

LEGAL PROTECTION FOR INTELLECTUAL PROPERTY RIGHTS OWNERS OF IMAGES TAKEN FROM THE INTERNET FOR ECONOMIC INTERESTS

Pandu Apriliansyah

Master of Law Lampung University

panduapriliansyah03@gmail.com

Abstract

The development of digital technology has increased access to images available on the internet, but also poses challenges in protecting intellectual property rights (IPR). Many parties use images without permission for economic gain, which can harm the rights holder. This article discusses legal protection for IPR owners for images taken from the internet in the context of Indonesian law. Based on Law Number 28 of 2014 concerning Copyright, rights holders have exclusive rights to their creative works, including economic rights. However, the rampant violations, both intentional and unintentional, require strengthening of legal protection and enforcement of sanctions. This study found that protection mechanisms through civil lawsuits and criminal charges still face obstacles, such as lack of legal awareness and weak supervision. Therefore, educational efforts and stricter policies are needed to ensure effective protection for rights holders. Therefore, synergy is needed between the government, industry players, and the community in building a digital ecosystem that respects intellectual property rights.

Keywords: Copyright, Legal Protection, Digital Images

A. INTRODUCTION

The development of digital technology has made it easier to access and distribute images via the internet. On the one hand, this convenience provides benefits for creators in publishing their work widely. However, on the other hand, the rampant use of images without permission has given rise to complex legal issues. Many parties use images from the internet for economic purposes without paying attention to the intellectual property rights (IPR) of the owners. This can be detrimental to the rights owners because they lose the potential economic benefits from their work. Therefore, an in-depth study is needed regarding legal protection for IPR owners for images taken from the internet.¹ Intellectual property rights, especially copyright for digital images, have been regulated in various national and international legal instruments. In Indonesia, this protection is regulated in Law Number 28 of 2014 concerning Copyright which grants exclusive rights to creators to utilize their work. Internationally, conventions such as the Berne Convention and the TRIPS Agreement also provide protection for copyright. However, copyright violations are still rampant due to a lack of public understanding and weak law enforcement. In addition, the limitless nature of the internet makes copyright violations increasingly difficult to control. Thus, further analysis is needed regarding the effectiveness of existing legal protection.

Several previous studies have discussed copyright in the digital world, but there are still weaknesses in its implementation. Research conducted by Sudaryanto (2019) discusses copyright protection in the digital era but focuses more on the music and film industries. Meanwhile, research by Lestari & Wijaya (2021) highlights aspects of copyright law enforcement in Indonesia, but has not specifically discussed violations of digital images. Another study by Rahmawati (2020) discusses the economic impact of copyright infringement, but focuses more on the creative industry in general. The main weakness

¹ Ni Kadek Alvina Devi dan I Made Sudirga, "Perlindungan Hukum Terhadap Hak Kekayaan Intelektual Pada Industri Konten Digital," *Jurnal Hukum Mahasiswa*, Vol. 4, No. 2, 2024, hlm. 17-18.

of these studies is the lack of focus on digital images that are widely used in commercial activities on the internet. Therefore, this study will fill the gap in research by focusing on legal protection for copyright owners of digital images.

This study aims to analyze the effectiveness of legal protection for IPR owners for images used without permission for economic interests. This study will also explore the obstacles faced in law enforcement, both in terms of regulation and practice in the field. By examining various court decisions related to copyright on digital images, this study will identify trends in the application of the law. In addition, this study will consider comparisons with other countries that already have more advanced regulations in digital copyright protection. The results of this study are expected to provide recommendations to strengthen legal protection for copyright owners in Indonesia. The novelty of this study lies in the interdisciplinary approach used in analyzing legal protection for digital images. This study will not only discuss the normative legal aspects, but also consider the economic and technological perspectives in IPR protection. By combining legal analysis and case studies, this study will provide a more comprehensive understanding of the phenomenon of unauthorized use of images. This approach is expected to be the basis for making more effective policies to prevent copyright infringement. In addition, this study also contributes to developing literature on IPR in the digital era.²

The research method used in this study is the normative legal method with a statutory approach and case studies. The analysis will be carried out on the regulations in force in Indonesia as well as a comparison with international law related to digital copyright. In addition, this study will also examine several legal cases related to copyright infringement of digital images to assess the effectiveness of law enforcement in Indonesia. This study will also collect data from various legal literature, academic journals, and interviews with

