

# LEGAL PROTECTION OF INTELLECTUAL PROPERTY RIGHTS FOR CREATIVE INDUSTRIES IN INDONESIA

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## Abstract

The creative industry as one of the pillars of the future economy has a very strategic role in overcoming the problems faced by society and the government, especially in the employment sector, business sector, and as a source of state revenue (GDP). Therefore, creative industry entrepreneurs must be protected by their intellectual rights so that all copyrighted works are legally protected by their existence and no one can arbitrarily steal, trade, reproduce without permission from the owner. This research aims to analyze the form of legal protection for Intellectual Property Rights for the creative industry in Indonesia. This research uses a qualitative approach with descriptive methods. The research results show that intellectual property protection plays a crucial role in supporting sustainable growth in various sectors, especially in the creative and science industries. Through analysis of Law of the Republic of Indonesia Number 28 of 2014 concerning Copyright, it was found that the change in the nature of copyright offenses from complaint offenses to ordinary offenses had a positive impact in increasing the efficiency and firmness of law enforcement. However, research also highlights the main challenges, namely low public awareness, minimal knowledge about intellectual property rights, perception of high costs, and the view that the processing process takes a long time.

**Keywords:** Legal Protection, Intellectual Property Rights, Creative Industries.

## A. INTRODUCTION

Indonesia's economic development is increasingly highlighting the potential of the creative industry sector as one of the main pillars. The creative industries, also known as the creative economy, encompass a diverse range of sectors that arise from the harnessing of individual creativity, skills and talents. It includes various fields such as arts and culture, design, information technology, film, music, and many more. This diversity creates great opportunities to create jobs and improve community welfare (Asri, 2020; Olubiyi et al., 2022).

Within the framework of the creative industry, individual creativity and creativity are the main keys. The Indonesian government has recognized the great potential of this sector in contributing to economic growth. Support for creators and creative industry players involves incentives, facilities and regulations that support the development of creative works. Through the use of technology and innovation, the creative industry not only creates new products and services, but also encourages a positive image of Indonesia in the eyes of the world (Disemadi & Kang, 2021).

Law of the Republic of Indonesia Number 28 of 2014 concerning Copyright provides a strong legal basis for protecting the creative industry in Indonesia. Article 40 paragraph (1) of the law specifically confirms that the creative industry is included in the scope of objects protected by copyright. This protection is important to encourage innovation and creativity in the creative industry, considering that the products and works of art produced are often the result of high intellectual effort (Kurnianingrum, 2016; Slavin & Grin, 2022). With strong copyright laws in place, creative industry players in Indonesia can feel safer to develop their new ideas without fear of copyright infringement.

The Ministry of Tourism and Creative Economy of the Republic of Indonesia also places special emphasis on developing creative industries as part of efforts to improve the national economy. Recognition of the creative industry's positive contribution to employment and community welfare is

the basis for providing deeper legal protection (Amin, 2018). By providing special focus and attention from the government, Indonesia's creative industry can continue to develop, making this country a center for creativity and innovation at regional and global levels. This is also in line with the government's vision of advancing the creative economy sector as one of the main pillars of national economic growth (Suhayati, 2016).

Intellectual Property Rights (IPR) are a vital pillar in protecting Indonesia's creative industry. In practice, IPR includes copyrights, patents, trademarks, industrial designs and trade secrets, providing creative industry players with legal protection for their works (Ganefi, 2019). The practice of intellectual property rights is not just a legal mechanism, but is also a catalyst for the nation's economic growth. Building a positive business climate, HKI motivates innovators to invest in the creation and development of original works. In addition, IPR plays an important role in strengthening the image and identity of the Indonesian nation at the global level, ensuring that local creativity is recognized and appreciated internationally (Balqis, 2021).

Furthermore, HKI also contributes to the formation of an innovative and highly competitive young generation. By providing incentives for young creators to engage in creative and innovative activities, HKI creates an environment that stimulates the formation of new ideas. Thus, IPR not only protects individual rights, but also encourages the growth of a dynamic and sustainable creative ecosystem. As an integral part of Indonesia's economic development, IPR not only creates economic value, but also supports the realization of Indonesia's vision as a center for the creation of innovation and invaluable cultural wealth (Shabilla & Santoso, 2023).

