some importance to a natural or legal person. Accordingly, the notion of ‘interests’ is not necessarily limited to actual or potential economic advantage or detriment.”

The WTO panel states that interests include rights, ownership in the use of property, and benefits derived therefrom, not limited to economic gain or loss but also moral advantages or disadvantages for copyright holders. “Legitimate” is understood as lawful, valid, justifiable, and consistent with recognized standards, thus protection of interests must be justified based on the purpose of protecting exclusive rights. Article 13 also considers “unreasonable prejudice,” which occurs if limitations or exceptions cause undue loss of benefits for the copyright holder. Therefore, the legitimate interest within fair use must be understood as potential economic and non-economic benefits or losses deemed reasonable for the rights holder. Hence, in the use, reproduction, or modification of a work without permission, potential economic and non-economic harm must be considered, especially for digital-based creations such as AI-generated songs, which may eliminate exclusive rights to distribution and economic exploitation of the work.(Ash Shiddiq, 2023)

Utilization of these rights requires written permission and royalty payments, which may be facilitated by the National Collective Management Institution (LMKN).(Naue et al., 2024) ccording to Article 23 paragraph (5) of Law No. 28 of 2014: “Anyone may commercially use a work in a performance without prior permission from the Creator by paying remuneration to the Creator through a Collective Management Organization.” The purpose of royalty payments is to protect the economic rights of the creator.

Royalties are regulated under Government Regulation of the Republic of Indonesia No. 56 of 2021 concerning the Management of Copyright Royalties for Songs and/or Music. This regulation complements Law No. 28 of 2014, particularly in implementing provisions on collective institutions and royalty management as stipulated in Articles 87, 89, and 90. It specifically regulates the collection, withdrawal, and distribution of royalties to song or music creators, including potential regulation of royalties for AI generated songs, which remains a legal debate. Besides providing legal certainty, the regulation aims to ensure fairness in protecting the economic rights of creators and copyright holders.(Zalfa et al., 2024)

Thus, the commercial status of an AI song on Spotify depends on its purpose and the impact of its use. If not monetized and used for education or free distribution, and not meeting minimum streaming and listener thresholds, the song may be categorized as non commercial fair use. Conversely, if uploaded to generate profit through royalties, ads, or premium services, the song falls under commercial use. If the AI song bears vocal or arrangement similarities to copyrighted works, uploaders must consider royalty payments in accordance with the Copyright Law to protect the creator’s economic rights and balance AI innovation with copyright holders’ interests.

B. Benefiting the Creator or Related Parties

Publishing AI generated songs on platforms such as Spotify must consider the moral and economic rights of the original copyright holders, especially if the vocals or arrangements produced by AI substantially resemble copyrighted works. The term "benefiting" can be understood in two ways: positively as enhancement or acquisition of benefit, and negatively as a gain obtained without suffering a loss.(Rahmanissa et al., 2023) Positively, the fair use principle may apply if the original copyright holder’s name remains credited as respect for their moral

rights.(Rahmanissa et al., 2023) Such acknowledgment allows the copyright holder to gain increased exposure and popularity, which contributes to their presence in the music industry. Additionally, crediting the original copyright holder helps the audience understand the work is based on a pre existing song.

Negatively or passively, benefit can be viewed economically: using AI songs that resemble copyrighted works without permission or compensation may constitute copyright infringement. Even if AI generated songs are created algorithmically without direct human involvement, the fundamental copyright principles remain to protect original creators from harmful exploitation. If an AI song uploaded to Spotify generates revenue from streaming or ads, the original copyright holder is entitled to receive royalties proportionate to the use of their musical elements. Musician Grimes announced an innovative policy on AI use in music by allowing others to use her voice for AI based songs without penalty. On her Twitter account @Grimezs, she expressed willingness to share 50% of royalties from any commercially successful song using her voice. This followed the viral AI generated song “Heart on My Sleeve” featuring fake vocals of Drake and The Weeknd, which reached 250,000 streams on Spotify but was later taken down due to copyright claims by Universal Music Group. (“Grimes Permits Use of Her Voice for AI Songs, Ready to Share Royalties if Successful – Tekno Liputan6.com,” n.d.)

