

Legal Analysis of Copyright of a Book Work Against Duplication through Photocopying

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Abstract

The aim of the research is to find out and analyze the duplication of a book's copyrighted work with a photocopy which is contrary to the provisions of Law Number 28 of 2014 concerning Copyright. The effort to overcome this is by law enforcement in order to obtain legal protection for book copyright holders, therefore the enforcer The law must always coordinate with publishers, including elements of the Director General of Intellectual Property Rights, Department of Law and Human Rights, book publishers, even bookstores and even by involving the public so as not to give room to people who seek to profit from other people's work.

Keywords: Copyright; Book; photocopy;

Introduction

Intellectual Property Rights are rights relating to property arising from human intellectual abilities. These abilities can take the form of work in the fields of technology, science, arts and literature. In general, intellectual property rights consist of two things, namely industrial property rights and copyright. Industrial property rights consist of Patents, Trademarks, Plant Varieties, Trade Secrets, Industrial Designs, and Integrated Circuit Layout Designs. Copyright consists of Science, Arts and Literature.

Intellectual Property Rights are exclusive rights that only exist and are attached to the owner or right holder, so that if another party wishes to exploit or use these rights to create or produce material objects in the form of their incarnations, they must obtain a license (permit) from the owner or right holder.¹In the context of the Indonesian State, the protection of Intellectual Property Rights has been accommodated through various Legislative Regulations, namely Copyright Law Number 28 of 2014, Law Number 14 of 2001 concerning Patents, Law Number 15 of 2001 concerning Trademarks, Law No. Law Number 29 of 2000 concerning Protection of Plant Varieties, Law Number 30 of 2000 concerning Trade Secrets, Law Number 31 of 2000 concerning Industrial Design, and Law Number 32 of 2000 concerning Integrated Circuit Layout Design.

Copyright consists of economic rights and moral rights. Economic rights are the right to obtain economic benefits from creations and related products. Moral rights are rights inherent in the creator or actor which cannot be removed or erased for any reason even though the copyright or related rights have been transferred.²Based on Law

¹ Abdul Kadir Muhammad, (2001), Economic Law Study of Intellectual Property Rights, PT. Citra Aditya Bakti, Bandung, p.1.

² Ermansyah Djaja, (2009), Intellectual Property Rights Law, Sinar Graphics, Jakarta, p. 115.



Number 28 of 2014 concerning Copyright, the definition of Copyright is the exclusive right of the Creator which arises automatically based on declarative principles after a work is realized in real form without reducing restrictions in accordance with the provisions of statutory regulations. Copyright arises automatically as soon as a work is born³. Law Number 28 of 2014 concerning Copyright as a legal umbrella for a person or group of people who wish to obtain legal protection or legal certainty regarding their work so that their rights are not violated by other parties who intentionally or without permission use their work. commercial purposes without permission from the holder of the rights to the work⁴.

In the sources of Islamic law itself, there are no rules that clearly regulate & explain intellectual property rights. In the past, wealth that arose or was born from human intellectual abilities with the term intellectual property rights was not yet known. However, Surah An-Nisa Verse 29 explains, translation:
"O you who believe! Do not consume each other's wealth in a false way (not right), except in trade which is based on mutual consent between you. And don't kill yourself. Indeed, Allah is Most Merciful to you."

So, it is not wrong if Al-Qur'an Surah An-Nisa' verse 29 can be the basis for us to uphold intellectual property. Because this verse strictly requires people not to use other people's assets, except through business which is based on the principle of mutual consent. If the economic rights of the intellectual property owner are violated, it is clear that there is no principle of like-mindedness. Scholars have also stated that the current meaning of wealth includes intellectual property, because intellectual property brings many benefits and has economic value.

A creative work in book form is protected by Law Number 28 of 2014 concerning Copyright. This new law places more emphasis on the creator himself, especially the longer legal protection compared to the previous Copyright Law. Based on existing provisions, creators are given economic rights in the form of the right to publish (performing rights) and the right to reproduce (mechanical rights). Moral rights include the creator's right to have his name included in the work and the creator's right to prohibit other people from changing his work, including the title or sub-title of the work. Creations protected under the Copyright Law are works in the fields of science, art and literature⁵.