Intellectual Property Rights (IPR) are a manifestation of the ability of human thought which is realized in various forms of expression, providing appreciation and protection for creative results that bring benefits and economic value. In the realm of IPR, copyright is one of the main pillars that supports economic development. Copyright, as part of IPR, gives its owner exclusive rights to his intellectual work, which includes the right to make copies, distribute and exploit the work commercially (Yusuf & Hasima, 2018).

When a creator produces a work, copyright is automatically granted to them since the work is realized in a certain form. The uniqueness of copyright lies in its inherent nature to the creator and cannot be contested by other parties. This provides a strong incentive for individuals or groups to continue working and innovating, because they can secure exclusive rights to the results of their hard work (Arfan, 2013). In this way, copyright is not only a means of protection for creators, but also encourages the creation of a thriving creative ecosystem, making a positive contribution to the economy through the creation of value and job opportunities.

Legal protection in copyright is divided into 2 (two) types, legal protection for the people, namely preventive legal protection (prevent) and repressive legal protection (suppress), in preventive legal protection, the people are given the opportunity to submit objections or opinions before something happens. the government's decision took a definitive form (Latukau et al, 2021). Thus, preventive legal protection aims to prevent disputes from occurring with criminal prosecution sanctions, whereas on the other hand, repressive legal protection aims to resolve disputes with civil lawsuit sanctions. preventive measures, the government encourages us to be careful in making decisions based on discretion, in this sense the handling of legal protection for the people by the general judiciary in Indonesia falls into the category of repressive legal protection (Gultom, 2018; Hamza et al., 2022).

This research aims to explore and analyze the effectiveness of legal protection mechanisms for intellectual property rights in Indonesia, with a focus on preventive and repressive aspects in the context of copyright. Through a deeper understanding of the existing legal framework, this research seeks to contribute to detailing how legal protection can mitigate the risk of copyright infringement and optimize public participation in government decision processes. The benefit of this research is to increase stakeholders' understanding, including the government, companies and the general public, of the role and impact of legal protection of intellectual property rights in supporting economic growth and social welfare in Indonesia.

## B. METHOD

The type of research in preparing legal writing is normative legal research or library legal research. Peter Mahmud Marzuki (2014) said that legal research is a process of discovering legal rules, legal principles and legal doctrines in order to answer the legal issues faced. In this research, the author uses a statutory approach (statute appropriation), an approach to legal sources (legislation) and a conceptual approach, namely research into legal concepts such as legal sources, legal functions, legal institutions and so on.

## C. RESULTS AND DISCUSSION

Intellectual property plays a central role in protecting creative workers, such as songwriters, music arrangers, scriptwriters and various other professions. The importance of intellectual property is realized when copyright piracy attempts arise, and legal protections can be implemented to safeguard individual creative rights. In film production, the concept of intellectual property involves more than just music or logos, encompassing aspects such as footage and scenes, including details as small as sunset timelapses. All of these elements become valuable assets and require legal protection so that they can be used as sustainable investments (Saidin, 2010; Hamza & Pradana, 2022).

Not only limited to the creative industry, intellectual property also extends to the realm of science, such as in the management of human genetic samples and genetic material databases. This management process requires high caution and professionalism, starting from analysis to creating biomarker algorithms that can help identify and manage related intellectual property. By understanding the importance of protecting intellectual property in various contexts, we can create an environment that supports creativity, investment and innovation, safeguards individual rights, and provides encouragement for sustainable growth in various sectors (Cui et al., 2022; Mahendra & Subhandi, 2023).

Legal protection in the creative industry sector can be carried out through law enforcement seen from a criminal law perspective, basically it can be found in the Law of the Republic of Indonesia Number 28 of 2014 concerning Copyright (State Gazette of the Republic of Indonesia of 2014 Number 266, Supplement to the State Gazette of the Republic of Indonesia Number 5599 ). However, the formulations found in the articles relating to criminal provisions are not a formulation that explicitly states that there is special protection for the creative industry, but this protection is intended for all creations which in their implementation are protected using the copyright regime,<sup>11</sup> so that preventive law enforcement is wrong. one can be done through the approach of Law of the Republic of Indonesia Number 28 of 2014 concerning Copyright (State Gazette of the Republic of Indonesia of 2014 Number 266, Supplement to State Gazette of the Republic of Indonesia Number 5599).

The legal rules contained in Law of the Republic of Indonesia Number 28 of 2014 concerning Copyright reflect the intention to present an approach that is not only repressive, but also preventive towards copyright infringement. In this regulation, criminal elements are implemented as a threat of punishment for copyright violations, showing a commitment to responding seriously to acts of piracy and violations of intellectual property rights. It is important to note that this regulation carries a preventive nature by providing threats of punishment as a deterrence, seeking to prevent copyright violations through strict legal provisions.

