

Adaptation Works as Original Creations from an Intellectual Property Perspective (Study of Fans Fiction Works)

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Abstract. Article 40 UUHC contains the creations included in the work protected by the law, especially in science, art, and literature. Nevertheless, Article 40 paragraph 1 letter none of them is a work that is included in the adaptation work. One form of adaptation that has been widely circulated is fan fiction or fan fiction. The fact that fanfiction writers in creating written works in the form of fanfiction take elements in pre-existing fiction works owned by famous figures. A problem arises whether a fanfiction copyrighted work is a work of art or not. However, Adaptation has fulfilled the element of originality and is an object that can be protected by copyright law. This research used empirical juridical law research. Concerning the object of this research, what can be protected from a fanfiction work is the storyline made by the fanfiction writer, which in this case is a contribution made by the creator, in this case the fanfiction writer for the fanfiction work he has made. Where it can be said that the change in the storyline is more than a simple variation, which in its creation process requires creativity and becomes a variation that gives a different appearance to the original creation. So, the storyline created by this fanfiction writer is a contribution whose Copyright is owned by the fanfiction writer himself, derivative works or derivative works in the form of adaptations such as fanfiction works will receive Copyright protection if in the process of publishing and writing.

Keywords: Copyright, Adapted Works, Originality, Fan Fiction.

1 Introduction

Human intellectual property is the result of a thought and intelligence of the human brain, which can be realized in invention, design, art, work or practical application of an idea to answer specific problems in daily human life. Intellectual Property Rights (IPR) are rights that come from the results of creative activities, an ability of human thought expressed to the general public in various forms that have benefits and help support human life and have economic value [1]. In this case, IPR based on the Guidebook for Intellectual Property Rights published by the Directorate General of Intellectual Property Rights is divided into two, namely Copyright (Copyright) and Industrial Property Rights (Industrial Property Rights). Intellectual Property Rights arising from one aspect of business law that needs special attention related to technological, economic, and artistic aspects. This arises because of the existence of a person's intellectual property as the core or object of its regulation, or this intellectual property right is an individual intangible property [2].

Copyright as one of the scopes in IPR protects original works in art, literature, science and related rights (performers, phonogram producers, broadcasting institutions). In Indonesia, the regulation regarding Copyright is regulated in Law Number 28 of 2014 concerning Copyright (UUHC), wherein Article 1 point 1 states that Copyright is the creator's exclusive right that arises automatically based on declarative principles after work is realized in tangible form. Without reducing restrictions by statutory regulations.

Article 40 UUHC contains the creations that are included in the work protected by the law, especially in the fields of science, art, and literature, where in Article 40 paragraph 1 letter n one of them is a work that is included in the adaptation work. What is meant by an adaptation work based on the explanation of Article 40 paragraph 1 letter n of the Copyrights act is to transform the work into another form. One form of adaptation that has been widely circulated is fan fiction or fan fiction. according to Nancy Schulz in Encyclopedia Britannica "Fan Fiction – Literature" at explain that Fan Fiction or better known as Fanfiction, FF, or Fanfic is a term for works made by fans that relate to stories about characters or in this case fictional characters, as well as settings made by fans from an existing original work. before, instead of the creator of the work. Two types of fanfiction are usually made by fanfiction writers, namely fanfiction works that adapt pre-existing works of fiction, and fanfiction works made by borrowing the names of famous figures as character names.

The fact that fanfiction writers in creating written works in the form of fanfiction take elements in pre-existing fiction works as well as names owned by famous figures to be included in their fanfiction works. A problem arises that deserves to be studied whether a fanfiction copyrighted work is a work of art or not. Adaptation has fulfilled the element of originality and is an object that can be protected by copyright law. A work to be protected by Copyright must meet the conditions where the creation in question must be tangible and meet the elements of the originality of its creator. In this case, the criteria for being tangible or having fixation have been met with the birth of a fanfiction work, the second thing that needs to get a deep understanding is related to the element of originality from its creator. With this background, The problem formulations of this research are: (1) Is the adaptation work in the form of fan fiction an original creation based on the principle of Copyright Originality?; (2) How is the adaptation work applied as an intellectual work based on the Copyright Law?

