



Copyright in the Digital Age in the Protection of Intellectual Property Rights in Indonesia

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Abstract. In the General Arrangement of Article 1 of the Intellectual Property Law number 28 of 2014, what is meant by Copyright is the creator's elective right that arises consequently based on the standard of revelation after a Creation is recognized in substantial structure without prejudice to such limitations as are following regulatory arrangements and guidelines. Sanctions against Intellectual Property Regulations have caused turmoil for the Data and Correspondence Innovation (ICI) group, often referred to as Data Correspondence Innovation or ICT, including related businesses such as communication media, broadcasting and content suppliers. It is due to the frequent contradictory interpretations of law enforcement officials regarding the importance of understanding Intellectual Property Rights (IPR) in ICT or ICT convergence activities and Article 15 of the fair use doctrine of the UUHC. Today's issue is how to move the protected type of work into an advanced (design) structure. It sometimes gives rise to various understandings, including copyright encroachment. If the melody or new music is obtained through tapes or circles (Albums), what is the status if it has become an MP3 or MP5 design? Whether it can still be classified as a melodic work or a protected computer program, the IPR security issue in Indonesia's ICT business turns out to be very critical. In addition, Indonesia's commitment to the World Trade Organization (WTO), particularly the General Agreement on Trade in Intellectual Property Rights (TRIPs) and the General Agreement on Trade in Services (GATS), will benefit foreign investors by providing legal certainty and attracting and encouraging investment in the ICT industry. By prioritizing the protection of the exclusive rights of creators in the field of information and communication technology with the doctrine of fair use, this research aims to find solutions to copyright issues in the digital era. In addition, it also traces legitimate arrangements by dissecting the government's approach to material regulations and guidelines without actually disadvantaging local areas and in terms of coverage guidelines. The exploration strategy used in this examination is the standardization of legitimate examinations by utilizing library materials as basic information, which in legitimate legal science is called selected information. In this way, dealing with the presumption of Protected Innovation Privilege in the ICT business area requires guaranteeing fundamental legitimacy between the guidelines of the ideal strategy and policing.

Keywords: ICT Copyright, Legal Protection, Law.

1 Introduction

Information and communication technology continues to develop at the same pace as human needs, and education is no exception. The tendency to use the image "e," which translates as electronic, is starting to emerge and be applied in almost all fields. Call it e-schooling, e-government, e-advancing, etc., the task of educators in applying data utilization innovations and correspondence more appropriately is highly expected to better illustrate at a younger age the utilization of innovations in a more appropriate and more useful way.

Entering the Century of Data Innovation and Correspondence (ICT) is now much needed, in addition, the significance of integrating ICT (information and communications technology) into educational endeavors. By providing broad access to science and the administration of high-quality education, ICT allows us to precisely enhance the quality of education. Information and communication technology systems make it possible to disseminate information quickly, effectively and efficiently to various parts of the world. Communication theories and technologies that support learning activities are advancing at the same speed as information technology.

Following Article II of the Temporary Principles of the 1945 Constitution, the Continental European legal system in the set of general laws passed by the Netherlands, so in Indonesia, the general regulations and exchange regulations are relocated from Dutch regulations, and the Netherlands has regulated Protected Innovation Regulation (IPR) or intellectual property rights [12]. [5] Since 1888, Indonesia has been a party to the Madrid Convention (1893–1936), the Berne Convention for the Protection of Literary Works (1914–1936), and the Paris Convention for the Protection of Industrial Property. Indonesia was still referred to as the Dutch East Indies at that time.

Intellectual Property Regulation No. 6 of 1982 [6] was the first intellectual property regulation created in Indonesia to replace the Dutch Staatbald Auteurswet 1912 No. 600. The approval of the 1982 The Copyright Act is expected to safeguard the production and dissemination of literary, artistic, and scientific works and to accelerate the development of the nation's life intelligence.

