

# Legal Protection of Copyright in YouTube Videos Reuploaded to Instagram

Titik Sugianti

{ [titiksugianti34@gmail.com](mailto:titiksugianti34@gmail.com) }

Borobudur Doctor of Law Student University Graduate Program

**Abstract.** This paper explains the legal protection of copyright in YouTube videos reuploaded to Instagram under the 2014 Copyright Law (UUHC). The research adopts a normative jurisprudence method, examining primary and secondary legal sources. The findings indicate that reuploading others' YouTube videos on Instagram, even with source attribution, violates the economic rights of the original creators. Article 5 and Article 9 of the UUHC regulate this issue, emphasizing the financial losses suffered by creators when users view the reposted video on Instagram instead of the original YouTube source. This diminishes the potential revenue for YouTube creators, as their viewer count decreases. Violations of the creators' economic rights may lead to sanctions under Article 113 of the Copyright Law. Creators can take two forms of action: preventive measures and legal deterrence to protect their rights and prevent further violations.

**Keywords:** legal protection, copyright, reupload, youtube, instagram

## 1 Introduction

In this modern era, the world is faced with increasingly advanced technological developments. One of the achievements of today's technology is that people can easily communicate with each other through the internet. The Internet has made it easier for people to carry out all sorts of activities, including health, economy, education, and industry. Many technologies today, not just the internet, are very sophisticated. This has led to a change in the thinking used to develop creative ideas. These thoughts and ideas are commonly referred to as intellectual property (IP). Intellectual property itself is the result of human ideas that require sacrifices of energy, cost and time, in this case intellectual property requires special rights. Intellectual property rights themselves are also beneficial for their creators, because the creator's work is protected by copyright and other laws.

As a country that participates in international trade activities, Indonesia is a signatory to the World Trade Organization (WTO) Establishment Agreement. As a result of Indonesia's accession to the WTO, Indonesia must comply with the provisions agreed upon by WTO member countries. In its implementation, the WTO has agreed on an agreement containing minimum standards for copyright regulation in each WTO member country. This agreement is named TRIPs Agreement, which is a broad, complex, and comprehensive agreement.[1]

As a member of the WTO, Indonesia must comply with the TRIPs Agreement, in which case

Indonesia must adjust international standards in Indonesian copyright law. The UUHC was only formed in 2014 and this law was enacted as a copyright protection law regulation; Article 1 (1) of the UUHC: 'Copyright is the exclusive right of the creator that automatically arises based on the declarative principle after a work is realized in tangible form without prejudice to restrictions under laws and regulations.[2] Explanation of. The definition of copyright can be summed up as a special right that the creator acquires after his creation is realized.<sup>6</sup> It is obtained by the creator after the creation has been realized in the form of an artistic, literary or scientific work. Copyright and intellectual property rights are closely related, because in this case copyright protects the work (intellectual property) even if the creator's work is imitated or infringed.

Today, technology has developed through social media, making it easier to get information through social media. One example of social media that has now penetrated all corners of the world is Instagram. Instagram itself is one of the social media that has a very high appeal among people today.[3] With Instagram, information about politics, law, economics, and other news can be easily obtained by all users. In this case, Instagram social media users can also upload their daily activities in the form of photos and videos on the Instagram platform network. In addition, some people and Instagram users can also use it as a source of income as well as people who sell products and services. Not only that, for users with many followers they use it for endorsement and promotion services.

With the development of the Instagram platform, people are competing to upload content as interesting as possible in order to increase the number of their followers. However, some Instagram users upload repost content in the form of videos and photos of other people's work. For example, a small number of Instagram users repost the production and content of YouTube video works taken from other people's channels, so in this case, viewers of videos on Instagram do not need to watch the source of the video uploaded on the original owner's YouTube channel.[4] A common copyright violation is when someone uploads a YouTube repost video to Instagram and the creator feels aggrieved because the name of the creator of the repost video is not mentioned. What's more, the video is used commercially thus infringing the economic rights of its creators. The negligence of Instagram users who upload repost videos taken from other people's YouTube videos clearly violates the creator's personal rights by not including the creator's name or video source in the description.[5]

The title of this article is about legal protection of YouTube videos reuploaded to Instagram. This article is a scientific idea that is examined by looking at the phenomena that occur. Nowadays, along with the use of technology, a lot of copyright violations occur, including re-uploading Youtube videos uploaded to Instagram. The writing of this scientific paper is supported by various references from previous studies. The research entitled 'Legal Effects of Uploading Film Copyright Works Without Creator's Permission on Social Media Social Media', and explains the consequences of uploading film copyrighted works without the author's permission, including copyright infringement, and uploading film copyrighted works without the author's permission. [6]

Furthermore, the second study by I Made Marta Wijaya and Putu Tuni Cakabawa Landra entitled 'Legal Protection against Vlogs on Youtube Rebroadcast by TV Stations without Permission', with protection of Vlog works uploaded to Youtube, legal sanctions for cases where TV stations rebroadcast Vlogs without permission. Both studies, according to the UUHC, focus on the moral and economic rights of creators whose work is re-uploaded without permission. However, this study explains the protections and legal remedies that can

be taken by creators when the copyright of a Youtube video reuploaded to Instagram is violated.