2 Method

This research is a research that uses empirical juridical law research. This empirical juridical research method or this sociological research method sees law as a symptom of society on the one hand that can be studied as an independent variable that causes consequences in various aspects of social life. In addition, law can also be studied as a dependent variable that arises as the resultant of various aspects of social life. By following the pattern of social science research, the sociological legal research method begins with the formulation of problems and hypotheses, through sampling, measuring variables, collecting data and making analytical designs. At the same time, the whole process ends with concluding. [3] The approach used in this research is a statutory approach carried out by reviewing Law no. 28 of 2014 concerning Copyright and other laws and regulations, as well as a conceptual approach that examines the concepts of transformation (adaptation), originality, and fan fiction.

3 Result and Discussion

3.1. Fan Fiction as Original Creation Based on the Principle of Copyright Originality

Rebecca W. Black (2007) in her article entitled Fanfiction Writing and the Construction of Space and published online at <http://www.words.co.uk> revealed that, "Fanfiction are fan-produced texts that derive forms of media, literature, and popular culture" [4] . Fans write fanfiction because of the possibility that the original work doesn't live up to their wishes or expectations. it is known that fanfiction is a work made by fans out of their dissatisfaction and imagination of an original work that already existed before either novels, films, animations, and comics and on a famous character who could be an actor, actress. as well as idols. In addition, it is also known that there are two types of fanfictions created by fans, namely fanfiction from a work of fiction, and RPF or Real Person Fiction. Following what was conveyed by the respondents of this study.

According to Lilien R said that,

"Fanfiction is a story created by fans based on another story or an imaginary story about a famous person." (Data collection was carried out on June 12, 2021. At 07.44, conducted online via email)

According to Tarra Kaifa say that,

"Fanfiction is a fictional story created by fans using their imagination." (Data collection was carried out on June 12, 2021. At 07.44, conducted online via email)

According to Yovita Sanusi say that,

"Fanfiction is a work of fiction created by fans/fans based on/referring to things they like, it can be an idol artist, or other works of fiction/comic/film/animation/drama, etc." (Data collection was carried out on June 12, 2021. At 07.44, conducted online via email)

According to Amifa Oktavia said that,

"Fanfiction or fan fiction is a fictional story created by fans based on the fan's imagination." (Data collection was carried out on June 13, 2021. At 10.00, conducted online via email)

Fan fiction is fanfiction made by fans of a pre-existing work of fiction, whether animation, comics, novels, or films. Fanfiction writers who write this type of fanfiction will write their fanfiction either by simply borrowing the character's name from the famous fiction work or other elements in it such as the

setting of the place in the story. Meanwhile, according to Emily Martik (2013), RPF or Real Person Fiction in her article entitled Real Person Fiction: Imaginative or Immoral? explained that RPF is a form of fanfiction that presents real people and not imaginary characters as characters in a work of fiction where the writing style is similar to tabloid writing style but prioritizes the narrative side over facts. [5]

A fanfiction copyrighted work is identified as an adaptation work that is a form of fan activity resulting from receiving content from popular media. Fans receive and enjoy the popular culture content and process and reproduce it into the form of media text, which in this case is fanfiction, which can be classified into two derivative works, namely adaptation and transformation. Explanation of Article 40 paragraph (1) letter n of Law no. 28 of 2014 concerning Copyright has explained that what is meant by "adaptation" is to transform a work into another form. From the provisions of the article it can be said that if a fanfiction work as a work produced from human creativity gets protection.

In the international world itself, a fanfiction work is known as derivative work. In America, based on 17 USCS 101 a derivative work is a work based upon one or more preexisting works such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgment, condensation, or any other form in which a work may be recast, transformed, or adapted. A work that consists of editorial revisions, annotations, elaborations, or other modifications representing an original work of authorship is a derivative work. Based on this definition, what is meant by a derivative work is a creation that is based on one or more pre-existing works.

