

## Copyright Protection of Podcast-Based Audiobooks Adapted by Third Party Without Permission on Digital Platform Based on Indonesian Positive Law

Salma Alifya Khairunnisa<sup>1</sup>, Rika Ratna Permata<sup>2</sup>, Sudaryat<sup>3</sup>

<sup>1</sup>Faculty of Law, Universitas Padjadjaran, Indonesia, [salmalifyakh@gmail.com](mailto:salmalifyakh@gmail.com)

<sup>2</sup>Faculty of Law, Universitas Padjadjaran, Indonesia

<sup>3</sup>Faculty of Law, Universitas Padjadjaran, Indonesia

### ABSTRACT

Podcasts are basically digital audio content that is much loved by the public and audiobooks become one of the contents that have recently been incorporated into podcast content on a digital platform. The presence of this podcast-based audiobook raises a new problem in copyright related to its adaptation. This study aims to examine legal protection regarding podcast-based audiobooks from the perspective of copyright based on Indonesian Copyright Law and ITE Law. Furthermore, this study was also conducted to analyze the act of adapting books into podcast-based audiobooks in digital platforms carried out by content creators without the permission of the creators or copyright holder. This study uses normative juridical approach with descriptive specifications. The normative juridical approach is carried out by exploring legal theories and principles as well as applicable laws and regulations. This study describes legal problems that occur in society and is analyzed based on the applicable laws and regulations. The result of the study shows that copyright protection for podcast-based audiobook content has been regulated in several articles in the Copyright Law, including Article 40 paragraph (1) and Article 9 paragraph (1) regarding the right to adapt a creation. In addition, the act of adapting and uploading without permits made by content creators on a digital platform is considered to have violated the provisions of Article 9 of the Copyright Law and Article 32 paragraphs (1) and (2) of the ITE Law.

### Cite this paper

Khairunnisa, S. A., Permata, R. R., & Sudaryat. (2023). Copyright Protection of Podcast-Based Audiobooks Adapted by Third Party Without Permission on Digital Platform Based on Indonesian Positive Law. *Widya Yuridika: Jurnal Hukum*, 6(2). doi:10.31328/wy.v6i2.4451

### MANUSCRIPT INFO

#### Manuscript History:

Received:

2023-01-17

Accepted:

2023-03-25

#### Corresponding Author:

Salma Alifya Khairunnisa,  
[salmalifyakh@gmail.com](mailto:salmalifyakh@gmail.com)

#### Keywords:

Copyright; Adaptation of Podcast-based Audiobooks; Digital Platform



Widya Yuridika: Jurnal Hukum is Licensed under a Creative Commons Attribution-ShareAlike 4.0 International License

#### Layout Version:

v.6.2023

## PRELIMINARY

Intellectual Property Rights are rights that arise from the results of human thought or creativity that produce creations in the fields of art, literature, science, and multimedia technology that have economic benefits. Intellectual Property Rights regulate works that are born due to human intellectual abilities and are owned as exclusive rights by creators

based on reasons of a country's law which regulates them as a right based on natural law or as a human right to own their creations.<sup>1</sup>

In Indonesia, Copyright is part of the Intellectual Property Rights that receive legal protection as stated in Law Number 28 of 2014 concerning Copyright (Copyright Law). However, along with the rapid development of science and technology which is increasingly providing many changes in life, the development of internet technology has introduced people to the digital world. The internet has created a new phenomenon in every aspect of human life. From a legal point of view, the internet phenomenon clearly influences the legal model on the internet. This development certainly affects the law, especially copyright law. Copyright law, which previously only protected conventional copyrighted works, must evolve and adapt to the times so that it can include protecting digital copyrighted works.

