
THE URGENCY OF LEGAL PROTECTION OF DIGITAL WORK COPYRIGHT

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Abstract

With the development of the times, science and technology are developing very quickly, allowing traditional works which are usually in physical form to be transformed into digital format. This research aims to examine legal protection methods for intellectual works in a digital context and identify the role of the government in preventing piracy of digital works. This research uses a normative juridical approach, which views law from the perspective of texts in statutory regulations and norms or standards of behavior that are considered appropriate. Copyright Law Number 28 of 2014 Article 4 articulates that copyright is an exclusive right that includes moral rights and economic rights. Individuals who wish to use the Economic Rights of a work must obtain permission from the creator or copyright owner. The legal protection is confirmed by a firm and appropriate sanctions by law enforcers by existing legislation.

Keywords: Legal Protection; Copyright; Digital Works

INTRODUCTION

As time has passed, science and technology have developed with incredible speed and influence, significantly influencing everyday life. These advances, especially in the field of the internet, have changed the way we carry out various daily activities and enabled the dissemination of ideas even more widely. Internet technology now allows access to information and knowledge globally. Human innovation that originates from thought, effort, and creativity produces what we call intellectual property to ideas that are realized in various forms such as inventions, works of art, designs, symbols, and various other innovations. In his famous theory, Labor Theory, John Locke argued that every individual has the right to the fruits of their hard work, which is rooted in every creative process they go through to create something. This theory emphasizes three main principles that underline the importance of rights to one's work (Saidin, 2015). They are: 1) Creators have the right to obtain ownership of their work, because of the process and effort involved in creating it; 2) Carrying out work on assets owned by other people can give workers certain rights, but these rights are determined based on the work contract agreement; and 3) The right to collective ownership must follow the rules applicable to other claims, which aim to balance the individual rights of the creator with the interests of the wider society, where the work is increasingly shaped by the evolution of time.

In today's digital era, works that are usually in physical form have shifted to digital format. Through the internet, distributing digital works has become a faster and more efficient process (Marion & Fixson, 2021). Digital work is now an integral part of everyday life, with markets and consumers already established. The advantages of digital works over physical products lie in their efficiency and practicality, requiring no physical storage space, and being easily accessible via download, making them an attractive option. Various terms such as digital work, digital content, digital information, and digital copyright are used to describe it. Some examples of digital works include electronic books (e-books) in PDF or Kindle format, music in MP3 or MP4 format, videos in MP4 or FLV, software, images in

JPEG or PNG format, online tickets, and applications for various platforms such as Android or iPhone, as well as fonts and more.

Although technological advances bring various conveniences, they also invite risks, especially in terms of copyright infringement. The speed and ease of accessing and distributing digital content are often misused by parties who do not have the rights, including misuse such as illegal distribution, modification, or use without permission. As the reach of the internet expands, infringement of intellectual works becomes increasingly difficult to monitor and account for, making the protection of digital works a formidable challenge. Lack of handling of this problem can be detrimental to both the industry concerned and the creators. For example, many small businesses use images downloaded without permission from the internet for promotional purposes, and online stores often source images from sources such as Pinterest for commercial purposes. This problem is not limited to images alone but also includes music, films, photography, and other forms of work.

Given the increasing infringement of digital works, it is important to expand copyright laws that previously focused only on physical objects to include digital works. Jacques de Werra emphasized the existence of three strategies in protecting copyright in digital works, namely: (Howyah, 2021) first, protection of works through the application of traditional copyright law; second, utilizing security technology as a form of protection; third, securing copyright with specific legal protection for the security technology. In the context of Indonesian law, there is already the use of security technology to protect copyright. The increasing concern of creators regarding copyright violations in this digital era has become a serious issue that requires handling because these violations often result in losses for creators.

It raises major questions about how the law protects creators from violations of Republic of Indonesia Law Number 28 of 2014 concerning Copyright. The law confirms that every work is protected, and the creator has exclusive rights by Elucidation to Article 4. The exclusive right is only given to the creator, which means that no one else is allowed to use the work without permission. Copyright holders who are not creators only have partial economic rights. (Article 4 of Law Number 28 of 2014 Concerning Copyright, 2014) Each creator has the natural right to complete control of each creative work they produce. Therefore, creators need to know all the copyrighted works they publish.

