



# Copyright Protection of Song in the form of Barcode in Spotify Application for Commercial Purposes

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## ABSTRACT

The current development in digitalization has facilitated better human life, including enjoying the work of art, especially songs. One of the development is the Spotify application service. The application has made it easier to enjoy work of song. Even though the song and music works have been protected in the Copyright Law, the development has also caused the rise of copywriting violations. This article explores the legal protection for the Spotify application for song copyrighted works in the form of a barcode on the Spotify application for commercial purposes and the legal settlement regarding song copyrighted works in the form of a barcode on the Spotify application for commercial purposes. The research applied normative legal research with the statute, conceptual, and case study approach. The data collected are secondary data and primary which collected from library studies and field studies and analyzed descriptively and qualitatively. The study concludes that in practice legal protection in song and/or music copyrighted works can not be claimed and can not be protected because there is no recording of the results modified into acrylic products. Royalties can not be paid to creators and/or copyright holders though the infringement has been done and it has violated both moral rights and economic rights. Legal settlements cannot be completed through Article 95 of the Copyrights Law because there has been no official report by the aggrieved party, namely the creator and copyright holder, to the Spotify application.

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## 1. Introduction

The world music industry, which is currently increasing, influences the development of music in Indonesia. Currently, the music industry can be said to be more progressive than the establishment's line. People may enjoy song and music in its effect on several creations such as in the design of songs, lyrics, and arrangements that are performed on stage, recorded and distributed to consumers, or licensed for various other uses, for example, as background music for other media (advertising, television, etc.). It is starting from the development of multiple genres or genres of music, to the birth of many musicians, both groups and individuals (solo). This development has made the music industry a very profitable and promising industry.

The work of songs and music has also become part of the Creative Industry. The creative industry is one sector in the creative economy sub-system.<sup>1</sup> It is indicated by the total Gross Domestic Product

<sup>1</sup> Juju Masunah. (2017). Creative Industry: Two Cases of Performing Arts Market in Indonesia and South Korea. *Humaniora*. 29(1). p. 108. doi: <https://doi.org/10.22146/jh.22572>

(GDP) of the creative economy in 2015, which is still relatively small, only around 0.01% (zero point zero one percent) or Rp.1,354,000,000,000. 00 (one trillion three hundred fifty-four billion rupiahs). However, the growth reached 6.68% (six-point sixty-eight percent), far above the average growth of the creative economy, which was only 4.38% (four-point thirty-eight percent)<sup>2</sup>. So, it is hoped that songs and music will become the future sub-sector because the basis is the media which is very important in the term of creativity to produce a product or service. Therefore the development must be accompanied by guaranty of protection of intellectual property.

Intellectual property legal protection is needed because intellectual property is the existence of rights born because of human intellectual creativity, which is embodied in real work.<sup>3</sup> The legal protection of intellectual property regarding music and songs is protected by Copyright, regulated in Law Number 28 of 2014 concerning Copyright, hereinafter called the Copyrights Law. The law recognizes that Copyright has existed automatically since its creation is completed. After the product is completed, it is realized in a tangible form or material form by the wishes of the creator.<sup>4</sup> The existence of Copyrights Law is very important to give proper protection to all parties including creators, Copyright holders, and holders of related rights so that all of these parties would be able to receive their rights.<sup>5</sup>

Song and music is a form of creation that is included in the category of product in the field of art. In the Explanation of Article 40 paragraph (1) of this, especially sub (d) songs and music are protected objects because songs or music are defined as intact works, even if they consist of elements of songs or melodies, poems, or lyrics, and arrangements, including notation. It means that the song and music are a single piece of copyrighted work.<sup>6</sup> With the development of the digitalization era, songs and music make human life easier in all aspects. One of the development is the migration of music listeners to streaming services. Now music distribution is not always about the production of albums or Extended Plays (EP), which were saved on compact discs, cassette tapes, or compact discs, are then distributed to music stores in every city or region. Currently, songs and music are created in the digital music industry that relies on online music streaming.

The music archive is done through digitization. Digitization is a term to describe the process of transferring media from print, audio, or video to digital form. Digitization is carried out to create document archives in digital form. Currently, several recording studios are distributing a collection of songs through the internet. The collection of songs that have been digitized into a digital format can be enjoyed by the public by streaming via Android or iPhone using the Joox, Spotify, Deezer, I-Tunes applications, and others.<sup>7</sup>

The Spotify application is one of the music platforms that provide legal music entertainment online or streaming. One of the features of Spotify is the Spotify Codes service or better known as Barcodes. A barcode (often seen as a single-word, *barcode*) is a small image of lines (bars) and spaces that is affixed to retail store items, identification cards, and postal mail to identify a particular product number, person, or location. The code uses a sequence of vertical bars and spaces to represent numbers and

<sup>2</sup> Muhammad Nazaruddin Latif. "Indonesia's creative industry focuses on films, games and music." Available from (<https://www.aa.com.tr/id/ekonomi/industri-kreatif-indonesia-fokus-ke-film-games-dan-music/959759>). (Acceses:13 January 2022).

