
**JURIDICAL REVIEW OF COPYRIGHT PROTECTION OF CINEMATOGRAPHIC WORKS (FILM) IN
ILLEGAL DISSEMINATION OF FILM ON SOCIAL MEDIA: ANALYSIS BASED ON LAW NUMBER 28
OF 2014 CONCERNING COPYRIGHT**

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ABSTRACT

With the passage of time, the internet and social media have become a necessity and are very easy to use by the public. However, with the ease of use of the internet, some people who want to watch movies but don't want to watch in the places provided have been abused, which ends up using social media TikTok as a platform for streaming movies. This can lead to copyright issues which are regulated in Law Number 28 of 2014. The distribution of the film is considered illegal and can damage the economic rights and moral rights of creators of copyrighted works and there are sanctions for those who violate them. The purpose of this study was to find out the provisions on copyright and legal responsibility for perpetrators who violate Law Number 28 of 2014. This study used normative research methods and the data used used secondary data and then analyzed using deductive thinking methods. The results of this research originate from Law Number 28 of 2014 which regulates Copyright. Then it is used as a data source to analyze the sanctions given to persons who violate copyright on social media.

Keywords: Copyright, Film, Social Media, Undang – Undang Nomor 28 2014

INTRODUCTION

The impact of the development of Copyright in Indonesia is experiencing rapid development as time goes by. One of the impacts that occurs in copyright is that there is piracy in the field of copyright of a copyrighted work. This started with the digitization of the internet network which made it easier for users to take advantage of developing technology.

Several years ago, when people wanted to watch or enjoy a film that was much discussed, people had to go to the cinema. Not all cities in Indonesia have places to watch films or what are usually called cinemas, so travel is required to go out of town. Then, with social media, it is easier for people to watch via smartphone anytime and anywhere. (Ningsih & Maharani, 2019). This has become commonplace and easy for people to infringe the copyrights of other people's works. As a form of creative work, film is part of the intellectual creative work that is inherent in the creator. This is stated in Article 1 paragraph (1) of Law Number 33 of 2009 concerning Film.

The emergence of crimes in piracy and the widespread distribution of copyrighted film works is an example of clear evidence of copyright infringement. Of the many acts of piracy and illegal dissemination of films, this creates losses for the creators and production teams concerned. Then there are several rights inherent in copyrighted works towards their creators, namely moral rights and economic rights. These two rights coexist in a form of copyrighted work. Moral rights function to protect the interests of the creator of a creative work and function to reject all forms of changes and crimes that could harm the creator's reputation which is attached to the creator of the creative work until he dies. Then economic rights function as a form of compensation in the form of royalties so that the creator of the creative work gets economic benefits for his efforts in creating the creative work. (Santoso, 2011)

The violation as described above is not in accordance with copyright regulations which follow the provisions of international conventions. The main purpose of the revised copyright rules is to improve the

legal rules or regulations in such a way that no weaknesses are found in the areas of basic rules, To prevent use or misuse by malicious copyright infringers. A situation like this will affect our country globally because it has been deemed less capable of preventing and recovering from copyright infringement. Based on the description above, the problem can be formulated as follows:

1. What are the copyright provisions relating to cinematographic film copyrighted works distributed via social media TikTok based on Law Number 28 of 2014?
2. What is the legal responsibility for perpetrators who violate Law Number 28 of 2014?

RESEARCH METHODS

The research method used to examine the problem formulation above, namely using a normative or doctrinal approach, by taking a descriptive type of research. The form and type of data used is an explanation of the major premise and minor premise obtained from secondary data types consisting of primary secondary and tertiary legal materials. Then the data collection method was carried out by literature study using deductive thinking methods.

RESULTS AND DISCUSSION

- 6) provisions relating to cinematographic film copyrighted works distributed via social media TikTok are based on Law Number 28 of 2014

Copyright is defined as a unique right belonging to a person that arises automatically in a declarative manner, after describing the copyrighted work factually, without reducing regulatory restrictions or statutory reference rules. Every creator of a copyrighted work has exclusive rights, that is, only the copyright owner can freely use his copyright, while other people who have no interest are prohibited from exercising these exclusive rights without copyright approval. (Keizerina, Windha, & Marbun, 2013)

Copyright contains moral rights and economic rights. The definition of moral rights is several rights which relate to the creator of a copyrighted work, for example the right to include the name on the copyrighted work and the right not to make any changes to the copyrighted work without the permission of the creator. Meanwhile, economic rights are defined as a right to obtain economic benefits from the creation of creative works. These rights can take the form of rights to publish or reproduce. In creating works, the creator also carries out a form of protection for his or her rights, such as moral rights and economic rights. This is a form of effort to protect the legal work created by the creator. Then economic rights are useful as a measure or forum that the creator feels to appreciate an individual's work, even though the creator has died. This is still protected by his work, at least until the end of the validity period of economic rights, but at least moral rights still need to be maintained and guarded as best as possible.