The use of internet technology for a work that changes from a physical creation to a digital form causes various mentions such as digital works, digital content, digital information, and digital copyrights. Digital creations are considered to be popular in society because they have many advantages compared to physical creations and are also considered to be more simple, efficient, and practical compared to physical creations which sometimes require a special storage space to store their products.<sup>2</sup>

In addition, we can see the development of the internet from the emergence of various digital-based platforms. Digital platforms basically cannot be separated from intellectual property aspects. Nowadays, many digital platforms have opened up opportunities for creative people to produce content.<sup>3</sup> This encourages society to maximize the use of new media knowing everyone has unlimited rights and space to express their creativity in various forms, including on social media and digital media.

One of the digital content that has recently become popular and is in great demand by the public is podcasts. Podcasts are digital audio content that can directly be listened to or downloaded via the internet.<sup>4</sup> One type of content that has recently been included in podcasts and is quite popular with the public is audiobook. Audiobook is a book reading content in the form of sound recordings that can be listened to through electronic devices.

This study raises the case of adapting books into podcast-based audiobooks on a digital platform. For example, where content creators who are on Spotify, without permission, read some books for their podcast. In other words, the podcast content contains the entire content of the book that can be heard by podcast listeners on Spotify. Podcast content that contains book readings by content creators through Spotify has indirectly created an audiobook. This can be a problem because the book read by the content creator has not received permission to be read or used as audiobook content from the creator or copyright holder of the book. Moreover, the books that are being read are mostly best-seller books that are well-known by people all over the world and some of them already have their own audiobook licenses. Not only that, creating content on

---

<sup>1</sup> Eddy Damian, *Hukum Hak Cipta*, Bandung: PT Alumni, 2019, p. 1.

<sup>2</sup> Khwarizmi Maulana Simatupang, "Tinjauan Yuridis Perlindungan Hak Cipta Dalam Ranah Digital (Juridical Review of Copyright Protection in Digital Sector)", *Jurnal Ilmiah Kebijakan Hukum*, Vol. 15, No. 1, 2021, p. 68.

<sup>3</sup> Ahmad M. Ramli, *Hak Cipta, Disrupsi Digital Ekonomi Kreatif*, Bandung: Alumni, 2018, p. 89.

<sup>4</sup> Abbie Brown, Timothy D. Green, "Video Podcasting in Perspective: The History, Technology, Aesthetics, and Instructional Uses of a New Medium", *Journal of Educational Technology Systems*, Vol. 36, No. 1, 2007, p. 3-17.

Spotify can allow a content creator to receive royalties or profits from the act of adapting and uploading the audiobook content.

Based on the things that have been stated above, there are problems that must be studied in this study:

1. How is copyright protection regarding podcast-based audiobooks based on Law Number 28 of 2014 concerning Copyright?
2. How is the act of adapting and uploading podcast-based audiobook content carried out without permission by a third party on Spotify based on Law Number 28 of 2014 concerning Copyright (Copyright Law) and Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE Law)?

The purpose of conducting this study is to examine legal protection regarding podcast-based audiobooks from the perspective of copyright under the Copyright Law. This study also was conducted to analyze and find out whether the act of adapting and uploading podcast-based audiobook content carried out without permission by a third party on Spotify is a copyright infringement based on Law Number 28 of 2014 concerning Copyright (Copyright Law) and Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Transactions Electronics (ITE Law).

## **METHOD**

This study uses normative juridical approach method. The normative juridical approach is carried out by exploring legal theories and principles as well as applicable laws and regulations.<sup>5</sup> The specification of the research used by the author is analytical descriptive. The analytical descriptive method aims to describe or give an overview of the object under study through the data that has been collected and to carry out analysis and make conclusions that apply to the public.<sup>6</sup>

The study data analysis method uses qualitative juridical analysis. This method uses normative aspects that focus on existing and relevant positive laws associated with the problem and then analyzed with the ultimate goal of drawing conclusions from the study results.

The materials used in this study are divided into primary legal materials and secondary legal materials. Primary legal materials are laws and regulations that are related to the object of this study, which are Law Number 28 of 2014 concerning Copyright (Copyright Law) and Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Transactions Electronics (ITE Law). Secondary legal materials are books and research journals of experts relevant to copyright.