<sup>3</sup> Mahmuda Pancawisma Febriharini. (2016), Existence of Intellectual Property Rights Against Cyber Law. *Juristic Journal*, 5(1), 3. doi: <http://dx.doi.org/10.56444/sa.v5i1.296>

<sup>4</sup> Henry Soelistyo. (2011). *Hak Cipta tanpa Hak Moral*. Jakarta:Raja Grafindo Persada. p.12.

<sup>5</sup> Dwi Suryahartati dan Nely Herlina. (2018). Utilization of Economic Rights in Music and Song Works as a Pillar of Creative Economy, *Jambe Law Journal*, 1(1): 119. doi: <https://doi.org/10.22437/jlj.1.1.115-133>

<sup>6</sup> Otto Hasibuan. (2008). *Hak Cipta Di Indonesia, Tinjauan Khusus Hak Cipta Lagu, Neighboring Rights dan Collecting Society*. Bandung:Alumni. p. 146.

<sup>7</sup> Budimah and Moh. Nafri. (2021). Copyright Protection of Song works Digitalized thought the Internet. *Omnibus Law Juornal*. 1(2): 51. doi: <https://jurnal.unismuhpalu.ac.id/index.php/OLJ/article/view/212>

other symbols. A barcode symbol typically consists of five parts: a quiet zone, a start character, data characters (including an optional check character), a stop character, and another quiet zone.<sup>8</sup>

The media and streaming Spotify application is considered to be able to overcome piracy.<sup>9</sup> Because the positive side of this service is that it makes the works of musicians easily accessible without being expensive. However, in practice, there is a Spotify feature listed on the product in the form of a wall display or decoration, a key chain made by another party. The Product is made of acrylic base material in which there is a Spotify song screen display, and a barcode is listed in it, which was carried out by another party. This party is the @Magiccrylic store that sells through Instagram, Social Media, and Shopee e-commerce. The above actions are based on a willingness to create an online small business intended to make a profit. The method used to access the barcode is scanned. The barcode is directly directed to the Spotify application and can be listened to by the user. This Product is marketed on Instagram, Social Media, and e-commerce Shopee, Tokopedia, and sold at a price range of around Rp. 44,000.00 (forty-four thousand rupiahs) to Rp. 150,000.00 (one hundred and fifty thousand rupiah).

Users can access the Spotify barcode by copying the URL of the song in the Spotify application that they want to use to the <https://www.spotifycodes.com/> website. Furthermore, the service user can create the barcode in various features, and then the user can download the barcode into JPG format. By using this service, the user is declared to have complied with the applicable rules, that in making a product using the Spotify barcode, it is necessary to have approval or permission from the Spotify party, in this case, Spotify as the license holder of the song and music.

The act of creating a song in the form of a barcode on the Spotify application for commercial purposes stems from the ignorance of the other party (in this case, the product seller) who did the act without looking at the terms and conditions that apply to the use of the song barcode. The Spotify party has explained in detail that in using the song barcode itself, you must meet the permissions from the product maker with the Spotify party. However, the act does not meet the terms and conditions in practice. Thus, the other party did not obtain official permission from Spotify to use song barcodes that were distributed and traded in the form of a product. On one hand, from the Buyer's perspective, they only see that the products being sold are ornamental products that can be accessed and listened to. On the other hand, songs and music are fully protected and regulated by Copyrights Law. Article 40 paragraph (1) section says that d. songs and/or music in any form need to be saved to avoid acts that are considered to violate Copyright. Therefore, a party should be concerned with the elements of the provisions/rules of law so that there are no actions that can harm the creator and the copyright holder.

Therefore, this article explores the following research questions; first, how is legal protection against the Spotify application for the inclusion of song barcodes belonging to the Spotify application by other parties? And second, how is the legal settlement for the inclusion of song barcodes belonging to the Spotify application used by other parties?

## 2. Method

This research applied normative legal research which examined the law that is conceptualized as normal or the rules that apply in society and becomes a reference for everyone's behavior.<sup>10</sup> The approach used is the statute approach, the conceptual approach, and the non-judicial case study

<sup>8</sup> TechTarget Contributor, bar code (or barcode), Available from (<https://www.techtarget.com/searcherp/definition/bar-code-or-barcode>). (Accessed 20 February 2022).

<sup>9</sup> Research results from the IP Awareness Foundation released in October last year showed a 29% decrease in piracy rates compared to 2014. The results demonstrate that 33% of respondents have stated that they have stopped using pirated digital products and switched to services such as Netflix, Apple Music, or Spotify. 21% of respondents answered for reasons of morality, while the remaining 16% said they stopped using pirated products for fear of being exposed to malware or leaking personal data.

