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Sold Flat Agreement of Song Copyright as a Transfer of Economic Rights

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ABSTRACT

In the music industry context, before Law Number 28 of 2014 concerning Copyright was enacted, the bargaining position of Creators and Performers was very weak when dealing with Phonogram Producers or Recording Companies, which generally possessed greater economic power. At that time, Creators and Performers were generally not in good economic condition, leading Phonogram Producers or copyright buyers to abuse the situation (misbruik van omstandigheden) by utilizing their stronger bargaining position to impose agreement contents unconditionally. The research questions are: how does the basic concept of sold flat agreements apply to song copyrights regarding economic rights transfer, and how is the freedom of contract principle applied in sold flat agreements? This research employs normative legal research methods by examining literature studies and relevant laws. The results show that in practice, collaboration between song creators and sound recording producers involves agreement letters generally prepared by producers. Song creators only sign them after being given opportunities to study the agreement concepts beforehand. The preparation is solely for practical purposes. In practice, song creators' bargaining position is often lower than sound recording producers. Based on Article 18 of the Copyright Law, sold flat agreements must return copyright to creators after 25 years. However, during this period, creators only enjoy minimal benefits from their creations. Therefore, the state must strictly supervise contracts in sold flat agreements, particularly regarding standard clauses offered by buyers, and should stipulate that song creators can receive state-regulated royalties even after sold flat contract execution.

Keywords: *Freedom of Contract, Sold Flat Agreement, Song Creator*

INTRODUCTION

Copyright as an immaterial property right is always related to ownership rights and economic rights. Consequently, whoever becomes its owner has absolute rights over such property, so the owner is free to perform actions regarding the property that is their right. The owner has the right to use, enjoy, lease, pledge, or transfer either through inheritance, grants, wills, or sale and purchase.¹ To obtain these economic rights, copyright holders and related rights owners can grant permission to other parties either through transfer of rights or by granting licenses as stipulated in Article 81 of the Copyright Law (hereinafter referred to as UUHC). However, absolute rights are often forced to be exercised even though they fundamentally harm the interests of the creator as the owner of moral rights solely due to economic factors or pragmatic interests. This phenomenon is evident in practice, where song creators often sell their creations outright (sold flat), thus only obtaining commercial value once and not receiving royalty rights when their creations are produced, reproduced, and sold.² By selling their works through the sold flat system, song creators believe they will receive money faster and will not have to wait long as in licensing agreements based on sales percentages.

"Sold flat" is an agreement that requires the Creator to surrender their Creation through full payment by the buyer so that economic rights to the Creation are transferred entirely to the buyer without a time limit, or in practice known as sold flat.³ Based on the minutes of the Working Meeting of the Special Committee (Pansus) of the Draft Law on Copyright (RUU Hak Cipta) with the government, it was agreed that the nomenclature or phrase "jual putus" (sold flat) is a nomenclature or phrase that has been consulted with language experts to translate the foreign term "sold flat" as used in America, which means the transfer of economic rights from the creator to the copyright holder is returned to the creator after a certain agreed period of time, namely 25 (twenty-five) years.

However, the question arises: what happens when the creator's orientation is no longer aligned with the ideality in the context of Intellectual Property Rights? Song creators must surrender to sold flat sales with the promise of upfront royalties, and ultimately they willingly transfer their property rights without going through a

¹ Erna Tri Rusmala Ratnawati, "Akibat Hukum Perjanjian Jual Beli Hak Cipta Dengan Sistem Jual Putus (Sold Flat)," *Widya Pranata Hukum : Jurnal Kajian dan Penelitian Hukum* 1, no. 2 (2019), <https://ejournal.widyamataram.ac.id/index.php/pranata/article/view/44>; Republik Indonesia, *Kitab Undang-Undang Hukum Perdata (Burgerlijk Wetboek)* (Indonesia, 1847).

² Luvito Rogate, "Hak Royalti Dalam Industri Musik: Analisis Perlindungan Hukum Terhadap Pencipta Lagu Terkait Cover Lagu," *Jurnal Globalisasi Hukum* 1, no. 2 (September 30, 2024): 320–341, <https://e-journal.trisakti.ac.id/index.php/globalisasihukum/article/view/21423>; Salvatore Marcellino Meidy, "The Royalty Rights Fulfillment of the Song Creators on Musicians for Commercial Purposes," *International Journal of Education, Language, Literature, Arts, Culture, and Social Humanities* 2, no. 1 (December 27, 2023): 21–31, <https://pbsi-upr.id/index.php/ijellacush/article/view/657>.

³ Republik Indonesia, *Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta* (Indonesia, 2014), <https://peraturan.bpk.go.id/Details/38690>.

licensing agreement. With a single payment, their economic rights will be lost, although according to the UUHC, their Copyright can revert to the Creator when the agreement reaches a period of 25 (twenty-five) years.

