



## **The Urgency of Supervision and Law Enforcement of Copyright Protection in Cyber Spaces in Indonesia**

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### **Abstract**

The increasing use of instant communication technologies has increased our ability to manipulate, copy and transmit media around the world cheaply and instantly. Today's society has easy access to information in the form of digital information products. However, this results in copyright infringement which often goes unnoticed. This study aims to determine the urgency of supervision and law enforcement regarding copyright protection in cyber space in Indonesia. This study uses a normative juridical method with descriptive analytical research specifications through a statutory approach. Based on this research, it can be concluded that copyright is the exclusive right of the creator that arises automatically based on the declarative principle after a creation is realized in a tangible form without reducing restrictions in accordance with statutory provisions. Today copyrighted works in digital form are easily duplicated, with results that are almost

indistinguishable from the original. Given the magnitude of the impact of piracy and counterfeiting, a more comprehensive alternative legal protection is needed to combat all forms of copyright infringement in cyberspace, with strict supervision and enforcement of copyright protection in cyberspace, digital piracy actors can be suppressed and avoided. from actions that violate copyright. It can also help maintain the integrity and value of copyrighted products or works. Apart from that, it is also necessary to increase the understanding of intellectual property rights consultants regarding copyright so that they can assist intellectual property rights cases with national and international dimensions.

### **Keywords**

Enforcement; Copyright; Virtual Space

### **Introduction**

Virtual spaces that are interactive and dynamic with life but technically exist only within the computer's memory, continue to evolve over time.<sup>1</sup>Therefore, the legal system must be stricter and need to catch up. Along with the increasing weight of intellectual property in the national economy, the efficiency of copyright and related rights protection is increasingly emphasized along with the increasing importance of intellectual property in the national economy.<sup>2</sup>

Information in the form of digital information products is now available to the public. However, this results in copyright infringement which is often overlooked.<sup>3</sup>This is due to how easy it is for individuals to copy and modify these digital products. The use of computers and the Internet is now widely accepted as a component of contemporary business and society. There are no geographical restrictions and computers can be accessed from any country. Thus, the era of globalization and digital has developed so fast, especially its impact on the field of work/human activity, so that it has now entered various segments of human activity in almost all parts of the world.<sup>4</sup>

The internet, with all its benefits and conveniences, turns out to not only help business owners but also harm illegal activities by endangering those that result in unlawful acts such as data security and privacy, so that legal protection of human rights owned by everyone who owns a copyright must be carried out. .<sup>5</sup>Copying content from one site, modifying it, or simply reproducing it on another site has been made possible by digital technologies and this poses new challenges to existing interpretations of individual rights and protection. Then, download,

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<sup>1</sup> Nandan Kamath, *Law Relating to Computers, Internet and E-Commerce*, 2nd ed. (New Delhi: Universal Law Publishing, 2005).

<sup>2</sup> Natalya Buzova and Karelina Marina, "Judicial Protection of Intellectual Property Rights in a Digital Economy: Is There a Need for Change?," *Legal Issues in the Digital Age* 2, no. 4 (December 2021): 114–26, <https://doi.org/10.17323/2713-2749.2021.4.130.142>.

<sup>3</sup> Adam Behr, Keith Negus, and John Street, "The Sampling Continuum: Musical Aesthetics and Ethics in the Age of Digital Production," *Journal for Cultural Research* 21, no. 3 (2017): 223–40.

<sup>4</sup> Liu Han-Yan, "The Digital Disruption of Human Rights Foundations," nd, 75–86, <https://doi.org/10.4324/9781351025386-6>.

<sup>5</sup> Jaani Riordan, *The Liability of Internet Intermediaries* (Oxford: Oxford University Press, 2016).

upload, save, modify or create works with just one click. Actual copyright laws have granted their owners exclusive rights to permit reproduction of copyrighted works, preparation of derivative works, distribution, etc.<sup>6</sup> Sound files, music files, photos, money, news articles, clips, bios, letters, and many other types of information can be shared, distributed, disseminated, and stored electronically today. Thus the current generation relies heavily on computer technology to ensure simple mechanisms and efficient functioning in electronic form via computers. Therefore, there is a threat from the deadliest type of crime known as "cyber crime".<sup>7</sup>

In addition, copyright owners are having nightmares because of difficulties with new technicalities such as peer-to-peer systems that facilitate unlawful file sharing.<sup>8</sup> Additionally, digital technology is erasing the quality gap between electronic and physical copies. The user experience is hardly affected by the nuances. Users are more likely to purchase low-cost, high-quality copies online, regardless of whether these copies are licensed or not, when they factor in the cost of accessing copyrighted material. Technically, this technique draws on an existing work and makes it more accessible than producing a new work, derivatives of it, or copies of an existing work. As a result, online piracy is growing in popularity among internet users, and copyright owners rely on enforcement of copyright laws to stop infringement.<sup>9</sup>

The last few decades have seen how digital technologies with network connections have changed the landscape and perceptions of copyright infringement online. Copyright infringement findings have evolved and developed through a series of court cases.<sup>10</sup> Globally, the number of internet users is increasing from year to year, in Indonesia, this increase can be seen in a report published by Hootsuite, which shows that social media users increased by 15.5%, or more than 27 million users, from January 2020 to January 2021, and by 6.3%, or over 10 million users, from January 2020 to January 2021.<sup>11</sup> Finally, from 2021 to 2022, the number of Indonesians using social media will increase by 21 million, or 12.6%, to 191.4 million.<sup>12</sup> In line with the high number of internet users in Indonesia, this condition is in line with the increasing number of intellectual property rights violations, namely there were 1,184 cases of intellectual property rights violations between 2015 and 2021, with the National Police handling 958 of them. Overall, there were 658 trademark cases, 243 copyright cases, 27 industrial design cases, 8 trade secret cases, 2 integrated circuit layout cases and 2 plant variety protection cases.<sup>13</sup>

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<sup>6</sup> Tabrez Ahmad, *Cyber Law and E-Commerce* (New Delhi: APH Publishing Corp, 2003).