<sup>10</sup> Ishaq. (2017). *Metode Penelitian Hukum dan Penulisan Skripsi, Tesis, serta Disertasi*. Bandung:CV. Alfabeta. p. 66.

approach.<sup>11</sup> The data sources used are secondary data consisting of primary and secondary legal materials, in addition to using preliminary data, which is a data source that directly provides data to data collectors through field studies (Field Research) using data collection techniques from library studies and field studies and analyzed qualitatively descriptive.

### 3. Legal Protection for Song Copyrights in Barcode Form on the Spotify Application for Commercial Use

The Copyrights Law has provided Copyright protection to creators, Copyright holders, and Works. The first is regarding the existing Creator in Article 1 paragraph (2) of the Copyrights Law, which explains that the Creator is one or several people who individually or jointly produce a unique and personal creation. Second, regarding the Copyright holder in Article 1 paragraph (4) explains that the Copyright Holder is the Creator as the owner of the Copyright, the party who receives the right legally from the Author, or another party who receives further requests from the party who gets the right honestly. Furthermore, the third regarding the work described in Article 1 paragraph (3) the Copyrights Law is the result of each Creator's work in a unique form. Therefore, it shows its authenticity in science, art, and literature.<sup>12</sup>

The songs and music contained in the Spotify application are also protected under Article 40 paragraph (1). The song and music are covered; therefore, the song and music result from embodiment in a distinctive form that can be heard. A song and music work is an intact work, even if it consists of elements of a song or melody, poetry or lyrics, and their arrangements, including notation, in that the song or music is an integral part of the copyrighted work<sup>13</sup>. Likewise, the use of songs and music on the Spotify application has been regulated according to the explanation of the Spotify application on the official website page support.spotify.com. Besides, that copyright provisions in their respective countries have protected the songs and music on the Spotify application. The songs and music that have been registered on the Spotify application have passed an inspection system in which the creation of the song and music has been written in the provisions so that the listeners can access the song and music. The song that is protected in the Spotify application is more than 50,000,000 (fifty million) songs and they have already been listed in the playlist on the Spotify application.<sup>14</sup>

The Spotify application updates songs and music every day packaged into a playlist that can be listened to by users, both users with the free Spotify application subscription model and the paid Spotify application. Playlists are tailor-made for each listener based on their unique tastes. These playlists are created by an algorithm that considers the habits of listeners (what they play, save, like, share, skip, etc.) and the habits of people with similar tastes. Therefore, the songs and music offered are also varied. Spotify application service users can listen to songs and music because the songs registered on the Spotify application are continuously updated along with the development of songs and music in the country and internationally.

The development of musical works and songs cannot be separated from the role of the Creator as the author of the song and music. Marcell Siahaan one Indonesia Singer and actor explained that in the era of digitalization, as now, various places provide facilities for musicians or creators in realizing and commercializing their results. Song and music work like the Spotify app. This application makes it easy for us (musicians) to provide jobs to the broader community in digital form so that listeners

<sup>11</sup> Peter Mahmud Marzuki. (2013). *Penelitian Hukum*, Jakarta:Kencana Prenada Media Group. p. 134.

<sup>12</sup> Aditya Haryawan and Putri Dwi Akasih. (2016), *Perjanjian Lisensi Hak Cipta di Indonesia.*, *Business Law Review*, 1(6):33-34. <https://law.uui.ac.id/wp-content/uploads/2016/12/BLC-REVIEW-NOVEMBER-2016.pdf>

<sup>13</sup> Hendra Tanu Admadja, *Copyright Music or Song*, Postgraduate Program, Faculty of Law, University of Indonesia, Jakarta, 2014, p. 55.

<sup>14</sup> See the Spotify Terms of Use on the <https://www.spotify.com/en/legal/end-user-agreement/?> website page.



can listen to songs and music anywhere and anytime.<sup>15</sup> However, to register songs into the Spotify application, it is inseparable from the rules that have been imposed by the Spotify application, namely according to the website page [artists.spotify.com](https://artists.spotify.com) explaining that the Creator as a song and music maker must cooperate with the Copyright Holder who is called the distributor label or party who partner with the Spotify app to bring creators' songs and music on Spotify. The distributor labels are The Orchard, Believe, Fuga, InnerCat Music Group, etc. Meanwhile, the distributor label that handles song and music composers in Indonesia, namely TuneCore, CDbaby, and Netrilis, is tasked with assisting creators in collecting royalties for each song played on Spotify.

Spotify as a service or facility provider has entered into a legal relationship with a distributor label in the form of a cooperation contract between the brand and the Spotify application where the title must obey and comply with the rules set out in the Copyright Policy, namely the Spotify application has the right to obtain and manage the Copyright of the work. Commercially created payments from premium listeners and advertisers that will appear for free users. At the same time, the Spotify application must issue or provide royalties that are distributed to distributor labels first before being handed over to the Creator or Copyright Holder. This is stated in the terms and conditions when a songwriter or creator wants to distribute a copyrighted work through the Spotify application. So as a creator, they have the right to receive royalties for the work they own as an Author and Copyright Holder. Copyrights for songs and music that have been registered in the Spotify application will remain in the Spotify application as long as the Creator or Copyright Holder does not delete the song and music so that royalty payments will continue to run and be paid as long as the song and music listeners still hear.

