

The Urgency of Legal Protection of Copyright with the Development of Digitalization

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Abstract. The development of digital technology has had a significant impact on the creative industry and intellectual property. One vital aspect affected is copyright, which protects scholarly works from unauthorized use. As access and distribution of digital content increases, legal protection of copyright becomes increasingly urgent. This research aims to analyze the urgency of the legal protection of copyright in the era of digitalization. Through a legal approach and literature analysis, this research identifies the challenges and opportunities encountered in securing copyright in the digital world. The research also discusses several strategies and legal solutions to improve copyright protection in the era of digitalization, including strengthening regulations, effective law enforcement, and education about the importance of copyright for rights holders and users of digital content. Thus, this research underlines the urgency and importance of efforts to update and strengthen the legal protection system for copyright in facing the challenges of digitalization. These steps will ensure the sustainability and continuity of the creative ecosystem, as well as encourage innovation and creation in the ever-developing digital era.

Keywords: Copyright, Legal Protection, Digitalization.

1 Introduction

The development of technology and science has changed life with a rapid and significant impact. Science and technology have experienced developments that have had a significant influence on the daily lives of humans. Technological advances have had a big impact, one of which is in using the internet. Technology with the use of the internet has increased the spread and emergence of ideas. With the development of technology using the internet, all information and knowledge can now be accessed by all humans and all data at home and abroad can be easily obtained for consumption. It impacts human competence in creating something that is the result of thought patterns, efforts, and creativity, the outcomes

Of which are completely owned by the human who created it, and this is called intellectual property. In this digital era, intellectual property rights are a complex legal issue. With changing times, intellectual property rights are also experiencing developments with changes in people's behavior in all aspects of social life.

Intellectual property rights are a field of law that provides regulations regarding legal rights related to creative efforts or commercial reputation and goodwill.[1] In Rachmadi Usman's view, intellectual property rights can be defined as the right to ownership of works that arise or arise due to the intellectual competence of humans in terms of science, knowledge, and technology. Works are rights to objects that do not have a form which are the result of human intellectual competence through the development of science and knowledge and technology through creativity, taste, intention, and work that has moral, applicable, and economic value.[2] Intellectual property rights include copyrights, patent rights, trademark rights, industrial design rights, and geographical indications of the origin of goods. In this research, the focus of intellectual property rights that will be discussed is copyright. Copyright piracy is a legal problem that often occurs today. The current form of creative work is greatly influenced by developments in technology and information. In the current era of digitalization, works that are currently in physical form can be turned into digital works. With the internet, it is easier and faster to spread or distribute digital works. The form of work created is a common work that can be found easily in everyday life can be bought and sold and has quite a lot of consumers.

Digital work has several advantages compared to physical work because it is efficient and more practical. Digital works do not require a physical place to be stored compared to physical works which require a place to be stored. Digital works can simply be downloaded so they are easy and quick to obtain. Digital works have several forms such as digital works, digital content, digital communication, and digital copyrights. Examples of digital works that are currently often found are e-books in PDF or Kindle form, music in MP3 or MP4 form, videos in MP4 or FLV form, software, images in JPG or PNG form, e-tickets, applications, fonts, and others. This convenience has a huge impact on human life, both good and bad. The bad impact that occurs is that it is used by arbitrary parties who carry out dissemination or distribution by parties who do not have the rights in a way that violates the law by making changes, modifications, or other things that are against the law.

With this development, digital works are a new substance in the law regarding copyright where there are legal problems with transferring or converting them into a physical form without the permission of the copyright owner. So, the problem faced by the Indonesian people in efforts to protect copyright for digital copyrighted works is the problem of the law enforcement process and legal protection for copyrighted works resulting from the media transfer/digitization process and those created directly in digital format accompanied by public awareness of the importance of Copyright itself and the economic conditions of the Indonesian nation indirectly support acts of Copyright infringement.

