



Regulation of Copyright Law Protection Over Video Work for Creators Based on Law Number 28 of 2014 About Copyright

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Abstract. According to the contents of Article 40 verse (1) letter r in Act Number 28 of 2014 concerning Copyright, it is explained various types of works that are protected by copyright, however in the article, it mentions about video games that are defined unclearly, therefore that there is norm vagueness as it emerges multiple interpretations to define the meaning of video game itself. Based on this background, there are problems that are discussed, namely how the video copyright regulation over video masterpiece for the creators according to Act Number 28 of 2014 concerning Copyright regulate does and how the legal protection of video copyright over video masterpiece for the creators according to Act Number 28 of 2014 concerning Copyrights is. The type of this research is normative legal research that applying statutory and historical approaches. The sources of legal materials used are primary, secondary, and tertiary sources. In this research, the literature study is used to collect the data. Afterwards, the obtained data was analyzed descriptively and qualitatively. The conclusions of this research are that the video copyright regulation over video masterpiece for the creators according to Act Number 28 of 2014 concerning Copyright did not regulate video masterpieces that were played on television which were taken from the internet, thus there was norm vagueness. Subsequently, the copyright regulation did not regulate rules related to video playback; it is video games that have been regulated, therefore it does not protect the video creators who made and uploaded it to provided platform nowadays hence it is important to regulate rules related to video playback performed by particular parties on television or certain events.

Keywords: Legal Protection · Copyright · Video

1 Introduction

Science, art, culture, and literature that live in the midst of Indonesian society are closely related to the concept of Intellectual Property Rights or commonly called IPR. In today's era, where the world is required to go towards the era of modernity and globalization, the potential for the development of art, culture, science has also experienced significant developments that can be used as a medium to advance the economy and improve the standard of personal life and even the State. As people who enjoy the development of

information technology and telecommunications, we must not ignore ethics and morals in the use of these technologies [1].

Copyright is one of the most protected forms of intellectual property, as it encompasses science, art, and literature (art and literature), including computer programs. With the development of the creative industry, which is a major industry in Indonesia and other countries, and the rapid development of information and communication technology, copyright is the most important foundation of the country's creative industry, so there is a need to update the copyright law. As copyright law meets the elements of protection and development of the creative industries, it is hoped that the contribution of the copyright and related rights sector to the national economy will be more optimal [2].

Article 1 (1) of Law No. 28 of 2014 on Copyright states:

Copyright is the exclusive right of the author and automatically arises after the realization of the creation in material form, subject to the principles of the Declaration and without prejudice to any restrictions imposed by legal or regulatory provisions [3].

Copyright is part of Intellectual Property Rights (IPR) which has two rights, namely moral rights and economic rights. Philosophically, copyright laws and regulations in Indonesia place the creator and his creation in an honorable and high position. Creators are treated honorably as virtuous, dignified and cultured persons. Human beings are a source of inspiration, ideas and ideas that are able to express them into tangible, valuable, and useful creations. Therefore, creation is considered as a mirror as well as a personal reflection of the creator because it comes from the creator's self (system from author) [4]. The occurrence of potential copyright violations in the community, caused by misinterpretation and ignorance/Lack of understanding of intellectual property rights and the very different cultures of society [5].

Along with the development of the times, it is easier for people to take pictures or videos either using cameras, handycams, or using cellphones. According to the Big Indonesian Dictionary, a video is a recording of a live image or television program to be shown on a television set, or in other words a video is a moving image show accompanied by sound.

Not infrequently in society, videos recorded by someone contain important information content that is useful for someone so that the dissemination of the video becomes a matter of discussion considering that it is not uncommon for television or advertising business actors to spread news or information using someone's video without including the party who owns or the source thereof. Where the advertising company itself according to A.Z Nasution, what is meant by advertising business actors is those consisting of advertisers, advertising agencies, and advertising media [6].