Another problem concerns the context of Sold Flat in copyright. As we know in the Civil Code, there are named agreements such as sale and purchase agreements, lease agreements, fiduciary agreements, and unnamed agreements. The context of sold flat agreements regarding the transfer of song Copyright raises questions about whether it falls under sale and purchase, lease, or agreements with repurchase rights (Repurchase Agreement/REPO) as practiced in the capital market. This remains confusing because the UUHC itself does not explicitly explain this transfer of rights in Article 18 of the UUHC.

Before Law No. 28 of 2014, there was no article explicitly regulating sold flat transactions. However, with the enactment of the new UUHC, provisions regarding sold flat transactions are explicitly stated in Article 18 of the UUHC, which regulates protection for creators whereby after 25 years, creations that have been sold under the sold flat system must be returned to their creators.

Based on the above explanation, the researcher is interested in examining more deeply the sold flat system. The research questions raised are: (1) What is the basic concept of sold flat agreements regarding song copyrights? (2) How is the transfer of Song Creators' Economic Rights through sold flat agreements conducted?

LITERATURE REVIEW

Theory of Intellectual Property Rights as a System of Property Ownership

The philosophical foundation of Intellectual Property Rights (IPR) began since the introduction of the idea of recognition for creators or inventors for their intellectual creations that are useful to society in Aristotelian politics during the fourth century BCE. In various discussions, Aristotle frequently criticized sharply the opinion of Hippodamus of Miletus, who proposed a reward system for those who had contributed to making discoveries useful to society.⁴ There are two philosophical theories regarding the legal assumption that IPR is a system of property ownership.⁵ These theories were proposed by John Locke, which has been very influential in countries adhering to the Common Law System tradition, and Hegel, which has been very influential in countries adhering to the Civil Law System tradition.⁶

⁴ Anthony D'Amato and Doris Estelle Long, *International Intellectual Property Law* (London: Kluwer Law International, 1997), <https://journal.jfpublisher.com/index.php/jlte/article/view/404>.

⁵ Ibid.

⁶ Ibid.; Muhamad Helmi Muhamad Khair and Haswira Nor Mohamad Hashim, "Justifications of Intellectual Property Rights: A Discussion on Locke and Hegel's Theories," *Jurnal Hukum Novelty* 11, no. 2 (August 17, 2020): 114, <http://journal.uad.ac.id/index.php/Novelty/article/view/16595>.

John Locke taught the concept of ownership in relation to Human Rights with his statement "Life, Liberty and Property." Locke stated that originally in the state of nature, the atmosphere was peaceful and tranquil, and there was no positive law dividing ownership or granting authority to certain individuals to command others.⁷ This constitutes a moral obligation regarding a person's behavior toward others. However, the state of nature could not be maintained continuously because such a state did not have judges who could provide binding interpretations of natural law to resolve conflicts of interest between individuals. For this reason, people formed a civil state because its authority would provide security for natural rights that was unavailable in the state of nature. Meanwhile, Friedrich Hegel developed the concept of "Right, Ethics and State," which essentially represents the existence of personality. According to Hegel: "The property is, among other things, the means by which an individual could objectively express a personal, singular will. In property 'a person exists' for the first time as reason."⁸ Property, among other material things, is the means by which a person can objectively express personal and singular will. In ownership or property, a person's rationale first exists. Hegel began his analysis that the will is free in and for itself. As an abstract conception, a person must give themselves external space of freedom so that this abstract conception becomes an idea. Furthermore, Hegel stated that "a person must translate their freedom into external space to form an idea, and that is the beginning of personality which as a whole is still abstract as the determination of absolute and unlimited will." This will interacts with the external world at various levels of activity. Mental processes, such as recognition, classification, explanation, and remembering, can be seen as the appropriation of the external world through thought. This action is the initial step in the ongoing struggle for self-actualization.⁹ Hegel maintained his conception of property by distinguishing between the facilitative function of choice from property institutions inherently at the abstract rights level of optimal evolution in ethical life.

Both John Locke's and Hegel's conceptions originate from Natural Law Theory, which is based on morality regarding what is good and what is bad. John Locke considered that goods are provided but cannot be enjoyed in the state of nature, so a person must convert these goods from natural goods into personal

⁷ Rahmi Jened, *Hak Kekayaan Intelektual: Penyalahgunaan Hak Eksklusif*, Airlangga University Press (Surabaya: Airlangga University Press, 2010); Adnan Hamid and Adilla Meytiara Intan, "The Existence of Identity Value and Image Protection on Legal Frameworks of United States of America (US) and United Kingdom (UK)," *Journal of Law Theory and Law Enforcement* 1, no. 2 (April 6, 2022): 28–39, <https://journal.jfpublisher.com/index.php/jlte/article/view/62>; Selfario Adhityawan Pikulun and Baiq Vara Arisinda Seftian, "Hukum Sebagai Pilar Perlindungan Hak Kodrat: Telaah Teori John Locke Dalam Sistem Hukum Modern," *Al-Muqaronah: Jurnal Perbandingan Mazhab dan Hukum* 3, no. 2 (December 27, 2024): 54–66, <https://ejournal.stisdarussalam.ac.id/index.php/mh/article/view/200>.