## **RESULT AND DISCUSSION**

### **Copyright Protection of Podcast-Based Audiobook Content Based on Law Number 28 of 2014 concerning Copyright**

---

<sup>5</sup> Soerjono Soekanto dan Sri Marmudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, Jakarta: PT Raja Grafindo Persada, 2003, p. 13.

<sup>6</sup> Sugiono, *Metode Penelitian Kuantitatif, Kualitatif dan R&D*, Bandung: Alfabeta, 2009, p. 29.

Every copyrighted work is given legal protection if it meets the substantive Copyright requirements, namely fixation, originality, and creativity.<sup>7</sup> Fixation is the act of embodiment of an idea into a creative work in a tangible form, including the recording of sound, images or both which can be heard, seen, duplicated or communicated with any form of device.<sup>8</sup> Original means a creation which has distinctive characteristics, fulfills elements of originality, and does not adopt from the work of others, in which the creation is pure, real and personal from the Creator. Creativity in Copyright means that the Creator creates copyrighted works on the basis of the Creator's intellectual ability to process the power of thought creatively and then embodies it in creation, the copyrighted work contains value and can provide benefits to human life. A Creation that complies with the substantive requirements of Copyright is automatically protected according to the principle of automatic protection.

Based on Article 1 paragraph 2 and 3 Copyright Law, by creating a work in real form, a Creator has received copyright protection through the announcement of the work. then in this case, the Author, as the Creator of the Book gets copyright protection for the book automatically when it is created. It is for this effort that an Author gets a Copyright which is an exclusive right. According to Article 4 UUHC 2014, these exclusive rights consist of moral rights and economic rights.

Audiobook protection begins with the creation of a book by an Author. Where from this book the author has exclusive rights, namely moral rights and economic rights. Moral rights are eternally bound to the creator himself and cannot be erased or eliminated even though the copyright has been transferred, therefore the author always has the right to include their name in connection with the use of their book.<sup>9</sup> Meanwhile, for economic rights, the author has the right to adapt, distribute, publish, and reproduce their book.<sup>10</sup>

As for the book that is published by a publisher, the copyright for the book has been transferred by the author to the publisher. If that happens, then the publisher becomes the copyright holder of the book. In addition, if a book is adapted into an audiobook and in the process is assisted by a Producer so that it has a quality suitable for commercial, then the author or publisher can grant their economic rights to adapt the book into an audiobook to a Producer who will produce the audiobook which is also included in the phonogram with a license agreement.

Audiobook is a derivative work from book, which is a book read by a reader and then recorded and converted into a recorded audio file. In Copyright Law, audiobook is not explicitly stated in Article 40 paragraph (1) regarding protected works. However, if we look at the Explanation of Article 40 (1) n, the meaning of adaptation is the transfer of the form of a work into another form. An audiobook is a book that is read and recorded, with that being said, audiobook can be interpreted as a book that has undergone a process of becoming another form, namely a recording. The audiobook which is a recording has also made it protected not only by Copyright Law as an adaptation belonging to a Copyright, but also in the form of a Phonogram. Phonogram Producers have economic rights over phonogram which is included in related rights and regulated in Article 24

---

<sup>7</sup> Muhammad Djumhana dan R. Djubaedillah, *Hak Milik Intelektual (Sejarah Teori dan Praktiknya di Indonesia)*, Bandung: Citra Aditya Bakti, 2014, p. 59.

<sup>8</sup> See Article 1 paragraph (13) Law Number 28 of 2014 concerning Copyright.