The Anglo-Saxon legal system gave rise to the term Intellectual Property Rights. When translated into Indonesian, it becomes "Intellectual Property Rights", until now, the meaning of intellectual property rights can be interpreted as intellectual property rights. If understood, intellectual property rights are part of intangible objects (immaterial objects). In civil law, objects can be classified into various categories. One of the categories of grouping objects in civil law is tangible objects and intangible objects. It has been stated in Article 499 of the Civil Code which reads: "According to the law, what is meant by an object is every item and every right that can be controlled by property rights". Prof. Mahadi gave his opinion in interpreting Article 499 of the Civil Code, namely that what can be the object of property rights are objects, and entities consist of goods and rights.[3]

Prof. Mahadi also explained that the goods referred to in Article 499 of the Civil Code consist of material objects (stoffelijk voorwerp) and immaterial objects, rights in this case can be classified as immaterial objects, this is based on Article 503 of the Civil Code, namely the classification of objects into the group of tangible objects. (corporeal) and intangible (corporeal). The definition of Intellectual Property Rights is rights that originate from the results of activities that develop from human intelligence which have economic value. The basic concept related to Intellectual Property Rights is based on intellectual works that have been created by humans which demand humans to make sacrifices in terms of energy, time, or costs. As a result of the efforts made, it has become a work that has economic value because there are benefits that can be enjoyed. This encourages the need for respect for the results, namely in providing legal protection.[4]

Intellectual Property Rights come from English, namely Intellectual Property Rights (IPR), as regulated in Law Number 7 of 1994 concerning the Ratification of the WTO (Agreement Establishing the World Trade Organization) which means property rights from competencies based on human intellectuality, which have a relationship with a person's private rights (human rights). The World Intellectual Property Organization (WIPO) notes it is the creation of human thought which includes inventions, literary and artistic works, symbols, names, images, and designs used in commerce.[5]

The essence of Intellectual Property Rights is based on works originating from the human mind, the process of creating which of course requires special skills and perseverance, as well as effort and sacrifice. Ownership of rights that arise from intellectual creativity are abstract to visible material rights, but the existence of these rights is close to material rights. It is necessary to remember that both rights have an absolute nature. Furthermore, there is an analogy that after the intangible object leaves the human mind and becomes a creation of literature, science, art, or in the form of opinion. So it is good to have a form (lichamelijke zaak) that its use (exploit) and reproduction can be a source of a sense of monetary profit. This is what justifies the classification of these rights into existing property law.[6]

Legal regulation regarding Intellectual Property Rights was initially performed in Venice, regarding attempt at international harmonization of Intellectual Property Rights occurred in 1883 with the birth of the Paris Convention.[7] If you look at other countries, regulations related to Intellectual Property Rights have developed quite rapidly and this is a sign that this country is a developed country. Regulations related to Intellectual Property Rights in International Trade have been made by the World Trade Organization (WTO) and have been ratified by more than 150 countries and have made these provisions the norm and standard of protection for intellectual works. Based on this, several provisions control Intellectual Property Rights:

1. Convention Establishing The World Intellectual Property Organization (WIPO)

It convention was established in Stockholm in 1967, then ratified through the formation of Presidential Decree Number 24 of 1979 which was changed to become Presidential Decree Number 15 of 1997. In the provisions established by WIPO, participating countries must protect literary works and other works of art.

2. Paris Convention for The Protection of Industrial Property Rights (Paris Convention)

Protection of works was born in the formation of policies in the industrial sector by establishing these endowments which were made on March 20, 1883, in Paris. Based

on Presidential Decree Number 15 of 1997, this is a form of the Indonesian state's seriousness in guarding inventions in the property industry such as patents, trademarks, and industrial designs.

3. Berne Convention for The Protection of Literary and Artistic Works (Berne Convention)

Legal fortification of copyright was marked by the confinement of the Bern Convention on September 9, 1986. The employment of patent defence in Indonesia was marked by the issuance of Presidential Decree Number 18 of 1997. The provisions ordered in this regulation relate to the recognition of copyright, namely works create writing.

4. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs)

This regulation came into force on January 1, 1995. This agreement addresses trade in counterfeit goods for:

- a. Increasing protection of intellectual property rights of traded products;
- b. Guarantee procedures for implementing intellectual property rights that do not hinder trade activities;
- c. Formulate rules and discipline regarding the implementation of protection of intellectual property rights;
- d. Developing principles, rules, and mechanisms for international cooperation.

