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Song Copyright Infringement Through Digital Platforms Between Indonesia and Malaysia: Case Study of The Song Halo-Halo Bandung and Hello Kuala Lumpur

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Abstract

This article examines the legal tensions arising from cross-border digital copyright infringement between Indonesia and Malaysia, centered on the contentious case of the patriotic song "Halo-Halo Bandung" being adapted as "Hello Kuala Lumpur" on YouTube. The evolution of Web 2.0 and the transition toward Web 3.0 ecosystems have fundamentally disrupted traditional intellectual property paradigms, particularly the principle of territoriality. Employing a functional comparative approach, this study analyzes the disparate institutional designs of Indonesia's Civil Law system—characterized by prescriptive codification and centralized state management—and Malaysia's Common Law tradition, which prioritizes flexible equitable remedies and privatized royalty governance. The findings reveal a significant "jurisdictional vacuum" in formal cross-border enforcement, where state-led litigation remains largely paralyzed by territorial limitations. Consequently, state authority is being progressively marginalized by the "private ordering" of global platforms. YouTube's algorithmic adjudication, specifically its automated notice-and-takedown protocols, has emerged as a transborder "pseudo-law" that provides more immediate and effective redress than formal legal channels. The paper concludes by advocating for regional legal harmonization within the ASEAN framework and exploring the potential of Web3 technologies, such as blockchain-based decentralized identifiers and smart contracts, to restore

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digital sovereignty and ensure equitable intellectual property protection. This research contributes to the global discourse on platform liability and the redefinition of sovereign copyright enforcement in an increasingly borderless digital landscape.

Keywords: Digital Copyright, Cross-Border Infringement, Indonesia-Malaysia Law, Algorithmic Adjudication, Private Ordering.

INTRODUCTION

The evolution of the digital landscape during the Web 2.0 era and its subsequent transition toward a Web3 ecosystem have fundamentally disrupted traditional paradigms of Intellectual Property (IP) protection on a global scale. Under conventional copyright regimes, the protection of works of authorship, including musical compositions, is heavily predicated on the principle of territoriality. However, the proliferation of globally networked digital platforms has effectively eroded these jurisdictional boundaries, posing profound challenges to national legal sovereignty in safeguarding the moral and economic rights of authors. Rooted in John Locke's natural rights philosophy, a work of authorship constitutes an inherent manifestation of intellectual property derived from a creator's labor; accordingly, its existence and the attendant exclusive rights must not be diminished by the borderless nature of the digital medium (Frosio, 2018). Notwithstanding these philosophical underpinnings, the proliferation of unauthorized digital reproduction and distribution on third-party platforms necessitates a reconceptualization of the extent to which a sovereign state's positive law can exert jurisdictional reach over cross-border infringements in cyberspace.

This theoretical tension is further compounded when situated within the framework of international legal instruments, notably the Berne Convention. Although the Convention mandates that member states—including Indonesia and Malaysia—adhere to the National Treatment principle in safeguarding foreign works of authorship, the enforcement architecture in the digital epoch has, *de facto*, become heavily privatized. Contemporary copyright protection is no longer the exclusive purview of state judicial adjudication; rather, it is increasingly effectuated by the algorithms of transnational technology platforms via notice-and-takedown mechanisms (Husovec & Quintais, 2021;Saputra & Hilyatunisa, 2025). This paradigm shift toward algorithmic adjudication engenders a jurisprudential 'gray area' within international law, wherein private platforms frequently operate as unilateral arbiters. Consequently, this dynamic raises

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critical inquiries regarding the efficacy of domestic copyright statutes when they collide with transnational platform governance (Xiao, 2022).

This cross-jurisdictional enforcement anomaly is palpably manifested in the alleged copyright infringement dispute concerning the historical Indonesian musical work, 'Halo-Halo Bandung,' authored by Ismail Marzuki, which was subjected to an unauthorized adaptation into the track 'Hello Kuala Lumpur' on the YouTube platform. This case extends beyond a conventional plagiarism dispute implicating the infringement of moral and economic rights; rather, it constitutes a critical litmus test for the efficacy of Indonesia's Law No. 28 of 2014 on Copyright and Malaysia's Copyright Act 1987. Furthermore, the incident illustrates how infringements upon a nation's cultural sovereignty are now mediated by transnational platforms, wherein dispute resolution hinges upon the congruence between domestic civil law claims and the digital enforcement protocols governed by third-party intermediaries (Peng, 2020). The conspicuous absence of licensing frameworks and the right of attribution in this dispute underscores the vulnerability of copyright protection among neighboring states that share socio-cultural proximity, yet remain circumscribed by rigid jurisdictional boundaries.