Therefore, AI generated songs published on platforms like Spotify can meet the fair use criterion of “benefiting the Creator or Related Parties” as long as they continue to provide benefits to the original creators, whether directly or indirectly. If the AI song contains vocals or arrangements similar to copyrighted works, the original copyright holders may gain from increased exposure, especially if their names are

credited to honor moral rights. Additionally, AI song publication on Spotify can broaden the reach of the original creator’s work to new audiences, supporting wider dissemination and musical communication. However, to avoid copyright infringement, the use of AI songs resembling copyrighted works must respect the original creators’ economic interests. If the song generates income from streaming or advertisements, the original creators are entitled to royalties as compensation for use of their musical elements. A fair profit sharing system ensures that digital distribution of AI songs benefits not only technology and users but also respects the economic and moral rights of creators in the music industry.

C. The Author Does Not Object

Spotify, as one of the largest music streaming platforms, has become a place where many AI-generated songs are published, both legally and illegally. Although AI can produce voices that closely resemble the original artists, the legality of such works remains a subject of debate (“Is AI Music Accepted on Spotify and Other Streaming Platforms?,” n.d.). Under Law No. 28 of 2014 concerning Copyright, the utilization of voice and arrangements without permission from copyright holders may be categorized as infringement, especially if intended for economic gain.

One widely noted case is the song *Heart on My Sleeve*, created using AI and featuring fake vocals of Drake and The Weeknd. The song reached over 250,000 streams on Spotify before being taken down due to copyright claims by Universal Music Group (UMG) (“Grimes Permits Use of Her Voice for AI Songs, Ready to Share Royalties if Successful – Tekno Liputan6.com,” n.d.). Such cases demonstrate that AI technology can produce works that are difficult to distinguish from the original but potentially violate the economic rights of creators.

Article 9 paragraph (3) of the Copyright Law states:

“Anyone who, without the permission of the Creator or Copyright Holder, is prohibited from reproducing and/or commercially using the work.”

The three provisions regarding fair use in Article 43 letter d of the Copyright Law are alternative conditions, meaning that if any one of the three requirements is met, an AI-generated song is not considered copyright infringement. Therefore, as long as one of these criteria is fulfilled, the use of the copyrighted work may be categorized as fair use and remain protected under the law. (Saragih, 2023)

In addition to statutory provisions, it is also important to consider Spotify's fair use policy. However, to date, Spotify has not established specific regulations concerning the use of AI training data within its copyright policy. Spotify permits users to post, upload, and add content to its service provided the content complies with applicable terms, including: (Widiantoro Cahyo, 2024)

- a) Users shall have the right to upload their content to the platform, provided that such content complies with Spotify's guidelines and technical requirements, including but not limited to file format, file size, bitrate, duration, and other technical specifications.
- b) Uploaded content must comply with the licensing terms set forth by Spotify, and shall not violate any applicable laws, including infringement of intellectual property rights or the rights of third parties. Content must not create the false impression of affiliation with, or endorsement by, any artist, band, label, entity, or individual without the express authorization of Spotify and the relevant rights holder.

Licensing provisions are critical to protecting the copyright of AI-generated songs uploaded on Spotify, ensuring that content cannot be transferred, sublicensed, royalty-free, or distributed without permission. Content remains within Spotify's ecosystem, where trademarks, trade names,

logos, and related features belong to Spotify and its licensors, including content owners. Therefore, licensing claims over AI works are crucial to prevent copyright infringement and safeguard creators' exclusive rights. Spotify allows AI-generated music as long as it complies with platform policies; CEO Daniel Ek emphasized that AI music mimicking human artists without permission constitutes infringement and may result in content removal and account suspension (“AI Music on Spotify: Everything We Know So Far | LANDR Blog,” n.d.). Nonetheless, AI use in music production is permitted if uploaders hold full rights to the music and do not illegally imitate other artists' works.

A comprehensive legal analysis indicates that current Indonesian law does not fully accommodate AI-generated songs, leaving uncertainties regarding the application of fair use principles despite Law No. 28 of 2014 granting exclusive rights to creators over their works, including reproduction, distribution, and public communication. In the context of AI songs published on platforms such as Spotify, particular attention must be paid if the song uses copyrighted elements such as melody, lyrics, arrangement, or vocals resembling certain artists. If the song does not meet fair use criteria (Articles 43-46 of the Copyright Law), it may constitute infringement, making Article 9 paragraph (3) prohibiting commercial use without permission a key guideline. Spotify's policy also requires uploaded content not to infringe third-party rights, and infringing content like *Heart on My Sleeve* is subject to removal. Therefore, AI song creators must understand legal aspects and adhere to fair use principles and copyright platform policies. Exceptions for fair use in some countries such as for review, criticism, or parody may be referenced. As a recommendation, AI song creators should avoid using copyrighted elements without permission and if using voices resembling artists, implement fair compensation mechanisms such as royalty sharing exemplified by musician Grimes. Transparency is also important, such as

disclosing AI use to avoid misleading listeners and respecting the original creator's moral rights. Copyright law and Spotify's policies should serve as primary legal guidelines for AI song legitimacy. Collaboration among copyright holders, AI developers, and digital platforms is needed to create a fair system. Meanwhile, the government should develop new regulations and transparent compensation mechanisms considering ethical, economic, and intellectual property aspects to foster musical innovation without harming original creators.