⁸ Jened, *Hak Kekayaan Intelektual: Penyalahgunaan Hak Eksklusif*.

⁹ Ibid.

goods by exercising their efforts toward these goods. The added value of efforts on these goods makes them enjoyable.¹⁰

The same applies to Copyright. If someone creates or discovers something, then others should not harm them by duplicating or interrupting the creative process and the activity of producing such discoveries because the creator possesses property over their intellectual creation, and Copyright grants the Creator exclusive rights to derivative works built from their creation.

Theory of Contract Law

The principle of freedom of contract occupies a central position in contract law, although this principle is not formulated into legal rules, it has a very strong influence on the contractual relationships of parties.¹¹ Book III of the Civil Code adopts an open system, meaning the law gives freedom to parties to regulate their own legal relationships. What is regulated in Book III of the Civil Code is merely regulatory and supplementary. This differs from the regulation of Book II of the Civil Code, which adopts a closed or mandatory system, where parties are prohibited from deviating from the rules contained in Book II of the Civil Code.¹²

This open system of Book III of the Civil Code is reflected in the substance of Article 1338 (1) of the Civil Code, which states: "All agreements made legally are valid as law for those who make them." According to Subekti, the way to derive the principle of freedom of contract is by emphasizing the word "all" in front of the word "agreements."¹³ It is stated that Article 1338 paragraph (1) seems to make a declaration that we are allowed to make any agreement, and it will bind us as binding as law. The limitation on this freedom is only what is called "public order and morality." The term "all" contains the principle of freedom of contract, which fully leaves to the parties the content and form of the agreement they will make, including incorporation in the form of standard contracts.¹⁴

Freedom of contract here gives parties the freedom to make agreements in any form or format (written, oral, authentic, non-authentic, unilateral, adhesion, standard/fixed, and others), as well as with the content or substance desired by the parties.

¹⁰ Ibid.

¹¹ Ni Nyoman Tri Jayanti, Dr. Putu Ayu Sriasih Wesna, and Dr. I Nyoman Alit Puspadma, "Legal Consequences of Deposited Funds to Public Notary before Preparation of Sales and Purchase Agreement," *Journal of Law Theory and Law Enforcement* 3, no. 3 (September 6, 2024): 14–25, <https://journal.jfpublisher.com/index.php/jlte/article/view/607>.

¹² Yudha Agus Hernoko, *Hukum Perjanjian Asas Proporsionalitas Dalam Kontrak Komersial* (Jakarta: Prenadamedia Group, 2014).

¹³ Ibid.

¹⁴ Ibid.

RESEARCH METHODOLOGY

This research employs a normative legal research method, which examines legal norms and principles through library research.¹⁵ The approach used is statutory approach and conceptual approach to analyze the legal issues regarding sold flat agreements in song copyright transfer. This study is normative legal research that focuses on examining written legal provisions, particularly Law Number 28 of 2014 concerning Copyright (UUHC) and the Civil Code (KUHPerdota), as well as relevant legal theories regarding intellectual property rights and contract law.

The data sources used in this research consist of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include Law Number 28 of 2014 concerning Copyright and the Civil Code, particularly provisions related to copyright transfer agreements and freedom of contract principles. Secondary legal materials comprise legal literature, academic journals, legal textbooks, and scholarly works related to copyright law, intellectual property rights, and contract law, particularly those discussing sold flat agreements and economic rights transfer. Tertiary legal materials include legal dictionaries, encyclopedias, and other supporting materials that provide explanation and understanding of legal terms and concepts.¹⁶

Data collection was conducted through literature study by examining, reviewing, and analyzing legal provisions, legal doctrines, scholarly opinions, and previous research results related to sold flat agreements in song copyright. The researcher collected relevant legal materials from libraries, legal databases, and academic publications. The collected legal materials were analyzed using qualitative juridical analysis with descriptive-analytical techniques. The analysis was conducted by identifying and describing legal provisions related to sold flat agreements in song copyright, analyzing the basic concepts and legal implications of economic rights transfer through sold flat agreements, examining the application of freedom of contract principles in sold flat agreements, interpreting legal norms using grammatical, systematic, and teleological interpretation methods, and drawing conclusions based on the analysis of legal materials and theoretical frameworks.