5. Agreement Establishing World Trade Organization (WTO)

This rule was ratified with the ratification of Law Number 7 of 1994. The World Trade Organization (WTO) commonly known as the World Trade Organization is the only international institution. This multilateral trading system in the WTO is provided with management through an agreement enclosing the basic rules for conducting international trade as a solution of negotiations which are then signed by member countries.

6. Trademark Law Treaty

This regulation control the protection of trademarks, passed in Geneva on October 27, 1997, ratified by Indonesia through Presidential Decree Number 17 of 1997. This agreement discusses agreements on trademark practices to harmonize including, the period for registering and renewing trademark registration will be 10 years, and sign services are given equal protection.

2 Method

This legal research method uses a descriptive analysis research approach because it desires to describe a social reality by collecting data which is then analyzed to get a comprehensive picture of the legal issues being examined.[8] The legal materials used in this research include primary, secondary, and tertiary legal materials. Existing primary legal materials include the World Intellectual Property Organization Copyright Treaty, Trade Related Intellectual Property Right Agreement (TRIPs), Berne Convention the Protection of Literary and Artistic

Works (Berne Convention for Creative Works of Art and Literature) and Law Number 19 of 2002 regarding Copyright. Existing secondary legal materials include articles, journals, books, and other media such as the Internet. Existing tertiary legal materials include legal encyclopedias and dictionaries.

3 Result and Discussion

3.1 Development of Technology and Information or Digitalization

Digitalization is a conversion process from analogue to digital using digital technology and data with automatic operating systems and computerized systems. Technology comes from the Greek word Technologia, which according to Webster's Dictionary means systematic treatment or systematic manipulation of something, while techne, as the basis of the word technology, means skill or expertise, skill and knowledge. According to Roger, technology is the design or design of action tools to reduce uncertainty about the correlation of cause and effect in achieving the desired results.[9] Technology is a comprehensive method that guides rationally and effectively all human activities. Gary J Anglin believes that technology is the process of applying action natural science and other knowledge intentionally and systematically to solve problems.[10]

Muhasim believes that the development of digitalized technology is the result of engineering thought patterns and human intelligence which is reflected in scientific progress. Furthermore, it provides benefits in every aspect of human life.[10] The development of the era into the digital era brings benefits to human life, including helping work in creating, changing, storing, conveying information, and disseminating information quickly, with quality and efficiency, so that the benefits of digitalization technology are as follows:

1. Marketing Coverage

The benefits of digitalization technology are considered very important to minimize operational costs and to reach more consumers. By utilizing available platforms such as online stores (e-commerce), business actors can reach more consumers from various regions at a cost that is not too expensive. The use of social media is also useful for anyone as a medium for marketing or advertising products so that many people know about them.

2. Disseminate information

The benefit of digitizing information is creating an information society, meaning that with digital information, people increasingly find it easier to obtain the information they want so that the information society continues to grow.

3. Distribution

The benefits of digitalization for distribution are helping business people sell products faster, expanding the reach of sales locations, and maintaining good relationships with consumers.

4. Take notes

The benefit of digitalization is that it makes the process of recording and making reports easier. As well as further improving data security.[11]

With the development of technology due to the progress of globalization, it has an impact on every aspect of social life. If regulations are not formed properly when utilizing technology, there will be things that tend to use technology uncontrolled, the result of which will be violations of the law. In this era of globalization, everything has become dependent on technological progress which can create efficiency with wide regional coverage without state restrictions. One manifestation of technology that provides answers to all current conditions is internet technology.[12] Significant signs in the current era of digitalization are very rapid developments in the science and technology sectors. With the challenges in digitalization in Indonesia, Indonesia must equalize and keep up with the times with the development of technology and information. So people in Indonesia must increase their creativity in technology and information to keep up with current developments with the latest situation.

