

Legal Protection for Cinematographic Copyright Holders Related to Alleged Violations of Economic Rights Through the Telegram Social Media Application (in a View of Law Number 28 of 2014 Concerning Copyright)

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ABSTRACT

Uploading a creation in social media app is an evidence that the internet presence becomes an impact in modern era that keeps getting sophisticated. However, it can't be denied that it can cause several problems, with the occurrence of speculation violation economy rights especially for cinematography copyrights holder. This research used legal protection as discussion point to cinematographic copyright holder, illegality reason, and legal effort that cinematographic copyright holder can use against hijackers that are using Telegram application. The research method that is used is to regulate justice through the use of legal methods and conceptual methods. The result of the research conclude that cinematographic copyright protection in the form of preventive measures, alternative dispute solution with arbitration or repressive dispute resolution methods taken through the court. The reason why hijackers use the telegram application is because it is convenient, free and also Telegram doesn't have strict rules against misused channel. The cinematographic copyright holder that has been hijacked from Telegram application can make an effort by giving complaint submission about copying and hijacking to relevant instances.

Keywords: Legal Protection, Cinematographic Copyright, Telegram.

1. INTRODUCTION

Indonesia is a legal state, where every legal subject has used a rule of law that contains the right to do something. This right is inherent in humans to do anything, for example the public whose name is in a copyrighted work that is realized in a tangible form, as long as it does not conflict with the public, with the guarantee that a right that is owned is guaranteed with legal certainty so that it does not conflict with the truth. Rights are an authority possessed by legal subjects. The authority that has been owned by a legal subject is an exclusive authority which includes economic rights and moral rights. [1] However, due to allegations of violations of exclusive rights, such as the piracy of cinematographic works, especially through a social media application called Telegram, this is one form of implementing economic rights used by actors who clearly understand the current situation, most of the Indonesian population has Telegram. Users of the Telegram application think that this social media

application has large storage and delivery, so that people can do all kinds of things such as sending and receiving files, exchanging messages (chat) with family far and near, making group discussions including watching movies or series they want. for free just by searching for the title in the "Search" column. Many people do not understand that watching cinematographic

works in the form of famous films/series through this application is a wrong thing, because the films available on the Telegram channel originate from the actions of a number of individuals who have hijacked other people's Cinematographic works that have been downloaded and uploaded. illegally without the permission of the copyright holder of the cinematographic work. Another reason why people prefer Telegram as their means to watch movies is because of the limited cost from the public to pay for the official application for film and series service providers. A cinematographic work has been alluded to by Law No. 28 years. 2014 concerning Copyright Article 40 paragraph (1) letter m where the

statement describes cinematographic works, namely what is included in cinematographic works are artificial ones that can be in the form of moving images, among others, can be in the form of documentary films, promotional films, reports or can be in the form of narrative films that can be made with scripts and animated films. In making cinematography creations it can be made in the form of celoids, film tapes, film discs, optical discs or it can be in the form of other tools that can allow it to be shown in cinemas, wide screens, TV, or other devices. Cinematography is an illustration of the form of audiovisual. From the explanation above, the author is interested in raising the issue of piracy of cinematographic works through the Telegram social media application in accordance with Law no. 28 of 2014 Copyright only, so that later this topic can be in accordance with the title and formulation of the problem that has been determined. Thus this research is still supported by other regulations that are interrelated with each other.

1.1. Related Work

Based on the description above, the title of the research entitled: "Legal Protection for Cinematographic Copyright Holders Related to Alleged Violations of Economic Rights Through the Telegram Social Media Application (in view of Law Number 28 of 2014 concerning Copyright)"

1.1.1. The factors that cause someone to violate economic rights in the form of cinematographic works through the Telegram social media application

Advances in information technology that are growing so rapidly cause various changes in every aspect of activities in human life that can directly affect the birth of new legal acts. In addition to working as a medium of information, communication, and a profitable business tool, the internet can also be a very fertile ground for the occurrence of a criminal act [2] Technological advances in the reproduction industry, difficulty in supervising production activities, very significant price differences between legal and illegal products, and ineffective law enforcement. This is also the same as sharing pirated films through social media, the actors included in this activity are users of social media who send pirated films as providers of pirated films, namely recipients or viewers who enjoy pirated works, and of course the owners of social media themselves. With regard to information technology, the piracy carried out in this writing occurs in a social media application, namely Telegram which can be downloaded from the PlayStore as well as the AppStore which is on a communication tool owned by each individual, and can be accessed via the telegram web itself. As has been explained regarding the understanding of the Telegram application that this

application is a social media that has a look like Whatsapp. And one of the methods used in carrying out this piracy process is through the Channel, which is also part of the Telegram application itself. Pirated movies in the Telegram application are mostly stolen from Netflix and Spotify. The Outline quoted from Business Insider Singapore, that a number of groups and channels on Telegram were deliberately created with the aim of sending pirated content. In this case the party involved is clear that he violated several laws and regulations, namely Law Number 28 of 2014 concerning Copyrights and Film piracy includes the violation of copying and/or piracy of cinematography as stated in Article 1 number 12 UUHC. [3] Then this gives rise to a legal consequence arising from legal actions that occur on the Channel in the Telegram Application. A person's intellectual property rights must of course be protected, as well as Copyright which can protect someone's copyrighted work. In Article 4 UUHC there is an explanation that Copyright is an exclusive right of a person which consists of moral rights and economic rights. Which if the basic rights are violated, the Creator and Copyright Holder can sue for losses caused by the act of piracy. Based on the results of interview data research conducted by the author, the factors that cause someone to commit piracy are because it is easy to do, if you look at the point of view of a Telegram Channel admin to get famous films, he can do it himself by getting illegal links containing a film that has been pirated by an anonymous sender before, especially in profiting from viewers who are subscribed to the Telegram Channel. A famous movie watcher who was hijacked via telegram doesn't have to spend a certain amount of money just to watch the movie he wants to see (Unless the person wants to become a VVIP subscriber). To become a VVIP subscriber is not as expensive as the price you have to pay each month on the official applications of famous movie providers such as Netflix and so on. This is what causes some people to prefer watching on Telegram instead of watching through official applications such as Netflix or watching movies in theaters directly. In addition, another supporting factor is the Covid 19 pandemic which has made many cinemas unable to operate normally.