¹⁵ Rokilah Rokilah and Sulasno Sulasno, "Penerapan Asas Hukum Dalam Pembentukan Peraturan Perundang-Undangan," *Ajudikasi : Jurnal Ilmu Hukum* 5, no. 2 (December 29, 2021): 179–190, <https://e-jurnal.lppmunsera.org/index.php/ajudikasi/article/view/3942>.

¹⁶ Wandu Subroto, "Analysis The Role of Law in Protecting Intellectual Rights and Their Relationship to Social Welfare," *INFLUENCE : International Journal of Science Review* 2, no. 2 (August 29, 2020): 18–26, <https://internationaljournal.net/index.php/influence/article/view/172>; Lesley Adukonu, *Subject Guides: Australian Legal Research - Secondary Materials* (Books & eBooks, 2015).

RESULT AND DISCUSSION

Basic Concept of Sold Flat Agreements Regarding Song Copyrights

Copyright grants very broad authority to Creators. Conceptually, the position of Creators is in a very honorable place in society. Humans have natural rights to the products of human thinking, both material and immaterial, originating from their intellectual work, and ownership must be recognized. If this conceptual thinking is applied to copyright, it can be said that the above theory constitutes the most fundamental foundation possessed by a Creator who, due to their intellectual work or thinking, produces Creations.¹⁷

When traced back, economic rights to Creations or works could be said to have emerged later after moral rights. Creative activities in the past were not yet viewed as work. Thus, if imitation of Creations occurred, it was considered more as an ethical or moral violation rather than a violation causing economic loss.

Economic rights as a principal part of copyright developed along with discoveries in the field of technology, particularly reproduction technology for Creations. Along with this, emerged the thinking that creative activity is the same as other fields of work, which should produce material benefits. Therefore, if moral rights are a reflection of the Creator's personality, economic rights may be a reflection of the Creator's needs, both physical and spiritual needs.

Looking back, supporters of copyright generally base their thinking about copyright protection on natural law theory. Stainforth Ricketson stated: "...it has been popular to argue, particularly in Continental jurisdictions, that a person has a natural property right in the creation of his mind. Thus, it is said, a person has a natural right to the product of his labour and this should be recognized as his property, whether tangible or intangible."¹⁸

Thomas Aquinas, as quoted by W. Friedmann, defined law as: A provision of reason for the common good, made by one who governs society and promulgated. In connection with Thomas Aquinas's thinking, Friedmann further stated that: "Natural law is part of God's law, the part revealed in natural thought. Humans, as rational beings, apply this part of God's law to human life, so they can distinguish between good and bad. This derives from the principles of eternal law, as revealed in natural law, which is the source of all human law."

John Locke, a prominent 18th-century English philosopher, in connection with copyright and natural law, stated that: Copyright law grants exclusive

¹⁷ Otto Hasibuan, *Hak Cipta Di Indonesia Tinjauan Khusus Hak Cipta Lagu, Neighbouring Rights Dan Collecting Society* (Bandung: P.T. Alumni, 2014).

¹⁸ Ibid.

property rights to a Creator's work; natural law requires individuals to control their works and be fairly compensated for their contribution to society.¹⁹

Initially, Locke spoke about the right to intellectual property arising as a logical consequence of people working. Creators, authors, inventors, or whatever they are called, are the same as workers; as compensation for their work, they are given wages. Royalties received by Creators or authors are wages for their intellectual work. The emergence of Locke's thinking elevating intellectual property rights was a reaction to the hegemony of feudalism controlling property. He criticized the feudal system at that time, where all access to property was restricted only to the aristocratic class.

Intellectual property was formulated as a personal right, thus the idea arose to protect it. Every human work must be appreciated and has its basis in property rights in general, namely property rights as fundamental rights. Therefore, Locke's contribution lies in personal rights. Locke spoke about material rights, meaning something of a tangible nature, something that can be controlled, and which can become a facility for human life. Intellectual property has become their own and must not be seized by others.

The essence of natural law theory in relation to copyright is that creators have moral rights to enjoy the results of their work, including profits generated by their intellectual efforts. Because creators have enriched society through their creations, Creators have the right to receive compensation commensurate with the value of their contribution. Here, natural law grants exclusive property rights to a creator's work, giving individuals the right to defend and the right to control their works and receive fair compensation for their contribution to society.

Generally, natural law justification for copyright receives support in various countries worldwide, although appreciation differs. Natural law theory has greatly influenced the creation and refinement of the Berne Convention for the Protection of Literary and Artistic Works, which strongly affirms creators' moral rights. In countries with Common Law systems, particularly the United States, which ratified the Berne Convention in 1989, they do not recognize creators' moral rights. In copyright protection, the United States adheres to utilitarian principles, namely protecting copyright as an incentive for creators to create their works, thereby improving social welfare.