With the existence of technology to convert data, many physical creative works are converted into creative works in the form of digital media. With this digital conversion system, many works and creative products can be easily accessed by everyone using computer technology, software, and internet networks. So with the current development of digitalization, creators of creative works have the choice to involve technological developments that can help in creating or constructing creations that are easy, optimal, and perfect. Someone who creates or holds a copyright can be closer to the wider community due to the influence of advances in digital technology.

As it becomes more easily accessible to many people, more people alter it, duplicate it, reproduce it, and distribute it. So the legal protection for creators becomes weaker. The potential for violations of the moral rights and economic rights of creators and/or copyright holders is greater when the writing is accessed without including a name, using the work not according to its intended purpose. Since copyright infringement on digital works is starting to increase in Indonesia, the Copyright Law does not yet fully cover and provide legal solutions for technology-based cases. Based on the information from the United States Trade Representative Office in Washington DC in its annual report known as the 2012 Special 301 Report, Indonesia is included in the priority watch list of countries that have problems with sufficient prevalence of movement that violates copyright or intellectual property.[13]

3.2 Copyright Protection and Legal Protection of Digital Work Copyright

Copyright comes from two words, namely right and copyright. In the Big Indonesian Dictionary, the word "right" means an authority given to a party which is free to use or not. Meanwhile, the word "creation" or "creation" refers to the results of human work using reason, feelings, knowledge, imagination, and experience. So it can be rendered that copyright is closely related to human intellectuals. The term copyright was first proposed by Sultan Mohammad Syah during the Cultural Congress in Bandung in 1951 (which was later accepted at the congress) as a replacement for the term author's freedom, which was deemed less broad in the definition because the term author's privilege gave the impression in "narrowing" of meaning as if what is covered by the author is only the author's rights, or that it has something to do with composing, even though this is not the case. The term author's privileges is a translation of the Dutch term Auteurs Rechts.

Juridically, the term Copyright has been used in Law Number 6 of 1982 as a replacement for the author's rights used in Auteurswet 1912. Copyright is an exclusive right or one that only belongs to the Creator or Copyright Holder to provide regulations for the use of employment ideas or specific information. Copyright is the right to copy as a creation or the right to enjoy a

work. Copyright also allows the right holder to limit use and prevent unauthorized use of a work. Considering that exclusive rights contain an economic value that not everyone can pay for, to be fair, exclusive rights in copyright have a certain validity period which has limitations.

WIPO (World Intellectual Property Organization) states that copyright is legal from describing rights given to creators for their literary and artistic works which can be interpreted as copyright is a legal terminology that describes the rights given to creators for their works in the field of art and literature. . Imam Trijono is of the opinion that copyright means that not only the creator and his creation receive legal protection, but also this extension provides protection to those given authority and also to parties who publish translations of works protected by this agreement. Article 1 number 1 of Law Number 28 of 2014 concerning Copyright, states that copyright is an exclusive right for someone who creates it which appears automatically based on declarative principles after a creative work has been realized in concrete form without reducing or limiting it accordingly. with statutory regulations.

Basically, copyright is a type of private ownership of a creation which is the embodiment of a creator's idea in the fields of art, literature, and science. When you buy a book, you are simply buying the right to lend and keep the book as you wish. The book is your personal property in real form or in the form of an object in the form of a book. However, when you buy this book, you are not buying the copyright of the written work contained in the book which is owned by the author of the written work published as a book. With this framework of thinking about the basic nature of copyright, you do not have the right to copy or reproduce a book without permission from the author. Moreover, commercially selling copies of books purchased without the author's permission. The right to reproduce a written work is the exclusive right of the author or someone to whom the author transfers the right to reproduce by granting a license. Copyright has characteristics such as:[14]

1. Copyright is an exclusive right

Copyright in Law Number 28 of 2014 states that copyright is an exclusive right; is interpreted as an exclusive right because copyright is only granted to the creator or owner/right holder, and other people cannot use it or are prohibited from using it except with permission from the creator as the right owner, or the person who accepts the rights from the creator (right holder). The copyright holder who is not the person who created it only has part of the exclusive right, namely only in the form of economic rights.