The Spotify application provides protection for the list of songs and music that has been loaded on the Spotify application by giving an explanation through the official [spotify.com](https://spotify.com) website where the Spotify application clearly and unequivocally explains that the songs and music on the Spotify application are only intended for personal use and not commercial. Furthermore, as described in the Terms and Conditions, the Spotify application has explained on the [spotify.com](https://spotify.com) website page explaining the approval of the use of the Spotify application features for songs and music, namely:

“Approval required for use on goods. Unless approved by Spotify, you shall not use a Spotify Code on any physical goods (including its packaging, tags, and similar). If you want to use Spotify Codes on goods, please ensure your use abides by all applicable guidelines and email the creative and thorough description of your intended use to [spotifycodes@spotify.com](mailto:spotifycodes@spotify.com) for approval.”

The above stipulation, when translated, reads: Approval is required for use on goods. Unless approved by the Spotify app, Users should not use the Spotify app features on any physical goods (including packaging, labels, and the like). If a user wants to use a Spotify app feature on an item, make sure the user using it complies with all applicable guidelines and sends an email to the creative and a thorough description of the intended use of the [spotifycodes@spotify.com](mailto:spotifycodes@spotify.com) for approval. In addition, the Spotify application provides a clause in its rules regarding infringement of its rights by using features for goods or uses for other parties and commercializing them into products or services that directly or indirectly violate intellectual property laws.<sup>16</sup>

The Spotify application provides guarantees for security and convenience in accessing the Spotify application. The results of the research conducted by researchers through interviews with the Spotify application through Zoom Meeting that according to Tejasvi B explained that he asked users not to participate in any illegal process because the Spotify application has a security system that is high where there will be a security check. The system will detect the account; it will be deactivated automatically if the system detects the report.<sup>17</sup>

<sup>15</sup> Live Instagram results with Marcell Siahaan and DJKI with the topic “IP Talks 1.2: Fun Content, No Polemics”. Available from (the Instagram Application) (Accessed: 9 June 9, 2020).

<sup>16</sup> See the Terms and Conditions for Brands to use barcodes on the website [https://www.spotifycodes.com/assets/Brand\\_Guidelines\\_for\\_Spotify\\_codes.pdf](https://www.spotifycodes.com/assets/Brand_Guidelines_for_Spotify_codes.pdf).

<sup>17</sup> Tejasvi B, as a Customer Service Representative at Spotify On Tue, Interview by Fasya. 24 August 2021

The Spotify application makes it easy for users (users) to search for popular songs quickly. There are various features offered the 6 (six) features offered, which attract attention is one of the barcode scanning features of the Spotify application, where this feature makes one of the creation of problems with song copyrights in the form of barcodes on the Spotify application for commercial purposes<sup>18</sup> The use of barcodes originally made it easier for users to use these features, such as faster data input processes. Because barcode scanners can read/record data faster than manually inputting data, the data input process is more precise because barcode technology has accuracy. High in data retrieval, the input process is more accurate in finding data.

Barcodes are intended to make it easier for users to find content in the service by simply scanning a barcode. Spotify users can only access the barcode by copying the URL of the song in the Spotify application that they want to use to the <https://www.spotifycodes.com/> website. Furthermore, the service user can create the barcode in various features, and then the user can download the barcode into JPG format. With these Spotify codes, users can enjoy songs, listen to podcasts, or play playlists directly without searching for them first. So, compared to sharing support in link format, Spotify codes can also work more effectively when content creators promote songs on the Spotify application and open up opportunities for collaboration between the Spotify application and the product to include the barcode into the product in the form of cooperation.

The feature of the Spotify barcode application has become a trade product in the form of wall decorations or decorations critical chains made by other parties. The product in question is made of acrylic base material. There is a song screen display on the Spotify application, and a barcode is listed in it, which is then commercialized through social media Instagram and e-commerce Shopee, Tokopedia. This product is freely traded with a price range of around Rp. 44,000.00 (forty-four thousand rupiahs) to Rp. 150,000.00 (one hundred and fifty thousand rupiah). Sales products with a song barcode belonging to the Spotify application managed to sell 1,800 (one thousand five hundred) products with an average of 663 (six hundred and thirty-three) consumers giving a rating of 4.9 to 5 for a review. The product is sold under the product title "Custom Acrylic Album Art Spotify Song."<sup>19</sup>