² Shafira Inan Zahida dan Budi Santoso, "Perlindungan Hak Cipta Terhadap Gambar Yang Telah Diunggah Pada Media Sosial Instagram," *Jurnal Pembangunan Hukum Indonesia*, Vol. 5, No. 1, 2023, hlm. 186–203.

legal practitioners to enrich the analysis. Thus, this study will provide a broader picture of legal protection of copyright in the digital context. Based on this background, there are several issues that are the focus of this study. First, how is the legal protection given to copyright owners for images taken from the internet for economic purposes? Second, what are the obstacles faced in enforcing the law against copyright infringement of digital images? Third, what strategies can be applied to increase the effectiveness of legal protection for IPR owners in the digital context? By answering these questions, this study is expected to contribute to the development of better policies and regulations in protecting copyright in the digital era.

B. RESULTS AND DISCUSSION

1. Analysis of Regulation and Effectiveness of Legal Protection of Intellectual Property Rights over Digital Images in Indonesia

The development of digital technology has made it easier to access and distribute works of art, including digital images, via the internet. However, this convenience also increases the risk of intellectual property rights (IPR) violations, especially copyright. In Indonesia, cases of copyright infringement of digital images have become more frequent, raising questions about the effectiveness of existing regulations in protecting the rights of creators. One prominent case is the dispute between the heirs of Henk Ngantung and Grand Indonesia Mall regarding the use of the "Welcome Monument" sketch as the mall's logo.³ In 2020, Henk Ngantung's heirs sued Grand Indonesia Mall for alleged copyright infringement due to the unauthorized use of the "Welcome Monument" sketch. The Central Jakarta District Court ruled that Grand Indonesia Mall had violated copyright and ordered the payment of compensation of IDR 1 billion to Henk Ngantung's heirs. This decision confirms that the unauthorized use of copyrighted works, even in the form of a logo, is

³ Vera Ayu Riandini dan Lisa Gusrianti, "Analisis Hukum Keterkaitan Perjanjian dan Perlindungan Hak Cipta Karya Fotografi di Indonesia," *Jurnal Komunikasi Hukum (JKH)*, Vol. 7, No. 2, 2021, hlm. 867–882.

a copyright infringement that can be subject to legal sanctions. This case sets an important precedent in the protection of copyright for works of art in Indonesia.

Analysis of the case shows that although regulations regarding copyright have existed, their implementation and enforcement still face various challenges. One of the main obstacles is the lack of awareness and understanding of the public and business actors regarding the importance of respecting copyright. In addition, the lengthy legal process and the high costs are often obstacles for creators or rights holders to claim their rights. Therefore, further efforts are needed to improve the effectiveness of legal protection for copyright, especially in the digital context.⁴ Copyright regulations in Indonesia are regulated in Law Number 28 of 2014 concerning Copyright. This law provides protection for various types of creative works, including drawings and sketches, and establishes exclusive rights for creators to announce or reproduce their creations. Article 40 paragraph (1) letter f of the Copyright Law explicitly states that sketches are one of the protected creations. In addition, this law also regulates criminal and civil sanctions for parties who violate copyright, including fines and/or imprisonment.

However, the effectiveness of the Copyright Law in protecting digital works is still questionable. The digital nature of works such as images makes it easy to reproduce and distribute without permission, making copyright enforcement more complex. In addition, jurisdictional limitations in the digital realm often become obstacles to law enforcement, especially when violations involve parties from abroad. Therefore, international cooperation and regulatory updates that are adaptive to technological developments are needed to ensure effective copyright protection.⁵ Comparison with other countries shows that several countries have adopted a more proactive approach

⁴ Rachmad Irodad, "Perlindungan Preventif terhadap Hak Cipta Potret pada Mesin Pencarian Google Gambar," *Jurnal Hukum Positum*, Vol. 5, No. 1, 2020, hlm. 13–31.

⁵ Dr. H. OK. Saidin, *Aspek Hukum Hak Kekayaan Intelektual*, Edisi Revisi, Jakarta: PT. Raja Grafindo Persada, 2015, hlm. 120–135.

in protecting digital copyright. For example, several countries have enacted the Digital Millennium Copyright Act (DMCA) which provides a mechanism for rights holders to request the expedited removal of infringing content. Indonesia can consider implementing a similar mechanism to improve copyright protection in the digital realm. In addition, public education regarding the importance of respecting copyright and the legal consequences of violations also needs to be improved.

