

# IP Conflicts in the Music Industry: The Misuse of Sampling from a Copyright Perspective

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## ABSTRACT

Intellectual Property Rights (IPR) conflicts in the music industry, focusing on the misuse of sampling that often leads to legal disputes. Sampling, as a modern music creation technique, carries artistic value, yet its use frequently clashes with copyright protection. This study employs a normative legal method through statutory approaches and case analyses. The findings indicate that sampling without permission from the copyright holder has the potential to infringe both the moral and economic rights of the creator, thereby leading to legal consequences. These results emphasize the importance of a deeper understanding of copyright regulations among music industry actors in order to achieve a balance between creative freedom and the protection of intellectual property rights.

**Keywords :** Intellectual Property Rights, Copyright, Music Sampling.

## INTRODUCTION

Intellectual Property Rights (IPR) have become one of the most strategic legal and economic instruments in the modern global economy. In the twenty-first century, economic value is no longer determined solely by physical assets, natural resources, or industrial production, but increasingly by intangible assets such as innovation, technological inventions, trademarks, creative expressions, data, and digital content. Within this framework, copyright plays a central role in protecting artistic and literary works while simultaneously encouraging creators to continue producing new works. Effective protection of intellectual property therefore functions not only as a legal safeguard for rights holders, but also as a mechanism for stimulating investment, fostering fair competition, and strengthening sustainable economic development (World Intellectual Property Organization [WIPO], 2023).

The significance of IPR is especially visible in the creative economy, where ideas and originality are transformed into commercial value. Among the many creative sectors, the

music industry occupies a particularly influential position because music intersects with culture, technology, entertainment, commerce, and identity formation. Music contributes substantially to national and global economies through live performances, streaming revenues, licensing, advertising, film synchronization, merchandising, and tourism. Beyond economics, music also shapes collective memory, social movements, and intercultural communication. According to recent industry data, global recorded music revenues have continued to rise, driven largely by paid streaming subscriptions and the rapid expansion of digital distribution platforms (International Federation of the Phonographic Industry [IFPI], 2024).

Indonesia reflects this global transformation. The increasing penetration of smartphones, affordable internet access, and social media ecosystems has significantly altered patterns of music production and consumption. Indonesian audiences now access music primarily through digital services such as Spotify, YouTube, Apple Music, Joox, and TikTok, while independent musicians are increasingly able to release works without relying solely on traditional record labels. This digital democratization has opened broader opportunities for creators, particularly younger artists, to reach audiences domestically and internationally (Kementerian Pariwisata dan Ekonomi Kreatif Republik Indonesia, 2023).

However, technological advancement has also generated complex legal challenges. Digital technology enables users to reproduce, remix, edit, and distribute music with minimal cost and technical expertise. As a result, copyright infringement has evolved beyond conventional piracy into more sophisticated forms such as unauthorized uploads, illegal streaming redistribution, remix exploitation, and unlicensed reuse of sound recordings (Organisation for Economic Co-operation and Development [OECD], 2021). This demonstrates that copyright law must continuously adapt to emerging modes of creativity and infringement in the digital era.

One of the most controversial issues in the music industry today is the misuse of sampling. Sampling refers to the practice of taking portions of an existing sound recording, melody, lyric phrase, rhythm, beat, or instrumental arrangement and reusing it in a new composition. Historically, sampling became prominent in hip-hop, electronic music, pop, and experimental genres. Many modern works rely on sampling as a creative process that reinterprets past musical materials into new artistic forms (Arewa, 2018).

From an artistic perspective, sampling may be understood as a continuation of long-standing traditions of quotation, adaptation, collage, and reinterpretation. It can preserve

musical heritage, revive forgotten works, and generate fresh meaning through transformation. Some scholars argue that sampling contributes positively to cultural dialogue and should not always be treated as a purely infringing act (McLeod & DiCola, 2019).

Nevertheless, sampling also creates conflicts between creativity and ownership. A musical work may contain multiple layers of legal protection, including rights over composition, lyrics, sound recording, performance, and production. Therefore, using even a short portion of an existing work may require authorization from several rights holders. When no license is obtained, disputes often arise over whether the sample constitutes substantial copying, fair use, transformative creation, or unlawful appropriation (Ginsburg, 2019).

Several international disputes demonstrate the seriousness of sampling conflicts. Litigation involving artists such as Biz Markie, Beastie Boys, and others has shown that unauthorized sampling may result in injunctions, compensation claims, mandatory royalty settlements, and reputational harm. Judicial decisions in the United States have historically taken strict approaches toward unlicensed sampling, although more recent rulings have attempted to consider proportionality and transformative purpose (Menell, 2018).