Although there are differences regarding the boundaries of copyright protection in various countries, conceptually copyright protection has become a universal rule. Article 27 paragraph (2) of the Universal Declaration of Human Rights states: "Everyone has the right to protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author." From all its uniqueness and distinctiveness, several characteristics or basic properties inherent in Copyright are recognized, namely: (a) Copyright

¹⁹ Tanu Hendra Atmadja, *Hak Cipta Musik Atau Lagu* (Jakarta: Program Pascasarjana Universitas Indonesia, 2003).

is a property right; (b) Copyright is a time-limited right; (c) Copyright is an exclusive right; and (e) Copyright is a collection of rights within a work.²⁰

Transfer of Song Creators' Economic Rights through Sold Flat Agreements

With the existence of the UUHC, creations that have existed for generations in traditional communities, creations whose creators are unknown, and new creations originating from foreign cultures receive collective protection. In line with the presence of the UUHC, creators have the right to receive economic benefits from the exploitation of their creations.

Based on this explanation, exploitation activities of works or copyrights are efforts to obtain profits or economic benefits from a copyrighted work. These activities can be carried out by the Creator themselves or by others to whom they have granted permission or license. This is something legitimate and receives copyright protection.

The recording process of songs involves many parties and produces a new work called sound recording or master recording. This work has a right called sound recording right, which fully belongs to the sound recording producer. The rights of sound recording producers also receive legal protection, specifically laws regulating rights related to copyright.

Sound recording producers, as owners of rights to sound recording works, sometimes reproduce the sound recording master themselves into cassettes, CDs, or software in the form of digital music platforms and act as distributors, but sometimes they collaborate with other companies, and these other companies reproduce the sound recordings and act as distributors. After song recordings are reproduced, distributors continue to agents, from agents to retail stores, and subsequently circulate to the public. After songs are recorded and circulate to the public, there are still various forms of song exploitation, including translating songs into other languages, using songs as soundtracks for cinematographic works and advertisements, broadcasting songs through radio and television, using songs as ring tones or back tones for mobile phones, playing songs in public places, and performing songs through concerts, entertainment performances, or music performance businesses. All these forms of exploitation require regulation in the UUHC so that the economic rights of song creators are always protected.

A song creation, to bring economic benefits, must certainly be disseminated to the public, and to be disseminated to the public, it must first be recorded and reproduced. If the song creator does not wish to carry out these activities themselves, they will certainly approach and transfer their rights to a music recording company or sound recording producer. The transfer of rights or granting

²⁰ Erki Maulana Putra and Dr. M. Sholehuddin, "Infringement Prosecution under Government Regulation of Indonesia No. 80/2012 through Telegram Letter of the Head of Indonesian National Police No. ST/2264/X/HUM.3.4.5./2022," *Journal of Law Theory and Law Enforcement* 2, no. 4 (October 27, 2023): 29–46, <https://journal.jfpublisher.com/index.php/jlte/article/view/404>; Haris Munandar and Sally Sitanggang, *Mengenai Hak Kekayaan Intelektual* (Yogyakarta: Erlangga, 2012).

of permission or license from the song creator to the sound recording producer can be done by the creator themselves or delegated to a music publisher.²¹ Publishers are management service institutions for song creators. These institutions are very necessary to help market and supervise the utilization of songs owned by creators.

Copyright constitutes intangible movable property. Copyright can be transferred or assigned, either wholly or partially due to: inheritance, grants, endowments, wills, written agreements, or other causes justified in accordance with statutory provisions. What is meant by "can be transferred or assigned" from song creators to sound recording producers is economic rights, not moral rights, because moral rights cannot be transferred. Song creators' economic rights themselves consist of several types, such as reproduction rights, distribution rights, performance rights, broadcasting rights, and others.

What rights are transferred by song creators to sound recording producers will certainly be agreed upon and stipulated in an agreement. Specifically for singers and musicians, who in the UUHC are grouped as performers (owners or holders of related rights), like song creators, they also possess exclusive rights, including granting permission or prohibiting others from making sound recordings and visual recordings of their performances, as well as publishing sound recordings and visual recordings of their performances. So that their exclusive rights bring economic benefits, they can grant permission or license to recording producers, which is stipulated in a written agreement.²²

Many people enjoy songs to the extent that they know the lyrics and melody and can then sing them, but they do not remember too much that the birth of a song that can be enjoyed in CD form or other online music platforms is the result of a long process by the song creator. After the song creator creates a song and it is recorded on cassette tape with or without musical accompaniment, at that moment a song creation is born, and automatically copyright to the song receives legal copyright protection. Song creators usually approach sound recording producers and offer their songs to be recorded. However, it can also happen that sound recording producers request or commission songs from creators and often accompany this with upfront payment or sold flat.²³ In several other countries, institutions called music publishers are known, which play a role in promoting songs to be recorded. These institutions approach sound recording producers and offer new songs to be recorded.