The regulation is contained in Article 5 paragraph (1) letter e of the Copyright Law that the Moral Rights as referred to are rights that are eternally attached to the creator to defend his rights in the event of distortion of the Works, mutilation of the Works, modification of the Works, or other things that prejudicial to self-respect or reputation. In addition, copyright infringement about the author's economic rights to fanfiction creations is contained in Article 9 paragraph (1) letter d of the Copyright Law that the Author or Copyright Holder as referred to has the economic right to adapt, arrange, or transform creation. In addition, it is followed in paragraphs (2) and (3) that everyone exercising the economic rights as referred to in paragraph (1) is required to obtain permission from the Author or Copyright Holder, and anyone without permission from the Author or Copyright Holder is prohibited from making copies. and/or Commercial Use of Works. If we look at the arrangements in the Copyright Law, it can be said that a fanfiction copyrighted work that does not get permission from the creator or copyright holder of the original work can be said to violate Copyright. From the article, it is known that anyone is prohibited from adapting a previously existing work without prior permission from the creator of a work or the Copyright Holder, and the result of adaptation or transformation is also prohibited from being used for commercial purposes.

Authenticity or originality is one of the basic principles of Copyright protection. A copyrighted work that is said to be original is not a novelty, that is, a copyrighted work is said to be original or original, it does not have to be new or has a novelty, what is seen is the expression of the idea. A copyrighted work is said to be original which means,

1. Original does not have to be new (novelty) like a patent;
2. Original does not require a very large difference between the copyrighted work created and the previous creation as is widely adopted in the patent system in determining novelty;
3. Originality referred to in the Copyright system is original in the expression of the idea, not original in the idea;
4. It is said to be original if the copyrighted work is purely from the creator himself, not just plagiarizing the previous creation;
5. Not Original if the work contains a lot of information that is already public property;
6. Originality arises from the creativity and intellectual effort of the creator and does not simply copy;
7. There is a direct correlation between the concepts that exist in the mind of the creator and the creation produced through the hands of the creator;
8. In quantity, the contributions made by the creators are as follows:
 - a) Not just additional variations that seem trivial
 - b) perfunctory
 - c) Too little creativity
 - d) Must be the variety that brings the distinguishing power
 - e) Must be a serious touch from the creator
9. It says Original must relate to how the creation was made.

Fanfiction, as a work written by adapting other works of fiction that already existed before in the writing process, is made by borrowing elements from the fiction work such as character names, place settings and other elements. Knowing this makes fanfiction works as adaptations questionable for their originality. However, in this case Law no. 28 of 2014 concerning Copyright and the Berne Convention have not clearly

regulated the conditions for a work to be included in the original work. Therefore, this study uses the theory put forward by Paul Goldstein that the originality of a work can be seen through three things, namely:

- a) The relationship between originality and novelty;
- b) Quantitative limits of creation;
- c) Originality relationship with the effort made.

The first theory, "relationship between originality and novelty" states that a work does not have to be new to be protected by Copyright. In this case, it is impossible for a literary work that is truly the same without any plagiarism, the creation made by the last creator makes it doubtful that it has an element of originality in it. However, there are conditions where the creator has originality in a previously existing creation, namely:

a. If an Author copies the whole, for example a poem entitled Ode to a Nightingale by John Keats except one sentence is omitted and replaced with his own sentence, the second author has the Copyright for the addition of the sentence.

b. If the second creator rearranges the lines of John Keats' Ode to a Nightingale, he will get the Copyright for the new composition of the poem.

c. If the second author changes the sentence in the poem into his own sentence in its entirety, He will get the Copyright of the entire poem.

The relationship between originality and the novelty of creation can also be seen in derivative works that, although they are not new creations, can still be protected by Copyright to meet the element of originality. One form of this derivative work is copyrighted works in the form of fanfiction. Paul Goldstein states that to be considered a derivative work, a work must meet two conditions: the creation must borrow content from other existing works, and the new creation must be a rearrangement, transformation, or adaptation of the original creation. Not just plagiarism [6].

