
Legal Protection for Writers Against Violators of Illegal Copying of Books by Students

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ABSTRACT

Copyright is a piece of other intellectual property rights that continues to advance following the progress of an era that is very controlled from social, economic and technological aspects, because the more advanced technology a country is, the better the crimes committed. The progress of creative rights, which is supported by various elements, has an impact on improving legislative provisions in the copyright section. The rights that arise from a work in the field of science, according to the law, are delegated to the creator along with certain advantages, namely the right to explore his work. Meanwhile, in order to avoid crimes in the form of plagiarism or duplication, careful regulatory guidelines must be created and formulated in statutory regulations. A book is an intellectual work of the creator or copyright holder who has exclusive rights consisting of two rights, namely economic and moral rights, so these rights must be maintained. Due to the presence of exclusive rights, researchers are interested in knowing how to protect and the prospects for legal protection of copyright in internal knowledge books as regulated in Law NO 28 of 2014 concerning Copyright.

Keywords: Legal Protection, Books, Piracy

INTRODUCTION

Indonesia is a developing country, however, there is still a lot of biological wealth that can be processed and produce masterpieces that are of great economic value and have the benefit of helping someone to obtain new knowledge and information, for example books, books are a source of human knowledge written by an author and multiplied by collaboration through companies in order to spread knowledge to the people who read it, the importance of reading books as a way to process thoughts and reading can support the brain to maintain its benefits. well, because reading requires the brain to think, research various problems and choose solutions until something new is discovered.

Books are widely used by various age groups, because books are also called a source of knowledge, from children to adults they will definitely buy books. The high price of books makes people reluctant to buy books. As time and technology develop, all activities become easier. carried out for humans, newer technological discoveries will not only have a positive impact on the continuity of human life, but will also have a negative impact, namely the emergence of various problems related to intellectual property rights. One of the bad effects is that books created by someone de facto already have copyright because they have been published by someone

Intellectual property rights are creations produced through human thought in order to fulfill the prosperity of human life. Human creativity, which is seen as a person's intellectual property, has long had a relevant impact on the progress of the people, including through ideas and essence in terms of art and literature. A form of appreciation that originates from human creativity, whether in the form of creations or works of art and literature, especially if the results of that creativity are used for commercial purposes.¹ Intellectual Property Rights (IPR) are, in principle, rights to certain characteristics because these rights are

¹ Kholis Roisah, Konsep Hukum Hak Kekayaan Intelektual (HKI) (Setara Press 2015) 2.

delegated from the state. The state, based on the provisions of the law (UU), provides special rights for those who have rights in accordance with the procedures and provisions that must be completed.²

The government is concerned about copyright violations by issuing Law NO 28 of 2014 concerning Amendments to Law Number 19 of 2002. Law enforcement in Indonesia rarely violates copyright, the absence of law enforcement is often used by irresponsible people. All aspects of efforts to use other people's work that can bring good to someone without obtaining permission from the originator of the work can be considered a violation of Copyright. IPR also provides protection for economic purposes from innovations or creative works from the originator or creator. Legal protection aims to provide stimulation to create truly innovative work.

Copyright is a special right that a creator has to reproduce his work in the world of science, art and literature, which can include books, computer programs, lectures, speeches and other similar works, as well as rights relating to the power of property. intellectual.³ In the end, the explanation of copyright is the right that an originator or copyright owner has to publish and reproduce his work.⁴ The existence of books sold with illegal duplication has certainly violates the rights of the Creator of a creation. The marketing for this book was sold out compared to the original book. The general characteristics inherent in copyright (the maturity of copyright), namely ⁵:

- a) Copyright is a property right;
- b) Copyright is a right that is limited in time (limited duration);
- c) Copyright is an exclusive right; and
- d) Copyright is a collection of rights in a work (a multiple right, a bundle of rights in one work).

A Creator has original power in managing what he has created. That's why all copyrighted works that are distributed must be known by the creator. Currently, copyrighted works that are published and circulated to the public are often copies without the knowledge of the creator. Raising books as works of art without the permission of the creator has become commonplace and seems normal in society. duplication of the work of business actors for commercial purposes is very common. There are also many duplications of this book circulating in the community because it is not difficult to get a cheap version of this book. Reproduction of books, reprints from business actors circulating without permission from the author are of course not permitted. If there is a deviation in the use of a book, the creator or copyright owner does not obtain the exclusive rights that should be obtained. The exclusive rights delegated to the Creator are in the form of Economic Rights and Moral Rights.⁶

For this reason, we intend to write about "Legal Protection for Writers Against Violators of Illegal Copying of Books by Students". The research aims to find out how the implementation relates to legal protection for book creators against illegally copied scientific books

RESEARCH METHODS

The method used in this research is the normative juridical method. According to Soetandyo Wignyo Soebroto explains that research that uses normative juridical methods is doctrinal research that examines law which is conceptualized as statutory rules according to the doctrine of positivism⁷

² Sentosa Sembiring, Hak Kekayaan Intelektual dalam Berbagai Perundang-Undangan (Yrama Widya2002) 13.

