

COPYRIGHT ACT 1987
COPYRIGHT (COPYRIGHT TRIBUNAL) REGULATIONS 2012

IN THE MATTER OF CASE NUMBER
CTMR2024001

AND

IN THE MATTER OF APPLICATION FOR
HEARING DISPUTE RELATING TO
ROYALTIES UNDER SECTION 59C OF
THE COPYRIGHT ACT 1987

AND

IN THE MATTER OF REGULATION
5(1)(e) OF COPYRIGHT (COPYRIGHT
TRIBUNAL) REGULATIONS 2012

BETWEEN

ABDULKARIM AL ALI
(Passport No.: 015834041)

.....APPLICANT

AND

MUSIC AUTHORS COPYRIGHT PROTECTION (MACP) BERHAD
(Company No.: 198901009102 (186403-X))

.....RESPONDENT

BEFORE

ROHAZAR WATI ZUALLCOBLEY

NAZURA ABDUL MANAP

WONG JIN NEE

DECISION

A. Introduction

1. This matter comes before the Copyright Tribunal ("Tribunal") pursuant to the application made by the Applicant under Section 59C of the Copyright Act 1987 ("CA"). The parties have filed the prescribed forms, supported by numerous documents and attended 2 hearings before the Tribunal on 21 March 2025 and 29 May 2025 (jointly and severally referred to as "the said hearings").
2. This unanimous decision is issued by the Copyright Tribunal, comprising the Chairperson, Rohazar Wati Zuallcobley, and members, Nazura Abdul Manap and Wong Jin Nee.

B. Background Facts

3. Abdulkarim Al Ali (Passport No.: 015834041 ("the Applicant")) is the author of the musical work entitled "Casablanca", which has been notified to Intellectual Property Corporation of Malaysia ("MyIPO") by virtue of Certificate of Copyright Notification No. CRLY2023W00223 ("the Musical Work").
4. The Respondent, Music Authors' Copyright Protection (MACP) Berhad ("MACP" or "the Respondent"), is a declared collective management organisation (CMO) under the CA in Malaysia. The Respondent is responsible for the administration and management of performing and communication rights in musical works on behalf of its members. It represents composers, lyricists, and music publishers, and is tasked with licensing public performances and broadcast of their works, collecting royalties, and ensuring fair distribution of these royalties to members.
5. The Applicant became a full member of the Respondent on 16th November 2023. The Applicant's share of 27% was regularised on 8th December 2023.
6. Prior to the commencement of this proceeding, there were several email exchanges between the Applicant and the Respondent regarding the royalties received by the Applicant. In particular, the Applicant sought further information on the distribution of digital, concert, and performance royalties, as well as the adjustments made to reflect the Applicant's registered share in the Musical Work. These queries were driven by the Applicant's belief that the Musical Work, which had achieved significant popularity both in Malaysia and internationally, should have generated royalties commensurate with its widespread exposure and audience reach. However, the Applicant took the view that the royalties paid by the Respondent were disproportionately low considering the Musical Work's commercial success.
7. The Applicant believes that his queries remained unresolved and were not adequately addressed by the Respondent, which ultimately prompted the filing of this proceeding. Through this application, the Applicant seeks to have

the Tribunal to hear and determine a dispute concerning royalties arising between him and the Respondent.

8. The Applicant contends that:
 - a. there is a lack of transparency in the management and administration of his rights over the Musical Work, as key information necessary to verify the accuracy and completeness of the royalty reports was not provided.
 - b. the administration of his rights has not been conducted in a timely manner, particularly in relation to delays in making necessary adjustments to reflect the correct share in the Musical Work.
 - c. there is a lack of accuracy in the management of his rights, as the reports relied upon are questionable and there appear to be insufficient efforts by the Respondent to enforce the rights assigned to it by the Applicant.
9. Specifically, the Applicant seeks for the following reliefs and orders in this proceeding:
 - a. An Order that all outstanding, unadjusted, or unreleased royalties relating to the Applicant's share in the Musical Work be duly accounted for and paid to the Applicant, including any royalties previously and wrongfully paid to co-authors or publishers, if any.
 - b. An Order requiring the Respondent to provide transparent, complete, and accurate royalty reports, including but not limited to:
 - i. Performing royalties.
 - ii. Digital streaming royalties; and
 - iii. Royalties from live performances, both in relation to past periods and on a continuous basis moving forward.
 - c. An Order directing the Respondent to ensure the timely collection and distribution of royalties in the future, in recognition of the fact that small, independent members rely on timely payments for their livelihood in the industry.
10. Additional Orders sought by the Applicant:
 - a. An Order mandating the enforcement of usage reporting requirements as part of the Guidelines on Collective Management Organizations, for the benefit of both members and users. This will promote transparency and enable users to understand how their payments are allocated to the rightful copyright owners.
 - b. An Order requiring the preparation and publication of a Transparency Report, which shall include:
 - i. A list of licensed and unlicensed digital service providers (DSPs);
 - ii. The applicable tariffs charged; and
 - iii. The specific musical works used that belong to the members to allow members to be informed and actively involved in the licensing of their rights.
 - c. An Order requiring the Respondent to prioritise investment in technology and systems that enable the generation of accurate usage reports,

