

COMPARISON OF DIGITAL COPYRIGHT REGULATIONS: DMCA SECTION 512 AND 1201 VS LAW NO. 28 OF 2014

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Abstract

This article discusses the regulation and protection of digital copyright under the United States Digital Millennium Copyright Act (DMCA) Sections 512 and 1201, and compares these provisions with Indonesia Copyright Law No. 28 of 2014. The main question guiding this research in Indonesia's digital copyright protection. The study plays a critical role in bridging the gap between international copyright standards and Indonesian legal frameworks, highlighting the relevance of adaptive measures in the digital environment. The research uses a normative legal method, applying a statutory and comparative approach to examine both regulatory frameworks. Data shows that the DMCA implements adaptive digital copyright protection through mechanisms like notice-and-takedown procedures, safe harbor provisions for online service providers, and prohibitions on circumventing technological protection measures. The article discusses these findings by critically analyzing both legal texts and their respective enforcement practices, showing that the DMCA's frameworks align more closely with the needs of digital content protection. The main finding is that the DMCA's provisions can serve as a relevant reference for Indonesia in formulating and enhancing its own digital copyright regulations to better address challenges posed by technological advances and the digital marketplace. Overall, this study to the ongoing discourse on improving copyright protection in the digital era through international legal comparison.

Keywords: *DMCA Section 512, Safe Harbor Provisions, Notice and Takedown Mechanism, Digital Copyright Enforcement, Legal Comparative Analysis*

A. INTRODUCTION

The rapid development of communication and information technology poses a significant challenge for Indonesia, as a developing country, to keep pace with this progress. Alongside this advancement, there has been a parallel growth in the protection of intellectual property rights, particularly copyright. Copyright is granted automatically without the need for registration, as it falls under the principle of automatic protection¹. The ease with which the public can access, disseminate, and produce creative works from written texts, images, and music multimedia content has pushed the government to establish regulations that address these developments. Copyright, as a part of intellectual Property Rights, is an exclusive right granted by the state to creators over their works². Copyright protection is crucial not only to give recognition for creative efforts but also to safeguard the economic value of the work. In the digital era, copyright infringement is increasingly prevalent in the digital space, including acts of piracy, circumvention of digital rights management technologies, and illegal distribution in many countries, including Indonesia.

At the international level, the United States was among the first to respond to these challenges through the enactment of the Digital Millennium Copyright Act (DMCA) in 1998. Legal responses to content removal largely rely on intellectual property law, with the core approach being the DMCA.³ This Act is considered a milestone in digital copyright protection, as it specifically regulates the protection of works on the internet. It contains two key provisions: Section 512, which was enacted by Congress in 1998, establishes safe harbor rules to encourage strong cooperation between internet service providers and copyright holders, aiming to foster collaboration in

¹ Endang Purwaningsih, *Hak Kekayaan Intelektual (HKI) dan Lisensi* (Bandung: CV Mandar Maju, 2012), p. 87.

² Lilik Prihatin, "Perlindungan Hak Kekayaan Intelektual: Sebuah Esensial Hak Cipta pada Era Revolusi Industri 4.0", *UNES Law Review*, vol. 6, no. 4 (2024), pp. 11321-11329.

³ Boyi Wei, "Evaluating Copyright Takedown Methods for Language Models", *arXiv:2406.18664* (2024), pp. 1 - 35

identifying and addressing copyright infringement in the ever evolving digital landscape and Section 1201⁴, which prohibits the circumvention of digital protection systems or anti circumvention technologies.

As a developing country, Indonesia has regulated copyright through Law No 28 of 2014 as the national legal framework for copyright protection. However, compared to the Digital Millennium Copyright Act (DMCA), Indonesia's legislation does not yet provide detailed and technical guidance on how to onforce protection against digital security technologies. This absence and limitation in regulation create legal loopholes that can be exploited for copyright violations in the digital space without adequate legal enforcement. Although copyright related issues continue to arise, many remain unaddressed or insufficiently regulated within the Copyright Law or its implementing regulations.⁵

Globalization and technological advancement have accelerated cross border economic and legal activities, including trade, content distribution licensing, and streaming services. National legal systems are therefore pressured to become more adaptive and responsive in addressing digital copyright protection. Consequently, developing countries need to anlyze and compare regulations such as the DMCA with Indonesia's Copyright Law to identify more effective and suitable regulatory frameworks that meet national needs for protecting digital works. The growing awareness of the importance of protecting digital works in this era of globalization aligns with society's increasing reliance on technology and information, as well as the need to strengthen Indonesia's legal system so that it can adapt to and address violations occurring in digital spaces. A comparative legal approach that examines the DMCA particularly Section 512 and 1201 against Indonesia's legal framework could provide insights into adopting relevant principles into national regulations.

⁴ Shabrina Ortega, "The Digital Millennium Copyright Act In Need of a Major Software Update", *Michigan Business and Entrepreneurial Law Review*, vol. 12, no. 1 (2023), pp. 75 - 105

⁵ Bernard Nainggolan, *Pemberdayaan Hukum Hak Cipta dan Lembaga Manajemen Kolektif* (Bandung: Penerbit Alumni, 2023), p. 22.

B. RESULTS AND DISCUSSION

This study focuses on the discussion that the United States digital copyright protection that has been regulated in the Digital Millennium Copyright Act (DMCA) has proven to be more adaptable to the rapid development of digital technology. DMCA is very helpful for creators or copyright owners because of its practical and efficient regulations in protecting copyrighted content online.⁶ This proves that the United States has succeeded in developing a protection system that effectively addresses the challenges of the increasingly complex and dynamic digital era.