Any human work consisting of science, art, literature or creations created from a person must not be illegally hijacked or claimed by others. Therefore, it is necessary to have consistent legal protection of intellectual property rights, especially copyrights, so as not to cause harm to their owners. No exception, videos are copyrighted works made through the sophistication of technology that is developing today, of course, video works must be protected by ownership of their creations.

Indonesia already has a statutory product that regulates copyright itself, where copyright regulation is regulated in Law Number 28 of 2014 concerning Copyright. Based

on the content of the article above in article 40 paragraph (1) letter r is explained to be related to various types of works that can be protected by copyright, but in the article it mentions video games that are not clear in their meaning, if reviewed based on the Big Dictionary of Indonesian, video games are the same as video games or games as well as games that are commonly loved by children, for example, the Harvestmoon game in Playstation version 1 is much different from video playback which is an image loaded through graphics on the screen, so in that article there is a blurring of norms because it gives rise to multiple interpretations of the meaning of the video game, it is not clear what exactly the article wants to regulate, so it is very important that this is to be evaluated and sought for certainty.

Based on this background, the formulation of the problem is whether the copyright arrangement of video works for creators is based on law Number 28 of 2014 concerning Copyright and how legal protection of copyright for video works for creators based on law Number 28 of 2014 concerning Copyright.

2 Research Method

The type of research used is a type of normative legal research using the Statutory Approach, Conceptual Approach and Historical Approach. The source of legal materials used comes from primary, secondary, and tertiary sources of legal materials. In this study, a technique for collecting legal materials for literature studies was used. The data obtained were then analyzed descriptively qualitatively.

3 Findings and Discussion

1. Copyright Regulation of Video Works for Creators Based on Law Number 28 of 2014 concerning Copyright.

Manusia in his fitrah the ability to create, create and produce something from the results of his thinking power and ability. Everyone can produce different works, they are of artistic value, and they are beneficial to other human beings. Because the work of this thought power and ability is often [7] used and used together in society, the arrangement is legal, in order to create a harmonious life between fellow humans. This is called Intellectual Property, and there is intellectual property law as the regulatory norm. Intellectual property is the property of all the results of the production of intelligence of thought power such as technology, knowledge, art, literature, song composition, written works, caricatures and so on, while Intellectual Property Rights (IPR) are rights (authority/power) to do something about the intellectual property, which is regulated in the norms or laws that apply. Human intellectual abilities in the form of inventiveness, taste and taste produce works in the fields of science, art, and technology. Intellectual works are born with the sacrifice of time and even cost and through this sacrifice make the resulting work have inherent economic value as a consequence of becoming property, if through these works can be [8] obtained economic benefits that can later be enjoyed. IPR only appears when human intellectual results have formed something that can be seen,

heard, read, or used practically. In addition, intellectual creativity must also be original or original (original) and new to all or update from the previous creativity (novelty) [9].

The practice of copyright piracy in Indonesia from year to year tends to increase drastically and is already very concerning. One of the facts on the ground, for example, occurs in the music industry. According to the records of the Indonesian Recording Industry Association (ASIRI), the piracy of the music industry in Indonesia shows the most significant figures. The most disadvantaged party comes from the musician or songwriter whose 2 works were hijacked. Their efforts in finding song inspiration and spending a lot of money in the production process turned out to be unappreciated and protected by the state. Their copyrighted works are easily hijacked and disseminated by others for their own personal gain. Not a few of the artists or musicians whose works are in demand by the public turn out to be unable to continue his career because their products that were officially sold on the market were considered unsold.

New discoveries belong to the intellectual property rights group (Intellectual Property Right). It is basically a right that arises as a result of human intellectual abilities in various fields that produce a process or product that is beneficial to mankind. These works include works in the field of art, literature or inventions in the field of technology. Technology is one of the works of creation as a result of human intellectual creativity, through creation, work, and its characteristics. The copyrighted work gives rise to property rights for the creator of the invention.