³ Asian Law Group Pty. Ltd, Hak Kekayaan Intelektual Suatu Pengantar (PT. Alumni 2011) 6

⁴ Ade Uswatun Sitorus, „Hak Cipta dan Perpustakaan“ (2015) 9 Jurnal Iqra 1, 2.

⁵ Stewart dalam Otto Hasibuan, Hak Cipta di Indonesia (PT. Alumni 2014) 57.

⁶ Belinda Rosalina, Perlindungan Karya Arsitektur Berdasarkan Hak Cipta (PT. Alumni 2010) 109.

⁷ Soetandiyo Wignyosoebroto, Hukum: Paradigma, Metode, dan Dinamika Masalahnya (Huma 2002)147-160.

RESULTS AND DISCUSSION

Preventive Legal Means

Even with this preventive legal protection, legal entities are given the opportunity to protest or make a statement before an official decision is taken. This means that there are no differences. Preventive legal protection is crucial for government activities based on freedom acting because the existence of legal protection forces the government to voluntarily make careful decisions. In Indonesia there are no special provisions regarding preventive legal protection.

Repressive Legal Means

Oppressive legal protection aims to dissolve disputes. Processing of legal protection in the Union General Court and State Administrative Courts in Indonesia is also in this category of legal protection. The principle of legal protection for state action applies and originates from the idea of recognizing and protecting human rights, because after Western history the concept of recognizing and protecting human rights emerged. People were introduced to the limits and positions of obligations of society and the state. Another basic principle of legal protection against state action is the principle of the rule of law. Regarding the recognition and protection of human rights, the recognition and protection of human rights has a primary place and can be linked to the objectives of the rule of law.⁸

Legal protection for copyright of books that are duplicated according to Law No. 28 of 2014 has moral and economic rights (Article 4). Where the moral rights are copyright (Article 5(1)) and economic rights are the special rights of the originator/owner of economic use copyright (Article 8). The rights belonging to the originator/creator of the business to carry out publication, duplication, translation, adaptation, arrangement or conversion, distribution, presentation, notification, communication and rental of the work.

Fitzgerald explains the concept of legal protection that the law aims to integrate and organize a traffic of affairs in society, protection of certain needs can only be carried out by protecting various other matters. This school was initiated by Plato, Aristotle and Zeno. Referring to the flow of natural law, it states that law comes from God who is universal and eternal, and that law and morals cannot be resolved. Adherents of this school of thought also see that law and morals are a description and regulation of the inner and outer life of human beings which are realized by law and morals.⁹

Preventive legal protection is useful to avoid the occurrence of disputes, which directs government activities to be careful in drawing conclusions based on discretion, as well as repressive protection intended to resolve disputes, including taking action in the judiciary.¹⁰

According to copyright law, a creation is any work protected by copyright in terms of science, art and literature that is created with inspiration, skill, reason, imagination, ingenuity, skill or competence and is expressed in a concrete form.

A book is a creation maintained based on Article 40 of the Copyright Law, while a book is an intellectual work by the creator or rights holder

Copyright has exclusive rights in the form of two rights, namely economic rights and moral rights. Exclusive rights are only held by the copyright owner while other people or parties are not permitted to exercise the copyright without the copyright owner's consent.¹¹

The discussion of copyright cannot be separated from moral issues because copyright itself always includes morals. Moral problems exist because basically everyone has respect for or evaluates other people's work. In other words, moral rights are moral gifts that society gives to someone in order for that

⁸ Anonim, 2014, *Perlindungan Hukum*, Diakses dari <http://tesishukum.com/> pengertianperlindungan-hukum-menurut-para-ahli [28 Maret 2023]

⁹ Satjipto Rahardjo, *Ilmu Hukum* (PT. Citra Aditya Bakti 2000) 53.

¹⁰ Phillipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia* (PT. Bina Ilmu 1987) 29.

¹¹ Tommy Hottua Marbun dan T. Keizeirina Devi Azwar, „ *Perlindungan Hukum Hak Cipta Terhadap Karya Cipta Lagu dan Musik dalam Bentuk Ringtone Pada Telepone Seluler* “ (2013) 1 *Transparency Jurnal Hukum Ekonomi* 2.

person to create a creation or work that is useful for society. However, this moral reward cannot be measured in terms of the monetary reward of power or authority imposed by carrying out substances that others cannot do in the way they wish to adopt or modify another person's copyrighted work in their name. Moral rights are stated in Article 6 of the Berne Convention which states that:

"The creator has the right to claim ownership of his work and refuse distortion, mutilation or alteration and other violations related to the work that could damage the honor or reputation of the creator."¹²

IPR is actually a right to a special and special sign because this right is delegated from the state. The state, according to law, delegates special rights to those who can comply with procedures and provisions that must be perfected.¹³

Legal protection of intellectual property rights is a legal system that includes:

1. Subjects of protection are owners or rights holders, law enforcement officials, registration officers and violations of the law;
2. The object of protection, namely all types of IPR, is regulated by law
3. Protection Registration, then the protected IPR has been recorded and proven on the Registration certificate;
4. Duration of Protection, namely the period of time that Intellectual Property Rights are protected by law;