<sup>7</sup> Yash Arora Tripti Bhushan, "Intellectual Property Rights and Its Protection in Cyberspace and Media Laws," *International Journal Of Advance Research And Innovative Ideas In Education* 6, no. 6 (2020): 110–13.

<sup>8</sup> C. Marsden, "Internet Co-Regulation and Constitutionalism: Towards European Judicial Review," *International Review of Law, Computers and Technology* 26, no. 2 (2012): 212–28.

<sup>9</sup> Yang Sun, "Copyright Law Enforcement in Online Environment" (United States, May 5, 2014), <https://ssrn.com/abstract=2432987>.

<sup>10</sup> Sartika Nanda Lestari and Arifin Pringgo Laksono, "A Legal Protection Of Music Royalty On Open Content License Through Soundcloud," *Journal of Dinamika Hukum* 18, no. 3 (2018): 329–36.

<sup>11</sup> Simon Kemp, "DIGITAL 2021: INDONESIA" (Hootsuite, 2021).

<sup>12</sup> Simon Kemp, "Digital 2022: Indonesia" (Kepios, February 15, 2022), <https://datareportal.com/reports/digital-2022-indonesia>.

<sup>13</sup> Wibi Pangestu Pratama, "There have been 1,184 cases of intellectual property violations being prosecuted in RI since 2015," *EKONOMI*, 2021,

Mass digitalization is becoming an increasingly important factor in social, economic and political life. For some, this trend has the potential to create groundbreaking opportunities for knowledge dissemination and driving cultural engagement. However, the increasing use of instant communication technologies has increased our ability to cheaply and instantly manipulate, copy and transmit media around the world.<sup>14</sup>

Based on the description in the background above, the researcher intends to conduct this study with the aim of knowing the supervision and law enforcement of copyright protection in cyber space in Indonesia.

Similar research was conducted by Badru et al<sup>15</sup> namely related to the urgency of legal protection of copyright digital works. The research concludes that with this rapidly developing technology, it provides many losses for creators of digital works, for this reason it would be better if creators should take preventive measures by legally registering their works/creations with the government to prevent copyright infringement. . In addition, legal protection efforts must also be in accordance with the provision of strict and appropriate sanctions to copyright violators by law enforcement officials in accordance with applicable laws and regulations. This increasingly developing technology also needs to be accommodated by adjusting the existing legal system.

Other research with a similar theme was conducted by Soemarsono et al<sup>16</sup> namely related to the urgency of enforcing copyright law against content creators in the use of songs on social media. The research concludes that with the discovery of various forms of copyright infringement that are often committed by creators of content on social media, the government must immediately make specific and efficient laws and regulations regarding copyright provisions for songs on social media in relation to economic and social rights. moral. That along with the times, it cannot be denied that the ease of creating content on social media needs to be accompanied by renewal of the rules accompanying the behavior of content creators in using songs on social media.

### **Research methods**

The scientific value of a discussion and problem solving of the legal issue under study is highly dependent on the approach used. Several approaches can be taken in normative legal research, including: (a) statutory approach, (b) analytical approach, (c) conceptual approach, (d) historical approach, (e) comparative approach, (f) case approach, and (g) philosophical approach.

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<https://ekonomi.bisnis.com/read/20211006/9/1451327/ada-1184-kases-pelanggaran-haki-ditindak-in-ri-since-2015>.

<sup>14</sup> P. Aigrain, *Sharing: Culture and the Economy in the Internet Age* (Amsterdam: Amsterdam University Press, 2012).

<sup>15</sup> Ujang Badru Jaman, Galuh Ratna Putri, Tiara Azzahra Anzani, "The Urgency of Legal Protection Against Copyrights of Digital Works" *Rechten Journal: Legal Research and Human Rights*, Vol 3, No 1 (2021): 16

<sup>16</sup> Langit Rafi Soemarsono, Rianda Dirkareshza, "The Urgency of Upholding Copyright Laws Against Content Makers in Using Songs on Social Media" *Journal of USM Law Review* Vol 4 No 2 (2021): 628

In this study used a statutory approach (statute approach). This is because normative legal research is definitely related to certain laws and regulations. The approach method in this study uses a normative juridical approach. In particular, this research is analytical descriptive in nature, that is, it has a focus on solving problems that exist in the present. This descriptive research aims to describe all the data obtained related to the research title in a clear and detailed manner. So then an analysis is carried out in order to be able to answer the problems being studied. Use of primary legal materials, secondary and tertiary used in this study aims to formulate a conclusion from a particular discussion which is part of this research. In the next stage, partial conclusions in each discussion will be arranged systematically so that they become comprehensive conclusions and are able to answer the research problem formulation.

## **Results and Discussion**

### **Geneology of Copyright Regulations in Indonesia**

The Paris Convention of 1883 and the Berne Convention for the Protection of Literary and Artistic Works of 1889 were the first organized multinational efforts to set international standards. The Berne Convention was created to protect intellectual property. The Paris Convention governs patents, trademarks and industrial designs.<sup>17</sup> These conventions have been changed many times over the years, and new conventions are introduced regularly to keep pace with changes and technological developments. International agreements focus on generally accepted principles, so it is the responsibility of each signatory to develop its own laws based on the country's economic needs as well as philosophical, cultural, historical and political values. Because each country's moral and economic policies differ, debates are fierce and ongoing on issues such as the "fair use" of intellectual property, the issuance of mandatory licenses, and the right of governments to waive protected rights. Gaps in law enforcement and punishment complicate and hinder efforts to combat counterfeiting and piracy.<sup>18</sup>

Copyright dates back to the era of the printing press and few printers were owned by the public. It is not easy to copy works and pirated books are very easy to track down and people are charged with misconduct. But in the 20th century, new technologies emerged, namely photocopiers, cameras, tape decks, and VCRs, all of these advances creating problems between the rightful copyright owners and would-be copyists. While initially access to technology was a barrier to public copying, with new technology, the average person photocopied articles, recorded albums, and recorded their favorite television shows.<sup>19</sup>

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<sup>17</sup> Oksidelfa Yanto, "BERN CONVENTION AND COPYRIGHT PROTECTION," *Surya Kencana Satu Journal: Dynamics of Legal and Justice Issues* 6 (March 1, 2016): 108, <https://doi.org/10.32493/jdmhkdmdhk.v6i1.341>.