Nowadays, we often find that many books are replicated and published digitally via electronic media without the consent of the author. Not infrequently, these books are also pirated in e-book form and distributed free on the internet for commercial purposes. This phenomenon has become commonplace in society, where many consider it to be something normal and normal. One example of the e-book duplication of the novel "Laskar Pelangi" by Andrea Hirata. The author suffered losses because his legitimate novel had been replicated without permission in e-book form by an illegal site called <http://www.rajaebookgratis.com>. The site distributes the novel "Laskar Pelangi" for free to the general public. According to Andrea Hirata, he has never sold his work in e-book form or shared it for free on the internet. The difficulty of identifying copyright infringement in this case means that the author does not take this issue to court.

This research addresses two key issues in the realm of copyright protection in the digital era: the extent and effectiveness of legal protection for copyrighted works, and the role of the government in combating the duplication of creative works. The contribution of this research lies in its comprehensive analysis of current legal frameworks and government policies, aiming to identify gaps and propose improvements to safeguard intellectual property in an increasingly digital world. By examining these aspects, the study seeks to enhance the understanding of copyright protection mechanisms and inform policy-making to better address the challenges posed by digital duplication.

RESEARCH METHOD

This research is a type of legal research that adopts a normative juridical approach. This research method relies on an analysis of primary and secondary legal materials, which refer to the norms stated in statutory regulations. The normative approach was used to analyze Copyright Law Number 28 of 2014 Article 4, carried out by examining specific regulations or written laws related to the urgency of legal protection of digital work copyright.

RESULT AND DISCUSSION

Legal Protection of Copyright

Copyright originates from the results of human thought in various fields, including science, art, and literature. Copyright automatically arises when a work is created. This is a personal right attached to the creator, it is private because the work is the result of their creation. Copyright is rooted in the human creative process, not just copying or using pre-existing work. (Simatupang, 2021) Copyright is regulated in Law Number 28 of 2014. Article 1 Paragraph (1) of this Law states that copyright is an exclusive right that is granted to the creator automatically after a work is created in a tangible form, while still observing the limitations set by law. Copyright is an important part of intellectual property which has a broad scope, including science, art, literature, and also computer programs.

Increasing the creative economy, which is the main focus for Indonesia and other countries, is driven by advances in information and communication technology, demanding a revision of the Copyright Law. This is because copyright is an important foundation for the growth of the national creative economy. With copyright regulations that combine aspects of protection and development of the creative economy, it is hoped that the contribution of the Copyright and Related Rights sector to the country's economy can be maximized. Copyright is considered a naturally inherent right, is absolute, and is protected during the life of the author and several years after his death, with a protection period set at 70 years in the law. As an absolute right, this right can be defended against anyone, and the right holder has the authority to prosecute violations committed by anyone. (Suryansyah, 2019)

It is important to emphasize that a work must show aspects of originality and concrete existence to qualify for full copyright in the fields of art, literature, and science. The originality criterion aims to determine copyright ownership or claims to a work. It indicates that a work was created and originates from its creator. Originality does not have to mean absolute novelty in a work but rather confirms that the work is the result of authentic thoughts or creations from the creator. It is not eligible to have a copyright for a work that plagiarizes someone else's work or a work that is in the public domain. (P. MANURUNG, 2013)

According to UUHC Number 28 of 2014, Article 4 regulates that copyright consists of two types of rights, namely moral rights and economic rights. Copyright is an exclusive right that is only owned by the creator, which means that only the copyright owner has permission to use the work, and other people are prohibited or restricted from using it without permission. Article 8 UUHC confirms that economic rights are the exclusive rights of the creator or copyright holder to obtain economic benefits from the work. Article 9 paragraphs (1), (2), and (3) UUHC also explains that the creator or copyright holder has the economic right to carry out various actions, such as publishing, duplicating, translating, adapting, distributing, performing, announcing, communicating, and rental of copyrighted works.

According to Article 2 UUHC, every person who wants to use economic rights as described in the previous paragraph is required to obtain permission from the creator or copyright holder. Furthermore, this article also prohibits anyone from duplicating and/or commercially using works without permission from the creator or copyright holder. Moral rights, on the other hand, are rights that are inherent in the creator or actor and cannot be removed or abolished, even if the copyright or related rights have been transferred. Moral

rights remain valid even after the copyright protection period expires, and can only be transferred through a will or other provisions regulated by statutory regulations after the author's death (Riswandi, 2016a). By the provisions of Article 5 paragraph (1), moral rights are rights that are inseparable from the creator and are eternal, which enable him to:

- 1) Retain the choice to include or not include his or her name on the copy regarding public use of the work;
- 2) Using a pseudonym or alias;
- 3) Adapting his work by ethical standards applicable in society;
- 4) Changing the title and subtitle of the work;
- 5) Ensure that his rights are protected in situations where his work is subject to distortion, mutilation, modification, or any action that is detrimental to his honor or reputation.