Legal Action Protection for parties who actually commit Intellectual Property Rights Crimes, violators must be subject to sanctions, whether civil or criminal.¹⁴

In practice, book piracy often occurs in communities throughout Indonesia. Legal action in cases of nonfiction forgery does not appear to be the case run as it should so that nonfiction copyright is left without legal protection. Reproduction of information books in order to obtain financial rights must be done on the basis of permission granted from the owner or copyright holder. Part 1, Article 20 of the Copyright Law explains that a license is a written permission from the copyright owner. In practice, book piracy has become commonplace among citizens throughout Indonesia. If the prosecution in non-fiction piracy cases does not move as it should, then non-fiction copyright has no legal defense. Reproduction of information books to obtain financial rights must be done under a license granted by the owner or copyright owner. Article 1 number 20 of the Copyright Law explains that a license is a written authorization from the copyright owner or copyright holder.

A person who falsifies science books can be subject to compensation sanctions. Compensation for damages is the amount of money that is imposed on the party who pleads guilty for violating the financial rights of the creator, copyright and/or rights holder regarding the consequences of a civil or criminal decision that has legal force for the originator, copyright owner and the losses incurred. rights holders are to blame. According to Article 9 (2) of the Copyright Law, each party who uses the property rights mentioned in paragraph (1) must obtain the author's consent. This means that anyone who obtains economic rights from something resulting from a copyrighted work, including this reference book, without the permission of the creator or copyright holder is an act that is prohibited by copyright law and therefore may be subject to copyright law. criminal or civil penalties.

As a form of legal protection for copyright in scientific books, Indonesian authorities use sanctions, both criminal and civil. There are also criminal provisions regarding the reproduction or falsification of science books set out in the Copyright Law as follows in Article 113 (3) of the Copyright Law which explains that someone who intentionally commits a violation for commercial use can be subject to a 4 year sentence and a fine of IDR 1,000,000,000 (one billion rupiah)

¹² Ibid, hal. 76

¹³ Sentosa Sembiring, Hak Kekayaan Intelektual dalam Berbagai Perundang-Undangan (Yrama Widya2002) 13.

¹⁴ Abdulkadir Muhammad, 2001, Kajian Hukum Ekonomi Hak Kekayaan Intelektual (SuatuPengantar), Alumni, Bandung, hlm.144

CONCLUSION AND SUGGESTION

Implementation of legal protection for book creators for scientific work books that are copied illegally by Intellectual Copyright infringers will be subject to criminal sanctions in accordance with legal provisions so that in the future Intellectual Work Copyright crimes will not be repeated. Basically, the principle of legal protection is the recognition of rights, the formulation of rights violations which can include parts of civil and criminal law.

REFERENCES

1. Soetandiyo Wignyosoebroto, Hukum: Paradigma, Metode, dan Dinamika Masalahnya (Huma 2002).
2. Abdulkadir Muhammad, Kajian Hukum Ekonomi Hak Kekayaan Intelektual (Suatu Pengantar), 2001.
3. Achmad Gusman Guntur Siswandi dalam Kholis Roisah, Konsep Hukum Hak Kekayaan Intelektual (HKI) (Setara Press 2015) 1.
4. Kholis Roisah, Konsep Hukum Hak Kekayaan Intelektual (HKI) (Setara Press 2015) 2.
5. Sentosa Sembiring, Hak Kekayaan Intelektual dalam Berbagai Perundang-Undangan (Yrama Widya 2002) 13.
6. Asian Law Group Pty. Ltd, Hak Kekayaan Intelektual Suatu Pengantar (PT. Alumni 2011) 6.
7. Ade Uswatun Sitorus, „Hak Cipta dan Perpustakaan“(2015) 9 Jurnal Iqra 1,2.
8. Stewart dalam Otto Hasibuan, Hak Cipta di Indonesia (PT. Alumni 2014) 57.
9. Belinda Rosalina, Perlindungan Karya Arsitektur Berdasarkan Hak Cipta (PT. Alumni 2010) 109.
10. Satjipto Rahardjo, Ilmu Hukum (PT. Citra Aditya Bakti 2000) 53.
11. Phillipus M. Hadjon, Perlindungan Hukum Bagi Rakyat Indonesia (PT. Bina Ilmu 1987) 29
12. Tommy Hottua Marbun dan T. Keizeirina Devi Azwar, „ Perlindungan Hukum Hak Cipta Terhadap Karya Cipta Lagu dan Musik dalam Bentuk Ringtone Pada Telepone Seluler“(2013) 1 Transparency Jurnal Hukum Ekonomi 2.
13. Sentosa Sembiring, Hak Kekayaan Intelektual dalam Berbagai Perundang-Undangan (Yrama Widya 2002) 13.
14. Anonim, 2014, Perlindungan Hukum, Diakses dari <http://tesishukum.com/> Pengertian perlindungan hukum menurut para ahli [28 Maret 2023]