The law was amended in 1987 due to various factors, including the amount of Copyright infringement itself, and then passed Law Number 7 of 1987 concerning Copyright. Along with the times, IPR measures are also advancing. The law must have options to address new problems. Countries worldwide are inspired to update the existing order due to the issue of IPR protection in the field of information technology. The reasons include the realization that IPR can affect a country's economy if guarded seriously, and even IPR can affect world trade. In 1994, countries followed the agreement in the 8th Round of GATT (General Settlement on Tariffs and Exchanges), namely the Travel Arrangement (Exchange-Related Part of the Protected Freedom of Innovation). Each member country is obliged to implement internationally agreed intellectual property rights regulations.

Countries must adopt national regulations based on the TRIPs Agreement as a result of signing the agreement. The text of the law is submitted to each country with

a note that it does not conflict with the TRIPs Agreement. Indonesia agreed to ratify by issuing Regulation Number 7 of 1994.

Due to the ratification, Indonesia had to update according to the Trips Agreement arrangement. 2002, the UUHC was amended, and Law No. 19 of 2002 was enacted. The law is considered complete because it includes manifestations from mechanical progress as objects of creation. Databases and computer programs are examples of these creations. The proliferation of products can fulfill the embodiment-centered interests of creators by using innovation. However, further refinement of the Copyright Law (UUHC) changed with the enactment of Law Number 28 Year 2014 on Copyright to replace the previous regulation. The changes include the offense and the term of protection. The offense of the report was changed to an offense of complaint. The term of protection was then extended to cover the creator's lifetime plus 70 years, up from 50 years ago.

For the creator, the idea of copyright protection offers a sense of security. "Creator" refers to an individual or a collective that, either alone or in concert, produces unique and individual works of art (Articles 1 and 2 of Law Number 28 of 2014 respecting Copyright).

2 Methodology

This research uses descriptive analysis normative juridical method. The author researches by understanding and analyzing legal arrangements and adjusting to the development of existing laws in society today. As for now, the research uses secondary data sources, which are primary legal materials such as Law Number 28 of 2014, namely on Copyright (Copyright Law), and Law Number 11 of 2008 concerning electronic transactions and information. Furthermore, materials such as legal studies and writings, tertiary legal materials, and other reading sources are needed. The collection and analysis technique starts with collecting data, sorting it, displaying it, and drawing conclusions to analyze this research.

3 Discussion

3.1 Definition of Copyright and Exclusive Rights

According to Article 1 of Law Number 28 of 2014 regarding copyright, the creator's exclusive rights arise immediately based on the declarative principle after a creation is realized in a tangible form, without diminishing the constraints imposed by laws and regulations.

Exclusive Rights are rights that belong to the creator or copyright holder or the holder of related freedoms consisting of financial freedom and moral freedom, which are exclusively reserved for the holder so that no other party can use these rights without the consent of the copyright holder [6].

Moral rights, as mentioned in Article 4, are rights that are forever attached to the creator (**Article 5 of Law No. 28/2014 on Copyright**):

- a. To continue to include or not include his/her name on copies in connection with the public use of his/her work
- b. Use a pseudonym or alias
- c. Adjusting his work with legitimacy in the general public
- d. Modify the work's title and description.
- e. Defend his/her rights if the work is altered, distorted, partial appropriation of the work, or modification of the work in any other manner detrimental to his/her honor or reputation.

The main purpose of moral rights is to preserve the dignity of the creator and his or her work by stating the creator's name when using his or her creation, as this is the simplest form. Moral rights also recognize the creator's capacity for inner satisfaction with his creation. Economic rights are the exclusive right of the creator or copyright holder to receive financial compensation for his or her work (**Article 8 of Law Number 28 Year 2014 on Copyright**).

In addition, Intellectual Property Rights become meaningless if they are unrelated to the cycle or act of commercializing the IPR itself [1]. The creator or copyright holder can take financial advantage of his creation. Creators and copyright owners are entitled to royalties on any profits derived from the use of their creations. Furthermore, any attempt to utilize the work without the consent of the creator or copyright holder is an infringement of copyright. Monopolistic misuse of copyright is an exception to the contest. This financial abuse is a fundamental premise of copyright security. The difficult work of the creator is preserved when he gets both material and non-material benefits. Copyright can also be a source of income for the creator by licensing it to others. When his creation is licensed, the creator will receive a fair royalty without much effort.

