

Notes of Protection: A Comparative Analysis of Music Copyright Laws and Enforcement

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Abstract

Music copyrights are not only considered as commodities but also considered as private property which must be recognized and protected by the state. In Indonesia, legal protection for copyright holders and creators is conducted through the National Collective Management Organization, while in Malaysia those issues are handled by Music Rights Malaysia Berhad. The purpose of this research using a comparative legal concept approach is to provide information about music copyright protection in Indonesia and Malaysia regarding legal issues regarding the position of the music copyright protection agency as well as prosecution and legal remedies for copyright infringements within the country and across countries. This study used normative juridical legal research. The results of study show that National Collective Management Institute (NCMI) and Music Rights Malaysia Berhad (MRM) have the same characteristics, namely as independent institutions and have attributive authority to take legal action against Music copyright violations. Furthermore, MRM has a narrower range of royalty collection than NCMI. In addition, MRM has no obligation to mediate if the case is a civil case. Besides, legal efforts that can be carried out by NCMI and MRM can be through the realm of criminal or casuistry litigation or arbitration.

Keywords: Legal Protection, Music Copyright, Music Rights Malaysia Berhad, National Collective Management Institute

1. Introduction

In the Preamble of the 1945 Constitution of the Republic of Indonesia, Copyright is a reflection on the recognition of Human Rights to freedom of expression and expressing opinions through the formation of sound, images, writing or other creations that have artistic value and economic value. There are a number of international conventions that indicate the existence of copyright recognition, including the Berne Convention,¹ the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), the Rome Convention and the World Intellectual Property Organization (WIPO) Convention in addition to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESR).² Indonesia has also used the Madrid Protocol on 2 January 2018. and adopted the Berne Convention through Presidential Decree Number 18 of 1997. Malaysia adopted the Berne Convention on the Protection of Literary and

¹ Jane C. Ginsburg, 'People Not Machines: Authorship and What It Means in the Berne Convention', *IIC - International Review of Intellectual Property and Competition Law*, 49.2 (2018), 131-35 <<https://doi.org/10.1007/s40319-018-0670-x>>.

² Bryan C. Mercurio, *The Regulation of Services and Intellectual Property*, ed. by Markus Krajewski and Bryan C. Mercurio (Routledge, 2017) <<https://doi.org/10.4324/9781315085463>>.

Artistic Works on 1 October 1990 which not only prioritizes registration formalities, but also the principle National Treatment.³

Even though the freedom to express oneself through music is a derogable right that allows law enforcement officials to place restrictions on the use of these rights, the state still has an obligation to protect and recognize these creations, especially by balancing the law between domestic law and international law and the presence of creators and users of rights.⁴ The State of Indonesia has endeavored for this protection through the formation of laws and regulations in a *lex specialis* manner related to Copyright in 2002, namely by the existence of Law Number 19 of 2002 as amended by Law Number 28 of 2014 concerning Copyright (Copyright Law). While Music copyright in Malaysia is regulated in the Malaysia Copyright Act Number 332 of 1987 which was subsequently amended to Malaysia Copyright Act of 1990 Number 775. Referring to the Copyright Law, the state gives authority to the Collective Management Institution as a means for Creators and Rights Owners to obtain these Economic Rights. The institution was formed after the 2014 Copyright Law, while an institution similar to the Collective Management Institution in Malaysia is called Music Rights Malaysia Berhad.

Nevey Varida Ariani underlined it is necessary to enhance the cooperation and oversight procedures between law enforcement officials and the Civil Servant Investigator (PPNS) of the Directorate General of Intellectual Property.⁵ Furthermore, Rokiah Alavi and Ida Madieha Abdul Ghani Azmi stressed the need for a review of the legal reforms and supplementary policies employed to promote the entertainment industry in Malaysia. To provide all the beneficiaries with an equal bargaining plane to take advantage of the copyright system, the legal reforms must be in line with the structure and dynamics of power in the sector.⁶ Moreover, in light of technological advances, Bob L. T. Sturm et al. examine the use of AI in music from the perspectives of copyright law and engineering practice. As AI music generation advances, it will upend legal and societal standards. In such a changing ecosystem, the legal system may need to be modified to best encourage artistic innovation and creative activity.⁷