One form of intellectual property rights is Copyright. Copyright is part of a set of rights called Intellectual Property Rights (IPR) whose arrangements are contained in legal science and are called IPR Law, covering a field of law in charge of juridical rights to works or copyrights produced by the human mind in relation to interests of an economic and moral nature [10]. Copyright is an exclusive right as stated in Article 1 point 1 of Law Number 28 of 2014 concerning Copyright. The exclusive right in the explanation of Article 4 of the Copyright Law is a right reserved only for the Creator, so that no other party can take advantage of the right without Permission of the Creator. The existence of an exclusive right is closely attached to its owner which is personal power over the creation in question. Therefore, no other party may take advantage of Copyright except with the permission of its Creator [11]. Furthermore, in Article 4 of the Copyright Act, such exclusive rights consist of moral rights and rights economics.

Moral rights in terminology Bern Convention, using the term moral rights, that is, the right attached to the Creator. Attached, it means that the right cannot be abolished even if the Copyright has expired its ownership period. Moral rights are distinguished by economic rights, if economic rights contain economic value, then moral rights have absolutely no economic value. The word "moral" denotes the rights hidden behind that economic value [12]. However, there are times when the value of moral rights actually affects the economic value. Moral rights are the recognition that a Creation is a development of the Creator's personality and that the linkage between the Creator and his Creation must be appreciated [13]. Article 5 of Law No. 28 of 2014 on Copyright states that moral rights are rights permanently associated with the creator. The attached rights include the right to:

- a. Keeping or not listing his name on the copy in connection with the public use of his Work;
- b. Using his real name or his pseudonym;
- c. Changing his Creation according to propriety in society
- d. Change the title and child of the title of the Creation; and Defending its rights in the event of distortion of the Work, mutilation of the Work, modification of the Work, or of a detrimental nature.

In contrast to moral rights, economic rights are the exclusive right of the Creator or Copyright Holder to benefit from the Work, the definition of economic rights can be found in Article 8 of Law Number 28 of 2014 concerning Copyright. In Article 9 of the Copyright Act, the Creator or Copyright Holder has the economic right to do:

- a. Publication of Creations;
- b. The multiplication of Creation in all its forms;
- c. Translation of Creation;
- d. Adapting, arranging, or transforming creation
- e. Distribution of the Creation and its copies;
- f. Creation Show;
- g. Announcement of Creation;
- h. Creation Communication; and
- i. Rental of Creation.

Everyone Anyone exercising such economic rights must obtain permission from the author or copyright owner. Reproduction and/or commercial exploitation of the work without permission of the author or copyright owner is therefore prohibited.

Indonesia as an archipelagic country has a very rich diversity of arts and culture. This is in line with the diversity of ethnicities, ethnic groups, Together they represent a national potential to be protected. The richness of art and culture is one of the sources of intellectual work that can and needs to be protected by law. Wealth is not solely for art and culture itself, but can be utilized to improve capabilities in the field of trade and industry involving its creators. Thus, the wealth of protected art and culture can improve welfare, not only for its creators, but also for the nation and state [14].

Along with the passage of time the updated Copyright Law, i.e. Law No. 28 of 2014 on Copyright, has indeed been intended for those who have painstakingly produced works derived from the idea of the mind with creativeness derived from the expression of intellectuality (intangible) and not tangible. With the existence of Law No. 28 Year 2014 on Copyright which can provide copyright legal protection that is further improved than previous laws and regulations. The intention is to create better conditions for the development of creative minds in the fields of science, art and literature necessary for the development of the nation.

Under Article 40 of Law No. 28 of 2014 on Copyright, it stipulates some criteria for works to be provided with copyright protection as follows:

This Act protected creations are creations in the fields of science, art, and literature, which include:

- a. Books, pamphlets, published manuscripts, and all other arians;
- b. Talk, lectures, speeches, and other creations of the same kind;
- c. Props made for the benefit of education and science;
- d. Songs and/or music with or without text
- e. Plays, musical plays, dance, choreography, puppetry, and pantomime;
- f. Works of fine art in all forms such as paintings, drawings, engravings, calligraphy, sculpture, sculpture, collage;
- g. Works of applied art;
- h. Architectural works;
- i. Maps;
- j. Batik artwork or other motif art;
- k. Photographic works;
- l. Portrait
- m. Cinematographic works;
- n. Translations, interpretations, arrangements, potpourri, databases, adaptations, arrangements, modifications and other works of the result of transformations;
- o. Translation, adaptation, arrangement, transformation, or modification of traditional cultural expressions;
- p. Compilation of Creations or data, whether in a format that can be read with a Computer Program or other media;
- q. The compilation of traditional cultural expressions during the compilation is an original work;
- r. Video games; and
- s. Computer Programs. The work as referred to in paragraph l is protected as a separate creation without prejudice to the Copyright of the original Work. Protection as referred to in paragraphs 1 and 2, including protection of creations that are not or have not been announced but have been realized in a tangible form that allows the Reproduction of the Creation.

Furthermore, Law Number 28 of 2014 also explains the meaning of the type of protected creation as stated in the Explanation of Article 40 of Law Number 28 of 2014 as follows:

- a. the face A work of written work is a work commonly known as a “typographic arrangement”, which represents the artistic aspects of the arrangement and the form of writing the written work. This includes, among other things, the format, the color scheme, the exquisite arrangement or placement of the letters, and the overall unmistakable shape;
- b. props are creations in the form of 2 (two) or 3 (three) dimensions related to geography, topography, architecture, biology or other sciences;
- c. a song or music with or without text is defined as a whole work of creation that is whole;
- d. drawings include among others: motifs, diagrams, sketches, logos and elements of beautiful colors and letter shapes.
- e. Applied artwork is a work of fine art made by applying art to a product to have an aesthetic impression in meeting needs

- i. practical, including the use of images, motifs, or ornaments on a product;
- f. Architectural works include, but are not limited to, physical forms of buildings, building plans, building blueprints, building engineering drawings, and building models or mockups.;
- g. a map is a picture of natural and/or man-made elements located above or below the earth's surface and represented on a plane at a particular scale through both digital and non-digital media;
- h. Batik artwork is a contemporary batik motif that is innovative, present, and not traditional. The work is protected because it has artistic value, both in relation to images, shades, and color compositions. Other motif artworks are motifs that are the wealth of the Indonesian nation located in numerous regions, Contemporary, innovative and evolving motif art including songket art, ikat motifs, tapis motifs and uros motifs;
- i. photographic works include all photographs produced using the camera;
- j. A motion picture work is a work in the form of a moving image, such as: documentary, commercial, reportage or story films made with screenplays, and cartoon films. Cinematographic works may be made in celluloid tapes, video tapes, video discs, optical discs and/or other media that allow it to be performed in cinemas, big screens, television or other media. Cinematography is an example of an audio-visual form;
- k. Potpourri include: creations in the form of books containing compilations a selection of written works, a selection of songbooks, and a selection of various dance compositions on cassette, optical disc, or other media.

A database is a compilation of data in any form that is computer readable, or any other form of compilation that is an intellectual creation by the selection or arrangement of data content. The protection of databases does not prejudice authors' rights to works provided in such databases. Adaptation is the transformation of a creation into another form. For example, from books to movies. Another thing to do with conversion results is to change the format of creation to another form format. For example, pop music becomes dangdut music.

Based on Article [43] of Law Number 28 of 2014 concerning Copyright, acts that are not considered copyright infringement include:

- a. Announcement, distribution, communication, and/or duplication of the national emblem and anthem according to its original nature;
- b. Announcement, distribution, communication, and/or duplication of everything carried out by or on behalf of the government, unless otherwise protected by laws and regulations, a statement on the creation announcement, distribution, communication, and/or duplication are made;
- c. Actual news collection, whether in whole or in part from news agencies, Broadcasters, and newspapers or other similar sources provided that the source must be mentioned in full;
- d. Creation and dissemination of copyright content through information and communication technology media that is non-commercial and/or the author of the Creator

or any related party, or such creator expresses no objection to the creation and dissemination of such.