<sup>18</sup> Fatimah Nurul Aini and Indirani Wauran, "Fulfillment of Fair Use Principles in Song Covers Based on Indonesian Copyright Law," *Scientific Journal of Legal Policy* 15, no. 1 (2021).

<sup>19</sup> Eddy Damian, *Copyright Law according to Several International Conventions, the 1997 Copyright Law and the Protection of Books and their Publishing Agreements*, 1st ed. (Bandung: Alumni, 1999).

The basis for protection and legal certainty for the economic rights of creators and copyright holders has been established by Law Number 28 of 2014 concerning Copyright. The author's exclusive right, known as copyright, is then defined as a right that arises automatically after a work is realized in a tangible form without reducing restrictions according to statutory provisions. The Copyright Law has previously undergone a number of revisions. The nature of offenses changed in response to changes in law, from complaint offenses (Auteur-recht 1912 and UUHC 1982) to ordinary offenses (UUHC 1987, UUHC 1997, UUHC 2002), and then returned to complaint offenses (Auteur-recht 1912 and UUHC 1982). ). (UUHC 2014). From 1987 to 2002, ordinary offenses have been in effect.<sup>20</sup>

In fact, Articles 5 and 9 of the Copyright Act provide for the protection of copyrighted works. YouTube offers copyright protection through licensing in addition to the Copyright Act, which it also enforces. The identity of the content can be claimed by the Copyright holder using this license if there is a violation in the use of copyrighted material. In the event that their creation is violated, the creator can take preventive and repressive legal actions.<sup>21</sup>Therefore, Law no. 28 of 2014 offers an innovation in copyright protection through arbitration, court or alternative dispute resolution. Then, Law no. 28 of 2014 concerning Copyright Article 95 paragraph (4) states that in the event of a copyright dispute, the dispute must first be resolved through mediation before criminal prosecution is carried out. Provisions for settlement through mediation before criminal prosecution are also accommodated in the settlement of copyright disputes where one of the parties is abroad.

In general, lawsuits for copyright infringement can be filed in court. If you want to save on court costs, alternative dispute resolution can be carried out, namely litigation and non-litigation, both of which are regulated in Article 95 of the Copyright Law. Law Number 30 of 1999 Regulating Alternative Dispute Resolution and Arbitration is one of the laws and regulations governing non-litigation dispute resolution in Indonesia. Alternative settlement is defined in Article 1 of the Law as settlement of differences through a process chosen by the parties. In other words, non-litigation dispute resolution requires the agreement of all parties and can be resolved by discussion, consultation, mediation or expert judgment.

The notion that copyright is a civil right is also the basis for the conversion in the copyright regime from ordinary infringement to complaint infringement. As a civil right, the creator has the absolute right to retain the copyright on the product that has been made. It is up to the creator to decide whether to allow or prohibit others from using his copyright, and whether to report suspected infringement of his rights to law enforcement authorities as a criminal case or file a civil case through the compensation claim procedure.<sup>22</sup>The creator or copyright holder is fully

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<sup>20</sup> Hanafi Amrani, "The Urgency of Changing Common Delicts into Complaint Offenses and Their Relevance to Copyright Protection and Enforcement," *Law: Journal of Law 1* (March 11, 2019): 347–62, <https://doi.org/10.22437/ujh.1.2.347-362>.

<sup>21</sup> Komang urged, "Copyright Protection Against the Use of Songs as Video Background Sound on the Youtube Site," *Journal of Business Law, Faculty of Law, Udayana University 7*, no. 10 (2019).

<sup>22</sup> Trias Palupi Kurnianingrum, "New Material in Law Number 28 of 2014 Concerning Copyright," *State Law 6*, no. 1 (2015).

responsible for making a decision whether to sue or not to sue. Therefore, the complaint offense advances the idea that copyright is a civil right conceptually.<sup>23</sup>

To emphasize that copyright is a personal right (private right), the ordinary offense of copyright is changed to a complaint offense. Copyright is a personal right, so any infringement requires a complaint from the aggrieved creator.<sup>24</sup> It will be clear who is the creator or copyright holder of the misused work when a complaint is made. Because it is related to the nature of the ownership itself, the nature of the violation shifts from an ordinary violation to a complaint violation. Since copyright ownership is private, it makes sense that the injured party would report the incident to the police so it could be investigated.<sup>25</sup>

Practically speaking, complaint offenses are considered appropriate within the copyright regime for at least three reasons.<sup>26</sup> First, when carrying out legal proceedings, it is difficult for law enforcement officials to determine whether a copyright infringement has occurred without comparing the infringed item with the original work held by the creator or copyright holder.<sup>27</sup> Therefore, it is difficult for law enforcement officials to take action without prior complaints from creators or copyright holders who feel aggrieved by the infringement. Second, in the absence of prior complaints from creators or copyright holders, law enforcement officials have difficulty determining whether a party has obtained permission to publish or reproduce a work when carrying out legal proceedings. Third, what if cases of copyright infringement have been handled by law enforcement, in this case the creator or copyright holder can no longer choose a settlement out of court such as payment or settlement.<sup>28</sup>

From the description above, it is clear that Law Number 28 of 2014 concerning Copyright is more comprehensive and detailed in terms of providing legal protection both civil and criminal to creators, copyright owners and related rights owners. In addition, this law is superior to the previous law in that it allows for efficient out-of-court settlement of disputes. As a result, copyright law protection is not only intended to ensure that the author's work is recognized by the state as a protected work, but will also spur more enthusiasm and interest in the creation of new works in relevant fields. The principle of copyright protection in law states that all works produced by Indonesian citizens are protected,<sup>29</sup>

### **Principles of Supervision and Law Enforcement Against Copyright Protection in Cyberspace**

Especially given the information technology (IT) revolution and the

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<sup>23</sup> OK Saidin, *Legal Aspects of Intellectual Property Rights* (Jakarta: Rajawali Pers, 2010).