Even if numerous scholars have discussed the issue of music copyright legal protection. Nevertheless, the research that investigates on the comparison of legal protection of music copyright in the context of Malaysia and Indonesia has not been studied. Thus, to fill the gap, this paper aims to compare the legal protection that can be exercised by each country to Music copyright Owners from an institutional perspective and in dispute resolution. It addresses to several key questions on what is the legal position and differences between the institutions authorized to protect copyright in Indonesia and Malaysia? how is the legal protection

³ Ida Madieha Abdul Ghani Azmi and Rokiah Alavi, 'In Search for Support for the Extension of Copyright Term under the Trans-Pacific Partnership Agreement', *Journal of International Trade Law and Policy*, 16.1 (2017), 34–48 <<https://doi.org/10.1108/JITLP-10-2016-0025>>.

⁴ Christian Handke, Bodo Balazs, and Joan-Josep Vallbé, 'Going Means Trouble and Staying Makes It Double: The Value of Licensing Recorded Music Online', *Journal of Cultural Economics*, 40.3 (2016), 227–59 <<https://doi.org/10.1007/s10824-015-9251-8>>.

⁵ Nevey Varida Ariani, 'Enforcement of Law of Copyright Infringement and Forgery with the Rise of the Digital Music Industry', *Jurnal Penelitian Hukum De Jure*, 21.2 (2021), 223 <<https://doi.org/10.30641/dejure.2021.V21.223-236>>.

⁶ Rokiah Alavi and Ida Madieha Abdul Ghani Azmi, 'The Copyright Reward System and Content Owners in the Creative Industry: A Study of the Malaysian Film and TV Industry', *The Journal of World Intellectual Property*, 22.3–4 (2019), 129–45 <<https://doi.org/10.1111/jwip.12121>>.

⁷ Bob L. T. Sturm and others, 'Artificial Intelligence and Music: Open Questions of Copyright Law and Engineering Praxis', *Arts*, 8.3 (2019), 115 <<https://doi.org/10.3390/arts8030115>>.

provided by institutions in Indonesia and Malaysia in the event of domestic copyright infringement? Lastly, how is law enforcement by institutions in Indonesia and Malaysia in the event of copyright infringement occurring across countries?

2. Method

This study used a normative research method, because this research relates it to the norms and principles of applicable law and the Comparative Method of Copyright Law in Indonesia and Malaysia. The approach taken is the statute, comparative, and conceptual approach. Sources of legal materials in legal research can be divided into research sources in the form of primary legal materials and secondary legal materials. Secondary legal materials that support and provide explanations of primary legal materials in the form of books, legal journals, legal works, research materials and all materials that are appropriate and relevant to the author's research.

3. Discussion and Analysis

3.1. Legal Position of Music copyright Protection Institutions in Indonesia and Malaysia

According to Article 1 number 22 of the Copyright Law, a Collective Management Institution (CMI) is an institution (non-government) in the form of a legal entity that is authorized by the Author, Copyright Holder, and/or Related Rights owner to manage their economic rights related to royalties. This institution operates after obtaining an Operational Permit from the Minister of Law and Human Rights.⁸ This article is linked to Article 87 of the Copyright Law which eliminates the opportunity for creators, copyright holders and/or related rights owners to collect compensation from users without going through NCMI. The nature of NCMI is non-profit, so that its income also depends on the agreement between related parties. NCMI is recognized in the Copyright Act.⁹