Based on the background description above, the problem formulation can be derived as follows

1. What is the legal protection for Youtube video creators if the copyright of Youtube videos reuploaded to Instagram is violated?

2. What efforts can be made if the copyright of a Youtube video reuploaded to Instagram is violated?

The purpose of writing this paper is to:

1. To find out and analyze the legal protection of Youtube video creators whose copyrights are violated by re-uploading to Instagram by individuals, in accordance with the UUHC

2. To find out and analyze what efforts can be made by copyright holders in the event of copyright infringement. In this case, consider legal remedies against violators of YouTube videos that have been reuploaded to Instagram.

## **2 Method**

This article is a normative legal research by examining primary and secondary legal materials. The legal material studied in this article consists of primary, secondary, and tertiary legal material. All legal materials are collected using documentary research methods and analyzed qualitatively.

## **3 Result and Discussion**

### **3.1 Copyright protection for creators of Youtube videos reuploaded to Instagram by others**

Intellectual property rights or 'haki' are the result of human thought in the form of works of art, copyrights and the application of ideas. Haki have the right to protect their works and creations, which is commonly referred to as copyright. The name copyright itself began to emerge from countries that adopted the common law system, commonly called copyright, and in the western continent and Europe, for example in Germany called urheberrecht and in France droit d'auteur. There is a close relationship between haki and copyright, because copyright is legally protected by haki.[7]

In this case, copyright is a right arising from the intellectual ideas and creativity of the creator embodied in his creation.<sup>10</sup> With the development of the times, ideas and ideas are developing and the need for dynamic legal arrangements is increasing and keeping up with the times. In its regulation in Indonesia, copyright has undergone several changes in its legal arrangements, starting from Law No. 6 of 2014 to finally Law No. 28 of 2014 concerning Copyright. With this arrangement, copyright protects the rights owned by the creator and is automatically acquired after the work exists. Such protection protects economic rights and personality rights,

in accordance with Article 4 of the 2014 UUHC.[8]

In legal terms, a creator is a person or several persons who have the right to have their names mentioned in a work or who are registered as creators in the Directorate General of Intellectual Property. A person giving a speech or lecture can be considered a creator even if his creation is not documented. According to Qadir's definition, copyright infringement is the act of recording, reproducing, or publishing someone else's work without permission from the copyright holder, which is not stipulated in law or contract. The prohibition is addressed by several regulations, namely:

1. harm the creator of the work, for example by reproducing and selling the work of others to the public

2. that causes harm to the State, such as the dissemination or publication of works contrary to government policy in the security and defense sector

3. that violates decency or public order, e.g. the sale of pornographic videos. Not only that, there are three types of copyright infringement, namely:

- a. direct violation.

The act of imitating, using, and producing imitations of someone else's work or creation is copyright infringement. Although the intensity of impersonation is small, it is still considered an offense according to the court.

- b. Breach of authority.

This violation concerns the responsible party rather than the violator. In essence, this violation imposes a burden on the party who is considered to have the rights to the infringing copyrighted work.

- c. Indirect violations

There is often a difference in understanding between the distinction between direct and indirect violations. In this case, the indirect classification of violations is from the criteria used when the violator finds out that the goods used are counterfeit or imitation products that indicate infringement. For example, the owner of an entertainment venue allows everyone to do the work. Even if the owner of the entertainment venue knows that the item or work is the result of infringement.[9]

Article 9 of the UUHC explains that the prohibition of using someone else's work for commercial purposes without the author's permission is a violation of economic rights. Infringement for commercial purposes is regulated in Article 1 number 24 of the UUHC, which states that it is copyright infringement to obtain profit for the purpose of economic exploitation of the original work without permission from the copyright holder. Moral rights themselves are regulated in Article 5 of the UUHC, which states that all works created by the creator must include the name of the creator and are prohibited from changing the content of the creator's work from its title or subtitle. [10]

There are two types of moral rights: the first is the right to be recognized as a creator. The moral right to be recognized as a creator requires the creator to display his or her name on his work or creation, but in some cases, the creator can also hide his identity. It is a right that includes any treatment or attitude related to the dignity and integrity of the creator, and

prohibits harming or altering the integrity of the creator.