- e. Duplication, announcement, and/or distribution of portraits of the president, vice president, former vice president, national heroes, heads of state institutions, heads of ministries/non-ministerial government agencies, and/or regional heads with due regard to dignity and fairness in accordance with the provisions of laws and regulations.

Article [44] of Law Number 28 of 2014 concerning Copyright also explains several acts that are also not considered copyright violations, namely:

The use, taking, reproduction, and/or alteration of a work and/or related rights product in whole or in substantial part is not considered copyright infringement if the source is listed in full for the purposes of:

- a. Education, research, writing scientific papers, preparing reports, writing criticisms or reviews of an issue without prejudice to the reasonable interests of the creator or copyright holder;
- b. Security and administration of government, legislature and judiciary;
- c. Lectures that are for educational and scientific purposes only; or
- d. Unpaid performances or stagings provided that they do not prejudice the reasonable interests of the creator.

The facility of access to a creation for the blind, visually impaired or limited reading, and/or user of braille, audiobooks, or other means, is not considered copyright infringement if the source is mentioned or listed in full, unless it is commercial in nature. In the case of a creation in the form of an architectural work, the alteration as referred to in Article 44 paragraph (1) is not considered a copyright infringement if it is carried out based on considerations of technical implementation.

Further provisions regarding access facilities for creation for people with visual impairments, visual impairments and limitations in reading and using braille, audiobooks, or other means as referred to in paragraph (2) are regulated by a Government Regulation. According to the provisions of Article 113 of Law Number 28 of 2014 concerning Copyright, it can only be implied that there are 3 (three) groups of forms of copyright infringement as a wet delict, namely: Intentionally and without the right to announce, reproduce a creation or give permission for it. Including these violations include violating the prohibition on promulgating, reproducing or giving permission for it any creation that is contrary to the discretion of the government in the field of defense and security of the state, decency, and public order;

Intentionally exhibiting, circulating or selling to the public a copyrighted work or item. These violations include the sale of books and pirated VCDs; Intentionally and without the right to reproduce the use for commercial purposes of a computer program. Referring to the provisions of Article 113 of Law Number 28 of 2014 concerning Copyright, there are two classes of perpetrators of copyright infringement that can be threatened with criminal sanctions. First, the main perpetrators are individuals and legal entities that knowingly violates copyright or violates statutory prohibitions. These main culprits include publishers, hijackers, plagiarists, and printers. Second, auxiliary actors

are parties who broadcast, exhibit or sell to the public any creations that they know violate copyright or violate the prohibition of Law Number 28 of 2014 concerning Copyright. These auxiliary actors include broadcasters, exhibition organizers, sellers, and dealers who rent out any works resulting from crimes/copyright violations or prohibitions regulated by law.

2. Legal Protection of Copyright of Video Works for Creators Based on Law Number 28 of 2014 concerning Copyright.

Legal protection is an effort regulated by law to prevent infringement of intellectual property rights by unauthorized persons. If a violation occurs, the violator must be legally processed, and if proven to have committed an offense, the violator will be sentenced in accordance with the provisions of the law on intellectual property rights that were violated. The law on intellectual property rights regulates the types of violations and the threat of punishment, both civil and criminal. The legal protection referred to in the IPR specifications are as follows:

- a. Registration of Intellectual Property Rights (IPR) According to the provisions of the law, every intellectual property right must be registered. A registration that meets the requirements of the law is an acknowledgment and justification of a person's intellectual property rights, as evidenced by a registration certificate so as to obtain legal protection.
- b. Determination of Protection Period According to the provisions of the law each intellectual property right is determined the period of its protection. Thus, during the period of such protection, the intellectual property rights concerned may not be used by other parties without the permission of the owner/holder.
- c. Enforcement and Restoration Any violation of intellectual property rights will harm the owner/holder and/or the public/state interest. The offender must be rejected and recover the losses suffered by the owner/rights holder or the state [15].