The change in the nature of copyright offenses from complaint offenses to ordinary offenses is also a clear reflection of the push for stronger law enforcement. By changing the nature of the offense, the law enforcement process has become more efficient and firm, no longer dependent on complaints from related parties. This step reflects the spirit of the Copyright Law to increase the effectiveness of law enforcement, strengthen protection for creators, and create a safer and fairer climate for the creative industry. With this legal regulation, it is hoped that it can provide a solid foundation for creating a conducive environment for the development and protection of copyright in Indonesia.

Actions that violate the exclusive rights of creators are not only a threat to intellectual property rights, but can also be interpreted as actions that deliberately conflict with government policies in the fields of religion, defense and state security. Copyright violations, if left without strict

law enforcement, can damage the integrity of the creative industry and harm creators and copyright owners. Therefore, from a criminal perspective, handling of copyright violations must be carried out through public court processes, especially in district courts (Nelimarlina & Wildan, 2023).

The importance of firmness and detail in regulating criminal threats against copyright infringement is illustrated by the need to ensure effective law enforcement. This firmness is not only related to the sanctions that will be applied, but also to the involvement of various elements of government and law enforcement, as well as active participation from the community. Synergistic collaboration between government, law enforcement and society will strengthen law enforcement against copyright infringement, create a fair legal environment and provide an effective impact on eradicating acts of copyright infringement in the creative industry (Cahyadi & Danardono, 2009; Arslan et al., 2023).

Law enforcement against violations of intellectual property rights, especially in the context of copyright, often only addresses problems that appear on the surface, without addressing the underlying root causes. To achieve comprehensive protection of intellectual property rights, it is necessary to implement a preventive strategy that involves all government agencies that have relevant responsibilities. Law enforcement, while important, is only a temporary remedy for the visible impacts of copyright infringement. Therefore, there is a need for a deep understanding of the underlying problems beneath the surface that can be addressed with smart policies and preventive actions.

It is important to recognize that copyright infringement can emerge as a symptom of a variety of structural problems, such as a lack of public understanding of the importance of intellectual property rights, inadequate policies, or unequal access to education and resources. Therefore, preventive efforts must include public education, policy improvements, and increased access to resources that support creativity and innovation. By involving various government agencies, including educational and cultural institutions, an environment can be created that supports the development and protection of intellectual property rights holistically, thereby addressing problems at the root of the problem and providing a more sustainable impact (Bustani, 2018; Peng et al., 2023).

The public does not sufficiently understand the importance of protecting other people's creations, so criminals often commit violations of copyright and related rights. Meanwhile, law enforcement officials also do not understand that it is very important to deal with copyright crimes by processing and investigating criminal acts of copyright infringement which harm creators and even the country at a macro level. Law enforcement officials in the process of regulating copyright infringement do not enforce legal sanctions, so that perpetrators of copyright infringement are not deterred and lack understanding of the importance of enforcing and protecting copyright law by law enforcement officials. So that law enforcement does not bring perpetrators of copyright infringement crimes to the legal court, however, if the perpetrators are brought to court then the court decision given to the perpetrator of copyright infringement will not be in accordance with statutory regulations, the court will only decide on probation sanctions for perpetrators of copyright infringement crimes. .

There are several factors that cause the public's low interest in protecting the intellectual property rights of the creative industry products they make. These factors include:

1. Low public awareness of registering their intellectual rights.

The low level of public interest in protecting the intellectual property rights of the creative industry products they create can be caused by several factors, including the low level of public awareness of registering their intellectual rights. This awareness is often minimal due to a lack of understanding of the importance of protecting intellectual property rights as a strategic step to safeguard the results of work and innovation. Many individuals, especially those in smaller creative industries, may not yet fully realize the economic and legal value that can be gained through registering copyright or other intellectual property rights.

Apart from that, the registration process, which is sometimes considered complex and expensive, can also be an obstacle. People may feel intimidated by the bureaucracy involved or perceive it as an additional burden. A lack of easily accessible information about the ways and

benefits of protecting intellectual property rights can also be a limiting factor. To overcome this low awareness, more intensive educational efforts and easier access to information regarding the registration process, benefits and consequences of protecting intellectual property rights are needed. By increasing public understanding, it is hoped that there will be increased interest and participation in protecting intellectual property rights, which in turn can support the growth of the creative industry as a whole.