The second theory is the quantitative limit on creation to obtain originality. Some courts, especially in cases relating to art, require the author to make an original contribution sufficient to satisfy a quantitative limit that is more than mere trivial variation, of substantial originality that is not merely trivial, originality, a little creativity (a modicum of creativity), a touch of fresh creation (touch of fresh authorship), or at least a distinguishable variation. Concerning the quantitative limit for originality in general, it will not be obtained by the creator who transforms a pre-existing creation from one medium to another, like creation of three-dimensional characters from two-dimensional cartoons. However, there are cases where media changes to Rodin's Hand of God statue are considered to meet the quantitative limit because there are differences between the new work and the original work, namely the side of the panting where the original creation is closed while in the new work the side is open. The courts discovered these differences and require expertise and creativity that not everyone has.

According to William S. Strong [6], protection on derivative works is only given to the original contribution made by the author, but other questions arise about what can be categorized as contributions from the new creator. Based on Goldstein's theory regarding quantitative limits, to get Copyright protection, a work resulting from the adaptation process as in fanfiction must be more than simple variations, use a little creativity, have a touch of fresh creation or at least have differentiating variations. In a fanfiction work that is the object of research, differences or variations or contributions made by the creator, namely the creation of a separate storyline that is different from the storyline of the fictional work adapted into the form of the fanfiction work. This is as stated by the respondents of this study,

According to Tarra Kaifa said that:

"What I want to highlight from my fanfiction work is the storyline and the background behind the storyline is everyday life in my family, school, and community. And it is permissible to use existing characters, or to make their own. Sometimes I make my original characters because they are more flexible in telling their characters and can determine the character's personality at will." (Data collection was carried out on June 12, 2021. At 07.44, conducted online via email)

According to Lilien R said that :

"Plot holes or plot holes and empty spaces in the original story or companion characters who are liked but whose life is not explained in the original story or are not satisfied with the storyline and or ending in the original story. I like about fanfiction because it usually takes the name and personality/traits that already exist if you use the settings from the original story, but if you use my own settings, I just borrow the name, while the personality/traits are made different. Original character in fanfiction." (Data collection was carried out on June 12, 2021. At 07.44, conducted online via email)

According to Yovita Sanusi said that,

"I want to highlight the story/imagination that I made, because I really like works of fiction and like to make up stories, especially those in the fantasy genre, or things that are not too common. or they are in a

certain world/plot that I created." (Data collection was carried out on June 12, 2021. At 07.44, conducted online via email)

According to Amifa Oktavia said that,

"I want to highlight the plot or storyline of the fanfiction itself, then the formation / depiction of the character itself so that it looks reasonable and not Out of Character (OOC). The background of the storyline of making this fanfiction work itself can be from real events in the original work / canon which is then developed into a new and whole storyline, or it can be purely from the author's imagination (such as the author will create an Alternative Universe or AU from the real world). (Data collection was carried out on June 13, 2021. At 10.00, conducted online via email)

Based on the results of the study, it is known that the differentiating variation contributed by fanfiction writers to their fanfiction works lies in the storyline. Fanfiction writers in writing a fanfiction work are motivated by their dissatisfaction with the original work's storyline so that they wish to change it according to the plot. the story they wanted. In addition to the storyline, some fanfiction writers will also usually create original characters or Original Character (OC) and appear in their fanfiction works because some writers feel that writing stories with characters made by themselves will be more flexible and they will know the characters better. In fanfiction stories, writers usually make their own story settings that are not related to the settings found in other works they have adapted. Based on Paul Goldstein's second theory, some of these distinguishing elements can be classified as quantitative limits of creation that distinguish a work of fanfiction from other works of adaptation.

The last theory is whether originality is affected by the effort put in. Paul Goldstein states that making an effort in creating a work does not necessarily make the work original. For example, the production of a three-dimensional character toy from a two-dimensional cartoon character can be counted as doing an effort, but the three-dimensional character does not necessarily meet the originality requirements because the new creation must meet the quantitative limit that the creation has more than simple variations [7]. The most important element is a little creativity in its creation, with the existence of a new storyline and new characters which in the manufacturing process do not imitate or take from pre-existing characters or storylines, it clearly shows the element of creativity expressed by the creator, in this case the author of fanfiction. Thus, according to this theory, a fanfiction work can still be considered to have originality as far as the contribution made by its creator, namely the author of the fanfiction work.

