

Analysis of Legal Protection Regarding The Intellectual Property Rights of Electronic Book Creators in The Digital Era

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Abstract

Legal protection is a basic principle in the legal system which refers to the efforts and mechanisms used by the law to protect the rights, interests and security of certain individuals, groups or legal entities. Legal protection ensures that individuals' basic rights and freedoms are protected from actions that could harm them. These include rights such as freedom of speech, the right to privacy, the right to justice,

property rights, and more. The writing of this journal uses normative legal research methods, which is a type of research that is often used to study norms in statutory regulations that have been formulated clearly and do not have multiple interpretations. The author uses a statutory approach as the object of his research, namely Law Number 28 of 2014 (Copyright Law). The technique used is the library research method, with the aim that this research can provide detailed information about IPR protection in the digital era. Protection of Intellectual Property Rights for these objects provides incentives for individuals, companies and innovators to continue to innovate, creates, and invests in intellectual property. It also promotes healthy competition, consumer protection, and sustainable economic growth. IPR is a legal framework that grants exclusive rights to creators or rights holders over their intellectual works. The aim of IPR is to encourage innovation, creativity and economic development by providing appreciation and legal protection for these intellectual works

Keywords

Digital Era, Copyright, Legal Protection, Preventive

I. Introduction

Now we have entered the era of globalization or the industrial revolution 4.0 which has caused all areas of life to experience rapid development, one of which is in the fields of technology and science. This development has led to the emergence of human thought with the expansion of globalization in terms of social, economic and cultural aspects which can create products that are produced on the basis of human intellectual abilities, Protection. The results of human intellectual abilities can be carried out by

granting a right to the owner of the results of human intellectual abilities to use and/or disseminate them. Protection of the results of human intellectual abilities is called Intellectual Property Rights. Intellectual Property Rights (IPR) are rights to copyrighted works that have been produced through mental and mental efforts accompanied by sacrifices in terms of time, energy and costs. Media based on digital technology. Is one form of implication of existing technological progress. Has become a lifestyle in society, another implication of information technology that is currently the center of attention is its influence on existence

Legal protection is a basic principle in the legal system that refers to the efforts and mechanisms used by the law to protect the rights, interests, and security of certain individuals, groups, or legal entities. Legal protection aims to create a fair, safe, and equitable framework in society, so that everyone has equal rights and access to legal protection. Legal protections guarantee that the basic rights and freedoms of individuals are protected from actions that may harm them. This includes rights such as freedom of speech, right to privacy, right to justice, property rights, and more. Legal protections aim to create a fair system where everyone is treated equally and gets equal opportunities under the law. This means that the law should be applied without discrimination and should involve fair processes. Legal protection includes the prevention of lawlessness as well as the enforcement of laws against those who break the law. It involves law enforcement agencies such as the police, prosecutors, and courts. The courts are the main place where legal protection is provided. Judges play a role in deciding legal cases and disputes, as well as ensuring that the law is applied correctly and fairly. Legal protection is based on regulations and laws set by the government. This 1945 Constitution determines the rights and obligations of individuals, as well as sanctions for violations of the law. Legal protection also includes the protection of victims of criminal acts or other violations of the law such as

violations of consumer law or violations of copyright law. This involves providing support and remedies to victims as well as prosecuting offenders. The legal system also has a special responsibility to protect the rights of children and vulnerable people, such as the homeless, people with disabilities, and minority groups. Legal protection is often closely linked to human rights, which include universally recognized fundamental rights, such as the right to life, freedom from torture, and the right to non-discrimination. Legal protection is a central principle in legal systems that serves to maintain social order, prevent conflict, and ensure that society functions fairly and in accordance with the law. It also enables individuals to seek justice and fight for their rights when necessary.

Copyright is a form of legal protection given to creators of intellectual works to protect their exclusive rights over the works they produce. Copyright grants its owner certain rights to control the use, reproduction, distribution, and display of those works. The main purpose of copyright is to encourage creativity and innovation by incentivizing creators to share their works safely, while protecting the economic value of those works. Copyright protects various types of intellectual works, such as writings, music, visual arts, movies, software, and other creatively produced and original works. Copyright owners have exclusive rights to their works, which means they have complete control over the use of the work. Others may not use or copy the work without the copyright owner's permission.

In many countries, copyright is granted automatically as soon as a work is created and embodied in intelligible form. No formal registration action or copyright mark is required. Copyright is not valid forever, the term of copyright varies. It starts from country to country, but generally lasts for about 50 to 70 years after the death of the creator. Once the term expires, the work will enter into the public domain, and anyone can use it without permission.

Copyright grants various rights to the owner, including the right to copy, distribute, display, broadcast, and adapt the work. These rights can be transferred or licensed to other parties. Since copyright involves works that often cross national borders, many countries have adopted international treaties, such as the Berne Treaty, to provide equal copyright protection worldwide. Copyright protects the creative expression of an idea, not the idea itself. In other words, copyright protects the manner in which an idea or concept is expressed in a work, not the idea or concept itself. In addition, there are also some exceptions and limitations in copyright, such as permitted use for the purposes of education, criticism, news, etc., which allow the use of works without permission in certain contexts.