including setting aside a portion of revenue for this purpose. Such investment shall take precedence over manual sampling processes.

11. The Respondent raised a preliminary objection to the commencement of the hearing initiated by the Applicant, primarily on the ground that the dispute concerns royalties and, therefore, should not be commenced under Section 59C of the CA without a mutual agreement between them for the dispute to be heard and determined by the Tribunal, which is a prerequisite for the Tribunal to exercise jurisdiction over such matters.
12. In addition to the preliminary objection on the Tribunal's jurisdiction, the Respondent also raised issues that the Applicant's application was not bona fide but was instead a mere tactical manoeuvre. The Respondent further contended that the Applicant had introduced new evidence.

C. Submissions and Arguments by Applicant and Respondent

13. In arriving at its decision, the Tribunal considered the Submissions and Additional Submissions filed by both the Applicant and the Respondent, as well as the information provided by their respective representatives during the said hearings.
14. Summary of the Respondent's Arguments and Submissions

14.1 Transparency and Fairness

The Respondent asserts it has administered royalties transparently and fairly in accordance with its Distribution Policy, which is publicly accessible and uniformly applied to all members.

14.2 Digital and Performance Royalties

- i. Digital royalties are distributed biannually based on data from platforms like YouTube and Spotify, after deducting administrative fees (up to 10%) and SST.
- ii. The Respondent claimed that the Applicant had received RM3,555 in digital royalties and RM2,262.78 in performance royalties to date.
- iii. Royalties are calculated based on registered ownership share (27% for the Applicant).

14.3 Distribution Process

The Respondent relies on usage reports from digital platforms and monitors performance data using fingerprinting technology for TV/radio. Distributions follow point-based CISAC-aligned formulas, including adjustments for sampling gaps (via UPA).

14.4 Overseas Royalties

Collected via affiliated foreign CMOs based on reciprocal agreements. The Applicant has received RM664.45 in overseas royalties.

14.5 Award Nomination and Royalty Correlation

The Respondent explained that award nominations based on performance frequency do not necessarily reflect high royalty income. Royalties depend on monetisation structures, not just popularity.

14.6 Usage Reports and Enforcement

The Respondent acknowledged reporting obligations under license forms but cited practical limits to enforcing compliance across ~20,000 licensees. It takes reasonable steps (e.g. third-party monitoring) to ensure data accuracy and is exploring improvements.

14.7 Concert Royalties

YouTube recordings cited by the Applicant fall under digital royalties. Concert royalties are only payable where organisers are licensed and submit usage reports.

14.8 Membership and Retroactive Entitlements

Royalties cannot be claimed for periods before membership. Adjustments can be made in future cycles based on registered shares.

14.9 Confidentiality and PDPA Compliance

The Respondent declined to disclose:

- i. amounts received from individual digital platforms; and
- ii. royalty statements of co-authors.

It cited contractual and legal duties under confidentiality agreements and the Personal Data Protection Act 2010 ("PDPA"). The Respondent advised the Applicant to obtain co-authors' consent or consider an independent audit, with which the Respondent has expressly indicated its willingness to cooperate during the said hearings.