Other parties use barcodes that are initial GF carries out as the owner of the @magicrylic shop, where Grace is the seller who sells various products using the barcode feature in her merchandise, explaining that the background is based on research results. GF explained that the reason for making products with songs and music was that the Spotify application protected this product last year in July 2020. She is starting from a TikTok trend from abroad. Someone made acrylic for the Spotify application. GF has always been interested in design, but from acrylic herself, GF does not understand the business that Grace is exploring. So, at that time, GF was interested in selling this and started looking for suppliers.<sup>20</sup> This product has the advantage that it offers, namely that the products from the magicrylic shop are Firsthand products, self-produced. In addition, to saving on selling prices, quality is guaranteed because the goods they produce have gone through a quality control process. The designs are varied, and magicrylic stores have issued more than 40 designs for their products. According to Grace, inserting a barcode that she did is a permissible act because the barcode can be accessed by all groups, which makes GF dare to take this barcode without the need for permission from the Spotify application. This reason has made GF able to do her business until now. Song-themed acrylic products in the Spotify application with a Spotify barcode are used on their products and freely commercialized through social media and benefit from the sales because the product is well-known abroad, so the magicrylic shop is inspired and makes a themed product. Song barcode on the Spotify application.

Confirmation of data is also carried out on two buyers of the product sold by GF with the initials ASA and AS, who explained the reasons for buying products that contained songs and music on the

<sup>18</sup> Yossie Dwi Prananto. "8 Interesting Features of Spotify to Enjoy Music More Maximum". Available from (<https://www.yangcnggih.com/2016/03/31/8-features-menrik-spotify-for-nikmati-music-more-maximum>) (Accessed: 27 October, 2021)

<sup>19</sup> See at the Shopee website page <https://shopee.co.id/magicrylic>.

<sup>20</sup> Grace Felicia, interview by Fasya, 24 August 2021.

Spotify application, ASA and AS assessed that the barcodes listed on the traded products had aesthetic value because the barcode is imprinted on the product where the product is made of transparent and translucent acrylic so that it has an aesthetic value for display. Apart from being a product with aesthetic value that looks good, it can also be given to someone on a particular day, such as a birthday present, gift, etc.<sup>21</sup> This is because buyers of this product attract attention to buy the product. Based on the information above, also confirms to the service provider, namely the Spotify application, that what the violator is doing is a prohibited act. Spotify can make an appeal that has been regulated by the regulations that have been set by Spotify, where Tejasvi B explains that the use of Spotify codes should not be used for this purpose. Commercial where the primary purpose of Spotify codes is to use it as a new way to explore various kinds of content on the Spotify application, not as a product or product, and ask users not to participate in any illegal actions or actions that violate the provisions of Spotify. If the system detects this action, the account used by the violator will be deactivated automatically.<sup>22</sup>

An act can be considered a copyright violation if it leads to a breach of exclusive rights which has been re-divided into a breach of moral rights and economic rights owned by the creator of the copyright holder. The form of copyright infringement (copyright infringement) revolves around two main things, namely intentionally and without the right to announce, reproduce or give permission. One example of such a violation is in the form of deliberately violating the prohibition against declaring any work that is contrary to government policy in the field of national defense and security, morality, and public order and gradually exhibiting, distributing, or selling to the public a work or goods resulting from copyright infringement.<sup>23</sup> Based on that violation, if it is categorized under the Copyrights Law for problems with song copyrighted works in the form of Barcodes on the Spotify application for commercial purposes, it includes acts of intentionally exhibiting, distributing, or selling to the public a creation or goods resulting from Copyright infringement. Therefore, this act has complied with the provisions governing Copyrights Law violations, and the stipulation or indicators are appropriate as a form of Copyright infringement.

Based on the description stated above, GF, as the @Magicrylic shop owner, has violated the exclusive rights of the creator and copyright holder, which consists of moral rights and economic rights based on the provisions of Article 5 of the Copyrights Law regarding violations of Moral Rights, and Article 8 the Copyrights Law regarding violation of Economic Rights.

The first Copyright infringement is a Violation of Moral Rights according to Article 5 paragraph (1) letter e that moral rights are rights that are personally attached to the creator to defend his rights in the event of distortion of creation, mutilation of design, modification, or product, or things that are detrimental to honor. Himself or his reputation. Violation of Moral Rights is a change of the creation that Grace Felicia has done in the form of editing the barcode image of the song that is imprinted on the acrylic material.

The second Copyright Infringement is an Economic Rights Violation classified as an announcement activity as described in Article 9 paragraph (1) letter g of the Copyrights Law, namely the Creator or Copyright Holder as referred to in Article 8 has the economic right to make: Announcement of Works. Violation of Economic Rights in the form of actions taken by Grace Felicia in creating a product based on the work of songs and music that has been protected by the Copyrights Law and promoting its trade products Commercially is the use of Works and products to obtain economic benefits from various sources or paid for. According to the provisions of the Copyrights Law Article 1 paragraph 24. The product is uploaded to his Instagram account and has been updated on the Shopee account, Tokopedia, so that his followers can see it. Creators and copyright holders do not receive economic rights because the Spotify application has not detected any other party committing the

<sup>21</sup> ASA and AS, Interview Results by Fasya with product buyers. 20 August 2021.