The application of technology in copyright enforcement is also an important aspect that needs to be considered. The use of blockchain technology, for example, can be used to record ownership and transactions related to digital works transparently and irreversibly. In addition, automatic detection algorithms can help identify and flag copyright-infringing content on digital platforms. The implementation of this technology, supported by adequate regulations, can increase the effectiveness of copyright protection in the digital era. Overall, although regulations regarding copyright in Indonesia already exist, challenges in enforcement and effectiveness of protection are still significant, especially in the digital context. The case between the heirs of Henk Ngantung and the Grand Indonesia Mall shows that copyright infringement can be subject to strict legal sanctions. However, to increase the effectiveness of copyright protection, comprehensive efforts are needed, including regulatory updates, technology implementation, public education, and international cooperation. Only then can the rights of creators of digital works be optimally protected in Indonesia.⁶

Legal protection of digital images in Indonesia is regulated in Law Number 28 of 2014 concerning Copyright. This law recognizes works of fine art, including digital illustrations, as objects protected by copyright. To obtain protection, the work must meet the criteria of originality, creativity, and have a tangible form (fixation). Indonesia implements a declarative system, so creators need to

⁶ Andriani, "Urgensi Perlindungan Hukum Terhadap Hak Cipta Karya Digital," *Jurnal Hukum Dan Perundang-Undangan*, Vol. 3, No. 1, 2021, hlm. 10–20.

announce their work in order to obtain legal protection.⁷ Regarding the case of the Grand Indonesia Mall using the Welcome Monument sketch without permission, it can be seen from several articles in Law Number 28 of 2014 concerning Copyright (UUHC). Article 40 paragraph (1) letter f of the UUHC categorizes works of fine art, including sketches, as creations protected by copyright. In addition, Article 58 paragraph (1) of the UUHC emphasizes that copyright protection applies during the life of the creator and continues for 70 years after his death, which means that the copyright for the sketch is still valid when this case occurs. The use of sketches without permission also violates the creator's economic rights, which are regulated in Article 9 paragraph (1) letter a of the UUHC, and can be subject to criminal sanctions in accordance with the provisions of Article 113 paragraphs (2) and (3) of the UUHC.

Although regulations have accommodated protection for digital works, their implementation in the digital era faces significant challenges. Technological advances make it easier to reproduce and distribute works without permission, increasing the risk of copyright infringement. In addition, the lack of public and industry awareness of the importance of respecting copyright worsens this situation. Therefore, further efforts are needed to improve the effectiveness of copyright protection in the digital realm.⁸ Legal protection of digital image copyrights in Indonesia faces significant challenges in the digital era. Although Law Number 28 of 2014 concerning Copyright has provided a strong legal basis, its implementation is often hampered by a lack of legal awareness among the public and limited supervision of the distribution of works on the internet. This has caused many works of art, including photography, to be used without

⁷ *Ibid.*

⁸ Ukas, "Analisis Yuridis Pelaksanaan Undang-Undang No 7 Tahun 2014 Terhadap Pergerakan Barang di Kota Batam," *Jurnal Jejak Hukum Indonesia (JHI)*, Vol. 1, No. 2, 2024.

permission from the creator, causing moral and economic losses for them.⁹

In addition, rapid technological developments have given rise to new methods of copyright infringement, such as the use of security technology that can avoid detection. Therefore, collaboration between the government, law enforcement, and the private sector is needed to increase legal awareness and strengthen the law enforcement system. Preventive and repressive efforts must be balanced, including through more intensive legal education and the application of technology to track and prevent copyright infringement in the digital world. The development of digital technology has presented new challenges in copyright law enforcement, especially with the emergence of methods such as the use of security technology that can avoid detection. Therefore, collaboration between the government, law enforcement, and the private sector is crucial to increase legal awareness and strengthen the law enforcement system. Preventive and repressive efforts must be balanced, including through more intensive legal education and the application of technology to track and prevent copyright infringement in the digital world.¹⁰