D. Legal Consequences of Fair Use on AI Generated Songs Published on Spotify Platform

The development of artificial intelligence (AI) technology in the music industry enables automatic song creation without direct human involvement, but raises legal challenges related to copyright, especially on digital platforms like Spotify. A recent case involves three major global record labels, Sony Music, Universal Music Group, and Warner Records, suing two AI companies, Suno and Udio, for alleged copyright infringement demanding compensation of \$150,000 per infringed work. The lawsuit accuses Suno and Udio of producing songs very similar to original works, such as "Prancing Queen," which resembles ABBA's "Dancing Queen," as well as imitating other popular songs like "All I Want for Christmas is You" and "My Girl," citing commercial actions that threaten human creative art. Moreover, the copyright debate intensified after the AI song "Heart on My Sleeve," which imitated the voices of Drake and The Weeknd, went viral on Spotify and TikTok with millions of listeners before being removed due to copyright claims by Universal Music Group.

Additionally, Article 9 paragraph (3) emphasizes the creator's exclusive rights over reproduction and commercial use of their creation, stating: "anyone who without

the permission of the creator or copyright holder is prohibited from reproducing and/or commercially using the creation." In the context of AI songs uploaded on Spotify, uploading the song for commercial purposes without the original creator's permission may be considered reproduction of the creation that violates copyright. Furthermore, if the song is promoted or used to gain financial profit, it is also considered commercialization of the creation.

Copyright infringement on AI generated songs that have substantial similarities such as the use of singer's vocal sounds or arrangements without permission for commercial purposes essentially results in two legal consequences, namely civil law consequences and criminal law consequences. From the civil law aspect, copyright infringement is classified as an unlawful act as regulated in Article 1365 of the Indonesian Civil Code (KUHPerdata). (Hartono et al., 2023)

"Every unlawful act that causes loss to another person obligates the person who caused the loss due to his fault to compensate for the loss."

Based on this article, the elements of unlawful acts are as follows:

Existence of an Unlawful Act

An unlawful act is an act that contradicts the subjective rights of others as regulated by law. (Sidabariba et al., 2023) In this case, AI generated songs are still considered creations if they meet originality and human involvement requirements as regulated in Law No. 28 of 2014 on Copyright. If someone uploads or uses AI generated songs without permission from the party holding rights to the creation (such as technology companies or original creators who provided input to the AI system), it constitutes economic rights infringement under Article 9 paragraph (1) of the Copyright Law.

Existence of Fault

Fault may be in the form of intent or negligence.(Sidabariba et al., 2023) In this case, AI generated songs are still considered creations if they meet originality and human involvement requirements as regulated in Law No. 28 of 2014 on Copyright. If someone uploads or uses AI generated songs without permission from the party holding rights to the creation (such as technology companies or original creators who provided input to the AI system), it constitutes economic rights infringement under Article 9 paragraph (1) of the Copyright Law.

Existence of Fault

Using AI generated songs without permission may cause both material and immaterial losses to the original creators or rights holders.(Sidabariba et al., 2023) Such losses include lost potential revenue from royalties or licenses as well as harm to the reputation or commercial value of the creation. In cases like this, losses are not only borne by the copyright holders but may also harm the digital platforms hosting the content if they do not have adequate copyright filtering systems.

Existence of a Causal Relationship between the Act and the Loss

There must be a direct link between the act of uploading AI generated songs without permission and the loss suffered by the rights holder.(Sidabariba et al., 2023) For example, when someone duplicates an AI song and uploads it to Spotify then earns revenue from ads or monetization, this harms the original creator or rights holder who does not receive a share of the profit. This causal relationship can be the basis for a claim for damages in commercial court.

Based on these four elements, it can be concluded that the use of AI generated songs without permission that are subsequently uploaded or commercialized on Spotify constitutes an unlawful act. The legal consequences include civil sanctions in the

form of compensation and orders to remove the related content.