<sup>22</sup> Tejasvi B. as a Customer Service Representative at Spotify On Tue

<sup>23</sup> Muhammad Djumhana. (2014). Bandung: *Historical Intellectual Property Rights, Theory, and Its Practice in Indonesia*, Bandung: Citra Aditya Bakti. p. 74.

violation. Spotify is still waiting for a reporting system through the official website support.spotify.com which will then be processed according to the provisions provided by the Spotify application.

The profit obtained by acrylic on the product's sale can be calculated. The product being sold starts from a price range of around Rp. 44,000.00 (forty-four thousand rupiahs) to Rp. 150,000.00 (one hundred and fifty thousand rupiah). According to GF, it sells approximately 100 products divided into two price options, namely Rp. 35,000.00 (thirty-five thousand rupiahs) and Rp. 175,000.00 (one hundred and seventy-five thousand rupiahs). The amount received by GF at that first price is Rp.  $35,000.00 \times 50 = \text{Rp. } 1,750,000.00$  (one million seven hundred and fifty thousand rupiahs), and the second price is Rp.  $175,000.00 \times 50 = \text{Rp. } 8,750,000.00$  (eight million seven hundred and fifty thousand rupiahs). So each month it may receive IR 10.500.000, - from the sale of the acrylic product.

The consequences of the sale of these products then have an impact on royalty payments as stated in Article 1 paragraph (21) of the Law, as a songwriter is said to be important because as a person who creates songs and music, royalties are one of the sources of livelihood as a creator. The royalty management provisions determined by Spotify, which state that Spotify provides musicians with royalties of 0.006 US dollars to 0.0084 US dollars for a single stream, are equivalent to Rp. 14,488.00 (fourteen thousand four hundred and eighty-eight).<sup>24</sup> The statement on the royalty payment is calculated if there are 50 products sold with one of the songs and music of the songwriter from the sale of products. The creator has felt aggrieved by not paying royalties for 50 products  $\times \text{Rp}14,488.00 = \text{Rp}724.400.00$  (seven hundred twenty-four thousand four hundred rupiahs).

An interview with an official of the Directorate General of Intellectual Property of the Ministry of Law and Human Rights of the Republic of Indonesia reveals that the Spotify application in its security also applies automatically even though Spotify is a company originating from abroad. Protected by Copyright in Indonesia and its protection is universal and broad. The Spotify application will still get security for its moral rights and economic rights according to the protections described by the Copyrights Law.<sup>25</sup>

Protection of copyrights of songs in the form of Barcodes on the Spotify application for commercial purposes is essential because the Copyrights Law provides protects the work of songs and music. Thus, the legal protection that the creator and the Copyright holder should be implemented by applying strict sanctions for those who violate the copyright, both violations of Economic Rights and Moral Rights.

#### **4. Legal Settlement of Song Copyrights in Barcode Form on the Spotify Application for Commercial Use**

As described above, acts against copyrighted works in the form of barcodes on the Spotify application for commercial purposes can be categorized as Copyright infringement as regulated in Article 5 and Article 8 of the. Furthermore, the violation in question is a violation of Moral Rights and Economic Rights. Thus, any breach of Copyright requires legal settlement according to the provisions stipulated in the Copyrights Law.

The Copyrights Law explains Legal Settlement, the Copyrights Law in the provisions of the article, do not regulate legal settlement but dispute resolution. Therefore, this Copyright Dispute can be resolved through dispute resolution out of court (Non-Litigation) and dispute resolution in court (Litigation), which has been re-divided into Civil and Criminal Courts.

<sup>24</sup> Antonio Rajoli Ginting. (2019). Peran Lembaga Manajemen Kolektif Nasional dalam Perkembangan Aplikasi Musik Streaming. *Jurnal Ilmiah Kebijakan Hukum*. 13(3): 387. <https://ejournal.balitbangham.go.id/index.php/kebijakan/article/view/794/0>

<sup>25</sup> Achmad Iqbal Taufiq as Head of Legal Consideration and Litigation Section, DJKI. Interview by Fasya. 4 November 2021.



Article 95 paragraph (1) of the Copyrights Law explains that the settlement out of court (Non-Litigation) can be done by using alternative dispute resolution, namely, mediation is the settlement of disputes through the negotiation process of the parties assisted by a mediator; negotiation is part of the dispute resolution mechanism between the parties by peaceful means through a negotiation; Conciliation is one of the alternative institutions in resolving a dispute. In settlement of the conflict, this conciliation involves a third party; and arbitration is a way of settling a civil dispute outside the general court based on an arbitration agreement made in writing by the disputing parties.