³Ujang Badru Jaman, Galuh Ratna Putri, Tiara Azzahra Anzani, (2022), "The Urgency of Legal Protection for Digital Work Copyright", *Rechten Journal: Legal and Human Rights Research*, Vol.3, No. 1, p. 11.

⁴Panji Adela, Agri Chairunisa Isradjuningtias, (2022), "Legal Protection for Music Copyright Holders Based on Government Regulation Number 56 of 2021 concerning Management of Song and Music Copyright Royalties", *Citizenship Journal*, Vol. 6, No. 3, p.46.

⁵Randy, Anna Triningsih, (2020), "Legal Protection for Copyright Holders of Yon Nofiar's Announcement Activities (Performing) on a Behavioral Assessment Tool Inspired by William Marston's Psychology", *JCA of Law*, Vol. 1, No. 2, p. 222.



One of the objects of copyright that is most often violated is books, and the most common form of violation of books is book piracy⁶. A Creator has a natural right to control what he has created. Therefore, every published creative work always requires the knowledge of the creator. Currently, the existence of a copyrighted work that is published and circulating in the community is often the result of duplication without the knowledge of the creator. Duplicating books as copyrighted works without the permission of the creator has become commonplace and seems normal in society. Duplication of creations carried out by business actors for commercial purposes is very common. Photocopies of this book have been widely circulated among the public because it is not difficult to get a cheap version of this book. The circulation of photocopies of books by business actors circulating in the community without the author's permission is certainly not justified.

The existence of books that are sold from photocopies of books clearly violates the creator's rights to his creation. Photocopy copies of this book sell better than the original book. The economic rights held by the Author are clearly violated by this activity because all profits only flow to the business actor who illegally copies the book.

An example of a case that occurred in the city of Makassar, was a photocopy business that bought and sold books that had been duplicated. Duplication of this book without notification to the corresponding author.

The activity of illegally duplicating a copyrighted work will certainly have a big impact on the creator's productivity in producing new creative works because the economic rights belonging to the creator are not respected. So the creator no longer has the reason and motivation to obtain profitable economic rights for himself in his work. Apart from that, a phenomenon like this certainly has a negative impact on the identity of the Indonesian nation as a country that places law above everything else. Violation of the law which becomes a habit in a rule of law country is not a culture that must be preserved. Therefore, practical steps are needed to be taken by all relevant elements in creating protection for the Creator for his work.

Discussion

Legal protection is protection given to legal subjects in the form of instruments both preventive and repressive, both verbal and written through applicable laws and regulations and their implementation is enforced with sanctions. In other words, it can be said that legal protection is a separate illustration of the function of law itself, which has the concept that law provides justice, order, certainty, benefit and peace.

If we trace it, Intellectual Property Rights are part of objects. Objects within the civil law framework can be classified into various categories, one of which is the grouping of objects into the classification of tangible objects and intangible objects. For this matter, we can see the boundaries of objects stated in article 499 of the Civil Code,

⁶Sulis Tiawati, Margo Hadi Pura, (2020), "Legal Analysis of Copyright Protection against Illegal Purchases of Electronic Books", *Adjudication: Journal of Legal Studies*, Vol. 4, no. 2, p. 172.



which reads: according to the law, what is meant by object is every item and every right that can be controlled by property rights.⁷

1. Government Efforts Against Duplicating Books Without Permission
 - a) Based on Law Number 28 of 2014 concerning Copyright

The Government of the Republic of Indonesia has promulgated Law Number 28 of 2014 concerning copyright, which is a legal instrument or device to guarantee the protection of copyrighted works, one of which is books. Copyright law is a forum where regulations are written that can protect the rights of creators. Copyright law has undergone many changes over time. Copyright law has never been separated from articles that explain the exclusive rights of authors, namely economic rights and moral rights. The rise of book piracy has now become a common phenomenon that is often found in society.⁸The Copyright Law provides legal protection for those who create it⁹.

Books are creations that are protected under Article 40 of the Copyright Law, whereas books are intellectual works of the creator or copyright holder who have exclusive rights consisting of two rights, namely economic rights and moral rights.