On the other hand, from a criminal law perspective, copyright infringement in the case of songs generated by Artificial Intelligence (AI) on digital platforms such as Spotify, due to substantial similarity in the use of vocals or arrangements protected by copyright without permission, may potentially result in criminal sanctions under Article 113 paragraphs (2) and (3) of Law Number 28 of 2014 on Copyright, which states:

"Any person who, without right and or without permission from the creator or copyright holder, infringes upon economic rights as referred to in Article 9 paragraph (1) letters c, d, f, and or h for commercial use shall be subject to imprisonment of up to 3 (three) years and or a maximum fine of IDR 500,000,000 (five hundred million rupiah)."

"Any person who, without right and or without permission from the creator or copyright holder, infringes upon economic rights as referred to in Article 9 paragraph (1) letters a, b, e, and or g for commercial use shall be subject to imprisonment of up to 4 (four) years and or a maximum fine of IDR 1,000,000,000 (one billion rupiah)."

The criminal provisions under Article 113 paragraphs (2) and (3) fall under the category of offenses subject to complaint, as regulated in Article 120 of the Copyright Law, which stipulates that: "Criminal offenses as referred to in this Law shall constitute offenses subject to complaint." This means that criminal prosecution for copyright infringement must be based on a formal complaint filed by the injured party (in this case, the creator or copyright holder). Therefore, law enforcement authorities may not proceed with criminal investigation or prosecution without a report from the aggrieved party. Although an act of copyright infringement may meet the elements of a criminal offense, its enforcement is conditional upon a formal complaint by the right holder.

With respect to copyright infringement resulting from the use of AI-generated songs as previously explained, legal dispute resolution may be pursued through alternative mechanisms. This is regulated in Article 95 paragraph (1) of Law Number 28 of 2014 on Copyright, which states that copyright disputes may be resolved through alternative dispute resolution, arbitration, or the courts. Alternative dispute resolution mechanisms may include mediation, negotiation, or conciliation, which aim to settle disputes without lengthy litigation. (Kristyana et al., 2024) However, if such methods fail to achieve resolution, the dispute may be brought before the court. In this context, as stipulated in paragraph (2) of the same article, the court with jurisdiction over copyright infringement cases is the Commercial Court. The Commercial Court has exclusive competence to examine and adjudicate civil cases in the field of intellectual property, including copyright. (Kristyana et al., 2024)

To address potential copyright violations by AI-generated songs, Spotify has adopted specific policies regulating the use of AI technology in music. The platform implements the Digital Millennium Copyright Act (DMCA) takedown mechanism, which enables copyright holders to submit claims if a song is deemed to infringe upon their work. If a violation is confirmed, Spotify will remove the song from the platform and may impose sanctions on the uploader. Additionally, Spotify employs Content ID technology and audio scanning to detect substantial similarity between uploaded songs and the catalog of copyrighted works. ("Spotify's Bold AI Gamble Could Disrupt The Entire Music Industry," n.d.) These measures aim to prevent the unlawful use of AI-generated songs and ensure compliance with applicable copyright laws across jurisdictions.

For copyright holders who believe their rights have been infringed on Spotify, there is

a reporting mechanism available. If an individual or their representative believes that material on the Spotify service infringes their copyright, a report may be submitted via an official web form or sent to Spotify's copyright agent, including the following information: ("Intellectual Property Policy - Spotify," n.d.)

- a) A specific identification of each copyrighted work claimed to have been infringed;
- b) A description of the location of the allegedly infringing material on the Spotify Service or Website (please describe in as much detail as possible and provide a URL to help locate the material);
- c) Contact information of the complaining party, such as full name, address, telephone number, and email address;
- d) A statement that the complaining party has a good faith belief that the use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law (such as fair use);
- e) A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is the owner of the copyright allegedly infringed, or is authorized to act on behalf of the owner;
- f) A physical or electronic signature of the copyright owner (or a person authorized to act on behalf of the owner) whose right is allegedly infringed; and
- g) A statement acknowledging that the contact information and or the notice will be provided to the alleged infringer and retained as necessary for legal purposes.