In Indonesia, music publishers are indeed known, but their role is not to promote new songs, but rather to manage songs that have been recorded before, in other words, old songs. If a producer wishes to re-record an old song, they need

²¹ Putra and Sholehuddin, "Infringement Prosecution under Government Regulation of Indonesia No. 80/2012 through Telegram Letter of the Head of Indonesian National Police No. ST/2264/X/HUM.3.4.5./2022."

²² Ibid.

²³ Ibid.

only deal with the music publisher, not necessarily with the song creator, as long as the old song is among those managed by the music publisher.

If the recording producer is interested in the song offered by the song creator to them, they will accept the song to be recorded and enter into an agreement with the song creator. The form of agreement between the song creator and the recording producer is usually differentiated based on the method of paying the song creator's honorarium. These forms include: first, Sold Flat, in which the creator receives an honorarium only once, and subsequently the recording producer has the right to exploit the song. Second, limited or conditional Flat Pay, in which the creator also receives an honorarium only once. However, the producer's right to exploit the song is limited, for example, the use of the song is only for one or two times. After that, the song creator will regain the right to exploit their creation. Third, Royalty, in which the payment of the song creator's honorarium is based on the number of phonograms sold, with a predetermined amount of money or percentage that becomes the creator's right from each phonogram sold. Fourth, Semi-Royalty, a form that is a combination of flat pay and royalty payment methods.²⁴ Thus, the song creator receives an advance payment and royalties. Regarding royalty payments, some are calculated from the first circulating phonogram. However, generally, royalty payments are calculated after phonograms are sold in a certain amount.

In the context of our discussion here, which is more directed toward the sold flat concept, the UUHC regulates that Copyright can revert to the Creator when the agreement reaches a period of 25 (twenty-five) years. Based on the definition of sold flat regulated in the explanation of Article 18 of the UUHC, the elements that must exist in sold flat transactions are: agreement, Creator surrenders their Creation, full payment by the buyer, economic rights to the Creation are transferred entirely to the buyer, without time limit for book creations, and all other written works, songs and music with or without text that are transferred in sold flat agreements and transfers without time limits, the Copyright reverts to the Creator when the agreement reaches a period of 25 (twenty-five) years.

Regarding the use of songs in sold flat transactions by sound recording producers, song creators must at least surrender four types of economic rights, namely: first, the right to record songs; second, the right to reproduce song recordings; third, the right to distribute and market song recordings, including marketing through certain media, such as digital media, internet, telephone systems, and other audio systems; and fourth, the right to announce, specifically to play songs to the public.²⁵

When related to the scope of song creators' economic rights as regulated in the UUHC, the surrender of rights mentioned above made in sold flat agreements

²⁴ Ibid.; D'Amato and Long, *International Intellectual Property Law*.

²⁵ D'Amato and Long, *International Intellectual Property Law*.

by song creators to sound recording producers is in line with the provisions of Article 1343 of the Civil Code, which states: If the words of an agreement can be given various interpretations, priority must be given to investigating the intentions of both parties who made the agreement, rather than adhering strictly to the literal meaning of the words.

In practice, in the collaboration between song creators and sound recording producers (buyers), the agreement letter is generally prepared by the sound recording producer. Thus, the song creator only needs to sign it, but they are always given the opportunity to study the concept of the agreement letter offered by the sound recording producer before signing. Therefore, the preparation of the agreement letter is solely for practical purposes. In practice, the bargaining position of song creators is often lower than that of sound recording producers (buyers). This is because recording producers tend to present themselves as entrepreneurs or investors who possess capital, while song creators appear as if they are workers. This pattern of unequal bargaining power in contractual relationships has been observed in various contexts where economic disparities exist between parties.²⁶ Therefore, the relationship between song creators and recording producers is imbalanced.

In this connection, problems that often occur in the working relationship between song creators and sound recording producers include: first, in the Sold Flat payment system, producers generally value a song very low; and second, in the case of payment using the royalty system, sound recording producers are often not transparent regarding the number of sound recording products produced and sold.

The reason often expressed by sound recording producers for valuing a song very low is that there is no guarantee that sound recording products will be accepted by the market, and because producers often suffer losses due to piracy. Thus, when considering the lives of most song creators in Indonesia, they are generally very modest, and not a few song creator artists in Indonesia are classified as poor. If there are those who are not poor, that possibly occurs because they pursue other professions, not just creating songs.

Although many factors make the economic lives of most song creators not yet very good in Indonesia, one fact often complained about by them is the issue of lack of public appreciation for copyright and weak legal protection of copyright, specifically protection of song creators' economic rights.