In Indonesia, copyright protection is primarily regulated under Law Number 28 of 2014 concerning Copyright. The law protects songs, musical compositions, performances, phonograms, and related rights, while granting creators both moral and economic rights over their works. However, the legislation does not expressly define music sampling nor establish specific standards for determining when sampling becomes infringement. This creates uncertainty for musicians, producers, digital platforms, and enforcement institutions (Indonesia, 2014).

The uncertainty becomes increasingly relevant as Indonesian music culture grows more digitally integrated. Producers often adopt global genres that depend heavily on remix and sampling practices, while social media trends encourage the commercial use of short audio clips. Without clear legal guidance, creators may unknowingly infringe copyrights, whereas rights holders may encounter difficulties in enforcing their claims consistently. This uncertainty may discourage innovation and increase licensing costs within the music ecosystem (Siregar, 2021).

From a broader perspective, conflicts over sampling reflect a fundamental tension between proprietary control and cultural creativity. Copyright law seeks to reward authorship and protect investment, yet excessive rigidity may suppress transformative expression and

technological progress. Conversely, an overly permissive approach may weaken incentives for original creation and reduce respect for ownership rights. Therefore, a balanced legal framework is necessary to reconcile innovation with justice in the digital music industry (WIPO, 2022).

Based on the issues above, this study examines intellectual property conflicts in the music industry arising from the misuse of sampling from a copyright perspective. The discussion focuses on legal protection, dispute mechanisms, comparative approaches, and possible regulatory reforms in Indonesia, with the aim of constructing a more coherent legal framework that protects creators while accommodating creative innovation.

## **METHODS**

This study employs a normative legal research method, which examines law as a system of norms, principles, doctrines, and rules governing human conduct within society. Normative legal research is particularly relevant where the primary legal problem concerns the interpretation and application of legal norms rather than empirical measurement or statistical observation. In the context of this research, the issue of music sampling is fundamentally connected to copyright ownership, licensing mechanisms, statutory construction, legal protection of creative works, and dispute resolution within the framework of intellectual property law. Therefore, the normative approach is considered the most appropriate method to analyze the legal conflicts arising from the misuse of sampling in the music industry (IRAC Academy, 2021).

Normative legal research focuses on identifying what the law is (*ius constitutum*) and what the law ought to be (*ius constituendum*) in addressing emerging legal challenges. Since music sampling develops rapidly through technological innovation while legal regulation often lags behind, this method enables the researcher to assess whether existing copyright laws remain adequate, coherent, and responsive to digital creative practices (Marzuki, 2022).

To obtain comprehensive legal analysis, this study applies three principal approaches, namely the statutory approach, conceptual approach, and comparative approach.

### **1. Statutory Approach**

The statutory approach is conducted through an examination of legal instruments governing copyright and related rights. The primary legislation analyzed is Law Number 28 of 2014 concerning Copyright, which regulates moral rights, economic

rights, infringement, licensing, and dispute settlement relating to copyrighted works in Indonesia. This statute is central because songs, musical compositions, sound recordings, and performances are expressly protected under Indonesian copyright law (Indonesia, 2014).

In addition, this study also examines Government Regulation Number 56 of 2021 concerning the Management of Song and/or Music Royalties, particularly in relation to royalty collection, rights management, and commercial use of musical works. This regulation is relevant because unauthorized sampling may affect royalty distribution and the economic rights of creators and related rights holders (Indonesia, 2021).

Other relevant legal sources include implementing regulations, ministerial policies, and international legal instruments such as the Berne Convention for the Protection of Literary and Artistic Works, the WIPO Copyright Treaty, and other international norms that influence Indonesian intellectual property policy (WIPO, 2023). Through this statutory approach, the research identifies whether current regulations sufficiently address the legal status of sampling in modern music production.

## 2. Conceptual Approach

The conceptual approach is used to analyze doctrines, principles, and theoretical constructions developed in copyright scholarship. Because Indonesian legislation does not specifically define music sampling, doctrinal analysis becomes essential in interpreting how existing legal concepts may apply to sampling disputes.

This research therefore examines several major concepts, including:

- Copyright ownership, concerning exclusive rights held by creators or rights holders over musical works;
- Moral rights, especially the right of attribution and integrity of the creator;
- Economic rights, including reproduction rights, adaptation rights, communication rights, and royalty entitlements;
- Derivative works, where new creations are based upon pre-existing copyrighted material;
- Licensing, as the lawful mechanism for obtaining permission to use protected works;
- Substantial similarity, a legal doctrine used to determine whether copying has occurred in a legally significant manner;

- Fair compensation, relating to equitable remuneration where creative reuse intersects with protected rights; and
- Transformative use, concerning whether the new work sufficiently changes the original material to justify independent legal recognition (Ginsburg, 2019).