<sup>24</sup> Amrani, "The Urgency of Changing Ordinary Offenses to Complaint Offenses and Their Relevance to Copyright Protection and Enforcement."

<sup>25</sup> Kurnianingrum, "New Material in Law Number 28 of 2014 Regarding Copyright."

<sup>26</sup> Padrisan Jamba, "Analysis of the Application of Complaint Offenses in the Copyright Law to Overcome Copyright Crimes in Indonesia," *Journal of Justice Light* 3, no. 1 (2015): 32–49.

<sup>27</sup> Eddy Damian, *Copyright Law* (Bandung: Alumni, 2014).

<sup>28</sup> Jamba, "Analysis of the Application of Complaint Offenses in the Copyright Law to Overcome Copyright Crimes in Indonesia."

<sup>29</sup> Adami Chazawi, *Intellectual Property Rights (IPR) Crime: Assault Against Legal Interests of Ownership and Use of Intellectual Property Rights*, 1st ed. (Malang: Media Nusa Creative, 2019).

widespread use of the Internet as a means of communication, it is important to protect the economic rights of creators. In the digital era, which tends to ignore the economic rights of creators, the exploitation of intellectual property becomes more intense, complicated and varied.<sup>30</sup> Intellectual products, especially copyrighted works, generate significant financial benefits for copyright owners in the marketing and distribution process. However, copyright infringement often occurs and copyright owners lose profits. In these situations, copyright holders must protect their rights through law enforcement strategies to ensure economic benefits from the use of computers and the internet.<sup>31</sup>

The concept of copyright protection is referred to as exclusive rights, which are often accompanied by monetary benefits such as royalties, and moral rights, which compromise the integrity of the associated intellectual production and are subject to digital copyright infringement and fraud. A person who wants to use or exploit the work of the creator is not required to obtain permission to do so as long as doing so does not adversely affect the reasonable interests of the use, in accordance with the principles of "fair use" or "fair dealing".<sup>32</sup> There are restrictions, so that the exclusive rights owned by the copyright holder do not fully belong to them. The work is then embodied in a tangible form in accordance with statutory provisions, without regard to restrictions, in accordance with declarative principles. The term "exclusive rights" refers to the fact that only creators and rights holders are permitted to use copyrights; others are not permitted to do so without permission from the rights holder.<sup>33</sup>

Some copyright protection is justified by the reward theory, recovery theory, incentive theory, and risk theory. According to the reward theory, creators will be rewarded for their efforts in the form of recognition of intellectual works. According to recovery theory, creators who have expended effort, time, and money should be given the opportunity to get back what they created.<sup>34</sup> Regarding copyright differences other than the fair use category or in this case it can be said as fair use, there are also four factors to determine the use of a work based on fair use, namely, the purpose and nature of use, the nature of the work protected, the amount and significant part used in all of his creations, and the consequences of use that may be detrimental to the creator or copyright holder.<sup>35</sup> Factors and indicators like this are not regulated in the Copyright Law, including regulations

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<sup>30</sup> Imas Rosidawati Wiradirja, "Violations of Moral Rights to Copyright in Electronic Publishing," *Journal of Litigation Law* 14, no. 1 (2013): 662–1697.

<sup>31</sup> Graham Greenleaf and David Lindsay, *Public Rights: Copyright's Public Domains*, vol. 45 (Cambridge: Cambridge University Press, 2018).

<sup>32</sup> Ziana Mahfuzzah, "Duties And Authorities Of The Collective Management Institute (LMK) As The Royalty Management Institution For Song And Music Included In Digital Music Services," *Intellectual Property Rights Review* 3, no. 2 (2020): 251–55.

<sup>33</sup> Hesty D. Lestari, "Copyright Ownership in the License Agreement," *Judicial Journal* 6, no. 2 (July 15, 2013): 173–88, <https://doi.org/10.29123/jy.v6i2.112>.

<sup>34</sup> Alfred Tenggono, "Digital Copyright Protection Applications With Cryptography and Stenography," *Teknomatics* 6, no. 2 (September 30, 2016), <http://ojs.palcomtech.com/index.php/teknomatika/article/view/4>.

<sup>35</sup> Sudjana, "Limitations on Protection of Intellectual Property (Copyright) in the Perspective of Human Rights," *Journal of HAM* 1, no. 10 (2019), <https://ejournal.balitbangham.go.id/index.php/ham/article/view/515>.



regarding the amount of royalties. This is because the amount of royalties is only in the form of an agreement between the creator and the owner of the related rights in digital media.<sup>36</sup>

The purpose of copyright law is to protect the rights of artists and creative workers. Copyright is unique in intellectual property law because no formal procedure is required to obtain it.<sup>37</sup> Once the copyright requirements of the Act are met, the copyright exists automatically. These laws protect certain works, including literary, musical and artistic works, sound recordings, cinematographic films, broadcasts (television and sound), broadcast signals, published editions and computer programs. Literary, artistic, and musical works do not need to be of exceptional quality to be protected by copyright.