The State of Malaysia equates the existence of a Copyright Licensing Institution as a separate party to manage royalties from rights owners and creators as an Intellectual Property Corporation as stipulated in Part IV.A concerning Licensing Body. Licensing Body Corporation is divided into three forms, namely Small, Medium and Micro with business sectors in Services, Manufacturing, Agriculture, Construction, Mining and Quarrying. The Licensing Body is divided into two types, namely the Licensing Body in the form of a Society or Organization. There are 4 (four) Corporation Licensing that have officially operated in Malaysia, namely Music Authors' Copyright Protection Berhad (MACP), Public Performance Malaysia Sdn. Bhd. (PPM), Performer's Rights and Interest Society Malaysia Berhad (PRISM) and Recording Performers Malaysia. However, in 2017, Malaysia began to legalize a single body that functions like an NCMI, namely "Music Rights Malaysia Berhad" (MRM) as stipulated in myIPO Practice Direction No. 1 of 2018.¹⁰

⁸ Agus Sardjono, Brian Amy Prastyo, and Derezka Gunti Larasati, 'The Effectiveness of National Collective Management Organization Regulation', *Indonesia Law Review*, 6.3 (2016), 325 <<https://doi.org/10.15742/ilrev.v6n3.250>>.

⁹ Lee Marshall, "'Let's Keep Music Special. F – Spotify": On-Demand Streaming and the Controversy over Artist Royalties', *Creative Industries Journal*, 8.2 (2015), 177-89 <<https://doi.org/10.1080/17510694.2015.1096618>>.

¹⁰ *The Production and Consumption of Music in the Digital Age*, ed. by Brian J. Hrcacs, Michael Seman, and Tarek E. Virani (Routledge, 2016) <<https://doi.org/10.4324/9781315724003>>.

Article 1 point (22) of the Copyright Law regarding the definition of NCMI and Article 87 paragraphs (1 & 2) of the 2014 Copyright Law contain the meaning that it is CMI that can collect royalties from users. Considering that the basis of NCMI's authority in collecting royalties from users is the existence of a power of attorney from the creators and/or owners of related rights, there must be a substitution power of attorney beforehand from CMI to NCMI.¹¹ In contrast to Indonesia, which collects royalties from all copyright users in general, the function of Music Rights Malaysia Berhad is only to collect royalties from several integrated licensing bodies, namely Music Author's Copyright Protection, Public Performance Malaysia, Recording Performers Malaysia and Performers Rights and Interest Society of Malaysia.¹²

In the Copyright Law there is no affirmation that NCMI's are formed by CMIs. Existing provisions relating to the management of royalties in the field of songs and/or music are formed by 2 (two) National Collective Management Institutions (NCMI), each of which represents the interests of the creators and related rights owners consisting of 3 (three) parties, namely: (1) Performers or artists, (2) Producers and (3) Broadcasting Institutions. Thus, the establishment of National Copyright CMI and Related Rights National CMI according to the Copyright Law must be carried out by each CMI which agrees to merge into the national CMI. This means that there is no legal provision that can force CMIs to merge only into a single National CMI in the territory of Indonesia.¹³

CMI as referred to in Article 87 paragraph (1) of the Copyright Law must submit an Application for an Operational Permit to the Minister with the following conditions:

- 1) Formed as a non-profit Indonesian legal entity.
- 2) Obtaining power of attorney from the Author, Copyright Holder, or Related Rights Owner to withdraw, collect and distribute Royalties
- 3) Have authorizers as members of at least 200 (two hundred) Authors for Collective Management Institutions in the field of songs and/or music representing the interests of composers and at least 50 (fifty) persons for Collective Management Institutions representing owners of Related Rights and/ or other Copyright objects;
- 4) Aims to collect, draw, and distribute Royalties; and;
- 5) able to collect, draw, and distribute Royalties to Authors, Copyright Holders, or Related Rights owners.

Whereas in Malaysia, a Licensing Body (in general) can be authorized by the government under the conditions that the institution must have the applicant's constituent document or articles of association includes permits for establishment by more than one author or creator. In addition, it also must have list of copyright owners or their agents who are members of the

¹¹ Kevin J. Boudreau, Lars Bo Jeppesen, and Milan Miric, 'Profiting from Digital Innovation: Patents, Copyright and Performance', *Research Policy*, 51.5 (2022), 104477 <<https://doi.org/10.1016/j.respol.2022.104477>>.

