

PROTECTION OF INTELLECTUAL PROPERTY RIGHTS IN COPYRIGHT IN INDONESIA

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Abstract

Law number 28 of 2014 on copyright regulates the legal protection of copyright. The right to intellectual property (HKI), or copyright, is the property that results from and is derived from human intellectual capacity. Humans develop this skill through the structure of their intellectual creations. The implementation of state-provided legal protection for creators can be observed in Law No. 28 of 2014 on copyright. Normative juridical research is the kind of study that is employed. In order to conduct normative research, this study employed data from legal sources. Library research is the method used to collect the data.

Keywords: *Legal Protection, Intellectual Property, Law.*

A. INTRODUCTION

In the modern era, protection is owned by every human being, there needs to be rules, some Intellectual Property Rights (IPR). Intellectual property rights have legal issues that can be linked to IPR that require the existence of legal rules, there are various kinds of intellectuals that have the existence of legal protection, intellectual works are made as values in Industry and trade, many problems in the world of trade that need more competent regulation and must be

various discussions that can be linked to intellectual property rights can occur various problems including globalization.

The rapid development of the current era, one of which is the economy from the past to the present, can provide rights that if there is a change in Intellectual Property Rights (IPR), one of which is Copyright. It is very necessary to have legal protection that is beneficial to copyright in order to obtain good results and progress in the field of art and literature.

The beginning of the existence of intellectual property rights, one of which is the issue of IPR law that can regulate the law, the existence of various types of intellectual works that can get legal protection, realized intellectual works as assets in the fields of industry and trade, the increasingly complex problems in the world of trade that have more appropriate rules for various problems, one of which is problems in the field of IPR and the existence of globalization in various forms (borderless world) IPR is Intellectual Work that has been created is IPR:¹

1. Copyright
2. Industrial Wealth

The cultural art property is one of the sources of intellectual works that can be protected by law. The wealth is not only for art and culture, it can also be needed to provide information in the fields of trade and industry that have it. Therefore, the wealth itself is art and culture that can be protected and get welfare. Not only for the Nation and State.²

The way has a human philosophical nature, for example, why IPR gets protection, the most understandable and basic response is that IPR protection is to secure intellectual thinking that is born like that, creating various advantages and disadvantages, so that intellectual ideas can be found that need to be protected. Intellectual

¹Djulaika, *The Concept of Intellectual Property Rights Protection: The Perspective of Philosophical Studies of Collective-Communal Intellectual Property Rights*, Malang, East Java, Setara Press, 2014, Page 1

²Adrian Sutedi, *Intellectual Property Rights*, Jakarta, Sinar Grafika, 2009, page 114

Property Rights (IPR) have a positive role. This is obtained IPR has a close relationship with technology, economy, and art and culture. IPR in life, there is IPR that is protected. One form of IPR that must be protected is copyright, for example, pirated music. This is also important, one of the musical creations is obtained through labor, and also costs. Indonesia has a law on this. However, the law has not been able to deter criminals from piracy. Piracy is also increasing and concerning. Piracy can be a factor in the lack of human awareness. A bad image by the international world and the threat of sanctions are certain to be received by the Indonesian state. In addition, the treatment of piracy will also result in a decline in the creativity of artists. Seeing the rampant piracy of musical works in Indonesia and as a signatory country to the TRIPs agreement, Indonesia must enforce the law in the field of IPR, especially copyright. More than one of the copyrights of musical works. If piracy of musical works continues, creators will continue to suffer losses, especially in the economic sector. For that, the state has a moral responsibility to protect the works of the nation's children from piracy.

B. RESULTS AND DISCUSSION

Why it is important to secure Intellectual Property Rights?

All Intellectual property is a work that should not be identified by other individuals, negative group behavior is the same as not appreciating the artist by a work, it is another word for "intelligence" that is degraded. That is why there are various reasons why intellectual property rights need protection:

- a. HAKI has pure value
- b. Maintaining honor

Support and compensation for discoveries and creation According to Robert C Sherwood, as reported by Rati Fauza Mayana in his book Protection of Indonesian Industrial Designs in the Free

Market Period in Intellectual Property Rights (IPR), the basis, scope and existing laws state that there are 5 key theories of IPR protection.³

1. Reward Theory
2. Recovery Theory
3. Incentive Theory
4. Risk Theory.
5. Economic Growth Stimulus Theory

Copyright is basically limited except in relation to some specific conditions. Enforced means that the right is controlled or with another explanation that Copyright does not apply and the related creation can be without being bound by its use, except in relation to some specific conditions. But now, stating the existence of the problem creates the existence of a factor in the application of this requirement from unlimited information. Additionally, we do not understand any differences in the estimates permitted by law for uses that require permission.