This predicament underscores a substantial research gap within contemporary legal scholarship. Prior studies have largely been tethered to a normative-doctrinal framework, exclusively analyzing copyright protection confined within a single domestic jurisdiction, thereby failing to account for the complexities of transnational legal interactions mediated by digital platforms. Extant research has yet to comprehensively evaluate the comparative legal efficacy between Indonesia and Malaysia in navigating such asymmetric digital disputes (Geiger & Jütte, 2021). Consequently, this article seeks to deconstruct this tension by analyzing the modalities of copyright infringement concerning musical works on digital platforms through a comparative jurisprudential lens between the Indonesian and Malaysian legal regimes. By conducting a rigorous examination of the 'Halo-Halo Bandung' anomaly, this study endeavors to conceptualize a harmonized legal framework that is responsive to digital disruptions, while simultaneously safeguarding transnational intellectual property sovereignty.

METHODOLOGY

This study employs a doctrinal legal research methodology, operationalized through a synthesis of the comparative approach and the case-study approach, specifically targeting the anomalous copyright infringement involving the musical works 'Halo-Halo Bandung' and 'Hello

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Kuala Lumpur.' The comparative analysis is systematically executed utilizing the functionalist method to dissect how two distinct legal traditions—the Civil Law system in Indonesia and the Common Law system in Malaysia—respond to the disruption of intellectual property protection within cyberspace (Negara, 2023).

The primary legal materials analyzed include Indonesia's Law No. 28 of 2014 on Copyright, Malaysia's Copyright Act 1987, and the Berne Convention. To facilitate a comprehensive dissection of the empirical case, this study extends its secondary legal data—comprising reputable international journals and intellectual property doctrines—by incorporating an analysis of non-legal instruments. These non-legal data points encompass the algorithmic policy architecture of the YouTube platform, specifically its Community Guidelines and notice-and-takedown mechanisms, which currently function as a private ordering regime in the resolution of cross-border digital copyright disputes (Elkin-Koren, 2020).

The entire data corpus in this study is evaluated through a qualitative-prescriptive analysis, employing teleological interpretation to ascertain the *ratio legis* of each respective copyright protection instrument. This comparative analytical framework is subsequently contextualized through the lens of John Locke's natural rights theory to critically assess the proportionality and fairness of moral and economic rights enforcement when domestic statutes collide with third-party digital enforcement mechanisms within the Web 2.0 and Web3 eras (Chuvaieva, 2019).

RESULT AND DISCUSSION

Modalities of Copyright Infringement of Musical Works via Digital Platforms: A Comparative Study of Indonesia and Malaysia

The exploitation of economic and moral rights in the digital era engenders a direct collision between domestic positive law doctrines and the inherent fluidity of the cyber medium. Within the Indonesian jurisdiction, Article 43(d) of Law No. 28 of 2014 on Copyright (UUHC) ostensibly facilitates a safe harbor provision for the dissemination of digital content, strictly contingent upon the absence of commercial motive. However, the algorithmic monetization architecture of platforms such as YouTube fundamentally disrupts these fair use demarcations. Conversely, Malaysia's Copyright Act 1987 operates under the principle of automatic protection in alignment with the mandates of the Berne Convention, whereby any unauthorized form of digital reproduction or communication to the public is explicitly categorized as direct infringement (Brantes et al., 2023).

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This enforcement anomaly is palpably manifested in the case regarding the adaptation of the musical work 'Halo-Halo Bandung' into 'Hello Kuala Lumpur' by a YouTube channel operating in Malaysia. Grounded in John Locke's natural rights philosophy, the melodic composition constitutes inalienable intellectual property derived from the labor of Ismail Marzuki. The modification of lyrics into the Malay language and the subsequent re-uploading for digital commercialization purposes—facilitated by algorithmic monetization—absent lawful attribution, transcends a mere administrative violation. Such conduct simultaneously impinges upon moral rights, specifically the rights of integrity and attribution, while exploiting the economic rights of the heirs without a license, thereby violating the provisions of Article 9 of the Indonesian UUHC and Section 13 of the Malaysian Copyright Act 1987 (Montagnani, 2021).

The complexity of this case is further heightened when analyzed through the lens of jurisdiction and cross-border enforcement mechanisms. Doctrinally, predicated on the principle of *lex loci delicti* (the law of the place where the wrong was committed), the act of uploading content by an entity domiciled in Malaysia should, in theory, invoke the jurisdiction of the Malaysian judiciary. However, empirical reality reveals a legal irony: the resolution of this dispute effectively circumvents formal adjudicatory systems, pivoting instead toward asymmetrical resolution mechanisms through bilateral diplomacy and YouTube's notice-and-takedown protocols. This confirms that within the transnational digital regime, private platform governance architectures—or private ordering—frequently supersede state sovereignty to mitigate infringements in real-time (Humphreys et al., 2023). This approach exemplifies a paradigm shift, wherein the resolution of transnational copyright disputes in Southeast Asia has become increasingly predicated upon algorithmic platform adjudication as opposed to traditional litigatio (Cui, 2025).

