

Legal Protection of Digital Art Copyrights on Social Media

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Abstract. Digital art is the result of an artistic work or practice that uses digital technology as part of the creative process. In this modern era, creators of works usually upload their work on a platform such as social media, but this has a negative impact on the work and the possibility of misuse of the work without the author's knowledge. It is certainly detrimental to the creator. This research method is normative juridical with descriptive and descriptive-analytical research specifications. Based on the research results, Digital Art as one of the objects of copyright. Its existence is protected internationally and nationally, including its inherent rights. For efforts to prevent violations of a digital artwork, the use of watermarks, maximizing security technology, registration of works in the context of prevention, while efforts to resolve problems, the peaceful route, the application of social sanctions, settlements using legal channels are things that creators can do.

Keywords: Digital Art, Copyright, Social Media.

1 Introduction

The era of globalization seems so natural with the ease of digital access balanced with the development of science and human civilization. Advances in technology today are unavoidable in this life because technological progress will run following advances in science [1]. Technological intervention in various fields of human life makes it easier to carry out daily work, and work becomes more practical and completed quickly. However, not all fields can be replaced with technological sophistication. Art is one part of the socio-cultural field that has been mixed with technology, one of the results is digital art, or in Indonesian, it means digital art.

Digital art is the result of an artistic work or practice that uses digital technology as part of the creative process. In this modern era, creators of works usually upload their work on a platform such as social media. The higher the interest and positive response from the public, the higher the selling value demanded by the creator of his work [2, 3]. In addition to general consumption, digital art can also be commercialized [4]. Back to the discussion that creators of works usually upload their works on social media, but this has a negative impact on the works, as in the case that the author often sees, where the work of the creator of the work is used as the design of a product that is sold freely without the knowledge of the creator. Unfortunately, the product has been sold a lot. It is very detrimental to the creator of the work because the offender does not agree with the creator of the work, so they do not pay for the design he uses but instead get their profit from the sale of the product. Another copyright violation is re-uploading a work on a social media platform, which gets more engagement than

the original post, whether with credit or not. This is also detrimental to the creator of the work as the original uploader [5].

Copyright is the creator's exclusive right that arises automatically based on declarative principles after work is realized in a tangible form, without reducing restrictions following the provisions of laws and regulations [6, 7]. The existence of copyright is important in this world, as evidenced by the many international conventions that raise copyright protection, such as the Berne Convention, The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights/TRIPs, Universal Copyright Convention/UCC, and WIPO Copyright Treaty/WCT. Every international convention, in general, always produces results that are characteristic of the convention. Meanwhile, in Indonesian laws and regulations, copyright is regulated in Law No. 28 of 2014.

From the description above, the formulation of the problem that can be arranged in this study, among others:

1. How is copyright protection for Digital Art posted on social media prone to infringement?
2. What is the solution to the misuse of Digital Art for a commercialized product and re-uploading, which gets greater engagement than the original post?

2 Research Methods

The approach method used in this research is normative juridical, namely library law research which is carried out by examining library materials or secondary data [8]. To complete the data needed in this study, the author also uses the interview method to complete the answers to questions in the formulation of the problem, which will combine the data obtained from the literature study with the experience of several resource persons who experienced problems following the formulation of the problems raised in this study.

The specification of this research is descriptive analysis. Descriptive describes certain objects and explains things related to or systematically describes facts or characteristics of certain populations in certain fields factually and accurately [9, 10], while analysis describes situations with words or sentences related to the problems that become the formulation of the problem in this study [11, 12].

3 Results and Discussion

3.1 Protection of Digital Art Copyrights on Social Media

Legal Protection for Digital Art Creators Circulating on Social Media According to International Conventions

Digital Art is protected internationally because it belongs to the art category. As we know, many works of art fall within the scope of digital art, but as long as these works meet the requirements for a work to be protected (original and tangible), the work will receive legal protection. Technological advances experienced by the world today encourage the advancement of interactions between human beings to cross national borders, including in cases of copyright infringement on social media. In cases of copyright infringement, the

perpetrators and victims are citizens of different countries. Maybe many people think that if the perpetrators of infringement and victims of copyright infringement are in different countries, it will cause difficulties in dealing with them, such as communication limitations due to language and time differences, but this is not a barrier to upholding justice, this is where international conventions play a role.