<sup>9</sup> See Article 5 Law Number 28 of 2014 concerning Copyright

<sup>10</sup> See Article 9 Law Number 28 of 2014 concerning Copyright

Copyright Law. This economic right owned by the Phonogram Producer is called Sound Recording.<sup>11</sup>

Regarding the period of protection, we must look at the period of protection of the book as material that is read and recorded. First, according to Article 57 paragraph (1) Copyright Law, the moral rights of the author of a book has an unlimited period of time. while Second, regarding economic rights, the author of the book has the right until the end of their age and added 70 years after death according to Article 58 paragraph (1). Publisher is being protected for 50 years since it was announced.

As long as it is still under the period of protection of Copyright Law, an Author or Publisher can use their economic rights such as adapting the book into an audiobook. After becoming an audiobook, the audiobook has become a new creation and based on Article 59 paragraph (1), it is protected for 50 years after it was announced. This is the same as the term for the protection of economic rights granted to the Phonogram Producer, which is 50 years after the work is fixed.

If there are other parties who wish to take advantage of the Economic Rights of an audiobook such as making it in the form of a podcast and uploading it on a digital platform, then they must obtain permission from the Publisher and Producer of the Phonogram. Considering that uploading podcast content on a digital platform provides an opportunity for content creators to monetize their content, therefore they must obtain permission first so as not to injure the economic rights to audiobooks owned by the copyright holder.

Furthermore, after the Publisher and Phonogram Producer give permission in the form of a license in accordance with Article 80 paragraph (1) Copyright Law, the other party receiving the license must provide compensation to the Publisher and Phonogram Producer. This return can be in the form of royalties given to the Publisher or Producer of the Phonogram that has been used for commercial purposes by other parties.

### **Analysis of the Act of Adapting and Uploading Podcast-Based Audiobook Content Carried Out Without Permission by A Third Party on Spotify Based on Copyright Law and ITE Law**

A podcast account called "Suara Buku Audiobook Indonesia" on Spotify, adapted books and uploaded them as audiobooks content. These audiobooks come from books that written by Indonesian and International Authors. The audiobooks are "Sekolah itu Candu" by Roem Topatimasang, "Berani Tidak Disukai" by Ichiro Kishimi and Fumitake Koga, "Reasons to Stay Alive" by Matt Haig, and "Dunia Sophie" by Jostein Gaarder.<sup>12</sup>

The content creator reads books while recording and uploading them as podcast. The podcast which contains book readings by content creators through Spotify, has indirectly created an audiobook. Moreover, Suara Buku produced the audiobook content through a third-party Spotify application called Anchor. Anchor is a non-paid application for producing podcasts that can be distributed directly to various platforms, including Spotify. Anchor also provides monetization services such as activating advertising features and subscription features. Through Anchor, Suara Buku monetizes its audiobook content by using the "Podcast Subscriptions" advertising feature. Suara Buku attached a

---

<sup>11</sup> Usak, Usak, "Perlindungan Hukum Terhadap Hak Terkait Produser Fonogram Atas *Mechanical Rights* Fonogram Yang Dikomersilkan Oleh Pihak Lain", *Refleksi Hukum: Jurnal Ilmu Hukum*, Vol. 10, No. 1, 2016, p. 58-59.

<sup>12</sup> Spotify, "Suara Buku Audiobook Indonesia", <https://open.spotify.com/show/0kxcM1xZDzLEFyuYTy2YB8>, accessed on 21 December 2022

subscription link on their description bar for Spotify podcast listeners who wish to access their exclusive audiobook content.<sup>13</sup>

Suara Buku who upload audio containing book readings content on Spotify has indirectly made announcements regarding audiobook. By making a podcast-based audiobook content visible and audible to the public by a digital platform, it can be said that the work has been announced. Not only that, the content creator can also be said to have adapted the book into audiobook content in which the adaptation rights only belong to the Author and Publisher.

Based on Copyright Law, book is one of the protected works, as well as the form of its adaptation, such as audiobook. Referring to Article 9 paragraph (1) d and g of the Copyright Law, the act of adapting and announcing a creation as an Economic Right may only be carried out by the Copyright Holder. Also, in paragraph (2) and (3) it is stated that every person who wishes to use the economic rights referred to paragraph (1) is required to obtain a permit and is prohibited from duplicating or using the creation commercially without the permission of the Copyright Holder.