15. **Additional Information shared and submitted by the Respondent during the Hearings**

15.1 Royalty Reporting and Usage Tracking

- i. The Respondent acknowledged limitations in tracking offline performances, relying almost entirely on self-declared reports from organizers and publishers.
- ii. Music recognition technologies are not currently used for offline verification.
- iii. Digital platform royalties (e.g., YouTube, Spotify) are based on data from platforms or foreign societies, but reporting can be delayed or inconsistent.
- iv. The Respondent does not have full access to platform monetization details, and distribution figures are often subject to confidentiality clauses.

15.2 Distribution Accuracy and Adjustments

- i. Royalty distributions occur in fixed cycles (five times a year for digital, twice a year for general), based on the previous year's data.
- ii. Post-hoc adjustments are made for late entries or missed events.
- iii. Royalty amounts are influenced by licensing terms, usage duration, and monetization models—not solely by views, awards, or popularity.
- iv. For example, the Applicant's song "Casablanca" generated RM6,219.54, factoring in deductions and a 27% ownership share, which share was not disputed by the Applicant.

15.3 Audit and Transparency Measures

- i. The Respondent confirmed that audits are permitted under internal policies and may help improve trust and understanding.
- ii. It follows CISAC standards using automated reporting systems and point-based calculations, with minimal manual intervention unless errors are flagged.

15.4 Technical and Structural Issues

- i. Delays in responding to member queries were acknowledged by the Respondent, attributed to high global volumes.
- ii. The Respondent reiterated that popularity does not directly translate into higher royalties due to differing monetization structures across platforms.

D. Our Findings

16. Preliminary Objections raised by the Respondent regarding the Tribunal's jurisdiction to hear this proceeding

16.1 The Tribunal takes the position that the Respondent's preliminary objections cannot be sustained for the following reasons:

16.1.1 Statutory Interpretation – plain and ordinary meaning of the provisions

- i. Section 59C of the CA explicitly provides the Tribunal with jurisdiction to hear disputes involving CMOs and their members. The provision states that the Tribunal may hear any disputes relating to royalties arising between a CMO and any of its members, subject to the agreement of such CMO and such member. This section became a point of contention by the Respondent. It should be noted that the Bahasa Malaysia version of Section 59C of the CA and the English version are worded differently. The Bahasa Malaysia version of 59C(1) states that *“Tribunal boleh mendengar apa-apa pertikaian yang berhubungan dengan royalti yang berbangkit antara suatu organisasi pengurusan kolektif dengan mana-mana anggotanya tertakluk kepada persetujuan organisasi pengurusan kolektif dan anggota itu”*. While the English version of the section reads as follows: “The Tribunal may hear any dispute relating to royalties arising between a licensing body and any of its members subject to the agreement of such licensing body and such member”. The authoritative text of the CA and any subsidiary legislation made under it is the English version, according to Section 6 of the National Language Act 1963, as prescribed by the Prime Minister and confirmed in the Federal Government Gazette 2022.12.1.2 The plain language of Section 59C does not impose a requirement for either party's agreement or consent to initiate or proceed with a hearing, but rather the royalties' disputes must be adjudicated based on the agreement entered into between the parties.
- ii. The interpretation of Section 59C of the CA should be read in conjunction with other provisions of the CA, including Section 28(2)(d) of the CA and Regulation 5 of Copyright (Copyright Tribunal) Regulations 2012 (“Regulations”).
- iii. Section 28 of the CA is the key provision from which the Tribunal derives its powers and jurisdictions. Specifically, Section 28(2)(d) of the CA expressly states that *“the Tribunal shall have the power to decide on the following matters, including the exercise of the power under Section 59C”*. If the Tribunal's ability to exercise its power under Section 59C were intended to be subject to the

mutual consent of the parties, this requirement would have been clearly stipulated in the CA. Instead, this authority is conferred directly by the CA and is not dependent on or contingent upon the consent of the CMO or its members. Accordingly, the Tribunal's jurisdiction arises directly from the Act itself, rather than from any agreement, consent or arrangement between the CMO and its members to initiate the proceedings.