The following dispute resolution is the settlement of disputes in court (litigation) divided into two, namely civil and criminal settlements. In line with the description in chapter II, legal settlement through the courts can be carried out through the civil route, wherein in this civil aspect, a compensation claim can be made to the Commercial Court. Article 99 of the Copyrights Law stipulates that parties who feel aggrieved due to this violation can file a claim for payment to the Commercial Court for copyright infringement. Article 99 paragraph (1) of the Copyrights Law states that the parties who can file a compensation claim are the Author, Copyright Holder, or Related Rights products. As for the sanctions that can be applied in violation of Copyright, namely the determination of payment to the infringing party; Cessation of activities, reproduction, distribution, and sale of works which are the result of Copyright infringement; confiscation and destruction of illegal goods which are the result of copyright infringement.

This settlement can also be settled through criminal courts, namely by filing a lawsuit to the District Court by way of a lawsuit; to sue means (1) to accuse; complaint (case); (2) demand (promise and so on); resurrect the things that have been; (3) rebuke loudly; refute. the Copyrights Law regulation with a criminal claim for compensation or subject to Article 113 paragraph (3) of the Criminal Law, which reads:

“Every person who without rights and permission of the Author or Copyright holder violates the economic rights of the Author as referred to in Article 9 paragraph (1) letter a, letter b, letter e, and letter g for Commercial Use shall be punished with imprisonment for a maximum of 4 (four) years and a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah).”

In both of these settlement paths, the civil settlement route is more effective and beneficial to the parties, both creators and copyright holders, whose rights have been violated compared to the criminal way. With a compensation claim, there will be compensation paid by the infringer of the song and/or music copyright to the creator and/or copyright holder if the judge of the commercial court grants the lawsuit. On the other hand, if it is criminally resolved, the violator of the song and/or music copyright will be sentenced to criminal punishment in confinement. Still, there is no compensation for the losses suffered by the creator and copyright holder.

Based on the data in this study, no civil or criminal lawsuits were found, whether carried out by songwriters, namely musicians, or copyright holders, namely the distributor label because of ignorance about this violation, where this case is relatively new, it was proven that the circulation began around early 2020. carried out by a micro trader, namely GF with a magicrylic shop, so that the total loss created is not too significant in number, whereas what GF trades is only an acrylic product that contains songs in the form of a barcode on the Spotify application and as a party that is harmed, both musicians or the distributor label until currently not aware of this case.

Dispute resolution cannot be separated from reports made by the Author and Copyright Holder considering that the Copyrights Law adheres to a complaint offense system and that there are 2 (two) types of complaint offenses that apply in Indonesia, namely total complaint offenses and relative complaint offenses based on the provisions of Article 12 the Copyrights Law. All kinds of violations and losses caused need a report from the aggrieved party because various forms of settlement cannot be carried out in the absence of these reports. Likewise, in this case, the authorities cannot carry out their duties because they must be based on reporting that, in fact, until now, the creator and Copyright Holder has not reported any Copyright Infringement in the form of using song barcodes

by Grace Felicia into a product. Commercialized trade. So, Grace Felicia's actions cannot be followed up by not saying the case.

Dispute resolution by filing a lawsuit also cannot be said to be easy because settlement through a lawsuit is the last option in a copyright dispute resolution. Legal settlement efforts that can be taken in the event of a violation will begin by mediating both parties, which are expected to find an agreement by Article 95 of the Copyrights Law, which is expected to benefit both parties either using a deal that will not violate again or deactivate the account on violator's Spotify app. However, the settlement of the mediation carried out above, either by way of an agreement or by deactivating a report on the Spotify application, will not eliminate any violations and losses incurred because with a settlement like this, the violator can repeat his actions by creating an account again with a different account registration e-mail so that the application Spotify needs to re-detect the act by reporting where this is what makes the violation repeatable.

Based on the description stated above, it can analyze the dispute resolution of this case that cannot be resolved. This legal settlement cannot be determined because there have been no complaints from the aggrieved party, namely musicians or distributor labels. The Spotify application as a service provider also has its disadvantages where the Spotify application continues to pay royalties to the Creator and Copyright Holder where the infringer is supposed to take part in the royalty payment because the work is used for commercialization purposes and has sharpened the profits that the service provider should obtain. However, the other party does not pay the author and Copyright Holder royalties. Thus, as creators and/or copyright holders, they do not get the fulfillment of the rights that should be obtained, both moral rights and economic rights.