Accordingly, the work must be original and in material form, in accordance with two general requirements. Understanding these two requirements points to some of the difficulties faced by those seeking to protect traditional knowledge systems using generally accepted copyright principles. The work in question must be original, but originality has a special meaning that is often misunderstood. An idea or thought doesn't have to be original or totally inventive, but it has to be executed with original skill, judgment or hard work. This means that copying is allowed, and one can take inspiration from the work of others, as long as the final product is the result of the author's own skill and hard work,

A work is not protected by copyright unless it has been written, recorded, or reduced to material form. Dean gave an example of a sheet music that was not protected when it was still in the composer's mind, even though it had been played with an instrument.<sup>38</sup> This is a significant problem in developing countries, where traditional knowledge is often exploited by outside researchers. Unfortunately, when these researchers bring knowledge into the public domain (which is not always a bad thing), they rarely acknowledge the source of the information or share the insights gleaned from that knowledge with the communities from which it originates.<sup>39</sup> Because the law only protects ideas after they have been reduced to physical form, it is sometimes claimed that there is no "copyright in ideas." Dean, on the other hand, believes that this maxim is oversimplified, explaining that once an idea is in material form, it becomes an integral part of the work, and in some cases, takes an idea without having to use the proper words or forms. The same as the one used to express the idea may be considered as copyright infringement.<sup>40</sup> Technological advances, such as the development of the Internet and satellite broadcasting (which have the potential to greatly undermine infringement control efforts), have increased pressure on existing legislation. This has generated strong

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<sup>36</sup> Justin Koo, *The Right of Communication to the Public in EU Copyright Law* (London: Hart publishing, 2019).

<sup>37</sup> Damian, *Copyright Law*.

<sup>38</sup> OH Dean, *Handbook of South African Copyright Law* (Johannesburg: Million & Co. Ltd, 1989).

<sup>39</sup> Anil Gupta, "Rewarding Conservation of Biological and Genetic Resources and Associated Traditional Knowledge and Contemporary Grassroots Creativity" (Ahmedabad: Indian Institute of Management Ahmedabad, Research and Publication Department, January 1, 2003).

<sup>40</sup> Dean, *Handbook of South African Copyright Law*.

calls for increased protection of intellectual property, especially from developed countries such as the United States. Increased protections have made it difficult for developing countries to compete in global markets, as they need access to technology and information. Much-needed resources were diverted to pay royalties to developed countries that were able to lay the foundations for their current level of development when intellectual property law was in its infancy.<sup>41</sup> Many developing countries have advocated for weakening intellectual property protections, but to gain access to global markets, they must align their national laws with those of developed countries.

Copyright enforcement is not limited to one definition. In contrast, law enforcement generally consists of civil law enforcement and criminal law enforcement. Basically, civil law remedies are administered by courts under the justice system according to copyright law. On the other hand, criminal law enforcement is the result of collaboration between government organizations and the legal system. For example, government agencies conduct criminal investigations and prosecutions of copyright infringements.<sup>42</sup> On the other hand, through trials and decisions, courts impose criminal sanctions on violators. Theoretically, the main goal of civil law remedies is to compensate copyright owners for damages and to prevent infringement by formal measures such as court orders or punitive damages. Criminal law enforcement, on the other hand, uses more severe penalties to punish and deter offences. In addition, civil remedies are usually initiated by copyright owners through the justice system, while criminal enforcement is often initiated by government agencies specialized in law enforcement. Regardless of the difference, the two strategies in enforcing copyright law are indispensable for copyright owners to protect their rights to their creations, especially in cyberspace.<sup>43</sup>

In general, the copyright law enforcement system repairs the copyright owner's losses and punishes infringement as an ex post law enforcement strategy.<sup>44</sup> Although the judicial system and enforcement by government agencies require certain procedures and additional costs for copyright owners, the legal protection provided by copyright law enforcement is usually important and decisive, although it requires certain procedures and increased expenses for copyright owners. Because of their reliability, copyright owners have long relied on copyright law enforcement as their primary tactic for enforcing copyright throughout history.<sup>45</sup>

Then in such a way, efforts need to be made to take repressive and preventive measures, such as paying compensation, stopping certain activities that harm creators and related rights owners, the obligation to remove Works from circulation, revocation

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<sup>41</sup> Situmeang Ampuan and Kusmayanti Rita, "Legal Protection of Authors or Song Copyright Holders in Royalty Payments," *Journal of Law and Policy Transformation* 53, no. 9 (2020): 155–76.

<sup>42</sup> Elyta Ras Ginting, *Indonesian Copyright Law Analysis of Theory and Practice* (Bandung: Citra Aditya Bakti, 2012).

<sup>43</sup> Dev Saif Gangjee, "Copyright Formalities: A Return to Registration?," SSRN Scholarly Paper (Rochester, NY, July 30, 2016), <https://papers.ssrn.com/abstract=2923897>.

<sup>44</sup> Yang Sun, "Copyright Law Enforcement in Online Environment."

<sup>45</sup> Martin Stentsfleben, *Copyright, Limitations and Three Step Test in International and EC Copyright Law* (Den Haag: Kluwer, 2003).

of business licenses, cessation of business operations, and as an effort finally in the form of *ultimum remedium* imposition of criminal sanctions. Accordingly, copyright damages is a legal remedy operating under clear statutory instructions. While courts still have discretion over copyright indemnity awards, they usually exercise their discretion under the guidance of the statute. On the other hand, copyright damages is the only legal remedy that compensates copyright holders after an adverse infringement has occurred. In other words, such damages function as *ex-post* compensation by compensating for financial losses suffered by the copyright owner. In theory, compensation for losses should be equal to the amount of compensation awarded. After compensation, the next step is deprivation of unjust enrichment such as illegal advantages from the offender. Its main purpose is to prevent violations and harm the violators. Basically, compensation for copyright infringement works well when compensation and prevention are done by submission. the next step is the deprivation of unjust enrichment such as illegal advantages of the offender. Its main purpose is to prevent violations and harm the violators. Basically, compensation for copyright infringement works well when compensation and prevention are done by submission. the next step is the deprivation of unjust enrichment such as illegal advantages of the offender. Its main purpose is to prevent violations and harm the violators. Basically, compensation for copyright infringement works well when compensation and prevention are done by submission.