Cases of illegal buying and selling of literary works on e-commerce are situations where individuals or certain parties sell or buy literary works, such as e-books, without permission or without paying royalties to the rightful copyright holder. This is a serious copyright infringement and has significant legal implications. When someone sells or buys an illegal e-book on e-commerce, they are usually violating copyright. Copyright gives its owner the exclusive right to control the reproduction, distribution, and sale of their literary works. Without the permission of the copyright holder, the sale or purchase of such e-books is considered copyright infringement. Copyright applies to various types of literary works both fiction and nonfiction, including novels, short stories, books, and so on. These works are protected by copyright as soon as they are created and published in e-book form. Legitimate copyright owners have the right to pursue legal action against individuals or businesses that sell or purchase illegal e-books. These legal actions can take the form of civil suits, with potential legal sanctions, such as fines and damages calculated based on the economic loss incurred due to copyright infringement. E-commerce and online platforms often work with copyright holders to identify and remove illegal

content from their sites. This can include measures such as blocking stores or accounts that sell illegal e-books. Some cases of buying and selling illegal e-books such as on the shopee e-commerce can develop into class action lawsuits if many individuals or copyright owners are affected. This can result in large-scale lawsuits against illegal actors. Since e-commerce and online sales involve national borders, many countries such as Indonesia, the United States, the United Kingdom, Japan, Australia, Canada, and many others have adopted international treaties that allow copyright holders to protect their works worldwide. This makes copyright infringement in e-commerce can have cross-border consequences. To avoid getting involved in cases of illegal e-book buying and selling and copyright infringement, it is important for consumers to purchase e-books from legitimate sources and ensure that they have permission to use the work. Conversely, sellers in e-commerce should understand copyright and ensure that they only sell or distribute literary works that they own or for which they have official permission.

stage, namely through dispute resolution. Settlement of Copyright disputes here will result in several penalties and sanctions due to the violation

In the research written by Seno Mulyo Aji entitled copyright protection in E-book collection services in Central Java city libraries discussing copyright but in this journal very few laws are included, this journal explains how copyright is protected in Central Java city libraries alone, what is the function of digital management which is the prevention of digital copyright infringement, in this research the researcher also has tools for preventing copyright infringement, while the journal I wrote focuses on law on how to legally protect copyright issues, how the settlement will be carried out, does copyright have its own law, basically this journal has a lot of discussion, only it focuses on the contents of the law and matters related to law

Thus the author narrows the discussion to the formulation of the problem: "How is the legal protection of copyright in the form of electronic books in the digital era?"

II. Method

The writing of this journal uses normative legal research methods, which is a type of research that is often used in examining a norm in laws and regulations that have been formulated clearly and without multiple interpretations. The author uses a statutory approach as the object of his research, namely Law Number 28 of 2014 (Copyright Law). The technique used is the library research method. Literature sources are used as a reference in the study of the problems studied by the author. Literature in the form of books is selected based on the importance of the problem and of course can support the research topic. Normative legal research aims to enable researchers to solve existing problems or cases and or make decisions based on existing positive law.

III. Result & Discussion

HAKI, which stands for Intellectual Property Rights, is a legal concept that encompasses various forms of legal rights granted to individuals or entities for intellectual works produced, such as inventions, artworks, designs, trademarks, and trade secrets. The importance of Intellectual Property Rights (IPR) encompasses several aspects that affect individuals, society, and the economy as a whole. Intellectual Property Rights provide incentives for individuals and companies to create and innovate. Through protection of their work, whether in the form of patents,

copyrights, or trademarks, creators and inventors feel safer to share new ideas and create innovative products or services. Intellectual property rights can increase the economic value of a country. Products and services derived from innovation and creativity are protected by intellectual property rights (IPR), enabling companies to reap long-term economic benefits from their investments and efforts in research and development. Intellectual property rights (IPR) protection gives investors confidence that the results of their innovation and research will receive legal protection. This encourages investment in sectors related to research and innovation. In addition, intellectual property rights also facilitate international trade by ensuring that products produced in one country are legally protected in other countries. Intellectual property rights protect consumers from illegal or counterfeit products and services. The protected trademarks and quality certifications guaranteed by intellectual property rights give consumers confidence that the products they buy are genuine and meet certain standards. IPR protection ensures that competition in the market is fair. Businesses are granted exclusive rights to their work for a certain period of time, but within specified limits. IPR prevents others from copying or imitating these works without permission, encouraging healthy and innovative competition. Patent rights in IPR encourage discovery and innovation in technology and medicine. It helps develop new solutions to medical and technological challenges, and improves the quality of life and public health. Overall, Intellectual Property Rights have an important role in driving innovation, supporting the economy, protecting the rights of creators, and advancing various sectors of life.