2. Copyright is related to the public interest

Copyright is a special exclusive right, but there are certain limitations that Copyright must also take into account the interests of the community or general public who also take advantage of someone's creation. In general, the use of copyright for a particular work that is considered important for the public interest is limited so that there is a harmonious balance between individual interests and the interests of society (public interest). These general interests include educational interests, science, and research and development activities. If the state deems it necessary, the state can require the copyright holder to translate or reproduce it or the copyright holder can permit other parties to do so.

3. Copyright can be transferred or transferred

Like other forms of movable objects, copyright can also be transferred or assigned, either in part or in whole. Transfer of copyright is known in two ways, namely:

- a. Using transfer, which is a transfer of copyright in the form of relinquishing rights to another party/person, for example, due to inheritance, gift, will, agreement, and other reasons regulated by law.
 - b. By way of assignment, which is the transfer of copyright from one party to another party in the form of granting permission/agreement to utilize copyright within a particular period, for example, a license concurrence.
4. Based on copyright implementation practices and also the "Principle of Specification" norms in copyright, it is limited by:[15]
- a. Time is like the period of production of goods in years
 - b. Amounts such as the number of goods produced in units within a year.
 - c. Geographic like cassette covers and slogans with their meanings

The principles that are crucial in copyright include:[14]

1. What is given protection from copyright is an idea that has a form and is original. From this principle, several principles are derived which include:
 - a. A copyrighted work must have authenticity (originality) to enjoy the rights granted by law.
 - b. A copyrighted work has copyright if the copyrighted is related to its embodiment in written form or other material form.
 - c. Because copyright is a special right, no other person is allowed to exercise this right unless permission has been obtained from the person who created it.
2. The copyright arises automatically or automatically.
3. A copyrighted employment does not always need to be published to obtain copyright.
4. Copyright of a creative work is a right that is given recognition by law (lawful privilege) which requires separation and differentiation from physical control over a copyrighted creation.
5. Copyright is not an absolute right or an absolute right.

Copyright was born and emerged from the results of human thought in science, art, and literature. Copyright can arise automatically at that time by giving birth to a work. Copyright is a civil right that attaches to the person who created it. Copyright is a private right because a work is created that arises from the creativity of the person who created it. A copyright must be born from human creativity, and not outside of human activity or creativity.[12] Copyright gives expansive powers to the person who created it. Conceptually, someone who creates a work has a presence that commands high respect in society.[16] Copyright protects a wide range of creative works and has developed rapidly since its origins as a form of print control in the early 16th century. Copyright has a pragmatic approach and its scope extends to all types of copyrighted work regardless of quality, subject to several basic requirements, which are usually easily met. The practical development of copyright has been supported by judges who

are generally sympathetic to the principle of protecting creative works, skills, and individual efforts.[17] The essence of copyright as a property concept is that it allows you to protect someone's work. Where these works are an expression of ideas conveyed to the public. Therefore, a copyright ensures that the creator not only controls his work, preventing unauthorized copying or duplication but also ensures that the creator can profit from the results of his intellectual work.

Copyright also serves as compensation for the financial risk of accepting the copyright owner to publish his work. Without copyright protection, a creator may refuse to publish their work, which ultimately means the public will not be able to enjoy the work. In works produced from or by digital media, human skills can be found in the person who enters information into the computer to produce output or in creative works that involve writing the program used or a combination of both. Most copyrighted works in digital form are given copyright protection, including for online activities. So, it is impossible to carry out activities on the internet network and obtain existing information without the involvement of one or more rights owned by the copyright owner. For example, displaying a web page involves two actions regarding website content that is protected by copyright, namely the user displaying the website is said to have made a copy of the website page, and the website owner himself is said to have carried out the activity of displaying the copyrighted work to the public. All these actions constitute rights that are exclusively owned by the Copyright owner based on law.

Creative work in digital form is easy to imitate, and the results of the action are almost indistinguishable from the original. Moreover, users can also edit the copied results and distribute them worldwide almost free of charge. On the one hand, this certainly makes it very easy for most people to infringe other people's copyrights on an extensive scale, but on the other hand, it makes it very difficult for copyright owners to detect, recognize, or recognize these acts of infringement.