This conceptual analysis allows the research to clarify the boundary between legitimate artistic inspiration and unlawful appropriation. It also helps evaluate whether sampling should always be treated as infringement or may in some circumstances be recognized as a lawful creative transformation.

### 3. Comparative Approach

The comparative approach is undertaken by comparing Indonesian copyright law with selected foreign legal systems that have more developed jurisprudence regarding music sampling and digital copyright governance. This study focuses particularly on the United States and the European Union.

The United States is selected because it has extensive judicial precedents involving music sampling, including landmark disputes such as *Grand Upright Music Ltd. v. Warner Bros. Records Inc.*, *Bridgeport Music, Inc. v. Dimension Films*, and *VMG Salsoul, LLC v. Ciccone*. These cases demonstrate varying judicial approaches ranging from strict liability to recognition of *de minimis* use and transformative analysis (Menell, 2018).

The European Union is selected because its copyright system increasingly emphasizes balancing exclusive rights with proportionality, cultural innovation, and digital market integration. Decisions of the Court of Justice of the European Union, including *Pelham GmbH v. Hütter*, provide important perspectives on phonogram rights and the permissible scope of audio sampling (European Court of Justice, 2019).

Through comparative analysis, this study seeks to identify legal models, doctrines, and regulatory mechanisms that may be adapted to strengthen Indonesian law.

### 4. Sources of Legal Materials

The legal materials used in this study are classified into three categories:

- Primary legal materials, consisting of statutes, regulations, treaties, judicial decisions, and official legal documents relevant to copyright and music rights.

- Secondary legal materials, consisting of academic books, peer-reviewed journal articles, institutional reports, expert commentary, and legal scholarship, particularly publications issued within the last ten years to ensure doctrinal relevance and contemporary accuracy.
- Tertiary legal materials, consisting of legal dictionaries, encyclopedias, indexes, and explanatory references that assist conceptual clarification.

This classification follows the general methodology of normative legal scholarship, where legal analysis is based upon authoritative sources arranged according to normative hierarchy (Marzuki, 2022).

#### 5. Method of Analysis

All collected legal materials are analyzed qualitatively through legal interpretation, systematic comparison, and juridical reasoning. Interpretation methods include grammatical interpretation, systematic interpretation, and teleological interpretation in order to understand legislative intent and normative coherence. Comparative evaluation is then used to identify differences, strengths, and weaknesses between Indonesian law and foreign legal systems.

Finally, legal reasoning is employed to formulate conclusions regarding whether current Indonesian copyright law adequately governs music sampling and what reforms may be necessary to ensure justice, legal certainty, and innovation in the contemporary music industry. Through this method, the study aims not merely to describe the law, but to critically evaluate its effectiveness and propose normative improvements.

## RESULTS

### What Is the Legal Protection for Sampled Musical Works?

The study shows that copyright in musical works under Intellectual Property Rights (IPR) is recognized as an exclusive right granted by the state to creators, groups, or institutions to control the use and economic benefits of their intellectual creations (Lindsey, 2002). In Indonesian law, this concept is acknowledged through Law No. 7 of 1994 concerning the Ratification of the WTO Agreement. Copyright is categorized as intangible movable property, meaning that although it has no physical form, it possesses proprietary value and may be transferred or licensed to another party (Hadi Setia Tunggal, 2012).

The findings also indicate that the concept of sampling originally emerged in statistics as a method of selecting representative samples, but later developed in music as a technique

of taking portions or elements of existing musical works for use in new compositions (Sugiyono, 2013). Since the 1960s, sampling has become an important creative method and has grown significantly in the digital era (Wisén & Heirbertsson, 2015).

Furthermore, the research reveals that Indonesian Copyright Law, namely Law No. 28 of 2014, does not expressly regulate the term “sampling.” Nevertheless, the practice may be interpreted under Article 44 paragraph (1), which permits the use, reproduction, extraction, or modification of copyrighted works for limited purposes such as education, research, criticism, review, government administration, lectures, or non-commercial performances, provided the source is fully acknowledged and the creator’s legitimate interests are not harmed (Wicaksono, 2023).

The results also show that copyright holders may protect their works through copyright registration under Article 64 of Law No. 28 of 2014 and Government Regulation No. 16 of 2020. However, registration is not mandatory because copyright protection arises automatically once the work is created. Registration mainly functions as preliminary evidence of ownership (Nurdahniar Indah, 2016).