It is necessary to conduct a legal analysis of the implications of applying the principle of fair use to AI-generated songs published on Spotify. This analysis is important to determine the legal boundaries of AI use in the music industry, prevent copyright infringement, and align regulations with technological developments. Legal

implications refer to the consequences of actions undertaken with the aim of producing specific outcomes, where such consequences are established by law and the actions qualify as legal acts, namely actions that are in accordance with applicable legal norms. (Lukman Santoso A, 2016)

Lawsuits against AI companies such as Suno and Udio illustrate the real legal risks for AI-based music creators who use copyrighted material without authorization, especially where substantial similarity exists with original works. At the same time, platforms like Spotify also bear responsibility for ensuring copyright compliance through takedown policies and content detection technologies. If the fair use principle is to be applied, a clear mechanism is required to distinguish between legally compliant and infringing AI-generated songs. However, if fair use is deemed inapplicable in certain contexts, stricter regulations are necessary to prevent misuse of AI in the music industry. Therefore, a legal analysis of the consequences of fair use is crucial to provide legal certainty for song creators, copyright holders, and AI users, and to support the development of fair and balanced policies so that songs published on Spotify do not infringe copyrights and provide adequate legal protection for all relevant parties.

As previously analyzed in the first section, in certain cases, defense for the use of AI-generated songs may refer to the fair use principle set out in Chapter IV, Articles 43 to 51 of Law Number 28 of 2014 on Copyright. This principle allows the use of a work without being considered copyright infringement, provided that the use satisfies the fair use criteria stipulated therein. In Indonesia, fair use allows use of copyrighted works without permission under specific conditions, such as for education, research, criticism, or non-commercial performance, provided it does not unreasonably prejudice the legitimate interests of the creator or copyright holder. In the context of AI-generated songs, fair use may be applicable if the use is non-commercial, beneficial to the original creator, and does not cause

significant economic or moral harm. However, if an AI-generated song bears substantial similarity to a copyrighted work and is uploaded for commercial purposes, the obligation to pay royalties must be considered in accordance with the Copyright Law and related royalty management regulations in Indonesia.

The legal implications of applying the principle of fair use in cases involving AI-generated songs in Indonesia can be assessed through a substantial similarity approach, which requires proving that an AI-generated song bears a substantial resemblance to an original work. Under copyright law, substantial similarity is deemed to occur when a significant part of a work has been copied, even if not in its entirety. (Ramadhan, 2016) The limitation provisions of copyright as regulated in Article 44 paragraph 1 of Law Number 28 of 2014 concerning Copyright (UUHC) state: "The use, taking, duplication, and/or modification of a creation and/or related rights product in whole or in substantial part shall not be deemed copyright infringement if the source is properly acknowledged or fully cited." Article 44 paragraph 1 of UUHC provides guidance for musicians in Indonesia in proving copyright infringement by Artificial Intelligence (AI) against their works. The substantial similarity principle enables musicians and rights holders to claim their rights over AI-generated songs that are deemed to imitate original works, especially if AI has taken substantial parts of a song, namely the most characteristic and essential parts as explained in the elucidation of Article 44 paragraph 1 of UUHC.

To address the advancement of artificial intelligence technology in the music industry, the Indonesian Copyright Law should include more specific provisions regarding the legal status of AI-generated works, including mechanisms to protect original creators' rights and economic rights over AI-based creations. Such regulation should clearly set limits on the use of human-created elements in AI-generated songs, including voices, melodies, and lyrics, and

provide detailed guidance on applying the fair use principle in the context of artificial intelligence. Additionally, the establishment of licensing systems and fair royalty distribution for original creators should be considered so that AI technology can be utilized responsibly without harming human creators' rights. With adaptive regulatory updates aligned with technological progress, Indonesian copyright law can remain relevant and protect the interests of all stakeholders in the digital music industry.

CONCLUSION

The fair use principle in the publication of AI-generated songs on Spotify remains debated under Indonesian copyright law. While Article 9 requires permission from the creator, Article 44 allows for certain uses without it, provided specific conditions are met, such as non-commercial use, benefiting the original creator, or lack of objection from the creator. Legal responsibility falls on the entity operating the AI. AI-generated songs may be considered fair use if they meet these criteria, but songs generating revenue through platforms like Spotify must consider royalty obligations. Spotify prohibits uploads that infringe on copyrights or impersonate artists. Violations can lead to civil and criminal consequences, with penalties including fines or imprisonment. Enforcement is complaint-based and can be resolved through alternative dispute resolution or courts. Adaptive regulation and platform updates are needed to address the legal challenges posed by AI in music creation, ensuring a balance between innovation and creators' rights.

Further research is recommended to explore the impact of the fair use principle applied to AI-generated works in the context of international regulations and in comparison with other countries. Additionally, the development of clearer regulations concerning copyright in AI-generated works is necessary, given the rapid advancement of AI technology in various

sectors, including music. Research could also focus on the role of copyright authorities in overseeing cases involving AI-generated content.

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