In relation to the object of this research, what can be protected from a fanfiction work is the storyline made by the fanfiction writer which in this case is a contribution made by the creator in this case the fanfiction writer for the fanfiction work he has made. Where it can be said that the change in the storyline is more than a simple variation, which in the process of its creation requires creativity and becomes a variation that gives a different appearance to the original creation. So that the storyline created by this fanfiction writer is a contribution whose Copyright is owned by the fanfiction writer himself.

In the United States itself, there are known creations called derivative works that are produced from various acts of transformation. The United States does not only recognize changes in form as an understanding of transformation, the work must also go through a process of changing (transforming), adapting, or modifying existing works. [8] The derivative works are then limited in the United States by restrictions on fair use or fair use which are in the process of being made in ways that do not violate the law. One form of work that is included as derivative works is copyrighted works in the form of fan fiction.

1) Application of Adapted Works as Intellectual Works Based on Copyright Law

In practice, fan fiction or fanfiction works are created by someone by borrowing the content of an existing creation and popularized by others before. In the context of Copyright provisions, such works are referred to as a form of transformation or adaptation, which is also known as derivative works. Derivative works in the United States themselves are subject to fair use restrictions, namely in the process of making them carried out in ways that do not violate the law. [9] The main requirement for copyright protection under the laws and regulations is originality. Originality flows from a certain effort made by a Creator, so it must follow that an original work must be nothing more than a copy or plagiarism. The work must include a small number of individual intellectual creations to qualify as an "original work" entitled to Copyright protection. [10]

Creative works in the form of fanfiction themselves can be grouped into two types of fanfictions created by fans, namely fanfiction from a work of fiction, and RPF or Real Person Fiction. Fan fiction is fanfiction made by fans of a pre-existing work of fiction, whether animation, comics, novels, or films. Fanfiction writers who write this type of fanfiction will write their fanfiction either by simply borrowing the character's name from the famous fiction work or other elements in it such as the setting of the place in the story. For

example, Harry Potter fanfiction writers can write fanfiction from the novel either by borrowing the character's name or other elements in it, borrowing the setting of the wizarding world in the novel, and only changing it the storyline. In addition, according to Emily Martik (2013) [11], RPF or Real Person Fiction in her article entitled Real Person Fiction: Imaginative or Immoral? explained that RPF is a form of fanfiction that features real people and not imaginary characters as in the writing style in tabloids prioritizes the narrative side rather than facts. Most writers who write fanfiction works with this type of RPF will borrow the names of real famous people such as actors, actresses or idols as characters from their fanfiction works. as in the writing style in tabloids which prioritizes the narrative side rather than facts. Most writers who write fanfiction works with this type of RPF will borrow the names of real famous people such as actors, actresses or idols as characters from their fanfiction works. as in the writing style in tabloids which prioritizes the narrative side rather than facts. Most writers who write fanfiction works with this type of RPF will borrow the names of real famous people such as actors, actresses or idols as characters from their fanfiction works.

The adaptation work itself has been regulated in Law no. 28 of 2014 concerning Copyright and is categorized as a protected work regulated in Article 40 paragraph (1) letter n. The law has also explained what is meant by adaptation written in the explanation of Article 40 paragraph (1) letter n where what is meant by "adaptation" is to transform a Work into another form. For example, from a book to a film. Based on Article 59 paragraph (1) letter g, it has also been stated that Copyright Protection for an adapted work is valid for 50 (fifty) years from the first announcement. This is as stated by the Ministry of Law and Human Rights of the Central Java Regional Office as an informant for this research,

According to the Kemenkumham official, the Central Java Regional Office revealed that,

"An adaptation, or what is known as a derivative work, is a creation based on one or more existing creations. What constitutes an adaptation subject to applicable law, fanfiction copyrighted works created using elements contained in other pre-existing copyrighted works are also included in derivative works. An adaptation work is a work that includes an original work where in its creation, the creator of this adaptation will modify another work into an adaptation of his own making. For example, a work of fiction in the form of a novel that gets an adaptation into a film form, the work in the form of a film can be categorized as an original work." (Data collection was carried out on June 14, 2021. At 09.00, conducted online via email)