The Directorate General of Intellectual Property (DJKI) of the Ministry of Law and Human Rights has made efforts to protect copyright by closing illegal sites that display copyrighted content without permission. In addition, DJKI is working with the Ministry of Communication and Information to block illegal sites that display copyrighted content illegally. The implementation of digital technology, such as blockchain, Digital Rights Management (DRM), and artificial intelligence (AI), can also help prevent and resolve copyright infringement. This technology can improve security and transparency in recording and tracking copyright ownership. In addition, education and increasing public awareness about the

⁹ Fenny Wulandari, "Problematika Pelanggaran Hak Cipta di Era Digital," *Journal of Contemporary Law Studies*, Vol. 2, No. 2, 2024.

¹⁰ Restuningsih, "Perlindungan Hukum Ilustrasi Digital Berdasarkan Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta," *Notarius*, Vol. 14, No. 2, 2021, hlm. 957-971.

importance of respecting copyright and the risks of accessing illegal content need to be improved. Many violations occur due to a lack of understanding of the legal and ethical consequences of using digital content. With strong collaboration between the government, law enforcement, the private sector, and the community, it is hoped that a safe and fair digital ecosystem can be created for all parties.¹¹

2. Challenges and Strategies for Law Enforcement against Digital Image Copyright Infringement for Economic Interests

Legal protection of digital image copyright in Indonesia faces various complex challenges. Copyright infringement often occurs due to a lack of understanding by the public and industry players regarding the importance of permission to use copyrighted works. In addition, the distribution of digital works via the internet without adequate control facilitates misuse without clear legal consequences. This causes economic losses for creators and copyright holders, and hinders the development of the national creative industry. One real example is the case involving Grand Indonesia Mall and the use of the Welcome Monument sketch as a logo without permission from the heirs of Henk Ngantung, the creator of the sketch. In 2020, Henk Ngantung's heirs sued Grand Indonesia Mall for copyright infringement. The Central Jakarta District Court ruled that Grand Indonesia Mall must pay compensation of IDR 1 billion to the heirs. This case highlights the weak supervision and law enforcement against copyright infringement in the business sector.¹²

In analyzing existing regulations, Law Number 28 of 2014 concerning Copyright provides a strong legal basis for protecting copyrighted works, including digital images. Article 40 paragraph (1) letter f of the Copyright Law categorizes works of fine art, such as sketches, as protected creations. However, the implementation of

¹¹ *Ibid.*

¹² Muhamad Irpan, "Analisis Yuridis Terhadap Pelanggaran Hak Cipta dalam Konteks Digital," *Jurnal Jejak Hukum Indonesia (JHI)*, Vol. 1, No. 1, 2024, hlm. 18–32.

UUHC is often hampered by the lack of understanding and legal awareness among the public and industry players. In addition, limited resources to carry out supervision and law enforcement make it difficult to follow up on copyright violations effectively.¹³ To overcome these challenges, a more effective law enforcement strategy is needed. Increasing education and training on copyright for the public and creative industry players can increase awareness and compliance with existing regulations. In addition, collaboration between the government, industry associations, and law enforcement agencies in supervising and taking action against copyright violations can strengthen the protection system. The use of information technology to monitor the distribution of digital works can also be a preventive step to prevent violations.

The Grand Indonesia Mall case shows that without strict law enforcement, copyright infringement will continue to occur, harming creators and hampering the development of the creative industry. Therefore, evaluation and improvement of the copyright law enforcement system need to be carried out continuously. The application of clear and consistent sanctions against violators can provide a deterrent effect and encourage compliance with existing regulations. Thus, the creative industry ecosystem in Indonesia can develop healthily and sustainably. The importance of law enforcement against copyright infringement is also related to the government's efforts to increase the competitiveness of the national creative industry in the international arena. Through effective protection, Indonesian creative works can be appreciated and recognized globally, opening up new economic opportunities for creators and industry players. In addition, strong law enforcement can attract foreign investment to Indonesia's creative sector, increase

¹³ Rika Ratna Permata, Tasya Safiranita Ramli, Yuliana Utama, Biondy Utama, dan Reihan Ahmad Millaudy, *Hak Cipta Era Digital dan Pengaturan Doktrin Fair Use di Indonesia* (Bandung: Refika Aditama, 2021), hlm. 45.