According to incentive theory, an incentive is needed to develop someone's creative invention or intellectual work so that research activities can continue and provide benefits. Meanwhile, risk theory explains that intellectual work is the result of research that includes risk as an effort to discover or improve the research process.<sup>46</sup>These theories imply that there is a series of thoughts behind the copyright protection system that the creator has put thought, effort and money into creating something.<sup>47</sup>If the work is used for commercial purposes by other people, the creator has the right to claim compensation for the use of his work.

Intellectual Property is one of the valuable assets of every person, because it must be protected at any cost because a person puts his skills and labor for the creation of Intellectual Property. On the other hand, there is an urgent need for stringent legislation in this area, so that crimes related to this IPR can be avoided in the future.<sup>48</sup>Under the theory of Digital Rights Management, also referred to as Digital rights management (DRM), copyright law enforcement is more effective and strict against online copyright infringement than private enforcement. Copyright law enforcement serves as an *ex post* remedy for damages to copyright owners and also serves to deter violators, in contrast to a DRM system which functions as an *ex ante* preventive measure.<sup>49</sup>

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<sup>46</sup> Khoirul Hidayah, *Intellectual Property Rights Law* (Malang: Setara Press, 2017), p. 8.

<sup>47</sup> Kholis Roisah, *The Legal Concept of Intellectual Property Rights (IPR)* (Malang: Setara Press, 2015).

<sup>48</sup> VK Unni, *Trade Marks and The Emergence Concepts of Cyber Property Rights* (New Delhi: Eastern Law House, 2002).

<sup>49</sup> Success of MP Siburian and Muhammad Hendra, "Copyrights Trade Transactions Within the License Framework As Part of Intellectual Property Rights (IPR) Protected Under Law Number 28 of 2014," *Journal of Darma Agung* 30, no. 1 (April 2022): 201–17.

So that the right level of protection of rights in the event of a violation and bringing the violators to court is an indicator of the level of development of the legal system in that country. Appropriate enforcement methods are used to enforce copyright enforcement. There are two categories of copyright enforcement: jurisdictional and non-jurisdictional. With enforcement of jurisdiction, a person whose copyright has been infringed submits an application to a court or competent public authority. For copyright enforcement, jurisdictional enforcement is the most relevant form of jurisdictional enforcement.<sup>50</sup> However, enforcement of jurisdiction takes time, from the filing of a claim or suit to the enactment of a state agency's decision. Non-jurisdictional enforcement methods allow right-holders to respond to infringements more quickly (and at less cost).<sup>51</sup> In the United States, the Digital Millennium Copyright Act is known as a procedure for notification of termination of copyright infringement, which is more commonly known as "notice and takedown". Copyright determination Accordingly, law enforcement for works published online is marked by a pre-trial request from the Copyright holder to stop their copyright infringement and to end access to related works, either directly to the person infringing on the copyright or to relevant intermediary service providers.<sup>52</sup>

Copyright court orders are used to stop infringement to reduce both present and future damages. In addition to compensating copyright owners for damages, indemnity also serves to stop infringement. On the other hand, criminal sanctions aim to prevent major offenses with effective penalties. The rights of copyright owners are strongly supported by copyright law enforcement in this regard. The biggest alternative to copyright owners is enforcement, which is often used to advertise copyright protection online.<sup>53</sup>

Legislation will always lag behind new technological advancements such as the Internet, so legislators must try to predict what kinds of technologies will emerge that will again challenge existing or developing copyright laws.<sup>54</sup> Accordingly, if there is one global organization that regulates infringements that occur between countries, copyright conflicts will be easier to resolve. Copyright detection and prevention also relies heavily on technological solutions. New laws and advances in technology will work together to stop copyright infringement on the Internet.<sup>55</sup>

According to the Digital Economy Report, states that widespread rights violations and fraud can reduce people's income and investment levels. Obstacles in complex law enforcement related to IPR are influenced by regulations, such as complaint offenses that hinder law enforcement.<sup>56</sup> The process of coordination

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<sup>50</sup> Anna Shtefan and Olga Gurgula, "The New Intellectual Property Court in Ukraine: Its Creation and Exclusive Jurisdiction," in *Competition and Intellectual Property Law in Ukraine*, vol. 31 (Berlin: Springer-Verlag GmbH, 2023).

<sup>51</sup> Eleonora Rosati, *Copyright and the Court of Justice of the European Union* (Oxford: Oxford University Press, 2019).

<sup>52</sup> SL Dawdy and J. Bonni, "Towards a General Theory of Piracy. , 85," *Anthropological Quarterly* 85 (2012): 673–99.

<sup>53</sup> Yang Sun, "Copyright Law Enforcement in Online Environment."

<sup>54</sup> C. Marsden, "Internet Co-Regulation and Constitutionalism: Towards European Judicial Review."

<sup>55</sup> Gangjee, "Copyright Formalities."