#### 1. Lack of public knowledge about Intellectual Property Rights

The public's lack of knowledge about Intellectual Property Rights (IPR) is a crucial factor that contributes to the low interest in protecting their creative industry products. Most people may not be familiar with the concepts and benefits contained in IPR, such as copyrights, patents or trademarks. Minimal understanding of these rights can result in an inability to identify and appreciate the economic value and legal security that IPR protection can provide.

In addition, the complexity of IPR terminology and regulations often makes it difficult for the general public to understand. Limited or difficult to access information about the registration process, practical steps, and benefits of protecting intellectual property rights can discourage the public from getting involved. The importance of IPR in encouraging innovation, protecting investment and advancing the creative economy is often not clearly conveyed to the public. To overcome this lack of knowledge, ongoing educational efforts need to be carried out. Public information programs, workshops and educational campaigns can help increase public understanding of the importance of getting involved in IPR protection. Collaboration between the government, educational institutions and creative industry players can create initiatives that have a big impact on bringing knowledge about IPR to the wider community. With better understanding, it is hoped that society will be more open and active in protecting their own intellectual property rights.

#### 3. There is an assumption that processing Intellectual Property Rights requires quite a lot of money.

The perception that processing Intellectual Property Rights (IPR) requires a significant amount of money is a significant factor that can reduce public interest in protecting their creative industry products. The process of registering and maintaining IPR often involves administrative, registration and rights maintenance costs, which can be considered an unaffordable financial burden, especially for smaller creative industry players or independent individuals. The perception that these costs can reach significant amounts can be a serious deterrent for those wishing to protect their creative works, especially if the long-term benefits of IPR are not fully understood.

To overcome this perception, it is important to provide a better understanding of the long-term investment value of IPR. Educating the public about the financial benefits and legal protection provided by IPR can help change the perception that managing IPR is only a cost burden. The government and related institutions can consider financial incentives, subsidies or assistance in terms of IPR registration to encourage more participation among creative industry players. Through this approach, it is hoped that it can create a friendlier and more supportive environment for the community to actively involve themselves in managing and protecting their Intellectual Property Rights without being burdened by high cost constraints.

#### 4. Processing takes a long time and is complicated.

The perception that processing Intellectual Property Rights (IPR) takes a long time and is complicated is one of the factors influencing people's interest in protecting their creative industry products. The IPR registration process can take significant time, especially if complete document preparation and an in-depth understanding of the applicable requirements are required. The complexity of bureaucracy and administrative procedures can often make individuals or creative industry players perceive them as obstacles that force them and hinder their creative process.

To overcome this obstacle, steps are needed that can simplify the process of managing IPR. Government initiatives to speed up the registration process, provide clearer guidance, and provide technical support can help reduce the time and complexity required. Increasing transparency and accessibility of information regarding the IPR processing process can also minimize uncertainty which is often the reason for the long time required. By reducing administrative obstacles, it is hoped that

people will be more motivated to get involved in protecting their intellectual property rights, so that this process is no longer seen as an obstacle, but rather as a valuable investment for the sustainability of the creative industry.

#### D. CONCLUSION

Intellectual property has a central role in protecting creative workers in various sectors, including the creative industries and science. In the Indonesian context, Law of the Republic of Indonesia Number 28 of 2014 concerning Copyright reflects a commitment to provide protection that is not only repressive but also preventive against copyright violations. Changing the nature of copyright offenses from complaint offenses to ordinary offenses is an effort to increase the effectiveness of law enforcement. Even though a legal framework has been developed, challenges remain in protecting intellectual property. Low public awareness, minimal knowledge about intellectual property rights, perceived high costs, and the perception that the processing process takes a long time are inhibiting factors. Therefore, more intensive educational efforts, simplification of the management process, and financial incentives are needed to increase public interest and participation in protecting their intellectual property rights. The importance of law enforcement is not only limited to the criminal aspect, but also requires synergistic collaboration between the government, law enforcement and the community. Changes in attitudes and understanding towards intellectual property rights must be encouraged as a whole to create a conducive environment for growth, investment and innovation in various sectors. By overcoming these obstacles, it is hoped that Indonesia can create a strong foundation for protecting intellectual property, strengthening creative industries, and advancing innovation in a sustainable manner. Awareness, knowledge and collaboration are the keys to achieving this goal and providing a positive impact on economic growth and societal welfare

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