According to Article 8, the creator or copyright holder has the economic right to:

- Distribution of the work
- Reproduction of the work in its entire structure
- Interpretation of the work
- Variations, acts, or alterations of the work
- Dissemination of the work or its duplicates
- Execution of the creation
- Declaration of creation
- Communication of the work
- Rental of the work.

The law lists the various ways in which creations can be used to provide economic benefits. If a computer program is not the main object being leased, Article 11(2) states that leasing the creation or its copies does not include computer programs. The many monetary freedoms a creator can gain may be able to build the standard of living of the creator or copyright holder. It is an important function played by copyright in a work. Apart from the creator and copyright holder, others can engage in the work for monetary purposes if authorized by the creator or copyright holder. This consent game plan shows that copyright is generally not rigid or cannot be utilized by others by any stretch of the imagination.

With a set of arrangements containing the consent of the creator and copyright holder, the other party can utilize the copyright protest, in any case, for business purposes. This understanding is a permission arrangement that directs gatherings to fulfill their privileges and commitments as creators and copyright holders through licenses.

3.2 Legal Protection of Copyright in the Digital Era

The idea of natural law, especially the concept of absolute ownership, inherited from the Roman legal system, is the foundation of intellectual property rights protection, especially in developed countries such as Western Europe [9]. IPR security, in a whole series of laws, was created as a component of basic freedoms that began in England in the Magna Carta. "Everyone has the right to obtain protection (for moral and material interests) derived from the results of scientific, literary or artistic works in the event that he is the creator," stated in Article 27, paragraph 2 of the World Declaration of Human Rights [2].

In today's world, disputes over intellectual property rights result in compensation. Copyright, in particular, is not more important than economic rights in intellectual property rights. The need to recognize, protect and reward authors, artistic creators of software and other creations, and access to their work for the benefit of humanity is beginning to be felt in Indonesia [8].

[13] According to Laurence M. Friedman, intellectual property's presence of law, which has long been regulated in several regulations, requires other legal components in its implementation. These components include the requirement for a structure in the form of a body or institution formed through various types of legal systematics that are functional in supporting its enforceability, followed by the requirement for a substance component, which is the output aspect of the legal systematics or norms born from this system, and finally, culture in the form of behavior.

The long intellectual property protection process cannot be separated from its significance. In Indonesia, guidelines regarding the legitimate security of licensed innovations have been required separately based on the type of protected innovation itself. Efforts to provide legitimate security are carried out by granting elite freedom, as referred to in Article 1 paragraph (1).

The UUHC states that creators have a power called exclusive rights based on the declaratory principle obtained by working and much time. The protection of intellectual property (IPR) must be implemented following the law to ensure the continuity of the work of others and provide security to the creator. The substance component of the law on IP that seeks to protect IP by avoiding and indicting infringement that has been embraced in different legal arrangements will be explained later. I As the protected innovation is not owned by the obvious (pronounced), IP is released from relevant privileges. This is just a right that the inventor has obtained. Suhono asserted that copy protection, hard marking, visible marking, encryption, and other technological means may effectively safeguard exclusive rights in the digital age.

According to **Article 4 of the Copyright Law**, there are two types of exclusivity: moral and economic rights. In their terms, moral rights are intimately linked to the creator and his intellectual property, since only the creator is able to alter or even modify what they have created. Which actions are forbidden by the "copyright holder" since their exclusive rights are limited and they are only permitted for economic purposes? Article 95 of the Copyright Law states that in the event of a dispute, criminal prosecution will follow a mediation procedure. Natural rights are a defense that serves as the cornerstone for all types of constitutional governance, according to John Locke's Natural Law Theory. Private commercialization can be detrimental to the inventor, as it might discredit any individual associated with the innovation. Everybody is naturally entitled to the intellectual property that comes from their creative works. It again shows how important it was for John Locke to convey that every natural creator has a right over the production of his intellectual property.