International conventions around copyright protection, such as the Berne Convention, TRIPs, WCT, UCC, and almost all of them affirm the National Treatment. National Treatment is the principle of equal treatment and does not discriminate against fellow citizens of member countries, in this case, regarding Copyright Protection in each country. [13] So, concerning the provisions of the National Treatment, this does not become a barrier to enforcing the law for copyright infringement if the infringer and the creator have different citizenship statuses. [14] The following is part of the international convention that contains the National Treatment:

1. TRIPs, contained in Article 3 sub [1]:
“Each member shall accord to the nationals of other Members treatment no less favorable than it accords to its nationals concerning the protection of intellectual property.”
2. The Berne Convention, contained in Articles 5 (1) and 5 (2):
 - Authors shall enjoy, in respect of works for which they are protected under this convention, in countries of the Union other than the country of origin, the rights which their respective laws do now or may hereafter grant to their nationals, as well as the rights specially granted by this convention.
 - The enjoyment and exercise of these rights shall not be subject to any formality; such enjoyment and such exercise shall be independent of the existence of protection in the work's country of origin. Consequently, apart from the provisions of this convention, the extent of protection and the means of redress afforded to the author to protect his rights shall be governed exclusively by the laws of the country where protection is claimed.

Technological advances cannot prevent the spread of a work circulating on social media, and considering the current state of affairs, the international market has promising opportunities.

Legal Protection for Digital Art Creators Circulating on Social Media According to Indonesian Law

Based on Article 40 Paragraph 1 of the Copyright Law regarding protected creation objects and the many types owned, Digital Art is one of the nationally protected copyright objects, including the related rights inherent in it, namely Moral Rights and Economic Rights. Furthermore, in the Copyright Law, economic rights are contained in Article 9, especially in Article 9 paragraph 1, which contains things that are entitled to be done by the creator to obtain economic value from his creation, namely:

1. Creation Publishing
2. Reproduction of Creation in all its forms
3. Creation Translation
4. Adapting, arranging, or transforming Works
5. Distribution of Works or copies thereof
6. Creation Show

7. Creation Announcement
8. Creation Communication
9. Creation Rental

Meanwhile, the moral rights are contained in Article 5 of the Copyright Law, especially Paragraph 1, which contains the things that the creator has the right to do with his creation, namely:

1. Continue to include or not include his name on the copy in connection with the use of his creation for the public
2. Using his alias or pseudonym
3. Changing his creation following the propriety in society
4. Changing the title and subtitle of the creation
5. Defend his rights in the event of a distortion of the work, mutilation of the work, modification of the work, or anything that is detrimental to his honor or reputation

In addition, Indonesia is also a member of the Berne Convention and TRIPs, so it is obliged to implement the provisions contained in the two conventions. So, if there are parties who want to use the work for things that can bring material and non-material benefits, they must first obtain permission from the creator, or a better step is to buy the work from the creator for mutual benefit. It refers to the definition of copyright, namely the acquisition of exclusive rights to the creation, where the right is only reserved for the creator so that other parties do not have the right to enjoy it [15].

3.2 Efforts Against Digital Art Abuse of Commercialized and Reuploaded Products That Get More Engagement Than Original Posts

Law Enforcement Efforts on Misuse of Digital Art Against a Commercialized and Reuploaded Product which Get More Engagement Than the Original Post

Law enforcement is the enforcement of the actual function or function of legal norms as a guide for actors in traffic or legal relations in the life of society and the state. Therefore, disputes due to copyright infringement need to be resolved following applicable legal procedures to provide guarantees of legal protection and justice to creators and copyright holders and other related rights.

Criminal law efforts in resolving cases of violations are quite effective compared to civil legal remedies, where civil legal remedies are more focused on the compensation process [16]. While the settlement of civil cases of copyright infringement, the basis for law enforcement is contained in Article 1365 of the Criminal Code, which states, "Every act that violates the law, which brings harm to others, obliges the person who because of his mistake published the loss, compensates for the loss."