IPR encompasses various forms of legal rights granted over intellectual works produced by humans. The objects of intellectual property rights include several main categories that include patents, copyrights, industrial designs, trademarks, trade secrets, and

intellectual property rights related to plants and integrated circuits. The following is a complete explanation of each object of intellectual property rights:

a. Patent

A patent is an exclusive right to create, use, and sell an invention or technological innovation. The invention must be a new idea, useful, and industrially applicable. In this case, the patent grants a monopoly right to prevent others from producing, using, selling, or distributing the invention without authorization.

b. Copyright

Copyright is an exclusive right granted to creators of intellectual works in the form of writing, art, music, or other works produced. It includes the right to produce, distribute, and publish such works. Copyright protects the creative expression and ideas expressed in the work.

c. Trademark

A trademark is a symbol, name, word, or image used to identify and distinguish the products or services of one manufacturer or service provider from those of another. Trademarks help consumers identify products or services that they know and trust.

d. Industrial Design

Industrial design covers the aesthetic and product design aspects related to the shape, layout, pattern, or ornamentation of an industrial object. Industrial design rights provide protection to the visual appearance of a product, helping to prevent unauthorized copying or reproduction.

e. Trade Secret

Trade secrets include information that is not publicly known and has economic value because it is secret. It could be a secret formula, method, or data that provides a competitive

advantage. The owner of a trade secret must keep the information confidential.

f. Plant Variety and Plant Breeders' Rights

Plant variety rights and plant breeders' rights provide legal protection to plant breeders for new plant varieties produced through breeding and selection. It ensures that plant breeders benefit from the investment and effort they put into developing new plant varieties.

Books fall under the category of copyright objects, protected creations, as well as their adaptations. According to the Explanation of Article 40 paragraph (1) letter n of the Copyright Act 2014, "adaptation" refers to the transfer of the form of a work into another form. Electronic Books (E-Books) are also included in protected works because they are a variation of the original creation in the form of a book that has its own copyright after being realized in its actual form. This is in line with Article 40 paragraph (2) of the Copyright Act 2014 which states that the creation as referred to in paragraph (1)

Intellectual Property Rights protection of these objects incentivizes individuals, companies, and innovators to continue to innovate, create, and invest in intellectual property. It also promotes fair competition, consumer protection, and sustainable economic growth. IPR is a legal framework that gives creators or rights holders exclusive rights to their intellectual works. The purpose of intellectual property rights is to encourage innovation, creativity, and economic development by rewarding and providing legal protection for such intellectual works. The main basis of intellectual property rights is the recognition and appreciation of intellectual works. Intellectual works, such as inventions, innovations, art, music, writing, and design, are considered to have value that needs to be appreciated and protected. HAKI grants exclusive rights to the creators or rights holders of their intellectual

works. This means that only they have the exclusive right to use, utilize, and distribute those works, as well as prevent others from doing so without permission. IPR provides legal protection against illegal or unauthorized use of intellectual works. If there is an infringement, the rights owner has the right to take legal action against the infringer. One of the main purposes of intellectual property rights is to provide incentives for individuals and companies to innovate, invent, and invest in research and development. The exclusive rights granted by intellectual property rights give rights holders confidence that they will benefit economically from their works. The importance of understanding and respecting the basic principles of intellectual property rights is key to ensuring that innovation and creativity continue to flourish, while maintaining a fair balance between the public interest and the interests of creators.

IPR protection is regulated in various laws and international treaties around the world. The requirements and details of IPR protection may vary from country to country, but there is an international legal framework that governs the basic principles of IPR. Below, I will mention some of the Acts and treaties that generally govern IPR:

- a. Law No. 28 of 2014 on Copyright (Copyright Law)
Law No. 28 of 2014 on Copyright, which reads, ‘Managers of business premises shall be prohibited from allowing the sale and/or reproduction of goods resulting from infringements of Copyrights and/or Relevant Rights in the location under their management’ unconstitutional and not legally binding if not interpreted as ‘Managers of business premises and/or Digital Service Platforms based on User-Generated Content (UGC) shall be prohibited from allowing the sale and/or reproduction of goods resulting from infringements of Copyrights and/or Relevant Rights in the location under their management,’
- b. Law No. 13 of 2016 on Patents (Patent Law)

The Patent Law regulates patents, which are exclusive rights to new inventions, new processes, or improvements of inventions related to products or processes.

c. Law No. 20/2016 on Trademarks (Trademark Law)

This law regulates trademarks, including the registration, use, and protection of trademarks.

d. Law Number 31 Year 2000 on Industrial Design (Industrial Design Law)

e. The Industrial Design Law regulates the legal protection of industrial designs.

f. Law No. 30/2000 on Trade Secrets (Trade Secrets Law)

The Trade Secrets Law provides for the protection of trade secrets.

g. Law Number 39 of 2019 on Plant-Related Intellectual Property (Plant-Related IP Law)

Legal protection for e-book copyright is contained in Article 40 paragraph (1) letter a UUHC and Article 25 UUIE. The special protection and recognition given to e-book creators is an exclusive right which includes moral rights and economic rights and is given in the form of a license agreement in accordance with Article 80 UUHC This law regulates the protection of new plant varieties.

h. Law No 19 of 2012

An e-book as a written work is a protected creation as regulated in Article 12 of Law no. 19 of 2002 concerning Copyright ("UUHC"). Then, regarding the rights of the author (in this case the author of the e-book) as creator, it is stated in Article 1 number 4 UUHC that "The Copyright Holder is the Creator as the Copyright Owner, or the party who receives the right from the Creator, or another party who receive further rights from the party receiving those rights." So based on the UUHC, an e-book author is a creator who owns the copyright of the e-book he created

In addition to the laws mentioned above, Indonesia is a member of various international agreements and organizations related to Intellectual Property Rights, including the TRIPS (Trade-Related Aspects of Intellectual Property Rights) Agreement administered by the World Trade Organization (WTO).