Interviews with resource persons were also conducted at the Directorate General of Intellectual Property of the Ministry of Law and Human Rights of the Republic of Indonesia regarding the protection of copyrights for songwriting works, this problem belongs to the category of infringement. Still, we have to see if Spotify has filed a complaint against this case because copyright uses a complaint offense. So, as a rule, DJKI cannot move actively because the offense used is a complaint offense where the element of violation enters. Still, the police cannot take action because there is no reporting element from the Spotify party. Therefore, if there is a copyright infringement, the effort to resolve copyright issues, namely DJKI, puts forward the most effective way is first to conduct mediation including royalty payments with the Creator because this settlement is considered easy and cheap because it only requires a peaceful settlement by talking or socializing and negotiating regarding the use of copyright. a Barcode that should be done in the form of song barcodes only for personal purposes. However, it is possible to carry out mediation after the violations occur. Directorate General of Intellectual Property (DJKI) also provides several preventions of breaches in the form of carrying out adequate regulations, law enforcement regarding copyright, and improving management governance related to the commercialization process so that it is more monitored and supervised to minimize copyright infringement. In this case, there is the inclusion of song barcodes belonging to the Spotify application and conducting webinars or through DJKI's official Instagram account. DJKI also carries out preventive activities in public places such as the directives regulated in article 54 of the Copyrights Law, which also explains that:

“To prevent infringement of Copyright and Related Rights through information technology-based means, the Government is authorized to:

- a. supervision of the creation and dissemination of copyright-infringing content and Related Rights;
- b. cooperation and coordination with various parties, both at home and abroad, in preventing the creation and dissemination of content that violates Copyright and Related Rights; and
- c. supervision of the act of recording using any media on the Works and Related Rights products on the spot.”

DJKI, as the institution that oversees cases like this, can only provide solutions in the form of carrying out supervision and prevention so that there is no misuse of song and music copyrighted works. Copyright Protection adopts an automatic protection system. However, to strengthen proof of

ownership of the Copyright, the Creator and the Copyright Holder should protect their creation by applying for registration of the work to the DJKI. After the application is submitted, the work will be examined and recorded in the general list of jobs that the general public can access. Each of his works will be protected from the risk of misuse by other parties because the violation will obstruct the economic rights of the parties involved in the birth of a job, especially a song and music copyrighted works. So that if at any time there is a violation that is detrimental to the author and the registered Copyright can be used as evidence in court.

Regarding the legal settlement, in this case, it is necessary to involve related parties, such as creators of songs and music whose works have been registered on the Spotify application, provided that applicable rules protect the Spotify application. The existence of these rights gives rights to Spotify as a service provider to be the ability to take action against Copyright infringement by deactivating accounts of those suspected of having committed Copyright infringement and the regulator, here the minister may apply Article 56 paragraph 1 which provided him to close the content and access rights of users who violate copyright and related rights in the electronic system and make the electronic system services unavailable. accessible."

The Spotify application explains reporting of Copyright infringement and the provisions of Spotify. According to the results of interviews conducted by researchers with Tejasvi B, he explained that as users, users could report on the Spotify application community page in the Help Center by filling out the form listed or writing an email to support@spotify.com and infringement-claim@spotify.com or can be sent to designated Spotify application at the following address Spotify USA Inc. Attn: Legal Department, Copyright Agent, 4 World Trade Center, 150 Greenwich Street, 62nd Floor, New York, NY 10007.

The Spotify application further explains in their efforts to provide information about content reporting that the Spotify application has a help center that is useful as a means for the reporter to say if there is one form of violation that is violated by another party, which is followed by a thorough examination by the application team. Spotify with various categories, namely content that is damaged or false or content that is infringing, illegal, or contains hate. This help center includes a reporting form that discusses the complainant's identity, and questions and asks the reporter about reports of abuse of features or services provided by the Spotify application. The Spotify application will automatically delete the account deletion if the violator continues to do so.

The reporting element of dispute resolution in Copyright is essential and cannot be ignored. For example, dispute resolution in the case of song creation in the form of a barcode on the Spotify application for commercial purposes can be carried out by taking the initial stage, namely reporting the result. So, this action can be followed up with various kinds of legal solutions that are best by the provisions provided by the Copyrights Law in terms of legal settlement so that the @magicrylic Grace Felicia store can offer several compensations to the Spotify application for its actions that are contrary to the provisions of the Copyrights Law.

## 5. Conclusion

The legal protection of copyrighted works of songs in the form of barcodes on the Spotify application for commercial purposes based on Article 5, the Copyrights Law regarding Moral Rights, and Article 8 the Copyrights Law regarding Economic Rights could not be claimed, because there is no recording of the works that another party has modified into his acrylic products. Therefore, the party did not pay royalties for their infringement. Consequently, the creators, namely musicians, and copyright holders, namely distributor labels, also could not receive the rights of both moral rights and economic rights. Legal settlement of song copyrighted works in the form of barcodes on the Spotify application for commercial purposes cannot be realized through the provisions of Article 95 of the Copyrights Law because there is no official report by the aggrieved party, namely musicians and distributor labels, to Spotify application as a service provider. Therefore, the process the Spotify application itself

cannot follow up on the problem by deactivating the account. Lastly, the protection based on Copyrights Law, as it is stipulated in Article 99 paragraph (1) regarding civil claims for compensation and Article 113 paragraph (3), that is to complain for offense, to ask for a legal settlement, and seek for compensation can not be carried out.

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