CONCLUSION

This research has examined the concept and implementation of sold flat agreements in song copyright, particularly focusing on the transfer of economic

²⁶ Liana Liana and Prof. Dr. Prasetijo Rijadi, "Legal Protection for Fixed-Term Employment Contract (PKWT) Workers in Outsourced Company Transfers Following the Enactment of Indonesian Law No. 6 Of 2023," *Journal of Law Theory and Law Enforcement* 4, no. 2 (April 25, 2025): 47–65, <https://journal.jfpublisher.com/index.php/jlte/article/view/804>.

rights from song creators to sound recording producers. Based on the analysis of legal provisions and theoretical frameworks, several important conclusions can be drawn. First, regarding the basic concept of sold flat agreements in song copyright, the research reveals that such agreements represent a form of economic rights transfer whereby creators surrender their creations through full payment by the buyer, resulting in the complete transfer of economic rights to the buyer. According to Article 18 of the UUHC, while the sold flat system allows for immediate payment and complete transfer of economic rights, the law provides protection for creators by mandating that copyright must revert to the creator after 25 years. The essential elements of sold flat agreements include: an agreement between parties, the creator's surrender of their creation, full payment by the buyer, complete transfer of economic rights to the buyer, and the automatic reversion of copyright to the creator after 25 years. This legal framework reflects Indonesia's recognition of its rich cultural diversity and the need to protect intellectual creations, particularly songs and music, not only for the sake of art and culture themselves but also to enhance commercial and industrial capabilities involving creators, thereby potentially improving welfare for creators, the nation, and the state. Second, concerning the transfer of song creators' economic rights through sold flat agreements, the research demonstrates that in practice, the bargaining position of song creators is often significantly weaker than that of sound recording producers. This imbalance occurs because recording producers typically present themselves as entrepreneurs or investors with capital, while song creators appear as workers. Consequently, agreements are generally prepared by sound recording producers, and song creators merely sign them, although they are given opportunities to review the agreement before signing. The economic rights typically transferred in sold flat agreements include: the right to record songs, the right to reproduce song recordings, the right to distribute and market song recordings through various media including digital platforms, and the right to publicly perform or broadcast songs. However, significant problems persist in practice, including producers valuing songs very low in sold flat payment systems, and producers often lacking transparency regarding the number of sound recording products produced and sold, even when using royalty systems.

Third, the application of freedom of contract principles in sold flat agreements, while theoretically based on Article 1338(1) of the Civil Code which states that all legally made agreements are valid as law for those who make them, faces practical limitations. Before Law No. 28 of 2014 was enacted, the bargaining position of creators and performers was very weak when dealing with phonogram producers or recording companies, which generally possessed greater economic power. At that time, creators and performers were generally not in good economic conditions, leading phonogram producers or buyers to tend to abuse the situation (*misbruik van omstandigheden*) by utilizing their stronger bargaining position to impose any agreement contents on song creators and performers to be approved

unconditionally, including sold flat agreements that clearly disadvantaged the interests of song creators and performers. Therefore, Article 18 and Article 30 of the Copyright Law were formulated to prevent sold flat agreements and unlimited time transfers that could adversely affect or harm the interests of creators and performers from abuse of circumstances that could be committed by phonogram producers or copyright buyers. Based on these findings, this research concludes that although Article 18 of the UUHC has regulated that monopoly rights or economic rights return to creators within 25 years, during that period song creators only enjoy minimal benefits from their creations. Therefore, the state must strictly supervise and regulate contracts in sold flat agreements, particularly regarding standard clauses offered by buyers in cases where there is misrepresentation of meaning in the agreement. Additionally, it should be stipulated in agreements that song creators can receive royalties regulated by the state even though sold flat contracts have been executed. The limitation of freedom of contract principles in Indonesia is evident in various provisions of the Civil Code, including Articles 1320, 1330, 1332, 1335, 1337, 1338, and 1339, as well as in various statutory regulations that determine insurance policy terms and conditions, minimum wages, working conditions and employment terms, and terms and conditions for offering and trading goods and services to protect end consumers. These limitations are necessary to prevent the abuse of contractual freedom that disadvantages weaker parties, particularly song creators in the music industry.

REFERENCES

- Adukonu, Lesley. *Subject Guides: Australian Legal Research - Secondary Materials*. Books & eBooks, 2015.
- Atmadja, Tanu Hendra. *Hak Cipta Musik Atau Lagu*. Jakarta: Program Pascasarjana Universitas Indonesia, 2003.
- D'Amato, Anthony, and Doris Estelle Long. *International Intellectual Property Law*. London: Kluwer Law International, 1997.
<https://journal.jfpublisher.com/index.php/jlte/article/view/404>.
- Hamid, Adnan, and Adilla Meytiara Intan. "The Existence of Identity Value and Image Protection on Legal Frameworks of United States of America (US) and United Kingdom (UK)." *Journal of Law Theory and Law Enforcement* 1, no. 2 (April 6, 2022): 28–39.
<https://journal.jfpublisher.com/index.php/jlte/article/view/62>.
- Hasibuan, Otto. *Hak Cipta Di Indonesia Tinjauan Khusus Hak Cipta Lagu, Neighbouring Rights Dan Collecting Society*. Bandung: P.T. Alumni, 2014.
- Hernoko, Yudha Agus. *Hukum Perjanjian Asas Proporsionalitas Dalam Kontrak Komersial*. Jakarta: Prenadamedia Group, 2014.
- Jayanti, Ni Nyoman Tri, Dr. Putu Ayu Sriasih Wesna, and Dr. I Nyoman Alit Puspadma. "Legal Consequences of Deposited Funds to Public Notary before Preparation of Sales and Purchase Agreement." *Journal of Law Theory and Law Enforcement* 3, no. 3 (September 6, 2024): 14–25.