The protection of Intellectual Property Rights (IPR) is not inherently contradictory to the principle of law in Indonesia. Rather, it aims to promote innovation, protect the rights of creators, encourage investment in research and development, and support economic growth. HAKI provides incentives for innovation and creativity, provides economic benefits, and protects the public interest by encouraging the advancement of knowledge and technology. However, there are situations where the application or implementation of intellectual property rights may conflict with the principles of law in Indonesia or the principle of balance between the rights of creators and the public interest.

Trademark legal protection given to either foreign or local, well-known or non-famous trademarks is only given to registered trademarks. The legal protection can be in the form of preventive and repressive protection, which is as follows:

A. Protection of Intellectual Property Rights in a preventive manner

Preventive protection of intellectual property rights is a series of measures taken to prevent violations of one's intellectual property rights before they occur. The purpose of preemptive protection of intellectual property rights is to prevent infringement of one's intellectual property rights before it occurs. Here are some steps that can be taken to protect IPR preventively:

1. Registration of Intellectual Property Rights (HAKI)

Owners of intellectual property rights must register their rights with an authorized institution, such as the Directorate General of Intellectual Property (DJKI) in Indonesia. This registration provides proof that the owner has exclusive rights to his/her work or creation.

2. Signing a Non-Disclosure Agreement (NDA)

If you want to share confidential information about a product or innovation with other parties, it is important to ask them to sign an NDA. The NDA will protect the confidential information and provide a legal basis to sue in case of breach.

3. License Agreement

If you want to give permission to other parties to use or duplicate a work or creation, it is important to have a clear and detailed license agreement. This agreement will ensure that rights are protected and that proper profits are made from the use of the work or creation.

4. Create Evidentiary Proof

It is always important to create clear evidence of the work or creation. This can be done by keeping a digital or physical copy of the work or creation, recording the date and time of creation, or getting witnesses who can attest to being the original owner.

5. Market Research

Before launching a new product or innovation, it is important to conduct careful market research to ensure that no other intellectual property rights are infringed upon. By conducting market research, you can avoid unintentional infringement and protect your rights.

6. Education and Awareness

Educating yourself and others about intellectual property rights is an important step in preventive IPR protection. By understanding your rights and teaching others to respect and

value them, you can prevent unintentional or intentional infringement.

Preventive IPR protection is an important step in preserving and protecting one's intellectual property rights. By taking these steps, rights owners can reduce the risk of infringement and ensure that they can enjoy the benefits of their work or creation.

The Intellectual Property Rights (IPR) protection process involves several stages, depending on the type of IPR you wish to register. Here are the general stages in the IPR protection process and the approximate length of the registration process:

1. Preparation and Preliminary Research
 - a. Identify the type of Intellectual Property Rights (IPR) you wish to register (e.g., patent, copyright, trademark, industrial design).
 - b. Conduct preliminary research to ensure that the work or innovation you want to register meets the legal requirements and has not been registered before.
2. Application Submission
 - a. Prepare and complete the application documents in accordance with the requirements set by the institution that manages Intellectual Property Rights (HAKI), such as a patent office, trademark office, or copyright office.
 - b. Submit the application to the relevant institution along with the required registration fee.
3. Examination and Evaluation
 - a. The institution receiving the application will conduct an initial examination to ensure the completeness of the documents and compliance with the requirements.
 - b. For patents and trademarks, this stage also includes substantial examination to ensure that the application meets the set standards.
4. Publication and Opposition (if applicable)

Some types of Intellectual Property Rights (IPR), such as trademarks, will be published to allow other parties to provide opposition if they have objections or claims against the application.

5. Validation and Protection

If the application is accepted and there is no successful opposition, the Intellectual Property Right (IPR) will be granted and the applicant will obtain exclusive rights according to the type of IPR filed.

6. Maintenance and Renewal

Once granted, the holder of Intellectual Property Rights (IPR) must comply with the necessary maintenance and renewal requirements in accordance with applicable law to maintain IPR protection.

The length of the IPR registration process may vary depending on the country, the type of IPR, the workload of the institution managing the registration, and the complexity of the application. In general, the IPR registration process can take several months to several years. For example, trademark and copyright registrations tend to be faster compared to patent registrations which can take longer due to more in-depth substantial examination. You should always check the official guidelines and communicate with the authorized institutions to obtain accurate and up-to-date information on the duration of the IPR registration process.