- a) Exclusive rights mean that only the copyright holder is free to exercise the copyright, while other people or parties are prohibited from exercising the copyright without the copyright holder's consent.
- b) Economic rights are the right to obtain economic benefits from creations and related rights products. This means that books in this case are also included in books of knowledge that have economic value and can be exploited.
- c) Moral rights are rights inherent in the creator that cannot be removed or removed without any reason, even though copyright or related rights have been transferred or can also be called rights that are unique between the work and the creator, or can also be called the integrity of the creator.

Based on Article 5 paragraph (1) letters a, b and e of the Copyright Law, the creator's moral rights apply indefinitely. The creator's moral rights apply as long as the copyright period for the work in question lasts as intended in Article 5 paragraph (1) letter c and letter d of the Copyright Law. Regarding copyright protection for a work, Article 58 of the Copyright Law explains that:

- a) Copyright Protection for works:
 1. Books, pamphlets and all other written works;
 2. Lectures, lectures, speeches, and other similar creations;

⁷R. Soebekti and R. Tjitrosudibio, 1996, Civil Code, Pradya Paramita, Jakarta, p. 155.

⁸ LinaShabrina, Budi Santoso, Rinitami Njatrijani. (2017). Implementation of Book Copyright Protection Based on Law Number 28 of 2014 concerning Copyright (Study at Bookstores in the Diponegoro Stadium Area, Semarang). Diponegoro Law Journal, Diponegoro University, 6(2), p.9.

⁹Anak Agung Gde Chandra Wiratama, I Nyoman Putu, Diah Gayatri Sudibya Budhiartha, (2022), "Legal Protection for Image Rights Holders Regarding Streaming and Downloading Pirated Films via Illegal Websites", Journal of Legal Construction, Vol. 3, No. 2, p. 274.



3. Teaching aids made for educational and scientific purposes;
 4. Songs or music with or without subtitles;
 5. Drama, musical drama, dance, choreography, puppetry and pantomime;
 6. Works of fine art in all forms such as paintings, drawings, carvings, calligraphy, sculpture, statues, or cloases;
 7. Architectural works;
 8. Map.
- b) In this case, the work is owned by two or more people, Copyright protection applies during the life of the creator who died most recently and lasts for 70 (seventy) years thereafter.
- c) Copyright protection for works owned or held by legal entities is valid for 50 (fifty) years from the first announcement. Based on the copyright protection regulations in the Copyright Law, it is explained that books are copyrighted works that are protected by law. Duplicating books without permission from the author and/or copyright holder in order to gain commercial profit indicates an unlawful act and may be subject to criminal or civil sanctions. Article 1 number 12 of the Copyright Law explains that duplication is the process, act, or method of duplicating a copy of a work and/or phonogram or more in any way and in any form, permanently or temporarily.

Book copyrighted works are the object of a person's Intellectual Property Rights, the protection of which is regulated in Copyright Law. The existence of books is a basic need for society, especially in the field of education, including students and lecturers, to support learning. The Government of the Republic of Indonesia has promulgated Law Number 28 of 2014 concerning Copyright, which is a legal instrument or device to provide guarantees for the protection of copyrighted works, one of which is books.¹⁰

Law enforcement in the case of piracy of knowledge books does not seem to be running as it should, so that knowledge book copyrights do not receive legal protection. Reproduction of books of knowledge to obtain economic rights must be carried out based on a license granted by the copyright holder or owner. Meanwhile, Article 1 number 20 of the Copyright Law explains that a license is a written permission given by the copyright holder or owner of related rights to another party to exercise economic rights over their creation or product related rights under certain conditions. As for the piracy of knowledge books, compensation will be subject to compensation.

All objects protected by copyright, including books of knowledge, the process by which the protection takes place and the process by which the protection is provided are matters relating to the basic concept of copyright protection.¹¹

¹⁰ LinaShabrina, Budi Santoso, Rinitami Njatrijani. (2017). Implementation of Book Copyright Protection Based on Law Number 28 of 2014 concerning Copyright (Study at Bookstores in the Diponegoro Stadium Area, Semarang). Diponegoro Law Journal, Diponegoro University, 6(2), p.9.