Furthermore, the philosophical divergence between the Indonesian Civil Law system and the Malaysian Common Law system is palpably evident in the construction of sanctions and the penal framework for copyright protection. The Indonesian UUHC adopts a highly prescriptive and rigid approach to sanctions, prescribing a maximum imprisonment of four years and cumulative fines of up to IDR 1,000,000,000 (one billion rupiah) for the unauthorized exploitation of economic rights. This characteristic is emblematic of the Civil Law tradition, which prioritizes codified certainty. Conversely, Malaysia's Copyright Act 1987 offers a more pragmatic spectrum of sanctions characteristic of the Common Law tradition, providing for fines of up to RM 500,000, the flexibility of which is calibrated based on the scale of the resulting economic loss (Desmayanti,

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2019;Erlangga & Poespasari, 2024). Albeit the Indonesian legal regime appears more draconian on paper, the absence of cross-border enforcement mechanisms renders such stringent sanctions devoid of efficacy when the infringing subject is situated beyond territorial jurisdiction. This structural frailty ultimately compels copyright holders from both nations to acquiesce to the digital arbitration resolutions mandated by global private entities. The synthesis of the architectural legal disparities between the two jurisdictions is elucidated through the comparative matrix provided in Table 1 below.

Table 1. ***Comparative Matrix of Digital Copyright Enforcement: Indonesia vs. Malaysia***

Comparative Dimensions	**Indonesia (Law No. 28/2014)**	**Malaysia (Copyright Act 1987)**
Primary Legal Tradition	**Civil Law**: Rigid; fundamentally centered on codified legal certainty.	**Common Law**: Pragmatic; centered on judicial precedent and equitable remedies.
Digital Usage Doctrine	Accommodates **partial safe harbor** provisions, strictly contingent upon the absence of commercial intent (Article 43, point d).	**Automatic Protection**; unauthorized digital exploitation is explicitly categorized as **Direct Infringement**.
Statutory Sanctions & Penal Framework	**Prescriptive and Draconian**: Maximum imprisonment of 4 years and cumulative fines of up to IDR 1,000,000,000.	**Flexible and Proportionate**: Fines of up to RM 500,000, calibrated based on the magnitude of economic damages.
Territorial Jurisdictional Boundaries	Constrained by the limitations of ***lex loci delicti***; predisposed toward bilateral diplomatic channels.	Constrained by the limitations of ***lex loci delicti***; necessitates domestic judicial adjudication to resolve disputes.
Cross-Border Dispute Resolution	**Subject to Algorithmic Adjudication**: Reliant upon **Private Ordering** (YouTube's notice-and-takedown mechanisms) due to the absence of transnational enforcement instruments.	**Subject to Algorithmic Adjudication**: Reliant upon **Private Ordering** (YouTube's notice-and-takedown mechanisms) due to the absence of transnational enforcement instruments.

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Diverging Institutional Architectures and Digital Copyright Dispute Resolution: The Collision of Civil and Common Law Traditions

Doctrinally, the copyright protection architectures in Indonesia and Malaysia are predicated upon divergent legal traditions, which directly implicate the governance of digital economic rights. Indonesia, characterized by its Civil Law tradition, relies on a centralized declarative recordation system under the Directorate General of Intellectual Property (DGIP) and the centralization of royalty collection through a quasi-state entity, the National Collective Management Organization (LMKN). Conversely, Malaysia's Copyright Act 1987, rooted in the Common Law tradition, offers greater administrative flexibility; protection arises automatically without mandatory registration—utilizing a voluntary notification system—while royalty governance is fully privatized and market-regulated through independent entities such as Music Rights Malaysia (MRM) and Music Authors' Copyright Protection (MACP) (Polčák, 2020). This divergence engenders a significant gap in operational efficiency. While the LMKN in Indonesia necessitates membership registration and layered powers of attorney as a prerequisite for commencing legal action, the MRM in Malaysia possesses inherent standing to petition for an injunction directly before the High Court (Siregar, 2023).

This structural disparity is further magnified when extended into the sphere of dispute resolution and the penal instruments of copyright protection. The Indonesian legal regime, pursuant to Law No. 28 of 2014 on Copyright, adopts a rigid litigation approach centralized within the Commercial Court, featuring criminal sanctions that necessitate a complaint-based offense (*delik aduan*) under Article 120 of the UUHC. This model is profoundly bureaucratic and contingent upon the proactive intervention of the rights holder toward state enforcement authorities. In stark contrast, the Malaysian judicial system prioritizes the principle of equitable remedies, which offers significantly greater agility. Copyright holders in Malaysia are not solely reliant on criminal prosecution; rather, they may seek tiered recovery—including additional damages and an account of profits—as well as preventive injunctions, without being subjected to protracted judicial proceedings (Anggawirya et al., 2023;Saniff et al., 2024). The inherent flexibility of the Common Law system yields a comparative advantage in mitigating the immediate economic losses attributable to pervasive digital exploitation.