If you have registered your Intellectual Property Rights (IPR) and obtain a certificate or proof of registration, but have not officially obtained intellectual property rights, their status is:

a. Registration is being processed

A certificate or proof of registration indicates that your application has been received and is being processed by the agency that manages IPR (e.g., patent office, trademark office, or copyright office).

b. Application Status in Examination Stage

The examination process is underway, where the authorized agency examines the application to ensure compliance with legal requirements and conformity with applicable standards.

c. Waiting for an Official Decision

If you are still waiting for an official decision from the authorized agency on whether your application will be accepted or rejected.

d. Exclusive Rights Status Has Not Been Granted

Even if you have a certificate, it is not an official endorsement of the grant of exclusive rights. IPR is not granted until the examination and evaluation process is completed and accepted by the competent authority.

The certificate only indicates that your application has been received and is in the process of evaluation. To officially obtain Intellectual Property Rights, you must wait for an official decision and approval from the authorized institution. This process can take months to several years depending on the type of IPR and the policies of the authorized institution. During the wait, you must still comply with the procedures and requirements set by the relevant agencies.

The situation where two entities register Intellectual Property Rights (IPR) simultaneously and one of them gets the IPR first, while the other only gets a certificate, depends on the laws and regulations applicable in a particular country. Each country has regulations governing the priority of IPR registration and the resolution of these similar registration conflicts. There are two main systems used in resolving the priority of IPR registration: the absolute priority system and the relative priority system. The absolute priority system gives an advantage to the first applicant, giving absolute priority rights to obtain IPR. If entity A obtains the IPR first, then the IPR cannot be granted to entity B for the same,

unless entity B can prove that their invention or work is independent of the invention or work protected by the IPR of entity A. Then, the relative priority system gives the advantage to the registrant who first registers the application in a certain country, allowing the registration of IPR in other countries that are members of international treaties or agreements with a certain grace period (usually 6-12 months) from the first filing. Under this system, entity B still has the opportunity to obtain IPR if they formally apply within a certain period of time from entity A's filing. As regulations may vary from country to country, it is important to understand the priority system applicable in your country and check the regulations governing the resolution of IPR registration conflicts.

In cases where entity A obtains the IPR first, it is likely that entity B will lose the right to obtain the same IPR, especially if the country applies an absolute priority system. However, entity B can still consider seeking legal remedies or appeals in accordance with applicable rules and laws. It is recommended to consult an IPR legal expert for proper advice according to your country's context and regulations.

B. Repressive protection of intellectual property rights

Repressive IPR protection refers to legal measures that can be taken in the event of infringement of Intellectual Property Rights (IPR). It involves legal action taken after an infringement has occurred, with the aim of stopping the infringement, obtaining damages, and restoring the infringed rights of the IPR owner. The following are some of the steps that can be taken in the repressive protection of IPR:

a. Lawsuits

IPR owners can file lawsuits in court against parties who allegedly infringe their IPR. These suits may include infringement of trademarks, copyrights, patents, industrial designs, or other protected intellectual property rights. Repressive legal protection is a type of protection provided to creators or copyright holders who have exclusive rights to computer programs if their economic or moral rights are violated by other people. Repressive protection can be pursued by means of civil lawsuits and criminal prosecution.

b. Seizure and Detention

A petition is about a case in court without any other parties in dispute. Meanwhile, a lawsuit is the opposite of a petition, namely a case where there are parties to the dispute.

The court may grant seizure or detention orders against goods that allegedly infringe on IPR. This may involve the seizure of products, production equipment, or other items related to the IPR infringement.

c. Enforcement Efforts

IPR owners may engage law enforcement agencies, such as the police or customs officers, to assist in the prosecution of IPR infringement. These agencies may conduct investigations, raids, or legal action against infringers. A decision is a statement by a judge as a state official that is pronounced before a court session with the aim of ending or resolving a case or dispute between interested parties.

d. Compensation and Cessation of Infringement

If the court finds that there is proven infringement of IPR, they may issue an injunction to stop the infringement and award damages to the owner of the infringed IPR. These damages may include financial losses suffered by the IPR owner, as well as reputational or other losses arising from the infringement.

e. Out of Court Settlement

In some cases, the alleged infringer may agree to an out-of-court settlement with the IPR owner. These settlements may involve payment of damages, cessation of infringement, or other agreements governing the use of the IPR.

The creator of the work has the right to fight for his rights, especially if there is a violation of the work. Based on the Explanation of Article 95 paragraph (1) of the Copyright Law, there are 3 (three) forms of disputes related to copyright, namely unlawful acts, licensing agreements, and disputes regarding rates for collecting fees or royalties.

After knowing the form of the dispute, the creator or copyright holder can determine how to resolve the dispute. Based on Article 95 paragraph (1) of the Copyright Law, copyright dispute resolution can be carried out through alternative dispute resolution, arbitration, or the Commercial Court. Alternative dispute resolution here is through mediation, negotiation or conciliation.

Creators or copyright holders can also resolve disputes through the Intellectual Property Rights Arbitration and Mediation Board (“BAM IPR”). This arbitration and mediation body specifically handles intellectual property rights disputes which was launched in 2012. Then since 2019, BAM HKI has collaborated with the Indonesian National Arbitration Board and the National Mediation Center in handling intellectual property rights cases. Copyright disputes that are generally handled by BAM HKI are related to licensing agreements and transfer of rights.