The existence of legal protection in the form of copyright renews the growth and development of the spirit of the creator of the work. Protection by copyright has unique characteristics. In other words, the copyright protection system provides legal certainty automatically to the creator after the created work (expressive object) becomes real, without having to go through the recording and registration process.

Works created by the creator must be free from imitation and contain elements of the creator's originality, including the creator's self-reflection. Reposting content on Instagram is allowed, as long as it doesn't harm the original creator. Apps used to repost content also have the ability to include the original creator's name as a form of respect for the creator's moral rights. If the original creator's name is not included and the content is used commercially, it is an economic rights violation.[11]

In connection with the reposting of video trailers, movies, and movie trailers on YouTube, this activity may be considered copyright infringement. Even though Instagram users have listed the source of the reuploaded video, the original video creator still suffers economic losses. This is because many Instagram users who see the repost do not see the video from the original source. Thus, the creator of the YouTube video has benefited from the large number of video viewers on their YouTube channel, but actually suffered a loss because someone reuploaded the video on Instagram. Violation of the economic rights of such creators may be subject to sanctions in accordance with the provisions contained in Article 113 of the UUHC:

"Whoever violates the economic rights of the creator as referred to in Article 9 paragraph 1 letter a, letter b, letter e, and/or letter g by commercial exploitation without rights and/or without permission of the creator or copyright holder shall be punished with a maximum imprisonment of 4 (four) years and/or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah)."[12]

Article 96 of the UUHC also states that copyright holders whose economic rights are violated are entitled to compensation from those who repost their work. The following is an excerpt from Article 96 of the UUHC: "Creators, copyright holders and/or related rights holders or their heirs who suffer economic rights losses are entitled to compensation. Indemnification must be included simultaneously in court decisions in cases of criminal infringement of copyright and/or related rights.

If the perpetrator of the content reupload does not include the source of the original content creator, the action can also be said to violate the moral rights of the creator.

Although the 'Copyright Law' does not provide for moral rights, parties who have violated these moral rights can file civil lawsuits based on unlawful acts.<sup>16</sup> Therefore, as an Instagram user, you must be wise in social media. In addition, copyright infringement is often a problem in Indonesia, as legal awareness of copyright is still low in the country. If this is the case, we as Indonesian citizens must protect the intellectual rights of creators whose works have economic value. In this case, it is necessary to renew the mindset of the public about the importance of copyright by increasing awareness to appreciate copyrighted works and by providing continuous social education to the public

### **3.2 Efforts that the creator can make if the copyright of a Youtube video reuploaded to Instagram is infringed by someone else**

The existence of intellectual property rights protection is very important. This is because intellectual property rights themselves are rights that arise for creators when the idea of a creation or work is realized. Because creations and works are prone to violations, it is necessary to protect creative works. Activities known as copyright infringement activities include infringement of rights specific to the original creator. If a Youtube video that infringes copyright is reproduced on Instagram, there are two legal remedies:

#### a. Precautions

Prevention efforts are efforts made by the government to reduce or prevent copyright infringement that harms creators. In this case, the Government through the UUHC issued a regulation in 2014 containing provisions for the protection of the creator of the work, Articles 54 to Article 56 of the UUHC explain that the Government has the authority to supervise the creation and dissemination of works in the technical field.

#### b. Repressive

Repressive measures are the last step that can be taken if there is a violation of a copyrighted work in a YouTube video that has been reproduced on Instagram. There are two types of methods: litigation and non-litigation. The litigation method involves submitting evidence of copyright infringement to the commercial district court and the court issues a provisional injunction to prevent copyright infringement from continuing (Article 106 of the UUHC).[13]

Furthermore, if the creator feels that he has suffered a loss, he can file a claim for damages with the commercial district court (Article 99, UUHC). In this case, the plaintiff can also notify the police investigator or investigators from the Biwaki Directorate (Article 110 of the UUHC).<sup>20</sup> While not litigation, subpoenas can be made by creators who feel aggrieved against copyright infringers who reproduce YouTube video content on Instagram.

## 4 Conclusion

Copyright protection is regulated by Law No. 28 of 2014 on Copyright, whose provisions on copyright protect economic rights under Article 9 and moral rights under Article 5. Reproducing a trailer, movie, or movie trailer on YouTube may be considered copyright infringement. Even though Instagram users have listed the source of the reposted video post, the original video producer still suffered financial losses. This is because many Instagram users who see the repost see the repost without seeing the video from the original source. In this way, YouTube video creators can take advantage of the large number of video viewers on their YouTube channel, in accordance with Article 113 of the UUHC, this violates the creator's economic rights and can be penalized. There are two types of efforts that creators can make when their creation is violated, namely preventive efforts and enforcement efforts.

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