¹² Luis Aguiar and Joel Waldfogel, 'As Streaming Reaches Flood Stage, Does It Stimulate or Depress Music Sales?', *International Journal of Industrial Organization*, 57 (2018), 278-307 <<https://doi.org/10.1016/j.ijindorg.2017.06.004>>.

¹³ Alexander Savelyev, 'Copyright in the Blockchain Era: Promises and Challenges', *Computer Law & Security Review*, 34.3 (2018), 550-61 <<https://doi.org/10.1016/j.clsr.2017.11.008>>.

applicant. where in this case there is no explicit limitation regarding the number of applicant members.¹⁴

The MRM Operational Permit as a sole license has not been clearly regulated in Malaysian laws and regulations, but under the supervision of the Ministry of Domestic Trade and Consumer Affairs and Co-Operative and Consumerism (MTDCC) it is stated that the functions of MRM are royalty payments collection for music creators; granting permission to play, display, reproduce, record to other Licensing Corporate; and preventing piracy and violation of statutory provisions.¹⁵

Furthermore, Indonesian users of copyrights or related rights (users) who take advantage of economic rights are required to pay royalties to creators or copyright holders through this institution, thus commercial use of works or related rights products by users is not considered a violation of the Copyright Law, as long as the user has performed and complied with the obligations in accordance with the agreement with NCMI. This also applies to users who have entered into an agreement with MRM.¹⁶

3.2. Legal Protection for Copyright Owners by Collective Management Institutions and MRM in the Event of Domestic Copyright Violation

The juridical legal position of the National Collective Management Institute (hereinafter referred to as NCMI) is independently regulated in Indonesian Laws and Regulations, in particular the Copyright Law. Fulfillment of the legal relationship between NCMI and creators and rights holders are regulated in Article 2 of Regulation of the Minister of Law and Human Rights Number 29 of 2014 concerning Procedures for Application and Issuance of Operational Permits and Evaluation of Collective Management Institutions (hereinafter referred to as PERMEN NCMI) with the least number of Authors 200 (two hundred) people and at least 50 (fifty) copyright owners. with an attributive power of attorney and authority, LKMN is given the authority to take legal actions related to Copyright infringement which may or has resulted in losses for the party it represents.¹⁷ However, there is still a need for the requirements for a power of attorney to be distinguished between CMI and NCMI due to the formation of laws and regulations that interpret the existence of further authorization from CMI to NCMI. So that in this case it raises new concerns regarding the difference in position of CMI and NCMI as separate institutions, with NCMI as the administrative estuary and legal protection institution. However, Indonesia recognizes NCMI as the only institution that has full rights and attributive authority to carry out administrative arrangements regarding Music copyright.¹⁸

Legal protection by the NCMI cannot be carried out automatically until the Song Author and/or Copyright Holder has registered himself as a member of the NCMI as then refined in

¹⁴ Kung-Chung Liu and Shufeng Zheng, 'Asian IP Law: An Area of Rising Importance', *GRUR International*, 69.3 (2020), 249-59 <<https://doi.org/10.1093/grurint/ikaa013>>.

¹⁵ Nazura Abdul Manap, 'Copyright Tribunal in Malaysia. The New Paradigm', in *Proceedings of the 2nd International Conference of Law, Government and Social Justice (ICOLGAS 2020)* (Paris, France: Atlantis Press, 2020) <<https://doi.org/10.2991/assehr.k.201209.356>>.

¹⁶ Steve Huckle and others, 'Internet of Things, Blockchain and Shared Economy Applications', *Procedia Computer Science*, 98 (2016), 461-66 <<https://doi.org/10.1016/j.procs.2016.09.074>>.

¹⁷ Gerald Spindler, 'Copyright Law and Artificial Intelligence', *IIC - International Review of Intellectual Property and Competition Law*, 50.9 (2019), 1049-51 <<https://doi.org/10.1007/s40319-019-00879-w>>.