- iv. The foregoing is supported by Regulation 5(1)(e) of the Regulation and the prescribed form, CT1. These provisions merely require the Applicant to commence proceedings under Section 59C of the Act by filing Form CT1 - there is no requirement for the Applicant to attach a consent or agreement from the other party in order to initiate the proceeding.
- v. Unlike other provisions, Section 59C focuses on resolving disputes, indicating that a member can unilaterally refer a royalty dispute to the Tribunal, provided it arises from its agreement with the CMO. The absence of an explicit consent requirement for hearings reinforces this interpretation.
- vi. In the unlikely event that Section 59C of the Act is interpreted to require mutual agreement or consent from both parties to initiate proceedings, the Tribunal takes the view that it may adopt the Golden Rule of statutory interpretation. This is because a literal interpretation of Section 59C (as claimed by the Respondent) would lead to an absurd and unreasonable outcome, effectively rendering Section 59C redundant and superfluous. Such interpretation will also result in inconsistency and contradiction with other provisions of the CA and Regulations. It is highly improbable that any CMO would voluntarily agree to allow its members to raise disputes concerning royalties, and therefore they would never grant such consent for the disputes to be heard by the Tribunal. Accordingly, it is reasonable for the Tribunal to interpret Section 59C in a manner that aligns with the probable intention of the legislature to achieve a sensible and practical outcome - ensuring that the provision serves its intended function of providing an accessible forum for members to resolve royalty disputes with CMOs.

16.1.2 Legislative Intent and Purpose

- i. The CA aims to protect copyright owners and ensure fair management of their works by CMOs. Section 59C was enacted to provide a specialized, cost-effective forum for resolving royalty disputes, addressing power imbalances between CMOs and individual members. The Tribunal ensures transparency and fairness in copyright management, a key objective of the CA.

Allowing hearings to proceed without CMO consent aligns with this goal, preventing CMOs from stopping its members from raising disputes concerning royalties before a Tribunal.

- ii. Section 59C's reference to "agreement" does not limit this authority but rather defines the scope of disputes (i.e., those arising from the CMO-member agreement). The CMO is permitted to actively participate in the hearing, ensuring procedural fairness without requiring prior consent. This upholds natural justice by allowing members to present their case while giving CMOs an opportunity to respond.
- iii. Interpreting "agreement" as requiring CMO consent would enable CMOs to block hearings, rendering Section 59C ineffective and denying members access to a statutory remedy.
- iv. The Tribunal noted that the Respondent made references to **Penyata Rasmi Parlimen; Dewan Rakyat (Hansard)** and adduced the relevant parts to its Submission in Reply dated 13 March 2025 (Tab B), which are official verbatim records of Parliamentary debates.
- v. The Tribunal is of the view that Hansard Reports serve as a supplementary aid to statutory interpretation and are not determinative on their own. Their use is limited to clarifying legislative intent where statutory provisions are capable of more than one reasonable interpretation. Based on a careful reading of the highlighted excerpts submitted by the Respondent, the Tribunal finds that the wording does not provide conclusive insight into the legislative purpose or intent behind Section 59C of the Act, nor does it support the Respondent's contention that mutual consent is a prerequisite to initiating proceedings. To the contrary, the statements in the Hansard may be construed to support the interpretation that Parliament intended to empower the Tribunal to hear royalty disputes initiated by members of collective management organizations (CMOs), without requiring the prior consent of the CMO. The Hansard confirms that, prior to the enactment of Section 59C, the Tribunal's jurisdiction did not extend to such disputes, and that the purpose of the amendment was to fill this gap by establishing the Tribunal as an alternative dispute resolution forum. While the Hansard refers to providing an "option" for CMOs and their members to bring disputes either before the Tribunal or the courts, this can reasonably be interpreted to mean that members may choose to commence proceedings in either forum independently. This interpretation directly contradicts the Respondent's position that both parties must first agree before proceedings may be initiated. It is a well-established legal principle that a plaintiff does not require the

defendant's consent to commence proceedings in a court of law. Imposing such a requirement in the Tribunal context would undermine the very objective of Section 59C, which was enacted to improve access to justice and provide an independent mechanism for resolving royalty disputes.

- vi. In short, the Tribunal finds that the Hansard Reports cannot be solely relied upon to support the Respondent's interpretation of Section 59C, and do not provide a sufficient basis to sustain the Respondent's preliminary objections.