employment, and contribute to the national gross domestic product (GDP).¹⁴

In the context of globalization and the rapid development of digital technology, the challenges of copyright protection are increasingly complex. The distribution of digital works through online platforms without adequate control requires international cooperation in law enforcement. International agreements, such as the Berne Convention, provide a foundation for cooperation between countries in copyright protection. Indonesia as a member needs to be active in implementing the agreement to ensure that the copyright of Indonesian works is recognized and protected abroad. In addition, digital literacy among the public needs to be improved to prevent the spread of copyrighted works without permission. Early education on digital ethics and respect for copyright can form a culture of respecting copyrighted works. Schools and universities can act as agents of change by including material on copyright and digital ethics in their curriculum. Thus, the younger generation will grow up with a high understanding and awareness of the importance of copyright protection.

The role of mass media and digital platforms is also crucial in disseminating information about copyright. Through massive campaigns and socialization, the public can better understand the legal consequences of copyright infringement. Digital platforms can work with the government and industry associations in monitoring and taking action against content that violates copyright. With a multi-party approach, law enforcement against copyright infringement can be more effective and efficient. Evaluation of existing policies and regulations also needs to be carried out periodically. Changes in technology and digital business models require fast and precise regulatory adaptation. The government must be responsive to technological developments by revising or creating new regulations that are appropriate to close existing legal loopholes.

¹⁴ Dahtiar, "Penegakan Hukum Pidana dalam Kasus Pelanggaran Hak Cipta di Era Digital," *Causa: Jurnal Hukum dan Kewarganegaraan*, Vol. 1, No. 2, 2024, hlm. 110–120.

In addition, transparency in the legislative process and public participation in policy-making can ensure that the regulations made are truly effective and in accordance with the needs of society and industry.

Collaboration between the public and private sectors in creating an ecosystem that supports copyright protection is essential. Technology companies, digital platform providers, and financial institutions can work together to provide technical and financial solutions to support copyright law enforcement. Investment in monitoring and enforcement technology can increase efficiency. In addition, the case of copyright infringement of images by Grand Indonesia Mall also highlights the importance of understanding and respecting copyright in the business industry. In 2020, Henk Ngantung's heirs sued Grand Indonesia Mall for using a logo that resembled the "Welcome Monument" sketch without permission. The Central Jakarta District Court ruled that Grand Indonesia Mall must pay compensation of IDR 1 billion to Henk Ngantung's heirs.¹⁵ The implementation of Law Number 28 of 2014 concerning Copyright in both cases shows that existing regulations already cover protection for copyrighted works in digital form. However, the main challenge lies in the implementation and effective enforcement of the law. The lack of understanding of the public and industry players regarding copyright, as well as limited resources for supervision, are significant obstacles.

To overcome these challenges, a comprehensive law enforcement strategy is needed. Increasing legal and copyright literacy through education and training can help create awareness and compliance. In addition, collaboration between the government, industry associations, and law enforcement agencies in monitoring and prosecuting copyright infringement can strengthen the protection system. The use of information technology to monitor the distribution of digital works is also an effective preventive measure. In addition, collaboration between the government, internet service providers

¹⁵ *Op.cit*, hlm 47.

(ISPs), and digital platforms is essential in enforcing copyright law. Efforts such as closing illegal websites and taking legal action against violators are important steps in protecting copyright in the digital world. The use of information technology also plays a key role in monitoring and preventing the illegal distribution of digital works.

Technologies such as Digital Rights Management (DRM) can be used to control the distribution and access to copyrighted works. In addition, blockchain technology offers innovative solutions in proving copyright ownership and detecting infringement, thanks to its transparent and immutable nature. By integrating these technologies, it is hoped that a safer digital ecosystem can be created and that copyright protection can be effectively supported.¹⁶ To improve the effectiveness of copyright law enforcement in the digital era, it is important for the government and the private sector to work together in providing technological infrastructure that supports the detection and prevention of infringement. In addition, educating the public about the importance of respecting copyright and the legal consequences of infringement can foster a culture of appreciation for intellectual work. With synergy between government policies, technology from the private sector, and public awareness, copyright protection is expected to be more effective, encourage innovation, and support the growth of the national creative economy.