Generally, in terms of utilizing economic rights and economic value which is obtained from the party which reproduces and announces it. Then copyright has basic principles, namely:

1. An idea that has been implemented in an original way is a right that is protected by copyright. One of the principles which has fundamental characteristics rather than efforts to protect copyright is the concept where copyright is only related to the form of realization of a creative work, for example a book, it could be said that it has no relationship or concern with the substance of the creative work. Based on this principle, other concepts can be classified, namely:
 - a. A copyrighted work must have authenticity or originality. The element of originality is closely related to the reality of a creative work.
 - b. A copyrighted work has copyright if the copyrighted work is related to its embodiment in written form or in other material forms. It could be said to be an idea or a pattern of thought or a concept or ideal which cannot be said to be a creative work.

- c. Because copyright is an exclusive right, it is not permitted for anyone else to carry out efforts to publish or reproduce it, unless there is permission from the creator.
2. A copyright exists automatically or automatically. A copyright exists when a creator materializes the idea into a form of reality. Where with this realization, rather than an idea, a creative work appears. Then the copyrighted work that is created can be announced or made public/openbaarmed. And if an announcement is not made, if a work of thought is not announced, the copyright still remains with the creator
3. A copyrighted work often requires an announcement as a condition for obtaining copyright. A copyrighted work does not often require an announcement as a condition for obtaining copyright. A work for which an announcement is made or an announcement is not made is published/published works, these two possibilities can get copyright.(Indriani, 2018)

Objects found in creative works are included in the scope of intellectual property rights contained in dramatic creative works. This has been regulated in Article 40 paragraph (1) Law Number 28 of 2014 concerning Copyright, which reads:

"Protected works include works in the fields of science, art and literature, consisting of:...

1. Cinematography
2. Book
3. Lecture
4. Props
5. Song
6. Drama
7. Works of sculpture, painting, drawing, engraving, calligraphy, sculpture
8. Batik
9. Photography
10. Portrait
11. Translation. Anthology, arrangement, interpretation
12. Cultural expression
13. Computer data
14. Computer program
15. Video games"

Film is defined as a means of audio-visual presentation that is broadcast via television or the media. Film is a mass media in the form of audio-visual which is complex in nature. Film is an aesthetic work that can be used as a means of information, entertainment, education, politics and propaganda (Maijar, 2018). On the other hand, films play a role in spreading new values and culture to people in various parts of the world.

When other individuals use other people's copyrighted works without permission from the owner or copyright holder, for the sole purpose of gaining personal gain, the fair use doctrine is created. Fair use is a doctrine regarding regulations or limitations in the use of copyright. This provision also regulates copyright in the Copyright Law in Indonesia and abroad, as a result of comparing the regulations of various countries relating to copyright provisions.

Film works are created with the aim of producing economic rights and moral rights which are also important and valuable concepts in copyright. Meanwhile, the rampant piracy and promotion of copyrighted films found on several illegal streaming applications has resulted in a loss of revenue of around IDR. 5 trillion annually based on data from APROFI (Association of Indonesian Film Producers). The circulation of this site not only burdens the creator, but also the copyright owner. Then users of the film streaming and download site are also threatened when accessing the website illegally. This has been regulated in Article 113 paragraph (1) of Law Number 28 of 2914 concerning Copyright which reads

"Any person who without rights violates economic rights as intended in Article 9 paragraph (1)

letter i for Commercial Use shall be punished by a maximum imprisonment of 1 (one) year and/or a maximum fine of Rp. 100,000,000 (one hundred million rupiah)".

The impacts they get range from theft of personal data to account hacking. Therefore, there will be a dispute between the creator and the copyright owner and lead to a form of fraud, if the copyrighted work is beyond control based on legal principles.

Then, to protect against illegal dissemination of the copyrighted work, the creator or company is permitted to obtain their right to protest against individuals who disseminate the copyrighted work so that viewers can enjoy the copyrighted work using an official streaming application because this falls within the realm of copyright economic rights. . If these agreements are agreed upon in the concept of fulfilling economic rights and moral rights in cinematographic creative works, the creator or copyright holder by the film maker itself or the agency company that makes the film, the goal of copyright protection for a work produced by the company will be achieved. human reason and ideas.