Repressive settlement in intellectual property rights (IPR) lawsuits refers to the process of dispute resolution through judicial channels. The following is an explanation of the lawsuit process in general.

The Procedure for the Lawsuit itself is contained in Article 100 of the UUHC. A lawsuit for copyright infringement can be

filed with the chairman of the Commercial Court and recorded by the clerk of the Commercial Court in the court case register on the date the lawsuit is registered. The Registrar of the Commercial Court provides a receipt that has been signed on the same date as the date of registration. The clerk of the Commercial Court shall submit the petition to the chairman of the Commercial Court within no later than 2 (two) days as from the date on which the petition is registered. Within no later than 3 (three) days as from the date the lawsuit is registered, the Commercial Court shall set a hearing day. Notification and summoning of the parties shall be made by the bailiff within 7 (seven) days at the latest after the registration of the lawsuit. The decision on the lawsuit must be pronounced no later than 90 (ninety) days after the lawsuit is registered. If this period cannot be met, the period may be extended for 30 (thirty) days with the approval of the Chief Justice of the Supreme Court. The decision must be announced openly at a public hearing. The bailiff must deliver the decision of the commercial court to the parties no later than 14 (fourteen) days after the announcement of the decision.

If one of the parties is not satisfied with the decision, they may file a further legal action. One of the parties may only file a cassation. The cassation application shall be filed no later than 14 (fourteen) days from the date on which the decision of the Commercial Court is pronounced in open session or notified to the parties.

The process of resolving IPR disputes is not limited to the lawsuit process in court. There are also alternative dispute resolution mechanisms, such as mediation or arbitration, which can be carried out voluntarily by the parties involved. However, if settlement through the judicial route at the Commercial Court is chosen, the lawsuit process as described above will apply.

A restaurant by the name of "Geprek Bensu" owned by Ruben Samuel Onsu has been registered as a trademark and has the

exclusive right to use the mark with the DECISION of the Central JAKARTA District Court 57/PDT.SUS-HKI/MEREK/2019/PN NIAGA JKT.PST. Then, other restaurants unrelated to "Geprek Benu" opened restaurants with very similar names, namely "I am Geprek Benu" owned by PT Ayam Geprek Benny Sujono or using a similar logo. In this case, the owner of the "Geprek Benu" mark can file a lawsuit against the other restaurant for trademark infringement. The verdict in this case will depend on the facts presented and the evidence submitted by both parties. The court will consider factors such as the similarity or identity of the marks, the related line of business, evidence of exclusive use, and the potential harm arising from IPR infringement.

According to the Copyright Law (UUHC) 2014 in Article 40 Paragraph (1) stipulates that books are protected creations including their extensions, which have been converted into digital form (softcopy). The implications caused by the inclusion of e-books in the protection of UUHC 2014, then the moral rights and economic rights and other rights owned by the creator or copyright holder must be fulfilled.

The case of author A who wrote and published a book, and then the book was published with a digital book version. Then party B downloads the digital book illegally from the internet. If according to the UUHC 2014 there is an illegal download of an e-book from the internet, which can be classified as illegal duplication of a copyrighted work, then party B can be threatened with imprisonment of 4 (four) years and/or a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah) based on Article 113 Paragraph (3) UUHC 2014. Duplication is the process, act, or manner of reproducing one copy of a work and/or recording by any means, permanently or temporarily. Any person who exercises economic rights (in this case doubling) must obtain the permission of the creator or copyright holder. In addition, any person is

prohibited from reproducing and/or commercially using a work without the authorization of the creator or copyright holder. Copyright piracy is punishable by a maximum imprisonment of 10 (ten) years and/or a maximum fine of Rp 4,000,000,000.00 (four billion rupiah) under Article 113 paragraph (4) of the UUHC 2014.

Copyrights, patents, trademarks, industrial designs, and trade secrets are examples of IPR. Creators or intellectual property owners of their works are protected by these legal rights. However, the internet and digital technology have made it easier and faster to distribute and reproduce creative works, further complicating the enforcement of intellectual property rights.

Trademark protection is still another difficulty. Trademarks can easily be misused or stolen in the digital age through techniques such as cybersquatting, where third parties register trademarked domain names in an attempt to make money or damage a brand's reputation. Additionally, the rise of social media and e-commerce platforms has led to an increase in product counterfeiting and the sale of counterfeit goods, which has a detrimental impact on customers and brand owners.

Copyright infringement is one of the biggest problems in preserving IPR in the digital era. Widespread distribution of unlicensed content and content piracy are made possible by the Internet. People can easily upload and download intellectual works without paying fees or seeking permission from the original creator thanks to file sharing services and platforms. As a result, innovation and creativity suffer, as do creators and owners of intellectual property.

Despite the difficulties, the digital era also offers new opportunities for IPR protection. Systems for monitoring and tracking intellectual property rights can be made secure and transparent with the use of technology such as blockchain. Blockchain-enabled smart contracts can also help develop

automated and fair payment systems for the use of creative works in the digital era.