<sup>56</sup> Wiradirja, "Violations of Moral Rights to Copyright in Electronic Publishing."

between Civil Servants Investigators of the Directorate General of Intellectual Property and other law enforcement officials must be improved from the point of view of supervision and law enforcement, including payment of compensation, termination of specific activities that result in consumer losses, obligation to withdraw from circulation, up to the last resort of sanctions. criminal.<sup>57</sup>

Copyrighted works in digital form are easily duplicated, and the result is almost indistinguishable from the original. Not only that, people can then modify the copy and distribute it for free worldwide.<sup>58</sup> On the one hand, this makes it easy for almost anyone to infringe on other people's copyrights on a large scale, but it also makes it difficult for copyright owners to find infringements, recognize them, and then take legal action. Furthermore, online registration is very sensitive for law enforcement due to the large volume and speed of online counterfeiting. Civil Servant Investigators at the Directorate General of Intellectual Property, the Police, and the Courts, among others, have enforced the law. Various court decisions that show progress in upholding IPR law demonstrate this. Furthermore, internally, it is important to prepare institutions and judicial officers who have the necessary knowledge and skills to decide on IPR cases involving jurisdictional conflicts or when they involve a choice of law.<sup>59</sup> In addition, there is a need to increase the understanding of IPR consultants in the field of copyright so that they can provide assistance in IPR cases with national and international dimensions.<sup>60</sup>

### **Conclusions and recommendations**

In the description and analysis of the problems in this study, it can be concluded that the easy access to the internet, especially social media, has increased the possibility of infringement of a copyrighted work. This condition is caused because copyrighted works in digital form are very easily duplicated, and the results are almost indistinguishable from the original. Not only that, people can then modify the copy and distribute it for free worldwide. In the digital era, distribution of works or products can be done easily via the internet and allows anyone to quickly download, copy and distribute these works for free. This phenomenon is detrimental to copyright owners or producers who should have exclusive rights to profit from the work they produce. With strict supervision and law enforcement on copyright protection in cyberspace, digital piracy actors can be suppressed and avoid actions that harm copyright. It can also help maintain the integrity and value of copyrighted products or works. So considering the magnitude of the impact caused by piracy and counterfeiting, a more comprehensive alternative legal protection is needed in taking action against all forms of copyright

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<sup>57</sup> Rosati, Copyright and the Court of Justice of the European Union.

<sup>58</sup> Adyasha Samal, "Bombay HC Rejects Mandatory Copyright Registration: Is It Time to Reconsider Automatic Protection?," SpicyIP, March 29, 2019, <https://spicyip.com/2021/03/bombay-hc-rejects-mandatory-copyright-registration-is-it-time-to-reconsider-automatic-protection.html>.

<sup>59</sup> Rami Jened, "Jurisdictional Conflict and Intellectual Property Law Enforcement in the Single Market," Law Platform 28, no. 2 (2016): 201–14.

<sup>60</sup> Yang Sun, "Copyright Law Enforcement in Online Environment."

infringement that occur in cyberspace. Existing policies are considered insufficient in dealing with existing problems, to the extent that it is necessary to train judicial institutions and officers to decide on IPR cases involving conflicts of jurisdiction or choice of law in various countries. In addition, there is a need to increase the understanding of IPR consultants about copyright so that they can assist IPR cases with national and international dimensions.

### **Bibliography**

- Ahmad, Tabrez. *Cyber Law and E-Commerce*. New Delhi: APH Publishing Corp., 2003.
- Aini, Fatimah Nurul, and Indirani Wauran. "Fulfillment of Fair Use Principles in Song Covers Based on Indonesian Copyright Law." *Scientific Journal of Legal Policy* 15, no. 1 (2021).
- Ampuan, Situmeang, and Kusmayanti Rita. "Legal Protection Against Song Authors or Copyright Holders in Payment of Royalties." *Journal of Law and Policy Transformation* 53, no. 9 (2020): 155–76.
- Amrani, Hanafi. "The Urgency of Changing Ordinary Offenses to Complaint Offenses and Their Relevance to Copyright Protection and Enforcement." *Invite: Journal of Law* 1 (March 11, 2019): 347–62. <https://doi.org/10.22437/ujh.1.2.347-362>.
- Behr, Adam, Keith Negus, and John Street. "The Sampling Continuum: Musical Aesthetics and Ethics in the Age of Digital Production." *Journal for Cultural Research* 21, no. 3 (2017): 223–40.
- Buzova, Natalya, and Karelina Marina. "Judicial Protection of Intellectual Property Rights in a Digital Economy: Is There a Need for Change?" *Legal Issues in the Digital Age* 2, no. 4 (December 2021): 114–26. <https://doi.org/10.17323/2713-2749.2021.4.130.142>.
- C. Marsden. "Internet Co-Regulation and Constitutionalism: Towards European Judicial Review." *International Review of Law, Computers and Technology* 26, no. 2 (2012): 212–28.
- Chazawi, Adam. *Intellectual Property Rights (IPR) Criminal Acts: Assault on Legal Interests of Ownership and Use of Intellectual Property Rights*. 1st ed. Malang: Media Nusa Creative, 2019.
- Damien, Eddy. *Copyright Law*. Bandung: Alumni, 2014.
- . *Copyright law according to several international conventions, the 1997 Copyright Law and the Protection of Books and their Publishing Agreements*. 1st ed. Bandung: Alumni, 1999.
- Dawdy, SL, and J. Bonni. "Towards a General Theory of Piracy. , 85,." *Anthropological Quarterly* 85 (2012): 673–99.
- Dean, OH *Handbook of South African Copyright Law*. Johannesburg: Million & Co. Ltd., 1989.
- Gangjee, Dev Saif. "Copyright Formalities: A Return to Registration?" *SSRN Scholarly Paper*. Rochester, NY, July 30, 2016. <https://papers.ssrn.com/abstract=2923897>.