Notwithstanding these dynamics, within the context of cross-jurisdictional copyright disputes—as exemplified by the anomalous 'Halo-Halo Bandung' case—the asymmetry between the rigidity of the Indonesian Civil Law system and the flexibility of the Malaysian Common Law

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system culminates in an operational impasse. State-led enforcement efforts are effectively stymied by the absence of cross-border enforcement mechanisms, thereby compelling the Indonesian government to resort to bilateral diplomacy in lieu of pursuing formal judicial litigation (Fansiska et al., 2025). Paradoxically, this territorial jurisdictional lacuna is ultimately exploited and filled by the authority of digital platforms. YouTube's algorithmic notice-and-takedown mechanisms effectively supersede the mandates of the DGIP, LMKN, and MACP, operating as a form of transnational 'pseudo-law' or a regulatory bypass. These private ordering procedures, administered by global intermediaries, have proven far more efficacious and instantaneous in severing illicit monetization chains than the formal judicial proceedings of either sovereign state (Afina et al., 2024). This condition substantiates the premise that contemporary national copyright protection instruments are increasingly supplanted by global platform governance frameworks. A synthesis of the institutional design disparities and the resulting dispute resolution impasse inherent in both legal traditions is structured for clarity in Table 2 below.

Table 2. ***Comparative Matrix of Copyright Institutional Design and Dispute Resolution***

Institutional & Resolution Dimensions	**Indonesia (Civil Law System)**	**Malaysia (Common Law System)**
Rights Recordation Architecture	**Centralized Declarative System**: Under state authority (Directorate General of Intellectual Property / DGIP).	**Administrative Flexibility**: Via voluntary notification without mandatory registration requirements.
Institutional Design of Royalty Governance	**Centralization**: Via quasi-state entity (LMKN); necessitates membership registration and layered powers of attorney.	**Privatization**: Via independent entities (MRM/MACP) possessing **inherent standing** for legal actions.
Litigation Mechanisms & Criminal Sanctions	**Bureaucratic and Rigid**: Centralized within the Commercial Court; heavily reliant on complaint-based offense instruments (*delik aduan* under Article 120 UUHC).	**Agile and Responsive**: Prioritizes **equitable remedies** (preventive injunctions, additional damages, and account of profits).

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Cross-Border Enforcement Efficacy	**Operational Impasse**: Predisposed toward a retreat into bilateral diplomatic approaches.	**Territorial Jurisdictional Impasse**: Equitable remedy instruments fail to reach extraterritorial infringers.
Substitution of Legal Authority (Pseudo-Law)	**Preempted by Private Platforms**: Compelled to submit to YouTube's algorithmic arbitration procedures (*notice-and-takedown*), proven more instantaneous in severing illicit monetization.	**Preempted by Private Platforms**: Compelled to submit to YouTube's algorithmic arbitration procedures (*notice-and-takedown*), proven more instantaneous in severing illicit monetization.

CONCLUSION

This study concludes that digital copyright infringement, as exemplified by the 'Halo-Halo Bandung' case, exposes a profound collision between traditional territorial legal doctrines and the borderless nature of the cyber ecosystem. Although Indonesia relies on a rigid Civil Law framework characterized by state-institutional centralization, and Malaysia employs an agile Common Law approach through the privatization of royalty governance, both jurisdictions confront a shared operational impasse regarding cross-border enforcement. In the absence of robust territorial execution instruments, state authorities are increasingly compelled to forgo formal litigation channels, resorting instead to bilateral diplomatic maneuvers. Ultimately, this jurisdictional lacuna substantiates a critical paradigm shift: the private governance mechanisms of digital platforms—specifically YouTube's algorithmic notice-and-takedown protocols—now function as 'pseudo-law' instruments that effectively marginalize the sovereignty of national copyright protection.

FUTURE DIRECTIONS

Future scholarship should broaden the discourse beyond the mere evaluation of algorithmic notice-and-takedown mechanisms toward the formulation of an integrated cross-border enforcement framework at the regional level, particularly within the ASEAN bloc. Given the persistent jurisdictional impasse between Civil Law and Common Law systems, subsequent studies are imperative to explore the potential integration of Web3 technologies—such as blockchain architecture and smart contracts—as alternative instruments for decentralized copyright recordation (timestamping) and transnational royalty distribution. Furthermore,

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advanced empirical research is required to dissect the boundaries of platform liability to prevent the monopolization of private ordering in shaping the equity of national intellectual property protection in the future.

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