Additionally, the development of automated detection and monitoring tools also provides opportunities to identify copyright infringement more efficiently. Facial and audio recognition technology can be used to detect illegally or unauthorizedly uploaded content, facilitating law enforcement action. International cooperation is very important in efforts to overcome the difficulties of IP protection in the digital era. To build effective international law and implement best practices to defend intellectual property rights in the digital era, countries must work together.

Additionally, there is a need to increase awareness of IPR and educate customers as well as producers and owners of intellectual property about its significance. Finally, preserving intellectual property rights in the digital era presents new difficulties that require creative strategies. While offenses are becoming more sophisticated, technological advances are also creating new opportunities. IPR protection in the digital era can be strengthened to foster innovation and creativity and protect the rights of artists and intellectual property owners with cooperation, awareness and the appropriate use of technology.

IV. Conclusion

Until recently, international copyright law rested on the Bern Convention for the Protection of Literary and Artistic Works and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) of 1995. Issues relating to sound recordings and performances (sometimes referred to as “privileges “ was discussed

in the Rome Convention for the Protection of Performers, Recording Producers and Broadcasting Organizations of 1961. Since 1974, international copyright instruments have been administered by a specialized agency of the United Nations – the World Intellectual Property Organization (WIPO). The aim of WIPO is to promote the protection of intellectual property throughout world through cooperation between States and, when necessary, in cooperation with other international organizations. Currently, WIPO consists of 180 member countries. WIPO administers six copyright treaties and aims at “homogenizing national protection of intellectual property with an eye towards the formation of a unified, cohesive international body throughout the legal world.

V. References

- Anggraeni, Dewi. “Pentingnya Pengurusan Hak Kekayaan Intelektual Bagi Produk-Produk Litbangyasa.” *Jurnal Surya Kencana Dua: Dinamika Masalah Hukum Dan Keadilan* 3, no. 1 (2016): 119–32.
- Anita Sinaga, Niru, and Ir Tiberius Zaluchu. “Tinjauan Yuridis Tentang Perlindungan Hak Kekayaan Intelektual Di Bidang Paten.” *Jurnal Teknologi Industri* 4 (2015): 93. <https://journal.universitassuryadarma.ac.id/index.php/jti/article/view/676>.
- Aqilah Shafa Qhintara Idris, and Rakhmita Desmayanti. “Perlindungan Hukum Pencipta Terhadap Plagiasi Di Aplikasi Wattpad Berdasarkan Uu Hak Cipta.” *Reformasi Hukum Trisakti* 4, no. 5 (2022): 1363–76.

- <https://doi.org/10.25105/refor.v4i5.15140>.
- Arlan, Aria Muhammad. "Hak Kekayaan Intelektual Dan Perdagangan Digital: Masalah Yang Muncul Dan Implikasi Kebijakan." *Jurnal Ilmu Sosial Dan Pendidikan (JISIP)* 7, no. 3 (2023): 2598–9944. <https://doi.org/10.58258/jisip.v7i1.5402/http>.
- Bustani, Simona. "Potret Efektivitas Penerapan Undang-Undang No. 19 Tahun 2002 Tentang Hak Cipta." *Jurnal Hukum PRIORIS* 4, no. 2 (2016): 101–14. <https://doi.org/10.25105/prio.v4i2.378>.
- Darmawan, Arief. "Pengertian Rahasia Dagang Serta Contoh Pada Produk Sony Ericson." *OSF Preprints*, 2019.
- Darusman, Yoyon M. "Kedudukan Serta Perlindungan Hukum Bagi Pemegang Hak Paten Dalam Kerangka Hukum Nasional Indonesia Dan Hukum Internasional." *Yustisia Jurnal Hukum* 5, no. 1 (2016): 203–15. <https://doi.org/10.20961/yustisia.v5i1.8732>.
- Disemadi, Hari S, Raihan Radinka Yusuf, Novi Wira, and Sartika Zebua. "Perlindungan Hak Eksklusif Atas Ciptaan Digital Painting Dalam Tatahan Hak Kekayaan Intelektual Di Indoensia." *Widya Juridika* 4, no. 1 (2021): 41–52.
- Gultom, Meli Hertati. "Perlindungan Hukum Bagi Pemegang Hak Atas Merek Terhadap Perbuatan Pelanggaran Merek." *Jurnal Warta* 56, no. April (2014): 97–108.
- Hamid Labetubun, Muchtar A. "PERLINDUNGAN HUKUM DESAIN INDUSTRI DI DUNIA MAYA (Kajian Overlapping Antara Hak Cipta Dengan Hak Desain Industri)." *Jurnal Sasi* 17, no. 4 (2011): 8–19.
- Hawin, M., and Budi Agus Riswandi. *ISU-ISU PENTING HAK KEKAYAAN INTELEKTUAL DI INDONESIA*.