The only court authorized to handle Copyright dispute resolution is the Commercial Court. Article 96 of the Copyright Law states that creators, copyright holders and/or related rights holders or their heirs who have suffered economic rights losses are entitled to compensation. Furthermore, the aggrieved party, whether the Author, Copyright Holder or Related Rights owner, as written in Article 99 Paragraph 3 of the Copyright Law, may request an interlocutory decision to the Commercial Court for:

1. Request the confiscation of the Works made by Announcement or Reproduction, and/or the Reproduction tool used to produce the Works resulting from Copyright infringement and Related Rights products
2. Stop the activities of Announcement, Distribution, Communication, and/or Reproduction of Works resulting from infringement of Copyright and Related Rights products.

Alternative Solutions Against the Misuse of Digital Art on Commercialized and Reuploaded Products which Get More Engagement Than the Original Post

1. Peace Effort

Peace efforts, in this case, can be by reprimanding the perpetrators of violations or other efforts that can still be categorized as resolving the problems of the two parties personally.

As one of the sources, Nissa revealed that so far, he has resolved the problem of his work, namely re-uploading his work on Reddit without his permission, by admonishing the owner of the Reddit account who uploaded it because, according to him, this is the easiest and more private way, and so that the problem is not prolonged. Therefore, although she feels disadvantaged in this case because the likes on the platform are far more than hers, Nissa feels that this problem can still be resolved amicably. She also feels she is still a small creator, so problems like this can be resolved personally [17].

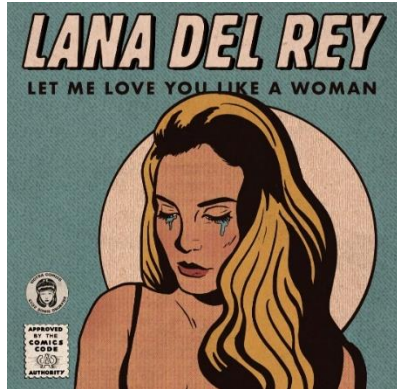
Based on what the researchers saw, there were indeed many who resorted to peaceful means as a solution to problems related to copyright. Still, not all infringement perpetrators heeded the creator's peaceful efforts. Some ignored it for various reasons and directly limited their interaction with the creator unilaterally, thus making the creator take action further to obtain clarity on his rights as a creator.

2. Imposition of Social Sanctions

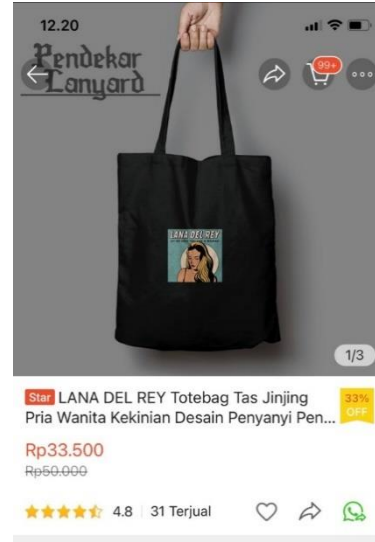
Social sanctions can be interpreted as an action that is intentionally given by a group of people who have lived together (society) to one of its members as a reaction to an action that is considered to have deviated within the community itself with the aim that the recipient of the sanction can behave following the law with the norms that have been embedded in the community and realize their mistakes [18]. The form of social sanctions is not always in the form of black and white writing, and its implementation is often implicit. The purpose of social sanctions is to create a deterrent effect for perpetrators.

The form of the use of social sanctions in Digital Art copyright infringement that is most often encountered is the announcement of the perpetrator's actions, in this case, the act of copyright infringement, on social media platforms, relying on people's reading interest on these platforms, one of which is often used and has an impact great via Twitter Thread. Known as one of the most widely used social media, Twitter has a feature that can create "threads", namely continuous tweets, and these "threads" can invite thousands of comments, retweets, likes, shares, and can even end up moving the public [19].