According to the World Intellectual Property Organization (WIPO), IP refers to the embodiment of the soul, such as abstract, creative, development, etc., used in commerce. As a rule, IP is separated into 2 types of freedom: industrial rights and copyrights. Industrial property recalls licenses for development, brand names, patents, and geographical indication marks. Then, copyright protects literary works like books and poems, paintings, architectural designs, and even the work of performing artists, record labels, radio and television broadcasters, and phonogram manufacturers.

3.3 Efforts to Overcome Copyright Abuse in the Digital Age

Regarding the ownership relationship to copyright, the law acts and ensures that the author will have exclusive control over and enjoyment of the work, with the assistance of the state for law enforcement if needed. It demonstrates that the owner of the rights has a stake in having legal protection. It does not, however, disregard societal interests; the evolving IPR system demonstrates this. Between the interests of society and copyright holders, there is equilibrium. There are 4 (four) principles of the IPR system to regulate the balancing of these interests, namely [4]:

a. The principle of justice (the principle of natural justice)

The creator is entitled to the rewards of copyrighted works, both material and non-material, such as a sense of security because he/she is protected and recognized for her/his work born of his intellectual abilities. Copyright protection is national and international.

b. Economic Principles (the economic argument)

The creator is entitled to the economic value that is useful for the life of his copyrighted work in the form of material benefits, for example, getting royalties on the song of his creation.

c. Cultural Principle (the cultural argument)

With the growth and development of science, art and literature, the standard of living, civilization and human dignity also increases, which can generate the spirit to create new creations.

d. Social Principles (the social argument)

Ownership of the copyrighted work of the creator is not merely legal protection of the creator's interests, but the law also considers the interests of society with a balance between the two. This form of balance is seen in the social function and compulsory license in the Indonesian Copyright Law.

The Copyright Act also provides for certain limitations on a person's freedom to use someone else's copyright by mentioning the source. It is not an offense or called fair dealing or fair use. Can this also be applied in the digital era with easy access to the internet? With the exclusive rights owned by the creator of his work, anyone who will, for example, reproduce a copyrighted work, the right to transfer cannot do so without the permission of the creator or data retrieval following the provisions of copyright regulation. If this happens, especially if there is an element of enjoying the economic results of the creator, it can be applied as a copyright infringement on the internet network.

The protection of creators of their works can be done through legal channels. However, while quick and cheap justice still holds, the courts have the opposite effect in dispute resolution as they are time-consuming and costly. In addition, when disputes are resolved through litigation, the parties lose the ability to concentrate on the issues at hand. Dealing with the judicial process is like those who are faced with rugged terrain without adequate legal knowledge.

3.4 Doctrines of Fair Use and Fair Dealing

As a vestige of the Continental European legal system, the Indonesian legal system incorporates the Anglo-Saxon idea of fair use. A community established within the context of use-based regulation, within particular bounds established by copyright law and multiple international conventions, is the doctrine of fair use or fair dealing. The question at hand concerns public access to the use of the work. The public can use works with reasonable restrictions. Fair use entails refraining from excess and, above all, refraining from selling without authorization.

Moreover, the doctrine of fair use does not end the creator's relationship with the user of the copyrighted work at this point. The freedom of the creator remains connected to the work. As a result, the creator is still recognized and retains legal ownership of the exclusive rights.

The general public can utilize copyrighted works for a variety of reasons in a good way by using fair dealing and fair usage. This principle leads to the conclusion that the author should allow others to use his creations. Fair use and fair dealing can thus be applied, provided that there is no infringement of the material. For instance, when reference to a study is made to a work of authorship. The name of the author or creator should then be included.

William Van Caenegem argues that this idea of a fair dealing exception removes the copyright privilege's commitment to supporting education, training, public conversation, and disseminating data about copyright. "Fair use involves a balancing process in which variables determine whether other interests should override the creator's rights [2].

This fair-use strategy, according to Arthur R. Miller and Michael H. Davis, strikes a balance between the author's interests and complex variables. When the general public uses fair use for many copyright purposes, it is significant. Arthur also includes the creator's passions in his work [3]:

- a. The intent behind the use, its nature, and its commercial aspect.
- b. The type of work protected by copyright.
- c. How much was "taken."
- d. The monetary consequences of the "taking."