7) Legal responsibility for perpetrators who violate Law Number 28 of 2014

Activities that limit economic rights or moral rights owned by creators or interested parties in the film production process have the aim of safeguarding someone's work which is broadcast freely so that its authenticity is maintained so that it can enjoy the rights granted by law such as royalties, awards, and rewards for ideas and creativity from the work created. It is explained in Law Number 28 of 2014 Article 16 Paragraph (2) Letter E concerning Copyright, that copyright can be transferred through a written and clearly executed agreement. Only economic rights can be transferred or transferred, while moral rights remain with the creator of the cinematographic work

In copyright, the copyright owner has the right to limit the unauthorized or illegal dissemination and distribution of his copyrighted work without providing any restrictions based on currently established regulations. (Anggrayni, 2020). At national and international film screenings, there are many parties who take advantage illegally for personal gain. In this case, these individuals use methods like this for commercial purposes.

In 1997, through Presidential Decree no. 18, Indonesia ratified the International Copyright Convention. The convention was called the Berne Convention and was held on May 7 1997. This ratification was notified to WIPO on June 5 1997. As a result, Indonesia had to participate in copyright protection in several countries that had ratified the Berne Convention. RI Law 6 of 1982 concerning Copyright was amended by RI Law 7 of 1987 and then amended again to RI Law Number 12 of 1987 and its implementing regulations regulate copyright protection.

Legal protection is an effort to provide protection for human rights, especially human rights that have been harmed by other people, so that victims can enjoy all the rights granted by preventive and repressive laws.

The regulations regarding copyright protection for copyright holders of Cinematographic/Film works in Indonesia that are currently in force are:

- a. Law Number 28 of 2014 concerning Copyright.
- b. Law Number 11 of 2008 concerning Information and Electronic Transactions.
- c. Regulation of the Minister of Communication and Information of the Republic of Indonesia of 2015 Number 26 concerning Implementation of Closure of Content and/or User Access Rights for Violations of Copyright and/or Related Rights in Electronic Systems and Joint Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 14 of 2015.

This regulation is useful for the Copyright Law and the Information and Electronic Transactions (ITE) Law, and as implementing regulations contained in Article 56 Paragraph (2) of the Copyright Law. There are regulations regarding procedures for reporting copyrighted works that are violated by irresponsible individuals on social media and the internet. This is done in order to have a deterrent effect on the perpetrators of these criminal acts, by closing the content and/or the right to access copyrighted works that are infringed. Steps that a creator can take if there is a copyright violation of the work they created:

1. Reporting

Creators are asked to submit their identity and documents showing that they are the subject of ownership of the Copyrighted Work.

2. Verification

The Director General of Intellectual Property will form a verification team to follow up on incoming reports, then determine whether there has been a copyright violation, then prepare recommendations for verification results, then report the results to the Minister.

3. Recommendation

After completing the verification stage, a recommendation will immediately be made to the minister who handles issues in the communications sector to take action to close the content or access rights.

4. Closure of Site and/or Content

This activity takes 1 x 24 hours and is determined by the Director General of Aptika Informatics on behalf of the Minister of Communication and Information, and is announced through Kominfo safely and officially. Then the final stage is ordering the ISP (Internet Service Provider) to close down sites that are deemed to have committed criminal acts of copyright infringement.

Discussing protected works, with objects in the form of footage from cinematography/films which are used as content on Tiktok social media, is one of the protected works, this is explained in Article 40 of the Copyright Law. Then, in cases of infringement of cinematography copyright which is used for commercial purposes by irresponsible individuals, this act is subject to criminal sanctions in accordance with Article 113 paragraph (3) of the Copyright Law which reads:

"Any person who without rights and/or without the permission of the creator or copyright holder violates the economic rights of the creator as intended in Article 9 paragraph (1) letters a, b, e, and/or g for commercial use shall be punished with a maximum imprisonment of 4 (four) years and/or a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah)"

CONCLUSION

A. Copyright provisions relating to cinematographic film copyrighted works distributed via social media TikTok are based on Law Number 28 of 2014

According to the results of the research and discussion that the author has presented, it can be concluded that the explanation obtained from Article 4 of Law Number 28 of 2014 concerning Copyright reads:

"Copyright as intended in Article 3 letter A is an exclusive right consisting of moral rights and economic rights"

Moral rights and economic rights are important components of copyright, because moral rights create social recognition and respect for the work of the creator or copyright holder and can justify and explain copyright clearly and accurately. In this case, the creator creates something useful so that it has the right to be recognized, appreciated and receive reciprocity from society in the form of wealth rights or property rights. Meanwhile, Economic Rights play a role in ensuring that creators of Drama creative works obtain economic benefits, royalties for their work

B. Legal responsibility for perpetrators who violate Law Number 28 of 2014

Sanctions applied to copyright violators, perpetrators who distribute and pirate films for personal gain or the general public and which affect the economic rights of the creator of the copyrighted work are subject to imprisonment for a maximum of 4 (four) years and/or a criminal fine of up to Rp. 1,000,000,000.00 (one billion rupiah) this is explained in Article 113 paragraph (3) of the Copyright Law

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