¹⁸ Luis Aguiar and Bertin Martens, 'Digital Music Consumption on the Internet: Evidence from Clickstream Data', *Information Economics and Policy*, 34 (2016), 27-43 <<https://doi.org/10.1016/j.infoecopol.2016.01.003>>.

a Power of Attorney. The Power of Attorney should be drawn up in a systematic and complete manner, including the existence of the NCMI's authority to take legal action for any violations that harm the rights of the power of attorney.¹⁹

One form of protection by the NCMI is to carry out mediation after a copyright dispute occurs in civil law or in the private sphere. In the Statutory Regulations. Mediation is an obligation to be carried out as stated in Article 130 of *Herzien Inlandsch Reglement* (HIR) in conjunction with Article 154 of *Reglement voor de Buitengewesten* (Rbg) and Article 2 and Article 3 of Supreme Court Regulation Number 1 of 2008 as replaced and updated by Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts. This mediation is carried out not solely based on statutory rules, but because mediation has the advantage of reducing the cost of resolving disputes, especially if the dispute is indeed resolved faster and more precisely by Mediation.²⁰

The role of NCMI's to mediate implicitly can be denied by other legal remedies as in the spirit of Article 95 of the Copyright Law which provides independent dispute resolution by the Creator or Copyright Holder through arbitration, alternative dispute resolution or the Commercial Court with cassation without any obligation mediation conducted by NCMI. The existence of the Mediation action by the NCMI also does not provide legal certainty for dispute resolution because the position of Mediation is optional and non-binding as long as the parties to the dispute do not agree to it, then it can proceed through litigation.²¹

Enforcement is specifically accommodated in the Joint Rules Regarding Enforcement of Copyright Violations that have been stipulated by the Ministry of Law and Human Rights (hereinafter referred to as "Kemenkumham") and the Ministry of Communication and Informatics (hereinafter referred to as "Kemenkominfo") to further close content and access rights the copyright. The concrete implementation procedure is the promulgation of the Joint Regulations a quo between the Minister of Law and Human Rights and the Minister of Communication and Information Number 14 and Number 15 of 2015.²²

Furthermore, the legal action that can be taken by the NCMI as the Authorized is to use the National or International Arbitration mechanism depending on the Choice of Forum and Choice of Law used by both parties to the agreement. In connection with the existence of the Arbitration Institution. Indonesia has adopted the World Intellectual Property Organization (hereinafter referred to as "WIPO") Rules in the Decree of the President of the Republic of Indonesia Number 74 of 2004 concerning Ratification of the WIPO Performances and Phonograms Treaty 1996, where the Rules were updated in 2014.²³ WIPO rules have accommodated the United Nations Commission International Trade Law (hereinafter referred to as "UNCITRAL") Arbitration Rules. Meanwhile, the arbitration institutions provided by the

¹⁹ Eric A. Drott, 'Music as a Technology of Surveillance', *Journal of the Society for American Music*, 12.3 (2018), 233-67 <<https://doi.org/10.1017/S1752196318000196>>.

²⁰ Oksidelfa Yanto and others, 'Legal Protection of Song Creators Whose Works Used Without Permission for Commercial Purposes in The Field of Intellectual Property Law', *International Journal of Engineering Business and Social Science*, 1.03 (2023), 148-56 <<https://doi.org/10.58451/ijebss.v1i03.38>>.

²¹ *The Auditory Culture Reader*, ed. by Michael Bull and Les Back (Routledge, 2020) <<https://doi.org/10.4324/9781003086895>>.

²² Arkadip Ray and Somaditya Roy, 'Recent Trends in Image Watermarking Techniques for Copyright Protection: A Survey', *International Journal of Multimedia Information Retrieval*, 9.4 (2020), 249-70 <<https://doi.org/10.1007/s13735-020-00197-9>>.

²³ Lior Zemer, *The Idea of Authorship in Copyright* (Routledge, 2017) <<https://doi.org/10.4324/9781315239095>>.

Government are the Indonesian National Arbitration Board (hereinafter referred to as "BANI") and the Intellectual Property Rights Arbitration and Mediation Agency (hereinafter referred to as "BAM HKI").