As one of the sources, Viotra used the "thread" feature of Twitter to expose a shop on Shopee who used his work without permission to design tote bags sold in that store. This social sanction paid off by removing products that used his designs. Even though it's economically detrimental because he does not receive any commission from sales using his designs, he says he's satisfied with Twitter's effect because he had previously tried to admonish him privately but ended up being blocked. He did not want to deal further with the theft of this work and chose to delete the thread after the problem was resolved [20].



(a)



(b)

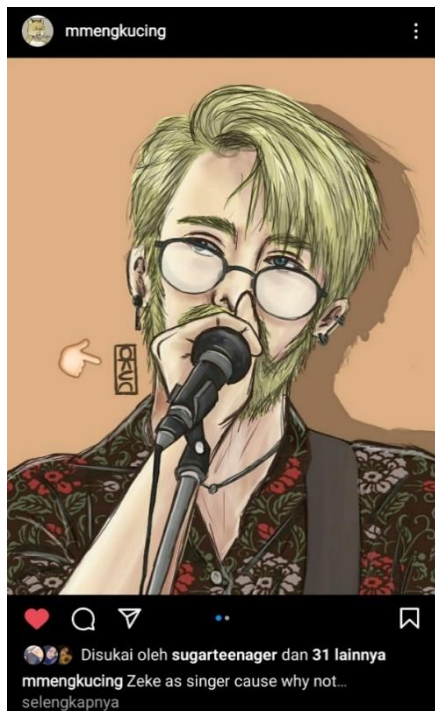
Fig. 1. (a) Viotra's Works; (b) Shopee Stores That Sell Totebags Using Viotra Designs

Preventive Efforts Against Digital Art Misuse of Commercialized Products and Re-uploads Where Gets More Engagement Than the Original Post

1. Use of Watermarks in Creation

A watermark is a sign on paper, which appears faintly when exposed to light; its use often encountered in everyday life, is on paper money. An image's watermark insertion can be visible or invisible, which is commonly called visible watermarking and invisible watermarking [21].

There are no specific restrictions on setting the creator's identity to be included in the Watermark. Thus, the form of a Watermark in the form of a signature, both real and pseudonymous names, and initials, to include full identity, is still considered a Watermark. Visible watermarks with normal to semi-transparent opacity are the most commonly used watermarks in digital artworks.



(a)



(b)

Fig. 3. (a) The use of watermarks on works belonging to the username @mmengkucing; (b)The use of watermarks on works belonging to the username @hanifuadzy.

Using a watermark in work is considered to reduce the risk of misuse. People will think twice about using the work to be misused, let alone claiming the work to be theirs due to a clearly stated identity. However, as technology develops, Watermark does not guarantee it is free from theft. Many people can use special techniques to remove these marks with the support of increasingly developing technology. Therefore, it is better if the Watermark on work is placed in a place that is difficult to remove or is a substantial part of the work.

2. Utilizing Security Technologies/ Digital Rights Management/DRMs

Security Technology is software, components, or other tools that Copyright owners can use to protect their copyrighted works. Security Technology can be in the form of encryption of software, passwords, and access codes. Security Technology can consist of two things, namely [22]:

- a. Access Control Security Technology (Access Control)

This security technology is intended so that creators can control access to their copyrighted works—for example, using passwords, permission to open files or encryption on files. In addition, this Security Technology is a barrier related to the reproduction of copyrighted works, for example, limiting the number of files that consumers can copy.
- b. Safety Control Technology (Use Control)

Technology allows for control over the use of copyrighted works, even if access has been obtained.

Using security technology in digital artworks that is the most frequent and easy to use from what the author sees is providing secure access to a work that must be penetrated with a password, access code, or other conditions such as following the creator's account if other users want to see it. In addition to providing secure access, another example of Security Technology that can be used is to limit things that can cause duplication of work, such as screenshots and downloads. One platform that has implemented this is Webtoon. This restriction was made due to much unofficial/illegal distribution of comics belonging to Webtoon on other platforms. However, this has received protests from many users, so Webtoon decided to return the screen capture feature by giving the Webtoon logo to the screenshots of its users. However, it seems that this type of Security Technology is quite complicated and costly if it is done individually, so its use is limited.