- <https://journal.jfpublisher.com/index.php/jlte/article/view/607>.
- Jened, Rahmi. *Hak Kekayaan Intelektual: Penyalahgunaan Hak Eksklusif*. Airlangga University Press. Surabaya: Airlangga University Press, 2010.
- Khair, Muhamad Helmi Muhamad, and Haswira Nor Mohamad Hashim. "Justifications of Intellectual Property Rights: A Discussion on Locke and Hegel's Theories." *Jurnal Hukum Novelty* 11, no. 2 (August 17, 2020): 114. <http://journal.uad.ac.id/index.php/Novelty/article/view/16595>.
- Liana, Liana, and Prof. Dr. Prasetyo Rijadi. "Legal Protection for Fixed-Term Employment Contract (PKWT) Workers in Outsourced Company Transfers Following the Enactment of Indonesian Law No. 6 Of 2023." *Journal of Law Theory and Law Enforcement* 4, no. 2 (April 25, 2025): 47–65. <https://journal.jfpublisher.com/index.php/jlte/article/view/804>.
- Marcellino Meidy, Salvatore. "The Royalty Rights Fulfillment of the Song Creators on Musicians for Commercial Purposes." *International Journal of Education, Language, Literature, Arts, Culture, and Social Humanities* 2, no. 1 (December 27, 2023): 21–31. <https://pbsi-upr.id/index.php/ijellacush/article/view/657>.
- Munandar, Haris, and Sally Sitanggang. *Mengenai Hak Kekayaan Intelektual*. Yogyakarta: Erlangga, 2012.
- Pikulun, Selfario Adhityawan, and Baiq Vara Arisinda Seftian. "Hukum Sebagai Pilar Perlindungan Hak Kodrat: Telaah Teori John Locke Dalam Sistem Hukum Modern." *Al-Muqaronah: Jurnal Perbandingan Mazhab dan Hukum* 3, no. 2 (December 27, 2024): 54–66. <https://ejournal.stisdarussalam.ac.id/index.php/mh/article/view/200>.
- Putra, Erki Maulana, and Dr. M. Sholehuddin. "Infringement Prosecution under Government Regulation of Indonesia No. 80/2012 through Telegram Letter of the Head of Indonesian National Police No. ST/2264/X/HUM.3.4.5./2022." *Journal of Law Theory and Law Enforcement* 2, no. 4 (October 27, 2023): 29–46. <https://journal.jfpublisher.com/index.php/jlte/article/view/404>.
- Ratnawati, Erna Tri Rusmala. "Akibat Hukum Perjanjian Jual Beli Hak Cipta Dengan Sistem Jual Putus (Sold Flat)." *Widya Pranata Hukum: Jurnal Kajian dan Penelitian Hukum* 1, no. 2 (2019). <https://ejournal.widyamataaram.ac.id/index.php/pranata/article/view/44>.
- Republik Indonesia. *Kitab Undang-Undang Hukum Perdata (Burgerlijk Wetboek)*. Indonesia, 1847.
- . *Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta*. Indonesia, 2014. <https://peraturan.bpk.go.id/Details/38690>.
- Rogate, Luvito. "Hak Royalti Dalam Industri Musik: Analisis Perlindungan Hukum Terhadap Pencipta Lagu Terkait Cover Lagu." *Jurnal Globalisasi Hukum* 1, no. 2 (September 30, 2024): 320–341. <https://ejournal.trisakti.ac.id/index.php/globalisasihukum/article/view/21423>.
- Rokilah, Rokilah, and Sulasno Sulasno. "Penerapan Asas Hukum Dalam Pembentukan Peraturan Perundang-Undangan." *Ajudikasi: Jurnal Ilmu Hukum* 5, no. 2 (December 29, 2021): 179–190. <https://ejournal.lppmunsera.org/index.php/ajudikasi/article/view/3942>.
- Subroto, Wandu. "Analysis The Role of Law in Protecting Intellectual Rights and Their Relationship to Social Welfare." *INFLUENCE: International Journal*

of Science Review 2, no. 2 (August 29, 2020): 18–26.
<https://internationaljournal.net/index.php/influence/article/view/172>.