NCMI can also represent creators and rights holders to submit reports to civil servant investigators (hereinafter referred to as "PPNS") at the Regional Office of the Ministry of Law and Human Rights or the Directorate of Investigation and Dispute Settlement or the Directorate General of Intellectual Property online (online) or manually for prosecution later on District Court. Indubitably, the special jurisdiction in the District Court is the Commercial Court as explained in Article 27 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power. The existence of PPNS is explicitly regulated in Article 110 paragraph (2) of the Copyright Law. PPNS a quo itself is also intended to function as a party in penal mediation, especially mediators.²⁴

Copyright infringement in Malaysia is related to fair dealing by end users, where the use of copyrighted goods without the permission of the creator is not an offense as long as it is non-profit. So that the Government of Malaysia cannot take legal action against song connoisseurs if there is no evidence showing that these connoisseurs receive economic rights from these activities. In contrast to Indonesia, which authorizes NCMI to mediate in the event of a copyright conflict or infringement, the Copyright Management Board in Malaysia has no mediation obligation. The existence of MRM as an independent institution was also mentioned in the Malaysia Copyright Act 1987 which was amended by Act 1997.²⁵

There is no explicit Ratio Legis regarding the non-compulsory mediation in the Malaysian legal system. Even though it is not required, Malaysia also has legal provisions regarding mediation as stated in the Mediation Act Year 2012 in conjunction with Mediation Practice Direction Number 4 of 2016 which states that mediation outside the court must be agreed upon by the parties and must be notified to the Court of first instance. The settlement besides mediation outside the court is by using the Judge Led Mediation mechanism, the Kuala Lumpur Regional Center for Arbitration and the Malaysian Mediation Center.²⁶

In line with Indonesia, which gave authority and power to NCMI, MRM as a representative of the owner and creator of rights can file a civil lawsuit at the District Court to request Induction, Compensation for Violation, Additional Compensation, Profit Accounts and Transfers.²⁷ Whereas in Arbitration, MRM is regulated in the Arbitration Act of 1952, the use of arbitration is not much different from Indonesia, namely that there must be an agreement between the parties and an arbitration award that is binding and registered at the Malaysia High Court. In addition to using the Litigation mechanism, the 1997 Act provides independent rights for creators and/or their proxies to make requests such as Restricting

²⁴ Toebagus Galang Windi Pratama, 'The Urgency for Implementing Crytomnesia on Indonesian Copyright Law', *Saudi Journal of Humanities and Social Sciences*, 5.10 (2020), 508-14 <<https://doi.org/10.36348/sjhss.2020.v05i10.001>>.

²⁵ Ida Rosnita Ismail and Zeti Zuryani Mohd Zakuan, 'Legal Awareness on Copyright Protection Among Tertiary Students in Malaysia', in *Proceedings of the Regional Conference on Science, Technology and Social Sciences (RCSTSS 2016)* (Singapore: Springer Singapore, 2019), pp. 495-505 <https://doi.org/10.1007/978-981-13-0203-9_46>.

²⁶ Umar A. Oseni and Abu Umar Faruq Ahmad, 'Towards a Global Hub', *International Journal of Law and Management*, 58.1 (2016), 48-72 <<https://doi.org/10.1108/IJLMA-08-2014-0052>>.

²⁷ Mohamad Nur Kholiq, Dinda Ajeng Puspanita, and Prawitra Thalib, 'Copyright Protection of Art Containing Nudist Elements Under Positive Law In Indonesia', *Law and Justice*, 6.2 (2022), 161-73 <<https://doi.org/10.23917/laj.v6i2.17480>>.

Access, Alteration of Electronic Information without authority as these rights are the moral rights of creators.²⁸

3.3. Legal Action in the Event of Transnational Copyright Infringement

Legal protection of copyright by creators with Malaysian and Indonesian nationality will be more complex in the presence of transnational music copyright infringement or the violation is carried out internationally. Given these conditions, the Government of Indonesia has worked around this by entering into agreements on copyright protection between countries with the European Community, the United States, Australia and the United Kingdom. Referring to Articles 112 to 115 of the Copyright Law, infringement of Music copyright (such as using songs commercially without permission) is a criminal offense. The imposition of a criminal offense for this violation is due to the Exclusive Rights and Economic Rights granted and ratified in the realm of Private Law or Civil Law. The State of Indonesia recognizes that Song Creations are the Property Rights of human Thoughts, so a violation of a Music copyright is a violation of a person's Property Rights.²⁹