The work of creation obtains Copyright protection by adopting an automatic protection system, which means that it is obtained by the creator automatically, without going through the registration process first, the creator automatically has legal protection for his copyrighted work when the work has been realized in the form of real Copyright. (expression work) [8]. If an adaptation work, in which case the fanfiction is made solely for non-commercial purposes, then this will not be a problem. This then becomes a problem if the copyrighted work in the form of an adaptation in the form of fanfiction is done for commercial purposes. As stated by the Ministry of Law and Human Rights of the Central Java Regional Office as an informant for this research,

According to the Kemenkumham employee, the Central Java Regional Office revealed that,

"For fanfiction or fan fiction itself, to be able to say whether a fan fiction work violates Copyright and is included in the problems that arise in the field of Intellectual Property, a more in-depth study is needed. Because, as a work whose creators themselves borrow people's names as character names in a fanfiction work that they make, it is feared that they will offend or be known that the work can harm the honour and reputation of the person whose name is used or the original work they made. After a more in-depth study, then we will know whether the legal field regarding the issue of fanfiction is included in Intellectual Property, Defamation in Criminal Law, or whether the problem is included in Civil Law.

A fanfiction work that is included in Real Person Fiction or RPF is a fanfiction work which in the process of its creation, the author of the fanfiction work will borrow the name of a famous person as a character name. As a work of fiction, the plot and other elements in a fanfiction work are made with the imagination of the fans. It is inseparable that there is a possibility where the fanfiction writer will change the character of a character whose name and figure are taken from a famous artist into a character that is far different from the original nature and character of the famous artist. The process of changing the character can occur by changing the character to be very different from the character that most people know in real life because fanfiction copyrighted works are done according to the imagination of fans. Suppose in real life, the famous artist has a friendly and friendly personality to his fans, but in fanfiction, the character of the artist is transformed into a very evil antagonist and is a murderer. In this case, if the artist feels he is being harassed and his reputation is threatened by the fanfiction, they can ask for the fanfiction to be removed. However, if the artist is still dissatisfied with the deletion of the fanfiction work that is considered insulting to his name, the artist can file a lawsuit for defamation against the fanfiction writer, which in this

case is included in the realm of Criminal Law. In Indonesia itself, defamation has been regulated both in the Criminal Code (KUHP) and Law no.

In the Criminal Code itself, defamation is included in the insults regulated in Chapter XVI, where humiliation, in general, is a condition of a person who is accused of something that is true in fact but is embarrassing because it is known by the public as referred to in Article 310 paragraph (1) of the Criminal Code, and vice versa. If what is alleged is not true, then he is considered to have committed slander or defamation as referred to in Article 311 paragraph (1) of the Criminal Code. The ITE Law itself, as previously stated, regulates defamation,

On the other hand, for fanfiction works that are made by taking elements of other fiction works that already have a previous Copyright, if the author of the fanfiction creates his fanfiction work without the permission of the creator of the original work of fiction, he has the right to file a claim for copyright infringement, because the work of fiction that he made already had a previous Copyright. This is stated in Article 5 paragraph (2) letter e of the Copyright Law as written above. It is known that the Copyright Holder has the right to defend his rights if someone distorts, mutilates, modifies, or other things that are harm self-respect or reputation for themselves and the creatures they create. Based on these,

Derivative or derivative works in the form of adaptations such as fanfiction works will receive Copyright protection if, in the process of publishing and writing, the author of this fanfiction has obtained direct permission from both the copyright owner of the original work and famous figures whose names are used as character names in the fanfiction work. Article 9 paragraph (1) letter d of the Copyright Law that "Creator or Copyright Holder as referred to in Article 8 has economic rights to adapt, arrange, transform creations". In paragraph (2) it is stated that "Everyone who exercises economic rights as referred to in paragraph (1) is obliged to obtain permission from the Creator or Copyright Holder". Paragraph (3) states, "Anyone without the permission of the creator or copyright holder is prohibited from duplicating and/or commercially using the work". The article stipulates that a derivative or derivative work in the form of an adaptation such as fanfiction will receive Copyright protection if the author of the fanfiction work has requested permission from the Creator or Copyright Holder of the Original Work that has been adapted into a fanfiction work. In accordance with what was conveyed by the Ministry of Law and Human Rights of the Central Java Regional Office as an informant for this research, The article stipulates that a derivative or derivative work in the form of an adaptation such as fanfiction will receive Copyright protection if the author of the fanfiction work has requested permission from the Creator or Copyright Holder of the Original Work that has been adapted into a fanfiction work. In accordance with what was conveyed by the Ministry of Law and Human Rights of the Central Java Regional Office as an informant for this research, The article stipulates that a derivative or derivative work in the form of an adaptation such as fanfiction will receive Copyright protection if the author of the fanfiction work has requested permission from the Creator or Copyright Holder of the Original Work that has been adapted into a fanfiction work. In accordance with what was conveyed by the Ministry of Law and Human Rights of the Central Java Regional Office as an informant for this research,