- Gadjah Mada University Press, 2017.
- Jusmadi, Rhido. "The Existence of Digital Platforms and the Challenges in Enforcement of Indonesian Competition Law." *Unnes Law Journal* 9, no. 1 (2023): 183–204. <https://doi.org/10.15294/ulj.v9i1.63114>.
- Khairunnisa, Andi Akhirah. "Penerapan Prinsip-Prinsip Hak Asasi Manusia Dalam Pembentukan Produk Hukum Oleh Pemerintah Daerah." *Jurnal Manajemen Pemerintahan* 5, no. 1 (2018): 65–78.
- Korengkeng, Aaron Bryant. "Perlindungan Hukum Hak Kekayaan Intelektual Terhadap Pendaftaran Dan Transaksi Karya Non-Fungible Token Yang Bukan Oleh Pemilik Hak Cipta." *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance* 3, no. 2 (2023): 1556–78. <https://bureaucracy.gapenas-publisher.org/index.php/home/article/view/265>.
- Laksmindari, L. "Kebijakan Pemerintah Dalam Perlindungan Hak Kekayaan Intelektual (HAKI) Di Indonesia." *Pencerah Publik* 5, no. 2 (2018): 27–33.
- Mahyani, Ahmad. "Pertanggungjawaban Pidana Korporasi Terhadap Hak Cipta." *DiH: Jurnal Ilmu Hukum* 10, no. 20 (2014). <https://doi.org/10.30996/dih.v10i20.361>.
- Muchtar Anshary Hamid Labetubun. "Aspek Hukum Hak Cipta Terhadap Buku Elektronik (E-Book) Sebagai Karya Kekayaan Intelektual." *Sasi* 24, no. 2 (2018): 138–49.
- Mulyani, Sri. "Pengembangan Hak Kekayaan Intelektual Sebagai Collateral (Agunan) Untuk Mendapatkan Kredit Perbankan Di Indonesia." *Jurnal Dinamika Hukum* 12, no. 3 (2012): 568–78. <https://doi.org/10.20884/1.jdh.2012.12.3.128>.
- Murfianti, Fitri. "Hak Cipta Dan Karya Seni Di Era Digital."

- Acintya: Jurnal Penelitian Seni Budaya* 12, no. 1 (2020): 44–58. <https://doi.org/10.33153/acy.v12i1.3147>.
- Novrisal, Faza. “PERLINDUNGAN KARYA CIPTA SENI TARI (Studi Terhadap Konsep Dan Upaya Perlindungan Hak Cipta Seni Tari Di Kalangan Seniman Tari Yogyakarta).” Universitas Diponegoro, 2009.
- Rangkuti, Maksum. “Perlindungan Hukum Indonesia : Pengertian, Aspek, Unsur, Dan Contoh.” fahum.umsu.ac.id, 2017. <https://fahum.umsu.ac.id/perlindungan-hukum-indonesia-pengertian-aspek-unsur-dan-contoh/>.
- Riswandi, Budi Agus. *Pembatasan Dan Pengecualian Hak Cipta Di Era Digital*. Citra Aditya Bakti, 2017.
- Rizkia, Nanda Dwi, and Hardi Fardiansyah. *HAK KEKAYAAN INTELEKTUAL SUATU PENGANTAR*. Widina Bhakti Persada Bandung, 2022.
- Rongiyati, Sulasi. “Hak Kekayaan Intelektual Atas Pengetahuan Tradisional.” *Negara Hukum* 2, no. 2 (2011): 213–38.
- Siregar, Enni Sophia, and Lilys Sinurat. “Perlindungan Haki Dan Dampaknya Terhadap Perekonomian Indonesia Di Era Pasar Bebas: Pendekatan Kepustakaan.” *Niagawan* 8, no. 2 (2019): 75. <https://doi.org/10.24114/niaga.v8i2.14255>.
- Sudjana, Mr. “Hak Cipta Sebagai Jaminan Kebendaan Bergerak Dikaitkan Dengan Pengembangan Obyek Fidusia.” *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 24, no. 3 (2013): 405. <https://doi.org/10.22146/jmh.16118>.
- Sugiati, Fenti Dwi, and Mas Anienda Tien F. “Proteksi Hak Cipta Atas Konten Tiktok Yang Disiarkan Pada Acara

- Televisi.” *Unes Law Review* 5, no. 4 (2023): 1930–48.
- Tiawati, Sulis, and Margo Hadi Pura. “Analisa Hukum Perlindungan Hak Cipta Terhadap Pembelian Buku Elektronik Secara Ilegal.” *Ajudikasi: Jurnal Ilmu Hukum* 4, no. 2 (2021): 169–80. <https://doi.org/10.30656/ajudikasi.v4i2.2930>.
- Utomo, Yusuf Arif, Carrisa Kirana Eka Putri, and Hilda Sabrie. “Tanggung Gugat Shopee Sebagai Online Marketplace Provider Dalam Pengiriman Barang.” *Jurnal Bina Mulia Hukum* 4, no. 2 (2020): 347. <https://doi.org/10.23920/jbmh.v4i2.297>.
- Widiarti, Wiwik Sri. “Perlindungan Konsumen Terhadap Merek Dagang.” *Yure Humano* 3, no. 1 (2019): 64–78. <https://mputantular.ac.id/ojshukum/index.php/yurehumano/article/view/70>.

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