

Vicarious liability and contributory copyright infringement doctrine in the Indonesian copyright law in relation to the activity of user-generated content platform: Case study of tikTok = Vicarious liability and contributory copyright infringement doctrine in the Indonesian copyright law in relation to the activity of user-generated content platform: Case Study of TikTok

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Abstrak

Dengan hadirnya era digitalisasi, hadir pula cara-cara baru untuk mengakses dan memanfaatkan karya musik melalui sarana digital. Isu-isu mengenai hak cipta musik pun menjadi semakin beragam. Kemunculan hadirnya pemanfaatan karya musik dalam platform User-Generated Content memunculkan isu pertanggungjawaban platform yang bersangkutan apabila terjadi pelanggaran hak cipta yang dilakukan secara langsung oleh pengguna. Di Indonesia, ketentuan mengenai pertanggungjawaban dalam pelanggaran hak cipta secara tidak langsung terdapat dalam Pasal 10 Undang-Undang Nomor 28 tahun 2014 tentang Hak Cipta. Skripsi ini bertujuan untuk menganalisis ketentuan mengenai pertanggungjawaban tidak langsung dalam pelanggaran hak cipta dalam Undang-Undang Hak Cipta di Indonesia dan bagaimana pelanggaran hak cipta dalam TikTok, sebuah aplikasi User-Generated Content, harus dipandang menurut hukum hak cipta yang berlaku di Indonesia dan menurut prinsip-prinsip yang sudah berkembang sebelumnya di negara-negara lain, yakni vicarious and contributory copyright infringement. Hasil penelitian ini menunjukkan bahwa TikTok tidak dapat dimintai pertanggungjawaban karena tidak terpenuhinya beberapa elemen dari vicarious dan contributory copyright infringement. Kesimpulan lebih lanjut menyatakan bahwa perlu adanya pengaturan lebih spesifik mengenai pertanggungjawaban platform digital dalam hal adanya pelanggaran hak cipta yang dilakukan oleh pengguna.

.....With the emergence of the digitalization era, there are also new ways to access and utilize musical works through digital means. Issues regarding music copyright are becoming increasingly diverse. The emergence of the presence of the use of musical works on the User-Generated Content platform raises the issue of the responsibility of the platform concerned if there is a copyright infringement that is carried out directly by the user. In Indonesia, provisions regarding liability for indirect copyright infringement are contained in Article 10 of Law Number 28 of 2014 concerning Copyright. This thesis aims to analyze the provisions regarding indirect liability for copyright infringement in the Copyright Law in Indonesia and how copyright infringement in TikTok, a User-Generated Content application, must be viewed according to the applicable copyright law in Indonesia and according to the principles that have been developed previously in other countries, namely vicarious and contributory copyright infringement. The results of this study indicate that TikTok cannot be held accountable for not fulfilling several elements of vicarious and contributory copyright infringement. The conclusion further states that there is a need for more specific arrangements regarding the liability of digital platforms in the event of copyright infringement committed by users within the Indonesian Copyright Law.