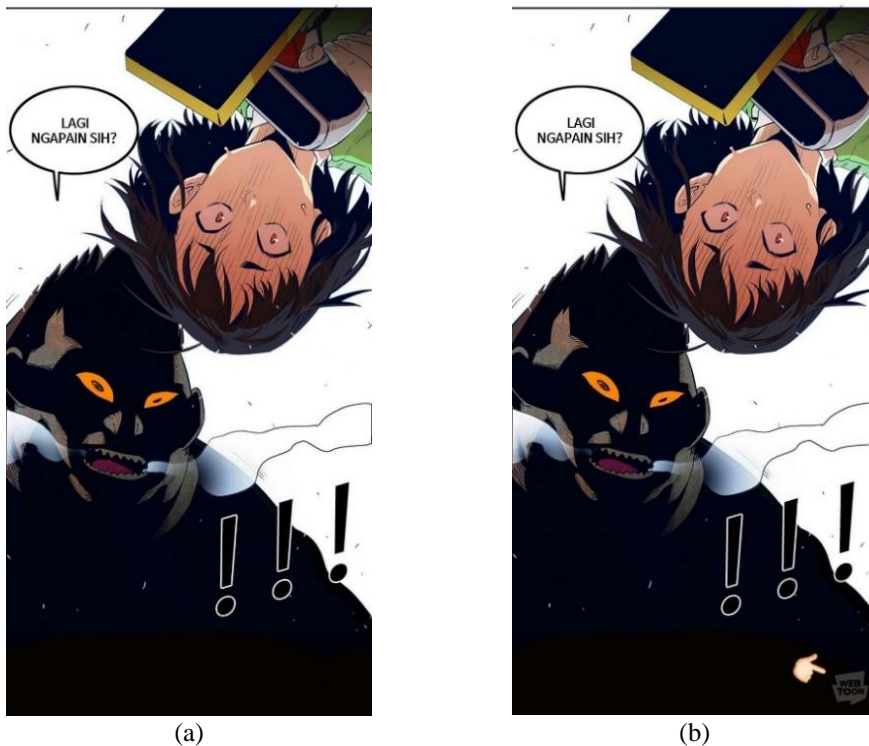


Fig. 5. (a) Old version of webtoon screenshot results; (b) New version of webtoon screenshot results

3. Doing Registration/Recording of Works

Copyright arises automatically when the creation is born, provided that the creation is an original work from the mind of the creator of the work and has a real form that can be felt with the human senses. The specialty of copyright lies in the automatic acquisition of rights, in contrast to patents and trademarks that must be registered. Copyright registration is not a

requirement because even without being registered, the existence of a copyright on a work has existed, recognized, and protected since the creation was realized in a tangible form.

In Indonesia, the registration of works is carried out at the Directorate General of Intellectual Property Rights (Dirjen HKI) of the Ministry of Law and Human Rights of the Republic of Indonesia or online at e-hakcipta.dgip.go.id. By registering, the officer will record the name, address, and title of the work in question in the General Register of Works, which is held specifically for that purpose. The official announcement will be made in the Supplement to the State Gazette. When registering online, ensure the information and requirements for administrative completeness and a copy of the sample work uploaded to the website are correct. Next, ensure the selection of the type of work you want to register follows the type of work regulated in the Copyright Law.

Concerning costs, as regulated in Government Regulation No. 28 of 2019 concerning Types and Tariffs for Types of Non-Tax State Revenues Applicable to the Ministry of Law and Human Rights, Rp. 1,800,000, and Rp. 2,300,000, for computer programs.

4 Conclusion

Digital Art, as an object of copyright, existence is protected nationally and internationally as long as it fulfills the elements of a protected work, namely originality and tangible/tangible. International copyright protection regulated in various international conventions, such as the Berne Convention, TRIPs, WCT, and UCC. Meanwhile, within the scope of national law, Indonesia has Law no. 28 of 2014 concerning copyright.

Copyright infringement is unavoidable, as the creator should also try to overcome the infringement by minimizing the things that can support the occurrence of copyright infringement. Using watermarks, maximizing security technology, and registering works are examples of efforts that can be taken to minimize copyright infringement. However, if a violation has occurred, as the creator of the things that can be taken are; Peace Efforts, Implementation of Social Sanctions, to Law Enforcement.

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