16.1.3 Tribunal's findings on interpretation of Section 59C of the CA

The Tribunal's conclusion that it has jurisdiction under Section 59C to hear royalty disputes without requiring CMO consent to initiate proceedings. The phrase "subject to the agreement" refers to the contractual relationship, not a procedural consent requirement. This interpretation is supported by the CA's protective purpose, the Tribunal's procedural autonomy, and legal principles. Requiring CMO consent would undermine member rights, frustrate statutory objectives, and exacerbate power imbalances. The Tribunal's procedural safeguards ensure fairness, making its jurisdiction to hear disputes unilaterally initiated by members both lawful and necessary.

17. Tribunal Proceedings as a Less Formal and Accessible Dispute Resolution Mechanism

- 17.1 The Tribunal is established as an alternative dispute resolution forum intended to provide a more accessible, efficient, and less formal mechanism for resolving disputes, particularly in comparison to court proceedings. The procedural framework of the Tribunal is designed to promote flexibility and focus on the substantive issues in dispute, rather than strict adherence to technical rules or litigation strategy. In this context, allegations that the Applicant's application is not bona fide or is a mere tactical manoeuvre are misplaced, unnecessary and should not be given weight. The primary objective of proceedings before the Tribunal is to facilitate the fair and constructive resolution of royalty-related disputes in a manner that benefits not only the immediate parties but also contributes positively to the wider music industry ecosystem. Such proceedings provide an important platform for transparency and accountability in the operations of CMOs, particularly in relation to the calculation and distribution of royalties. By enabling members to raise concerns and seek clarity through a formal yet accessible forum, the Tribunal plays a critical role in reducing mistrust and friction between CMOs and their members. Ultimately, this fosters a healthier, more cooperative environment within the music industry.

17.2 Accordingly, the Tribunal takes the position that the Respondent's allegations regarding the Applicant's lack of bona fides and purported tactical motives are without sufficient basis and should not be given weight. The Tribunal is empowered under the CA and Regulations to adopt a flexible approach, including the discretion to admit additional evidence where it is relevant and in the interest of justice. In this case, the Respondent has been afforded the opportunity to submit additional evidence in response and to address the Applicant's claims fully. As such, no prejudice will be occasioned to the Respondent. The Tribunal is guided by the objective of facilitating fair and efficient dispute resolution, particularly in matters that affect broader stakeholder interests, such as transparency in royalty distribution within the music industry. It is therefore appropriate for the Tribunal to focus on the substantive issues at hand, rather than being sidetracked by collateral arguments that do not materially advance the resolution of the dispute.

18. **Issues For determination**

Based on the Applicant's reliefs sought and the submissions of both parties, the Tribunal identifies the following key issues for determination:

18.1 **Transparency of Royalty Administration**

Whether the Respondent has managed and administered the rights of the Applicant over the Musical Works in a transparent manner, including the clarity and sufficiency of information provided on royalty calculations, deductions, and platform data.

18.2 **Timeliness of Royalty Management and Distribution**

Whether the Respondent has acted in a timely manner in administering the Applicant's rights, including in adjusting royalty distributions following the Applicant's membership and registration of ownership shares.

18.3 **Accuracy of Royalty Distributions**

Whether the Respondent has accurately processed and distributed royalties to the Applicant, including in relation to usage data, share allocations, and event-based or digital performances.

18.4 **Entitlement to Outstanding or Misallocated Royalties**

Whether the Applicant is entitled to receive any outstanding or previously misallocated royalties, including those that may have been wrongly paid to co-authors.

18.5 Adequacy of Reporting and Monitoring Mechanisms

Whether the Respondent's current systems and practices for collecting and verifying usage data both for digital and general performances are adequate to ensure fair and equitable distribution of royalties.

18.6 Enforcement of Licensee Reporting Obligations

Whether the Respondent has taken sufficient steps to enforce reporting obligations among licensees, particularly in the general performance and concert categories, and whether improvements are necessary to enhance compliance.

18.7 Confidentiality and Access to Relevant Information

Whether the Respondent's refusal to disclose information regarding royalty receipts from digital platforms and co-author royalty statements is justified under the law, including obligations under confidentiality agreements and the Personal Data Protection Act 2010.

18.8 Right to Audit and Independent Verification

Whether the Applicant should be entitled to seek independent verification of royalty distributions through an audit process, subject to the Respondent's internal policies and conditions.

18.9 Institutional Reforms and Member Engagement

Whether the Respondent, as a collective management organisation, should be directed to implement greater transparency measures, invest in more robust reporting technologies, and conduct engagement sessions to educate members about distribution policies and royalty frameworks, to build trust and reduce disputes.