In addition, if the books already have an audiobook license and have been produced by a Phonogram Producer who holds Related Rights for the adaptation of the book into an audiobook, then the content creator has violated the economic rights of the Phonogram Producer. Furthermore, when Suara Buku uploaded some audiobook content of books that its protection period still has not yet ended, it is a violation of economic rights. For instance, book called "Dunia Sophie" was published in Indonesia by Mizan Publishers in 1996, meaning that until now the book is still within the publisher's protection period. Not only that, "Dunia Sophie" book itself already has a license for its audiobook that is on Storytel, an international audiobook platform that works with many publishers from around the world.

Copyright Law also regulates the fair use provisions contained in Articles 43 to 49. Based on the provisions in these articles, it can be concluded that actions that are not considered as copyright infringements are provided with the following conditions: non-commercial and there is permission from the Creator. Fair use is regulated on the basis that there are limitations and exceptions to exclusive rights, especially economic rights from creators and/or copyright holders.<sup>14</sup> However, if you look at the act of uploading audiobook content by Suara Buku, besides aiming to entertain and educate there is also a monetization action in it as they attached a paid subscription link on their Spotify account. Thus, Suara Buku's actions cannot be said to be fair use.

Furthermore, because this audio content is uploaded on a digital platform, at this time the legal basis that can be used is the ITE Law. The ITE Law regulates information and electronic transactions, or information technology in general. Because many forms of creation can now be seated into internet media, so either directly or indirectly the ITE Law has a correlation with Copyright. The provisions stated in the explanation of Article 25 of the ITE Law explain that electronic information and electronic documents compiled into an intellectual work in any form must be protected by laws relating to intellectual property rights because electronic information or electronic documents have economic value for their creators.

Article 32 paragraph (2) of the ITE Law also regulates the prohibition for anyone who intentionally and without rights or against the law in any way moves or transfers

---

<sup>13</sup> Anchor by Spotify, "Ads by Anchor", <https://anchor.fm/ads>, accessed on 01 January 2023

<sup>14</sup> Rika Ratna Permata, dkk, "Regulasi Doktrin *Fair Use* Terhadap Pemanfaatan Hak Cipta Pada Platform Digital Semasa dan/atau Pasca Pandemi Covid-19", *Dialogia Iuridica: Jurnal Hukum Bisnis dan Investasi*, Vol. 13(No. 1), 2021, p. 145.

Electronic Information and/or Electronic Documents to other people's electronic systems who have no rights. If the actions in Article 32 of the ITE Law are viewed from a Copyright perspective, the actions of Article 32 paragraph (1) of the ITE Law and Article 32 paragraph (2) of the ITE Law are a form of prohibition against changing and transferring actions without the consent of the Author or Copyright Holder.

Then, if the Author or Copyright Holder of the adapted book has objections to the actions of the content creator, one effort that can be taken to disseminate audiobook content on digital platforms is to make a complaint report requesting the closure of the content and/or user accessible rights as stated in Articles 54 – 56 Copyright Law. This provision gives authority to the government to supervise and close content on the internet network or electronic system that contains copyright infringement.

However, as a whole, the ITE Law still does not clearly regulate the protection of intellectual property on digital platforms. It can be seen that there is only one article, Article 25 of the ITE Law, and it does not regulate intellectual property specifically in cyberspace. In addition, related to platform responsibilities, the ITE Law has not been sufficiently used as a reference in regulating digital platform such as Spotify.