The provision of individual rights plays a significant role in promoting growth and development in the creative economy. Therefore, it is vital to have legal protection for such rights, with copyright serving as the primary foundation for the progress of the creative economy at the national level. It highlights the importance of safeguarding these rights, not only for individual benefits but also for the collective growth of the creative sector.

Legal Protection of Digital Work Copyright

The ever-growing development of new technology has changed various forms of creation to become more modern and completely digital. Previously, these works might only be in physical or conventional form, but now they have metamorphosed into digital form. There are various types of digital works such as e-books, music, films, images, and others, which can be accessed easily through various online media. For example, books can be purchased at online bookstores, music can be listened to via platforms such as Spotify, songs can be accessed on various music applications, and images can be found on various social media platforms. Apart from that, watching films has also become easier via streaming platforms such as Netflix, Disney+, and others. Digital works have various advantages compared to conventional works, including ease of distribution, promotion, and storage. However, this convenience also carries the risk of copyright infringement, including (Rizki, 2017):

1. The basic difference between digital and traditional creative works lies in the copying process. In the case of traditional works, copying takes quite a long time and often the result will not be completely similar to the original. On the other hand, digital works can be copied quickly and easily without reducing their quality, because the process is carried out virtually using a computer.
2. Dissemination of digital copyrighted works is also much more efficient than traditional works. Physical works must be distributed through various channels such as land, water, and air, which takes time and costs. However, digital works can be distributed instantly via the Internet without time and distance limitations, thereby reducing the time required for distribution.
3. The flexibility of digital copyrighted works also allows for easier manipulation. Digital works can be modified without sacrificing their original quality, even including changing the name of the creator. However, despite these conveniences, digital works are also vulnerable to misuse and copyright infringement by unauthorized parties, so stricter legal protection is needed to protect the rights of creators.

Copyright protection that applies to conventional works cannot be directly applied to digital works because of the significant influence of technology in the development of digital works. However, technology can also be used as a tool to protect digital works. Therefore,

there needs to be adjustments in the regulations for the use of technology to protect digital work copyright within the applicable copyright law framework. Every individual who uses economic rights to a work must obtain permission from the creator or copyright holder, and violations of this may be subject to criminal sanctions.

Cases of copyright infringement occurring in the digital context are increasing, as experienced by Andrea Hirata with his book "Laskar Pelangi" which was copied without permission into an electronic book by an illegal site. Original books that have been legally published are replicated in e-book form by the site, even in larger quantities than the original version. E-books, as a digital form of printed books, require an electronic device such as a computer, smartphone, or tablet to be accessed. As a digital object, e-books have properties that allow them to be replicated easily, especially with the growth of internet use. This causes the number of e-books circulating digitally to far exceed the number of printed versions (Nareswari Manuaba & Sukihana, 2020).

Article 40 Paragraph (1) letter in Law Number 28 of 2014 concerning Copyright identifies books as a form of creation that receives protection. Even though the Law provides powerful legal protection for copyright, creators, and copyright holders, its implementation is often deviant, especially in the context of copyright violations against digital books or e-books. Violations of this kind, such as piracy and unauthorized sales, are concrete examples of how the implementation of copyright law still faces significant challenges. Perpetrators who commit copyright infringement can be prosecuted legally by applicable provisions (Labetubun, 2019). Article 95 Paragraph (1) of the Copyright Law states that if there is a copyright violation in the reproduction of a book without permission from the creator or copyright holder, the parties involved can resolve the dispute either through court or without going to court. Out-of-court settlements may include arbitration, mediation, negotiation, and conciliation. Only the Commercial Court has the authority to handle copyright cases in court. Apart from the problem of copying books, copyright violations also often occur in the context of images, songs, and film. The threat of imprisonment and/or fines for these violations is regulated in Article 113 of the Copyright Law, as follows (Article 113 of Law Number 28 of 2014 Concerning Copyright., n.d.):

1. Individuals who unlawfully commit violations of economic rights as described in Article 9 paragraph (1) letter i for Commercial Use will be subject to a maximum prison sentence of one year and/or a fine of up to IDR 100 million.
2. A person who, without the right and/or without permission from the Creator or Copyright holder, violates the Economic Rights of the Creator as regulated in Article 9 paragraph (1) letter c, letter d, letter f, and/or letter h for Commercial Use will be subject to a maximum prison sentence of three years and/or a fine of up to IDR 500 million.
3. Individuals who, without the right and/or without permission from the Creator or Copyright holder, violate the Economic Rights of the Creator as regulated in Article 9 paragraph (1) letter a letter b, letter e, and/or letter g for Commercial Use will be subject to a maximum prison sentence of four years and/or a fine of up to IDR 1 billion.
4. Anyone who meets the criteria as described in paragraph (3) who commits piracy will be subject to a maximum prison sentence of ten years and/or a fine of up to IDR 4 billion.