In addition, creators may legally authorize sampling or other uses of their works through license agreements under Article 80 of the Copyright Law. Such agreements must clearly regulate the object of the license, duration, renewal, scope of rights, royalties, payment mechanisms, third-party involvement, and dispute settlement procedures (Septiani Ayu Rizkiyana, 2018).

Finally, the study finds that creators whose economic rights are violated through unauthorized sampling may seek legal remedies through civil claims for damages before the Commercial Court under Article 99, with cassation available under Article 102. Criminal sanctions are also provided under Articles 113 and 117, although enforcement depends on a formal complaint as stipulated in Article 120 of Law No. 28 of 2014.

## **DISCUSSION**

These findings demonstrate that copyright protection in musical works is grounded in the recognition of creative output as a form of property deserving legal certainty and economic protection. Because musical works often generate commercial value, the law seeks to balance the creator’s exclusive rights with the public interest in access and innovation (Damian, 2002).

The absence of explicit regulation concerning sampling in Law No. 28 of 2014 creates interpretative challenges. On one hand, sampling can be seen as a legitimate form of artistic expression that contributes to cultural development and innovation. On the other hand, unauthorized sampling may exploit the labor and creativity of the original creator, particularly when substantial parts of a work are used for commercial gain. This legal ambiguity may lead to inconsistent enforcement and uncertainty for musicians, producers, and copyright holders.

Article 44 paragraph (1) can function as a limited exception similar to the doctrine of fair use in some jurisdictions. However, its application to musical sampling remains narrow because most commercial music production does not fall within educational, research, or non-commercial purposes. Therefore, reliance on Article 44 alone may be insufficient to regulate modern sampling practices.

The declaratory nature of copyright protection is beneficial because creators obtain rights automatically without formal registration. However, in practice, unregistered works may create evidentiary difficulties in disputes, especially when ownership or originality is contested. Thus, voluntary registration remains strategically important despite not being compulsory (Nurdahniar Indah, 2016).

Licensing agreements emerge as the most practical solution for sampling disputes because they provide legal certainty while allowing creative collaboration. Through licensing, original creators receive royalties and recognition, while new artists gain lawful access to use protected material. This mechanism also supports the growth of the music industry by encouraging negotiated commercial arrangements (Septiani Ayu Rizkiyana, 2018)

Civil and criminal remedies under the Copyright Law reflect the seriousness of unauthorized exploitation. Yet, because criminal enforcement is complaint-based, effective protection largely depends on the willingness and resources of creators to report violations. Smaller or independent musicians may face obstacles in pursuing litigation due to cost and procedural complexity.

Overall, the discussion suggests that Indonesia's current copyright framework offers general protection against unauthorized sampling but lacks specific norms addressing technological and artistic developments in digital music production. Future legal reform may be necessary to provide clearer standards regarding permissible sampling, substantial similarity, licensing models, and fair compensation, thereby ensuring a balance between creativity, innovation, and the rights of original creators.

## **CONCLUSION**

Legal protection for sampled musical works in Indonesia is principally governed by Law No. 28 of 2014 on Copyright, which recognizes musical works as protected intellectual property containing both economic and moral rights. Although the law does not explicitly regulate the concept of sampling, existing provisions provide a general legal framework through limitations and exceptions under Article 44, copyright registration, licensing mechanisms, civil remedies, and criminal sanctions. Accordingly, unauthorized sampling that harms the legitimate interests of the creator may constitute copyright infringement.

At the same time, sampling remains an important creative practice in modern music production. Therefore, the law must balance the protection of original creators with the need to support artistic innovation. In practice, licensing agreements represent the most effective preventive mechanism because they create legal certainty, enable fair compensation, and reduce disputes between creators and new users of copyrighted material.

However, Indonesia's current copyright regime still faces normative and practical limitations, particularly the absence of specific rules concerning permissible sampling, substantial similarity standards, and digital-era enforcement mechanisms. For this reason, future legal reform is needed to provide clearer regulation that can protect creators' rights while encouraging the sustainable growth of the music industry.

## **LIMITATION**

This study has several limitations. First, the study employs a normative legal approach, focusing solely on the analysis of legislation and legal literature, without being supported by empirical data from music industry stakeholders or law enforcement officials.

Second, the study is limited to Indonesian positive law and has not conducted an in-depth comparison with other countries that have specific regulations regarding music sampling.

Third, the study has not discussed in detail the technical limitations of sampling that are considered copyright infringement, such as the size of the substantial portion, duration, or degree of similarity of the work.

Fourth, the discussion regarding developments in digital technology, such as AI and content detection systems on streaming platforms, remains limited.

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