In Article 1 passage (1) of the Copyright Law, the definition of copyright is stated, namely: "Copyright is an exclusive right owned by someone who creates it which arises automatically based on declarative principles after a creative work is given embodiment in tangible form without reducing restrictions by statutory decrees." Copyright is a natural, absolute right and is given protection as long as the creator is still alive and for several years after the person who created it has died. In the UUHC, the protection period after the person who creates it dies is 70 years, because it is an absolute right, this right can essentially be protected against anyone who has this right and can sue for violations carried out by anyone.

Copyright is an exclusive right that includes moral rights as well as economic rights. This right is exclusive because the right is only used by the person who created it, so there is a prohibition or restriction on other parties using this right without permission from the person who created it. A person who holds a copyright and who is not the person who created it only has part of the exclusive right, namely in the form of economic rights. Moral rights are given differently from economic rights, economic rights contain economic value, in contrast to moral rights which have no economic value.

Moral rights are rights inherent in someone who creates. Moral rights cannot be removed even though the copyright protection period has been terminated. Moral rights cannot be transferred as long as the person who created them is still around, but can be transferred by will or other causes by statutory regulations after the person who created them has died. Moral rights also include connected privileges (neighbouring rights). Economic rights are the rights of someone

who creates or holds a copyright to obtain economic value for their creative work. Activities that can be carried out by someone who holds economic rights are publishing, duplicating, translating, adapting, arranging, transforming, distributing, performing, announcing, communicating, and renting out their copyrighted work.

Some constraints on the use of Copyright but not categorized as copyright infringement include:[11]

1. Announce and/or reproduce the national symbol and national anthem according to their original nature;
2. Announcement and/or reproduction of all things announced and/or reproduced by/on behalf of the government, unless the copyright is declared protected, either by statutory regulations or by stating it on the copyright work itself or when the copyrighted work is published and/or reproduced;
3. Taking actual news, whether in whole or in part, from news institutions, broadcasters, newspapers, or other similar sources with the rule that the source must be given a complete mention;
4. Using copyrighted works created by other parties for education, research, writing scientific papers, preparing reports, writing criticism, or reviewing a problem without causing harm to the reasonable interests of the person who created it;
5. Take another party's copyrighted work, in whole or in part, for defense purposes inside or outside court;
6. Taking the copyrighted work of another party, either in whole or in part, for lectures that are solely for educational and scientific purposes as well as performances or performances for which there is no payment charge provided that it does not harm the reasonable needs of the person who created it;
7. Reproducing a creative work in terms of science and knowledge, arts and literature in braille for the needs of the blind, unless the reproduction is commercial;
8. Reproducing creative works other than computer programming with limitations in any way or means or the same process in public libraries, educational and educational institutions, and documentation centers, which are non-commercial solely for the needs of their activities;
9. Change something based on considerations in the technical implementation of architectural works, such as construction creative works;
10. Making a backup copy of a computer programming by someone who owns the computer program solely for their own needs.

Copyright Protection places Copyright as a tool to prevent Copyright violations, limit the use of Copyright, and take action against all forms of Copyright violations as formulated in the Copyright provisions. With an understanding of Copyright protection as stated above, this should of course be able to be harmonized in efforts to accommodate technology as a means of Copyright protection. If electronic devices are accommodated as an adjunct of Copyright security, then the position that technology holds as a reinforcement of copyright safeguarding for electronic materials is expected to function for surveillance and action towards Copyright violations while also being able to balance this with access to accessible data as

conceptualized in the fair use doctrine. Copyright law in Indonesia has accommodated policies related to security technology in its articles which can be found in the Copyright Law. Although the regulations in the Copyright Law have not been provided with an explicit explanation regarding the method and its use.[18] So, it is necessary to reconstruct the law or revise the Copyright Law by further specializing or adding substance related to the protection of digital copyright works.

4 Conclusion

Indonesian copyright statute, i.e. the Copyright Law, has several restrictions correlated to security technology whose protection includes protection of moral rights and economic rights. However, it is necessary to clarify the constraints regulated in Article 52 of the Copyright Law and provide an explanation of the substance of methods and the use of technology with good security so that it can prevent and deal with the theft of copyrighted works.

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