Under international regulations (TRIPs Agreement), if a non-member country of the Association cannot equally protect the work of a creator who is a national of a member country, it may limit the protection granted to the creator, who is a national of another country at the time of first publication and is not a resident of that country. The regulations made do not necessarily refer to the rights of the creator. A legitimate security situation for the freedom of innovation that is licensed must ensure harmony between the interests of the IPR holder and the interests of society at large. Certain people will argue that IPRs are too individualized despite the privilege of the entire population embodied in the idea of IPRs.

These two interests are different sides of a coin that must be seen in the idea of IPR security as stated in Article 27 of The Universal Declaration of Human Rights: "Everyone has the right to take part unhindered in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits". So, everyone has the right to participate freely in the community's cultural life, enjoy the arts, and benefit from scientific advancement. As a result, any restrictions on copyright and the concept of copyright are set out in Article 43 to Article 51 of Law No. 28 of 2014.

PC program business security must be solved by creating legal regulations that accommodate violations. Although the law contains the meaning of decisions that can be applied to regulate relations between people and between people and their society, the business also contains a general sense of standard and constant, that is, as an exercise to secure labor and products or offices to be sold, traded or rented determined to make a profit. It is also a general sense of standard and constant, i.e., as an exercise to secure labor and products or offices to be sold, traded or rented determined to make a profit. Similarly, a PC program business aimed at profit should follow the material guidelines. Since a PC program is an object of copyright guarantee, a PC project must receive authorization from the creator or copyright holder.

Criminal arrangements control some violations of the creator's or copyright holder's economic rights. Intellectual property regulation Article 113 of Law No. 28 of 2014 defines copyright infringement as a crime against or against property.

- (1) Any individual who violates the economic rights mentioned in Article 9 paragraph (1) letter I for commercial use will be subject to a maximum fine of Rp100,000,000.00 (one hundred million rupiah) and a maximum sentence of one (1) year in prison.
- (2) Any individual who violates the economic rights mentioned in Article 9 paragraph (1) letter I for commercial use will be subject to a maximum fine of

Rp100,000,000.00 (one hundred million rupiah) and a maximum sentence of one (1) year in prison.

- (3) A maximum fine of Rp4,000,000,000.00 (four billion rupiah) and ten (ten) years in jail are the penalties for anyone who meets the requirements stated in paragraph (3) in the form of piracy.

In criminal enforcement of copyright criminal acts, two institutions can conduct investigations to enforce copyright infringement: The Indonesian National Police and specific civil personnel assigned special investigative authority inside the ministry that oversees government affairs in the sphere of law. At the moment, breaking the UUHC's criminal arrangement is a complaint infraction. The prior law did not provide the better protection that was anticipated, despite the fact that the articles that ensnare those who commit copyright crimes are far broader and carry far harsher penalties. At that point, the rental is not allowed within the parameters of the PC program if the rental is not for the purpose of renting a PC program.

Legal protection of computer programs is difficult because it is difficult to find pirated applications, making it difficult to take action to track them. Seeing this condition, not a few engineers decided to make open-source programs where everyone is allowed to create or make applications that anyone can use (freeware). It will reduce the number of computer program violations.

4 Conclusion

1. The logic of the function of copyright to encourage the creation of creative works is very difficult to ignore. Foreign investment and economic confidence in the country are highly dependent on the effectiveness of law enforcement on intellectual property works that protect the creators, but law enforcement through the judicial process is very little in solving the problem of copyright infringement cases.
2. To balance between the rights of copyright owners with the interests of the wider community to gain access to information with the existence of fair use (fair use-dealing), except for the use of others the government should exercise strict oversight of copyright protection against acts of violation of the law beyond the acts that have been outlined in the Copyright Act for the purposes of education, research, writing scientific papers, reporting, writing criticism or reviews of a problem with no detriment to the interests of reasonable people, taking the creation of others either entirely or partially for defense in and out of court, and other matters relating to computers used for education. And decisive action against law enforcement copyright infringement.

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