C. CONCLUSION

The copyright infringement case over the use of the Welcome Monument sketch by Grand Indonesia Mall emphasizes the importance of understanding and enforcing copyright regulations in the business industry in Indonesia. Although regulations such as Law Number 28 of 2014 concerning Copyright have existed, their implementation still faces various challenges, including lack of understanding and supervision. Therefore, effective law enforcement strategies, increased legal literacy, and collaboration between government, industry, and society are needed to ensure optimal

¹⁶ Budi Agus Riswandi, *Doktrin Perlindungan Hak Cipta di Era Digital* (Yogyakarta: FH UII Press, 2016), hlm. 120.

copyright protection and support the development of the national creative industry.

Based on the findings of this study, it is recommended that the government and educational institutions improve education and training programs on digital copyright, in order to foster better awareness and understanding among the public. In addition, digital platforms need to strengthen monitoring and law enforcement mechanisms against copyright infringement, and provide effective complaint channels for copyright holders. Collaboration between the government, creative industries, and internet service providers is also very important in creating a digital ecosystem that respects and protects copyright, thereby encouraging the growth of the national creative economy.

BIBLIOGRAPHY

Book:

- Budi Agus Riswandi, *Doktrin Perlindungan Hak Cipta di Era Digital* (Yogyakarta: FH UII Press, 2016).
- Dr. H. OK. Saidin, *Aspek Hukum Hak Kekayaan Intelektual*, Edisi Revisi, Jakarta: PT. Raja Grafindo Persada, 2015.
- Josefhin Mareta, *Perlindungan Hak Cipta Buku di Era Digital* (Jakarta: Badan Penelitian dan Pengembangan Hukum dan HAM, 2021).
- Rika Ratna Permata, Tasya Safiranita Ramli, Yuliana Utama, Biondy Utama, dan Reihan Ahmad Millaudy, *Hak Cipta Era Digital dan Pengaturan Doktrin Fair Use di Indonesia* (Bandung: Refika Aditama, 2021).

Journal:

- Andriani, "Urgensi Perlindungan Hukum Terhadap Hak Cipta Karya Digital," *Jurnal Hukum Dan Perundang-Undangan*, Vol. 3, No. 1, 2021.
- Dahtiar, "Penegakan Hukum Pidana dalam Kasus Pelanggaran Hak Cipta di Era Digital," *Causa: Jurnal Hukum dan Kewarganegaraan*, Vol. 1, No. 2, 2024.

- Fenny Wulandari, "Problematika Pelanggaran Hak Cipta di Era Digital," *Journal of Contemporary Law Studies*, Vol. 2, No. 2, 2024.
- Muhamad Irpan, "Analisis Yuridis Terhadap Pelanggaran Hak Cipta dalam Konteks Digital," *Jurnal Jejak Hukum Indonesia (JHI)*, Vol. 1, No. 1, 2024.
- Ni Kadek Alvina Devi dan I Made Sudirga, "Perlindungan Hukum Terhadap Hak Kekayaan Intelektual Pada Industri Konten Digital," *Jurnal Hukum Mahasiswa*, Vol. 4, No. 2, 2024.
- Rachmad Irodad, "Perlindungan Preventif terhadap Hak Cipta Potret pada Mesin Pencarian Google Gambar," *Jurnal Hukum Positum*, Vol. 5, No. 1, 2020.
- Restuningsih, "Perlindungan Hukum Ilustrasi Digital Berdasarkan Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta," *Notarius*, Vol. 14, No. 2, 2021.
- Shafira Inan Zahida dan Budi Santoso, "Perlindungan Hak Cipta Terhadap Gambar Yang Telah Diunggah Pada Media Sosial Instagram," *Jurnal Pembangunan Hukum Indonesia*, Vol. 5, No. 1, 2023.
- Ukas, "Analisis Yuridis Pelaksanaan Undang-Undang No 7 Tahun 2014 Terhadap Pergerakan Barang di Kota Batam," *Jurnal Jejak Hukum Indonesia (JHI)*, Vol. 1, No. 2, 2024.
- Vera Ayu Riandini dan Lisa Gusrianti, "Analisis Hukum Keterkaitan Perjanjian dan Perlindungan Hak Cipta Karya Fotografi di Indonesia," *Jurnal Komunikasi Hukum (JKH)*, Vol. 7, No. 2, 2021.