Legal action for every foreign citizen who is proven to have violated the copyright of the song can be prosecuted according to the copyright law. cross-border copyright protection is carried out repressively. This protection is carried out by making a complaint followed by tracking followed by an appeal and a warning letter to withdraw or stop the violation within 14 days after the warning is made without prejudice to the provisions of the investigation based on statutory regulations. This is of course a challenge for the Creator and/or Music copyright Owner to be able to monitor the use of the Song outside Indonesia, moreover there is no unified legal regulation for NCMI and the State of Indonesia to monitor the continuous use of Music copyrights.³⁰

The act of infringing on Malaysian Music copyrights committed by transnational actors is a criminal offense under Section 41 of the Malaysia Copyright Act year 1987. Both Indonesia and Malaysia do not specifically regulate legal action if the violation occurs and/or is carried out by non-citizens of the relevant country. Internationally, the imposition of criminal law on parties who violate it is based on the principles of *Aut Dedere aut punire* (Locus Delicti), *Au Dedere Au Judicare* and *par in parem in hebet imperium*.³¹ So that in this case the application of criminal law and the law used is casuistry. Even so, there is also the possibility that a lawsuit by the creator or owner of the right will use an Unlawful Act lawsuit by using international private law concepts such as *Lex Loci Delicti Commission*, *Lex Fori*, *Forum Rei*, *Forum Sitae* and *Forum Actus* and so on.³²

²⁸ Nurul Hulwanita Sharfina and others, 'Copyright Issues on the Prank Video on the Youtube', 2021 <<https://doi.org/10.2991/assehr.k.211014.021>>.

²⁹ Nan Jing, Qi Liu, and Vijayan Sugumaran, 'A Blockchain-Based Code Copyright Management System', *Information Processing & Management*, 58.3 (2021), 102518 <<https://doi.org/10.1016/j.ipm.2021.102518>>.

³⁰ John Feather, 'Copyright and the Creation of Literary Property', in *A Companion to the History of the Book* (Wiley, 2019), pp. 743–57 <<https://doi.org/10.1002/9781119018193.ch49>>.

³¹ Andrea Caligiuri, 'Governing International Cooperation in Criminal Matters: The Role of the *Aut Dedere Aut Judicare* Principle', *International Criminal Law Review*, 18.2 (2018), 244–74 <<https://doi.org/10.1163/15718123-01802005>>.

³² Small John, 'The Development of Musical Copyright', in *The Music Trade in Georgian England*, ed. by Michael Kassler (Routledge, 2017), p. 154 <<https://doi.org/10.4324/9781315085791>>.

4. Conclusion

To sum up, it can be concluded that the legal position of NCMI (Indonesia) and MRM (Malaysia) is independent and based on power of attorney by the creator and holder of the Music copyright as set forth in the laws and regulations of each country. Furthermore, collection of royalties at NCMIs in Indonesia which collect royalties from all copyright users broadly based on a Power of Attorney, while the function of Music Rights Malaysia Berhad is only to collect royalties from several licensing bodies that are integrated by the Copyright Controller. In addition, NCMI has an obligation to protect songwriters through mediation with disputing parties, while MRM has no obligation to mediate and can directly file a civil suit to the District Court or court of first instance. Moreover, both NCMI and MRM can use alternative legal remedies through litigation or arbitration or even through legal action in the criminal realm. Legal action on Music copyright infringements abroad by the two countries is dependent on the Complaint Offense and the principles of international law to determine which law applies and which court has the right to adjudicate. Lastly, as the recommendation, there is a need for practical development and the making of additional rules by the two countries in order to carry out supervision and law enforcement on violations of transnational Music copyright. It is also necessary to make specific and separate legal regulations regarding NCMI and MRM in each country in order to strengthen the independence and authority of these institutions.

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