The concept of authority in state administrative law is related to the principle of legality, where this principle is one of the main principles that are used as a basic material in every government and state administration in every legal state, especially for legal states that adhere to continental european legal system. This principle is also called the power of legislation (*de heerschappij van de wet*). This principle is also known in criminal law (*nullum delictum sine previalege peonale*) which means there is no punishment without legislation) [16]. In state administrative law this principle of legality has the meaning of *dathet bestuur aan wet is onderworpen*, namely that the government is subject to the law. This principle is a principle in the state of law.

Legal protection is all efforts to fulfill rights and provide assistance to provide a sense of security to witnesses and/or victims, legal protection of victims ke evilan as part of the protection of society, can be realized in variousai forms, such as through the provision of restitution, compensation, medical services, and legal assistance [17].

Legal protection is provided to legal subjects into the form of devices both preventive and repressive, both oral and written. In other words, it can be said that legal protection as a separate picture of the functioning of law itself, which has the concept that law

provides a justice, order, certainty, expediency and peace. There are two kinds of legal protection, namely preventive legal protection and repressive legal protection [18].

Preventive legal protection means that the people are given the opportunity to raise their objections or opinions before the government's decision gets a definitive form. In this case, it means that this preventive legal protection aims to prevent disputes from occurring. Preventive legal protection means a lot for government actions based on freedom of action because with preventive legal protection the government is encouraged to be careful in making decisions. According to Philipus M. The preventive hadjon is a decision made by the lower government officials made earlier. Preventive measures are preventive measures [19].

Repressive legal protection, that is, legal protection provided after a dispute. This repressive legal protection aims to resolve disputes Aristotle's view of justice can be found in his work *nichomachean ethics*, politics, and rethoric. Specifics are seen in the book *nicomachean ethics*, the book is entirely devoted to justice, which, based on Aristotle's philosophy of law, should be considered the core of his philosophy of law, "because the law can only established in relation to justice". In essence, this view of justice is as a grant of equal rights but not equality. Aristotle distinguished his right of equality according to the right of equality. Equal rights are seen by human beings as a common unit or container. This is what can be understood that all persons or every citizen before the law is equal. The similarity gives each person what he is entitled to according to his abilities and achievements.

Furthermore, justice in Aristotle's view is divided into two kinds of justice, "distributief" justice and "commutatief" justice. Distributive justice is justice that gives to each person a portion according to his pretation. Commutatief justice gives just as much to everyone without discriminating against his achievements in this regard with regard to the role of exchanging goods and services. Based on all the understanding and exposure previously described related to video games and also video playback in copyright laws, the author can analyze based on the theories that the author has used that in copyright law has not regulated related to video playback that is regulated only video games or video games so that the rules Not yet a copy of the creator of the video created and also uploaded or uploaded to platforms are available today so it is important to regulate related to the playback of videos carried out by certain parties on television as well as certain events.

4 Conclusion

1. Pengaturan Hak Cipta for video works for creators based on Law Number 28 of 2014 concerning Copyright, namely that the copyright arrangements for video works only regulate video games which in English are called video games listed in Article 40 paragraph 1 letter r Law Number 28 of 2014 concerning Copyright, in Article 40 paragraph 1 letter r there is a blurring of norms (Vague Norm) or unclear, so that it causes a lot of multi-interpretation, while in this study the video work in question is a video in the form of a spectacle like a soap opera such as soap operas such as parody video works as well as other videos. This is not yet clear about the rules regarding video works that are played on television which are then taken from platforms such as YouTube Tik Tok Instagram or other platforms.

2. Legal protection of copyright for video works for creators based on law Number 28 of 2014 concerning Copyright. Based on all the understanding and presentations previously described related to video games and also video playback on copyright laws, the author can analyze based on the theories that the author has used that the copyright law has not regulated the playback of regulated videos only video games or video games so the rule Has not protected the creator of the video created and also uploaded or uploaded to the currently available platform so that it is important to be regulated in relation to the playback of videos carried out by certain parties on television or certain events, in the regulations of the Copyright Law, obtaining legal protection automatically. Because of the blurring of norms for the playback of the video, it needs clarity.

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