In addition, creators, copyright holders, or related rights owners have the right to request compensation through the Commercial Court for violations of copyright or related rights products. Actions that are not considered copyright infringement include use, taking, copying, and/or changing most or all of the work and/or related rights products, as long as the source is acknowledged or stated in full for a) education, research, writing scientific papers,

preparing reports, writing criticism or reviewing a problem without unduly harming the creator or copyright holder; b) security and administration of government, legislature, and justice; c) lectures for educational and scientific purposes only; or d) non-commercial performances or performances provided that they do not unduly harm the interests of the creator. In addition, some actions are not considered copyright infringement, including (Riswandi, 2016b):

- 1) Announcement, distribution, transmission, and/or reproduction of the national emblem and national anthem by their original characteristics;
- 2) Notification, distribution, transmission, and/or reproduction of anything carried out by or on behalf of the government, unless regulated by law, included in the work, or when there is announcement, distribution, transmission, and/or reproduction of the work;
- 3) Retrieval of actual news, whether in whole or in part from news sources, broadcasting institutions, newspapers, or other similar sources, provided the source is fully acknowledged;
- 4) Creation and distribution of copyright content through information and communication technology media that is non-commercial and/or benefits the creator or related parties, or if the creator gives permission for such creation and distribution;
- 5) Reproduction, notification, and/or distribution of portraits of the president, vice president, former president, former vice president, national heroes, state officials, non-ministerial government officials, and/or regional heads taking into account the honor and provisions of the applicable laws. If the act of copying and modifying falls within the exception of copyright infringement, it will not be considered a copyright infringement by the UUHC.

There is room for improvement in the government's approach to handling the duplication of creative works in the digital age. Intellectual property rights (IPR) awareness remains low in society, particularly given the prevalence of digitalization. The government must disseminate understanding about IPR, beginning with educational initiatives that reach all corners of the country. Outreach efforts should utilize various media platforms, such as online campaigns and television advertisements, rather than being limited to seminars. Furthermore, the challenge of insufficiently trained workers in handling violations on cross-border internet platforms adds to the complexity of the issue. Therefore, the government must make further efforts to more effectively control piracy sites. (Yanto, 2015)

Understanding copyright protection in society is important and plays a big role. It can be integrated with the way technology is used as a tool to protect copyright. When technology becomes a tool for protecting copyright, its role is not only to prevent misuse of copyright in digital works but also to monitor and take action against copyright violations. The aim is for technology to balance copyright protection and access to public information. (Hidayah, 2017) Public involvement is critical because they often use digital works found on the Internet for various purposes, ranging from personal use such as setting as a cellphone background with digital painting or photography to commercial use such as for brochures, pamphlets, or logo design. However, it is important to remember that digital use for personal purposes can also be a violation because many violations stem from personal use. Therefore, strong legal awareness and understanding of intellectual property rights (IPR) are very important for society. Incorporating images or photos into digital content such as articles can increase its appeal. However, users are often not careful when taking images from other platforms on the internet without permission, which has led to an increase in cases of copyright infringement of images on the internet.

While image owners do not need to register or mark copyright on their images, protecting their copyright is still crucial to them. To steer clear of copyright infringement when using images online, it is advisable to gather information about the image's origin. It can be achieved by contacting the source directly or seeking authorization from the image creator who may have granted official permission or a license to someone else, with or without payment (such as images that fall under the public domain) or through a Creative Commons license with specific usage conditions. By taking these measures, individuals can minimize the possibility of being sued for image use.

CONCLUSION

The rapid growth of science and technology has significantly impacted people's daily lives, with the internet being a major example. The normative juridical approach in legal research focuses on statutory regulations or rules regulating human behavior. Copyright, an exclusive right owned by the creator, provides control over the use of certain works or information, granting the right to legally copy or enjoy the work while restricting unauthorized use. UUHC Number 28 of 2014 states that copyright consists of moral and economic rights, with violations potentially subject to criminal penalties. Parties affected by copyright infringement can file a claim for compensation with the Commercial Court. Public awareness of intellectual property rights and existing legal protections is crucial, especially considering the large number of digital works used for various purposes. Creators should take preventive steps by legalizing their works and imposing strict sanctions on copyright violators. The public plays a key role in preventing copyright infringement, and the government plays a crucial role in disseminating information about copyright infringement.

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