According to the Ministry of Law and Human Rights officials, the Central Java Regional Office revealed that, "In order for adaptation works to receive Copyright protection, national law generally requires the creator of the adaptation to add the original expression of the creator of the adaptation into existing work. In addition, permission from the creator of the original work from which the adaptation is made is also required. Copyright protection cannot be granted to adaptations made without the permission of the original creator and used for commercial purposes." (Data collection was carried out on June 14, 2021. At 09.00, conducted online via email)

The definition of the act of adaptation or transformation is still unclear and can lead to different interpretations, so it is necessary to provide limits on the qualifications of shape change. The definition given by the Indonesian Copyrights Act regarding transformation is a change of form. In foreign terms, shape change can be understood as transform. Judging from the explanation exemplified by the Indonesian Copyright Act regarding the transformation, it is known as adaptation. All of these understandings are summarized in derivative work. This derivative work is produced from various acts of transformation. The United States does not only recognize the change of form as a definition of transformation but also various other actions that are considered to produce derivative works. In order to qualify as an embodiment,

United States Code (USC) requires the author's explicit permission to legalize derivative work performed by someone other than the original author. This is what is meant in 103 (a) that the protection of a derivative work will not be born when someone violates an existing copyrighted work or in other words does not obtain permission from the original author. Derivative works are protected separately from the original copyrighted work. The protection attached to the derivative work will not interfere with or reduce

the protection attached to the original copyrighted work. Based on US Copyright Office Circular 14: Derivative Works Circular on Derivative Works notes that:

A typical example of a derivative work being accepted for registration with the Copyright Office is a work that is essentially a new work but includes some previously published material. This previously published material renders the work a derivative work under copyright law. A derivative work, to be eligible for Copyright, must be sufficiently different from the original to be considered a "new work" or must contain a large amount of new material. Making minor changes or adding minor substance to a pre-existing work will not qualify the work as a new version for Copyright purposes. New material must be original and copyrighted. Titles, short phrases, and formats, for example, cannot be Copyrighted.

Protection of adaptation works will be null and void if in the process of making it through unlawful means. Many problems arise when the creator of an adapted work does not first ask permission from the creator or copyright holder of the original work. They argue by taking advantage of fair use restrictions. In fact, transformation and fair use are closely related. Permission as an absolute condition can be excluded using fair use. The thing that must be considered is the fulfilment of the fair use qualifications.

4 Conclusions

Fanfiction, as a work written by adapting other existing works of fiction, is made by borrowing elements from the fiction work such as character names, place settings and other elements. Knowing this makes fanfiction works as adaptations questionable for their originality. Authenticity or originality is one of the basic principles of Copyright protection. The originality of a copyrighted work is not determined by whether or not a creature is new. Because Copyright is different from patents, what is judged here is the original expression of the idea, not the original idea (newness). An original work does not have to have a big difference from the previous creation but only needs a more creative touch or variation from the creator. However, Law no. 28 of 2014 concerning Copyright and the Berne Convention itself has not clearly regulated the conditions for a work to be included in the original work. In this case, what can be protected from a fanfiction work is the storyline made by the fanfiction writer, which in this case is a contribution made by the creator, namely the fanfiction writer, for the fanfiction work he has made, where it can be said that the change in the storyline is more than a simple variation, which in its creation process requires creativity and becomes a variation that gives a different appearance to the original creation so that the storyline created by this fanfiction writer is a contribution whose Copyright is owned by the fanfiction writer himself.

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