E. Conclusion

19. The Orders of the Tribunal are as follows:

- 19.1 Pursuant to Section 59C(3) of the CA, the Tribunal may make order to be in force indefinitely or for such period as the Tribunal may determine. For the purpose of this case, and unless expressly provided to the contrary, the Tribunal directs that the orders made herein shall continue to be in force until further order.
- 19.2 The Tribunal has assessed and considered whether the reliefs sought by the Applicant in paragraphs 9(a) to (c) above fall within its powers under the CA, particularly pursuant to Sections 28(2), 30, and 59C, as informed by the legislative intent underlying the Copyright (Amendment) Act

2012. The Tribunal notes the legislative intent reflected in the Hansard Reports (December 15, 2011), which serve as an interpretative aid, not themselves the source of law nor the sole basis for interpretation or construction of the CA.

20. Accounting and Payment of Royalties

The Tribunal hereby orders the Respondent to promptly account for and pay any outstanding and unpaid royalties, including to regularise those paid to the Applicant's co-authors, under Section 28(2)(d) and Section 59C of the CA, which empower resolution of royalty disputes. This aligns with the Respondent's goal of fair distribution under the MACP Distribution Policy Rules. In the event the Applicant finds that any payment made by the Respondent to be inaccurate, the Applicant shall be entitled to request an audit of the Respondent's accounts, pursuant to the express offer made by the Respondent during the said hearings.

21. Transparent Royalty Reports

The Tribunal hereby orders the Respondent to provide detailed royalty reports (performing, digital streaming, live performances) to the Applicant to ensure transparency in resolving royalty disputes.

22. Timely Royalty Collection and Distribution

The Tribunal mandates timely royalty distributions as this will resolve the royalty disputes and addresses the Applicant's concerns and reliefs sought. In the circumstances, the Tribunal hereby orders that royalty distributions by Respondent to its members including the Applicant be made in a timely manner. While the Tribunal notes that Respondent currently distributes royalties in fixed cycles (five times annually for digital and twice annually for general, based on the previous year's data), as further explained during the said hearings and set out in the MACP Distribution Policy Rules, the Tribunal emphasizes the importance of advance notice and clear explanation in order to manage its members' expectations effectively.

23. Transparency Report

The Tribunal hereby orders that Respondent to prepare and make available to the Applicant a Transparency Report (including details of DSPs, applicable tariffs, works used), with a view to enhance transparency in licensing and distribution. This requirement is consistent with the MACP Distribution Policy Rules, which expressly emphasize fairness, accuracy, cost effectiveness and transparency in the distribution of royalties to its members.

24. **Investment in Technology**

The Tribunal is of the view that directing technological investment or mandating revenue allocation for this purpose would fall outside the scope of the Tribunal's statutory powers. Accordingly, the Tribunal finds that it has no authority to order the Respondent to prioritise investment in technology or systems for the generation of accurate usage reports, nor to require that a portion of revenue be set aside for such purposes, as sought by the Applicant.

F. **Observations made based on Additional Information Gathered by the Tribunal During the said hearings**

25. The Tribunal emphasizes the importance of proactive engagement by CMOs with their members. Regular educational and awareness-building sessions are essential to ensure members understand the organization's policies, distribution practices, and underlying methodologies. Given that authors who are members of CMOs may not scrutinize every contractual detail and often rely on institutional trust, greater transparency and communication are crucial in avoiding misunderstandings and fostering confidence in the royalty payment system.
26. The Tribunal suggests to the Respondent to adopt member-friendly communication, including the provision of concise and easy-to-understand guidelines in place of overly lengthy policies and technical rules, which are unlikely to be fully read or understood by members.

G. **Cost**

The Tribunal hereby orders that each party shall bear its own cost.

ROHAZAR WATI ZUALLCOBLEY
(CHAIR)

NAZURA ABDUL MANAP
(MEMBER)

WONG JIN NEE
(MEMBER)

Date: 20th August 2025

Representative/s for:

APPLICANT

: Justin Johari Bin Azman

Representative/s for:

RESPONDENT

: Ong Yu Jian
Nurul Hanani Azamuddin
(Messrs Raj, Ong & Yudistra)