Copyright limitations should be interpreted as recognizing the few exceptions to the rules that are available.

The main purpose is to protect the information that must be included, namely the benefits of the copyright owner.

It is also necessary to understand that the moral rights of the creator, even if the limits of Copyright are recognized, are not affected, except in cases where modifying spelling or terms is necessary for educational purposes. In Copyright, there are exceptions to Copyright which mean that the Special Rights regulated in Copyright law do not apply. An example of an exception to Copyright is the belief of a country that its existence can ensure the creation. the neglected Copyright infringement. There are several things that are described under the Copyright Act as not violating copyright law, that is violates articles 14 to 18.

³www.kompasiana.com

Protecting Copyright actually puts Copyright a barrier against abuse Copyright prevents the use of copyright and affects all copyright infringement different things under copyright law.

Research findings on copyright protection such issues should ensure that they can adjust efforts to adapt technology as a form of copyright protection tool.

If technology is approved as a tool for the Copyright defense system, then the status of technology as a form of strengthening Copyright protection for written works will not only be placed as a means of preventing inappropriate use of Copyright for written works, but

It is expected to improve testing and management of copyright abuse and stabilize access to public information.

Legal protection for Copyright is a legal system that includes the following system factors:

1) Protective Actor.

The topics covered are copyright, law enforcement officers, registrars and legislative amplifiers.

2) The purpose of this issue is all types of copyrights regulated by law.

3) Protection Registration.

Only copyrights that are registered and proven by a registration certificate are protected unless the law provides otherwise.

4) The period is the existence of copyright protected by copyright law, namely the life and existence of the Creator 50 years after the death of the Creator.

If it is proven that there has been a violation of Copyright authority, then the violator must be punished, either through

The functional enhancement of Copyright authority has been assisted by judges who generally place compassion on the principle of protecting a work of creation, skills, and individual efforts. The fundamental thing of Copyright authority as a concept of ownership,

namely allowing for protection for someone's work. Where the works are expressions of ideas conveyed to the public. Therefore, Copyright provides a guarantee that creators not only keep their work under review, by preventing piracy or unauthorized improvement, but also provides a guarantee that creators can profit from their intellectual work. This is a kind of encouragement to publish their work. Copyright also works as a reward for the financial uncertainty of the Copyright owner's acquisition by publishing his work. Without Copyright protection, a creator might I will just refuse to publish his work, which then means the public cannot enjoy the work.

The creator or copyright holder Or, limited rights are entitled to compensation for copyright infringement.

According to Article 100 (UUHC), Civil Proceedings for Copyright Infringement are as follows: A) Copyright infringement lawsuits shall be filed with the Chief Justice of the Commercial Court.

- a) The cases referred to in paragraph (1) are accepted by the Commercial Court in the Court's Court Process List at the time of the action.
- b) Commercial Court The Commercial Court presents the signed receipt in person

C. CONCLUSION

Based on these things which has been explained and informed previously, the following conclusions can be drawn:

Legal protection of IPR in Copyright in Indonesia is contained in Law no. 7 of 1987 (LN No. 3362 and TLN No. 3362). Then perfected again with Law no. 12 of 1997 (LN No. 29 and TLN No. 2679) and refined again through Law no. 12 of 1997 was then updated again with Law no. 19 of 2002 (LN NO. 85 and TLN No. 4220), and is currently in force Law No. 28 of 2014 (LN.2014/No. 266, TLN No. 5599, LL SETNEG: 57 PAGES). This is a manifestation of the state's real commitment to providing protection for the work of creators in Indonesia.

But it was proven otherwise, the person who is considered to be the author is the person whose name is: mentioned in the Creation; expressed by the Author in a Creation; stated in the Creation registration letter; and/or listed in the general list of Creations as the author.

Filling in copyright data provides legal certainty for authors and makes the procedure for storing their rights more standardized, apart from that, recording copyright registration does not only mean transferring strong evidence, but also creates property rights.

Indonesian law must be able to match the integrity of the rules with modern development.

It is very important that these legal rules and protections are applied appropriately, to ensure that the acquisition of creations or written works can continue to increase and not damage the basic principles of Copyright itself.

To assure creators of their rights regarding their creations, owners and copyright holders must receive legal protection, as regulated by the Copyright Act.

There are also efforts to reduce the occurrence of violations in relation to human rights and economic rights.

writing can be implemented by authorities such as the Ministry of Law and Human Rights (Kemenkumham) and the police to eliminate

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