## **CLOSING**

Based on the results of this study, it can be concluded that Copyright protection for podcast-based audiobook content has been regulated in several articles in Copyright Law, such as Article 40 paragraph (1) concerning protection against adaptation of a work, besides that there is an exclusive right of the creator or copyright holder to adapt his work in accordance with article 9 paragraph (1). It makes the audiobook, an adaptation of a book, is protected by copyright. Hence, everyone who wants to adapt the audiobook and upload it as podcast content must obtain permission from the Creator and/or Copyright Holder, specifically the Author, Publisher, and/or Phonogram Producer.

Furthermore, the act of adapting and uploading podcast-based audiobooks without permission by content creators on Spotify can be concluded to be a copyright infringement. As the content on Spotify is an intellectual property work that can be monetized, the adaptation and upload without permission is deemed to have violated the provisions of Article 9 of Copyright Law regarding the economic rights of the Author and Article 32 paragraphs (1) and (2) of the ITE Law.

## **Suggestion**

First, the Law Number 28 of 2014 concerning Copyright (Copyright Law) has not been able to answer questions in the field of Copyright which are currently growing along with the rapid development of technology. This is proven because there are still frequent disputes or violations between creators and copyright holders and content creators. Therefore, there is a need for a development in Copyright Law regarding the regulation of digital creations.

Second, the existence of the Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Transactions Electronics (ITE Law) can actually be used to regulate provisions regarding broadcast content or content that is prohibited in internet-based broadcasting, such as podcasts. However, the ITE Law cannot yet be the answer in regulating broadcasting through podcasts in Indonesia because the ITE Law does not regulate in detail the technicalities and procedures for organizing podcasts, especially on digital platforms. Therefore, it is necessary to reform



regulations in the field of information technology convergence, especially in the field of internet-based broadcasting on digital platforms.

## **BIBLIOGRAPHY**

### **Books:**

Ahmad M. Ramli, (2018). *Hak Cipta, Disrupsi Digital Ekonomi Kreatif*. Bandung: PT Alumni.

Eddy Damian, (2019). *Hukum Hak Cipta*. Bandung: PT Alumni.

Soerjono Soekanto dan Sri Marmudji, (2003). *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Jakarta: PT Raja Grafindo Persada.

Sugiono, (2009). *Metode Penelitian Kuantitatif, Kualitatif dan R&D*. Bandung: Alfabeta.

Muhammad Djumhana dan R. Djubaedillah, (2014). *Hak Milik Intelektual (Sejarah Teori dan Praktiknya di Indonesia)*, Bandung: Citra Aditya Bakti.

### **Journal Manuscript:**

Khwarizmi Maulana Simatupang, (2021). Tinjauan Yuridis Perlindungan Hak Cipta Dalam Ranah Digital. *Jurnal Ilmiah Kebijakan Hukum*, 15(1)

Rika Ratna Permata, (eds), (2021). Regulasi Doktrin Fair Use Terhadap Pemanfaatan Hak Cipta Pada Platform Digital Semasa dan/atau Pasca Pandemi Covid-19. *Dialogia Iuridica: Jurnal Hukum Bisnis dan Investasi*, 13(1)

Abbie Brown, Timothy D. Green, (2007). Video *Podcasting* in Perspective: The History, Technology, Aesthetics, and Instructional Uses of a New Medium. *Journal of Educational Technology Systems*, 36(1)

Usak, Usak, (2016). Perlindungan Hukum Terhadap Hak Terkait Produser Fonogram Atas *Mechanical Rights* Fonogram Yang Dikomersilkan Oleh Pihak Lain. *Refleksi Hukum: Jurnal Ilmu Hukum*, 10(1)

### **Regulation:**

Undang-Undang Nomor 28 tahun 2014 tentang Hak Cipta

Undang-Undang Nomor 19 Tahun 2016 tentang Perubahan Atas Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi dan Transaksi Elektronik

### **Website:**

Spotify. 2022. "Suara Buku Audiobook Indonesia", (<https://open.spotify.com/show/0kxcM1xZDzLEFyuYTy2YB8>)

Anchor by Spotify. 2023. Ads by Anchor, (<https://anchor.fm/ads>)