The legal framework for digital copyright protection in Indonesia is currently still very limited, especially in terms of technical regulations and mechanisms, especially in removing content that violates copyright. Although Law No. 28 of 2014 provides general copyright protection, its implementation in the digital context cannot be said to be optimal. This gap often becomes an opportunity for irresponsible parties to exploit creative works unlawfully in the digital space. Based on these findings, the following sections will discuss in more detail how the DMCA manages to provide adaptive digital copyright protection, and how its principles could be considered to help strengthen Indonesia's legal framework in facing the challenges of the digital era.

1. Analysis of Digital Copyright Protection in the United States through the DMCA

This study found that the DMCA offers a more responsive framework for digital copyright protection that aligns well with current technological trends. Evidence shows that the DMCA has been quite successful in removing infringing content. For example, the international website Erasa.net reports a 95% success rate in

⁶ Rifa E. K., "Penerapan Digital Rights Management (DRM) untuk Pelindungan Hak Cipta Digital: Studi Komparatif antara Undang-Undang No. 28 Tahun 2014 tentang Hak Cipta dengan DMCA", *Jurnal Hukum dan Kewarganegaraan*, vol. 10, no. 4 (2025), pp. 3031-0369.

taking down illegal content under the DMCA.⁷ Additionally, Wired.com mentions that Google regularly removes over a million links violating copyright from its search results to comply with the DMCA. Section 512 of the DMCA is particularly important as it provides a notice-and-takedown system that allows copyright owners to request the removal of infringing content swiftly and efficiently. Meanwhile, Section 1201 of the DMCA explicitly prohibits the circumvention of digital protection technologies designed to safeguard copyrighted works. Overall, the legal framework offered by the DMCA has proven effective in providing comprehensive protection, while also supporting digital creativity in this fast-paced information era.

2. Relevance and Challenges of Adopting DMCA Principles within Indonesia's Legal Framework

Compared to the DMCA, Law No 28 of 2014 in Indonesia has not been able to provide equal protection, especially regarding the enforcement of digital copyright. Law No 28 of 2014 does not have clear technical provisions for notification and removal procedures, as well as to protect the underlying digital technology that supports creative works. Must go through lengthy legal procedures through the courts lengthy legal procedures through the courts and others and usually end up being given large fines for copyright infringers. Providing protection for human rights (HAM) that are harmed by others and this protection is given to the community so that they can enjoy all the rights granted by law.⁸ This creates a significant challenge for the government to create policies in Indonesia to address copyright infringement in an increasingly complex digital landscape.

The main principles of the DMCA, such as copyright protection provisions and the notification provisions and the notification and removal process, can be reference for strengthening Indonesian

⁷ <https://www.erasa.net/dmca-takedown>, retrieved Juni 5, 2025

⁸ Satijipto Raharjo, *Ilmu Hukum* (Bandung: PT. Citra Aditya Bakti, 2000), p. 16.

copyright law. However, there are several things to consider in applying these principles, one of which is the need to consider the differences between the legal systems in the United States and Indonesia. While the US uses a common law system that is more flexible in its legal interpretation, Indonesia follows a civil law system that is generally more rigid in its application. Recognizing these differences is important to ensure that any adaptation of the DMCA principles is in line with Indonesian culture and legal practices.

Furthermore, the implementation of the safe harbor will require more complex regulations and strong coordination among related institutions, including the Ministry of Communication and Information, the Directorate General of Intellectual Property, and law enforcement authorities. Currently, digital content supervision in Indonesia is spread across various institutions and is still not well integrated. This encourages inter-institutional collaboration to create a more effective enforcement mechanism. Nevertheless, this study concludes that the integration of DMCA principles into the Indonesian legal system can still be considered for implementation with careful, selective, and contextual adjustments. This approach will not only improve copyright protection but also provide a sense of security in greater legal certainty for digital creators in Indonesia. Ultimately, these efforts will put Indonesia in a better position to face the challenges of the rapidly evolving digital era.

C. CONCLUSION

The regulation of digital copyright protection in Law Number 28 of 2014 is still general in nature and has not explicitly accommodated the dynamics of violations in the digital realm. Although this Law is the legal basis for copyright protection in Indonesia, it does not yet have specific provisions that technically and operationally regulate the procedures for handling digital violations, such as content removal mechanisms (notice and takedown), the responsibility of internet service providers, and protection of digital work security technology. As a result, there is a gap between the need for protection

in cyberspace and the legal instruments available, so that copyright owners often have difficulty enforcing their rights effectively on digital platforms.

DMCA Section 512 and Section 1201 in the United States offer a more adaptive legal approach to the development of digital technology, and can be a reference in updating the Indonesian legal system. Section 512 DMCA introduces a notice-and-takedown system that provides a fast and efficient path for rights owners to request the removal of infringing content, and provides legal protection (safe harbor) for internet service providers who act cooperatively. Meanwhile, Section 1201 prohibits the act of circumventing security software (anti-circumvention), which is very relevant to protecting digital works from technology-based piracy. These mechanisms show that laws can be designed to keep up with the times, without sacrificing the principles of justice and protection of rights.

The adoption of the main principles in the DMCA into the Indonesian legal system is very relevant in strengthening digital copyright protection, especially in facing the challenges of globalization and the digital era. With the increasingly massive copyright violations through digital platforms and the minimal effectiveness of existing law enforcement, the implementation of a protection model such as the DMCA can bridge the legal needs of the digital community. In addition to strengthening the position of rights owners, this adoption will also provide legal certainty for digital platform providers in Indonesia. Therefore, the development of DMCA-based regulations does not mean copying foreign legal systems, but rather adapting them to national needs and Indonesian legal principles in order to create fairer, more preventive, and more adaptive legal protection.

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