- Ginting, Elita Ras. *Indonesian Copyright Law Analysis of Theory and Practice*. Bandung: Citra Aditya Bakti, 2012.
- Greenleaf, Graham, and David Lindsay. *Public Rights: Copyright's Public Domains*. Vol. 45. Cambridge: Cambridge University Press, 2018.
- Gupta, Anil. "Rewarding Conservation of Biological and Genetic Resources and Associated Traditional Knowledge and Contemporary Grassroots Creativity." Ahmedabad: Indian Institute of Management Ahmedabad, Research and Publication Department, January 1, 2003.
- Han-Yan, Liu. "The Digital Disruption of Human Rights Foundations," nd, 75–86. <https://doi.org/10.4324/9781351025386-6>.
- Jamba, Padrisan. "Analysis of the Application of Complaint Offenses in the Copyright Law to Overcome Copyright Crimes in Indonesia." *Journal of Justice Light* 3, no. 1 (2015): 32–49.
- Jend, Rami. "Jurisdiction Conflicts And Intellectual Property Law Enforcement In The Single Market." *Law Platform* 28, no. 2 (2016): 201–14.
- Kamath, Nandan. *Law Relating to Computers, Internets and E-Commerce*. 2nd ed. New Delhi: Universal Law Publishing, 2005.
- Kemp, Simon. "DIGITAL 2021: INDONESIA." Hootsuites, 2021.
- . "Digital 2022: Indonesia." Kepios, February 15, 2022. <https://datareportal.com/reports/digital-2022-indonesia>.
- Khoirul Hidayah. *Intellectual Property Rights Law*. Malang: Setara Press, 2017.
- Komang, Desak. "Copyright Protection Against the Use of Songs as Video Background Sound on the Youtube Site." *Journal of Business Law, Faculty of Law, Udayana University* 7, no. 10 (2019).
- Kooo, Justin. *The Right of Communication to the Public in EU Copyright Law*. London: Hart publishing, 2019.
- Kurnianingrum, Trias Palupi. "New Material in Law Number 28 of 2014 Regarding Copyright." *State Law* 6, no. 1 (2015).
- Lestari, Hesty D. "Copyright Ownership in License Agreements." *Judicial Journal* 6, no. 2 (July 15, 2013): 173–88. <https://doi.org/10.29123/jy.v6i2.112>.
- Lestari, Sartika Nanda, and Arifin Pringgo Laksono. "A Legal Protection Of Music Royalty On Open Content License Through Soundcloud." *Journal of Legal Dynamics* 18, no. 3 (2018): 329–36.
- Mahfuzzah, Ziana. "Duties And Authorities Of The Collective Management Institute (LMK) As The Royalty Management Institution For Song And Music Included In Digital Music Services." *Intellectual Property Rights Review* 3, no. 2 (2020): 251–55.
- P. Aigrain. *Sharing: Culture and the Economy in the Internet Age*. Amsterdam: Amsterdam University Press, 2012.
- Pratama, Wibi Pangestu. "There have been 1,184 cases of intellectual property violations being prosecuted in RI since 2015." *ECONOMICS*, 2021. <https://economy.business.com/read/20211006/9/1451327/ada-1184-case-pelanggaran-haki-ditindak-di-ri-sejak-2015>.

- Riordan, Jani. *The Liability of Internet Intermediaries*. Oxford: Oxford University Press, 2016.
- Roisa, Kholis. *Intellectual Property Rights (IPR) Legal Concepts*. Malang: Setara Press, 2015.
- Rosati, Eleonora. *Copyright and the Court of Justice of the European Union*. Oxford: Oxford University Press, 2019.
- Saidin, OK *Legal Aspects of Intellectual Property Rights*. Jakarta: Rajawali Press, 2010.
- Samal, Adyasha. "Bombay HC Rejects Mandatory Copyright Registration: Is It Time to Consider Automatic Protection?" *SpicyIP*, March 29, 2019. <https://spicyip.com/2021/03/bombay-hc-rejects-mandatory-copyright-registration-is-it-time-to-reconsider-automatic-protection.html>.
- Stefan, Anna, and Olga Gurgula. "The New Intellectual Property Court in Ukraine: Its Creation and Exclusive Jurisdiction." In *Competition and Intellectual Property Law in Ukraine*, Vol. 31. Berlin: Springer-Verlag GmbH, 2023.
- Siburian, Success MP, and Muhammad Hendra. "Copyrights Trading Transactions Within the Licensing Framework As Part of Intellectual Property Rights (IPR) Protected Under Law Number 28 of 2014." *Darma Agung Journal* 30, no. 1 (April 2022): 201–17.
- Stentsfleben, Martin. *Copyright, Limitations and Three Step Test in International and EC Copyright Law*. The Hague: Kluwer, 2003.
- Sudjana. "Restrictions on Protection of Intellectual Property (Copyright) in the Perspective of Human Rights." *Human Rights Journal* 1, no. 10 (2019). <https://ejournal.balitbangham.go.id/index.php/ham/article/view/515>.
- Tenggono, Alfred. "Digital Copyright Protection Application With Cryptography And Stenography." *Technomatics* 6, no. 2 (September 30, 2016). <http://ojs.palcomtech.com/index.php/teknomatika/article/view/4>.
- Tripti Bhushan, Yash Arora. "Intellectual Property Rights and Its Protection in Cyberspace and Media Laws." *International Journal Of Advance Research And Innovative Ideas In Education* 6, no. 6 (2020): 110–13.
- VK Unni. *Trade Marks and The Emergence Concepts of Cyber Property Rights*. New Delhi: Eastern Law House, 2002.
- Wiradirja, Imas Rosidawati. "Violations of Moral Rights to Copyright in Electronic Publishing." *Journal of Litigation Law* 14, no. 1 (2013): 662–1697.
- Yang Sun. "Copyright Law Enforcement in Online Environment." United States, May 5, 2014. <https://ssrn.com/abstract=2432987>.
- Yanto, Oxidelfa. "BERN CONVENTION AND COPYRIGHT PROTECTION." *Surya Kencana Satu Journal: Dynamics of Law and Justice Issues* 6 (March 1, 2016): 108. <https://doi.org/10.32493/jdmhkdmdhk.v6i1.341>.