¹¹ Achmad Chosyali. (2018). Legal Protection of Copyright of Knowledge Books in View of Law Number 28 of 2014 concerning Copyright. Journal of Legal Studies Legal Reflections, Satya Wacana Christian University, 3(1), p.57.



Law enforcement is a series of processes of translating legal ideas and ideals that contain moral values such as justice and truth into concrete forms, which in realizing this requires an organization such as the police, prosecutor's office, courts and correctional institutions as classic elements of law enforcement. Law enforcement is an effort to turn ideas into reality. The process of realizing these ideas is the essence of law enforcement.¹² Indonesia as a country of law certainly exists with the aim and purpose of providing benefits, justice and certainty through law to its citizens so that the law here can be realized as a form of protecting human rights in real form which is implemented in practice in the field.¹³

Law enforcement is aimed at improving order and legal certainty in society. This is done, among other things, by arranging the functions, duties and authority of the institutions tasked with enforcing the law according to the proportions of their respective scopes, and based on a good system of cooperation and supporting the goals to be achieved. The level of development of the society in which the law is enforced can influence law enforcement patterns.¹⁴

b) Changing an ordinary offense to a complaint offense

Copyright is one of many types of Intellectual Property Rights (Intellectual Property Rights). Based on Law No. 19 of 2002, the method of prosecuting rights (if a violation occurs), copyright is a classification of ordinary offenses which is different from other Intellectual Property Rights, so that as a consequence, the state/government (in this case the investigator) is automatically obliged to take part in providing protection to the creator/copyright holder. However, the new UUHC no longer uses ordinary offenses related to copyright infringement but instead uses the offense of complaints.

Law No. 19 of 2002 still uses ordinary offenses to prosecute one's rights (if a violation occurs). However, Law No. 28 of 2014 no longer uses ordinary offenses but instead returns to the Copyright Law of 1982, namely the offense of complaints.

2. Author's Analysis

Copyright law is a forum where regulations are written that can protect the rights of creators. Copyright law has undergone many changes over time. Copyright law is also inseparable from articles that explain the exclusive rights of creators, namely economic rights and moral rights.

The rise of piracy of books, pirated film cassettes and other pirated goods has now become a common phenomenon and is often found in society. Of course, this is a violation of copyright, not only does it just violate copyright, piracy also certainly harms the author, the creator of the book.

¹² Satjipto Rahardjo. (2009). *Law Enforcement A Sociological Review*. Yogyakarta: Genta Publishing. p. 12.

¹³ Saputra, IE, Irwan, M., & Rahman, A. (2022). Normative Analysis of Judicial Review Authority. *Sawerigading Law Journal*, 1(2), 101-111. Retrieved from <http://ojs.unsamakassar.ac.id/slj/article/view/222>

¹⁴ Sanyoto. (2008). *Law Enforcement in Indonesia*, *Journal of Legal Dynamics*, 8(2), p. 199.



Duplication of books is permitted and does not violate copyright if printed 1 (one) time for personal use. Meanwhile, based on a journal by Lina Sabrina, she said that in practice bookstores often duplicate books that are used for commercial purposes. The copying of these books is freely traded and has been going on for a long time. This of course violates copyright provisions as stated in article 46 of the Copyright Law.

Copyright is known for its automatic protection principle so that there is no obligation to record the creation. Regarding the results of a creation, moral rights are always attached to the creator from the moment the creation is created. So a work is not required to be registered because without being registered it is clear that ownership is with the creator. This means that if a creative work is created by its creator, from that moment on the creative work automatically has copyright and receives legal protection. To provide security for copyrighted works, it would be better if the creations and related rights products were recorded, especially if at any time there are legal issues related to existing works.

Conclusion

Law enforcement is aimed at improving order and legal certainty in society. This is done, among other things, by regulating the functions, duties and authority of the institutions tasked with enforcing the law according to the proportions of their respective scopes. However, law enforcement regarding book piracy does not seem to be working as it should. Cooperation between authorized institutions is required to enforce Copyright law. This means that the Police, Prosecutor's Office, Director General of Intellectual Property Rights, Department of Law and Human Rights can work together with book publishers, bookstores and the general public in tackling copyright piracy, especially in relation to book duplication copyrights. This cooperation is necessary so that copyright law enforcement can run well.

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