1.1.2. Legal Protection for Cinematographic Copyright Holders Related to Alleged Violations of Economic Rights Through the Telegram Social Media Application (View from Law Number 28 of 2014 concerning Copyright)

It should be noted that Legal Protection Efforts can only be implemented if the Author and Copyright Holder file a complaint as contained in Article 120 of the UUHC, which reads: "Criminal acts as referred to in this Law constitute a complaint offense" [4] This means that the article mentioned above will only be imposed on the perpetrators of piracy if the Creator and Copyright Holder

file a complaint. In principle, if a criminal incident occurs, the government, represented by the police, the prosecutor's office and the judiciary, without a request from the person affected by the criminal incident, immediately acts to conduct an investigation. However, from the many criminal events, there are several types, almost all of them crimes, which are only prosecuted on complaints (requests) from people who are subject to criminal events. [5] Such a criminal event is called a complaint offense. A complaint offense (Klacht delict) is an offense that is tried, if the aggrieved person complains to the Police/Investigator.

However, if there is no complaint, the investigator will not conduct an investigation and make a Minutes of Examination. Then the Complaint Offenses are divided into 2 (two) types, namely: Absolute complaint offenses are offenses (criminal events) which can only be prosecuted if there is a complaint; Relative complaint offense, is an offense (criminal event) which is usually not a complaint offense, but if it is committed by a specified relative, it will be a complaint offense. The method of filing a complaint itself has been determined in Article 45 H.I.R. by means of a signed letter, or by word of mouth. Complaints orally by the employee who received it must be written and signed by him and by the person who complained. [6] The period of time is 6 months if the person who is obliged to complain is in Indonesia, and 9 months if the complainant is abroad. Then the complaint can be in oral form, what applies when the complaint is verbal notification is submitted. If it is written, what applies is the date on which the complaint was sent, not the date the letter was received. From the explanation regarding the complaint offense above, it can be seen that the Creator or Copyright Holder has the right to make a complaint, by submitting a complaint orally or in writing to the employee (Police/Investigator)

1.2. Our Contribution

Based on the background and problem formulation described above, the objectives to be achieved in this research are to find out the factors that cause someone to violate economic rights in the form of cinematographic works through the Telegram social media application and also to find out how the law works in a cinematographic work regarding the alleged violation of economic rights when viewed from Law Number 28 of 2014 concerning Copyright.

1.3. Paper Structure

This paper structure are using research method to collect data, manage data, and conclude from data according to the problem to be studied by the author. This legal research is to study the symptoms of a particular law, either one or more of its symptoms. This legal research is carried out with a series of scientific activities based on

methods, systematics, and a certain thought. The research method used by the author in the study is as follows: Type of Research. The type of research in this legal research is normative research. The definition of normative research is research that provides a systematic explanation of the rules governing a certain legal category, as well as analyzes a relationship between regulations that describe areas of difficulty and may predict future development. And also Legal Resources and Materials In this paper, the author uses legal materials obtained from the results of a review of decisions or a review of literature or library materials related to a problem or a material from research which is often called legal material.

2. BACKGROUND

2.1. Legal Protection

Protection means to give shelter, to produce or to cause something to take refuge. In general, protection means protecting something from something dangerous or something that can be in the form of interests or objects and goods. In addition, protection also contains the meaning of protection given by someone to someone who is helpless. In the Indonesian Dictionary, the definition of law means a regulation or custom which is officially considered binding, which is confirmed by the ruler or government. The law contains provisions that become the rules of life of a society that are controlling, preventing, binding, and coercing. In addition, the law is also defined as the provisions that stipulate something over something else, namely stipulating something that can be done, must be done, and forbidden to be done. Law is also defined as the provision of a prohibited act along with legal consequences/sanctions in it. According to Achmad Ali, what is meant by law is a rule or measure that is arranged in a system to determine what is allowed and what cannot be done by humans as citizens of society in their social life, which comes from the community itself as well as from other sources, which are recognized. the highest authority in society, and is actually implemented by citizens as a total unit in the world, and if these rules are violated, it will give the highest authority to impose external sanctions. [7] Therefore, it can be said that legal protection is a protection given to the subject in accordance with the rule of law, whether it is preventive in nature or in a repressive form (coercion), both written and unwritten within the framework of legal regulations. Legal protection is a description of the workings of the legal function to realize legal goals, namely, justice, expediency and legal certainty. According to Fitzgerald, explaining Salmond's theory of legal protection which states that the law aims to combine and combine various interests in society because in a cross-interest, protection of certain interests can only be done by limiting the various interests of other parties. Legal interests are

concerned with human rights and interests, so that they have the highest authority to determine human interests that need to be regulated and protected. From the descriptions of the experts above provide an understanding that legal protection is a description of the functioning of the law to realize the objectives of the law, namely justice, benefits and legal certainty [8]. Legal protection is a protection given to legal subjects in accordance with the rules of law, both preventive and in the form of repressive nature, both written and unwritten in legal framework. Law on Copyright and Protection to encourage individuals in society who have intellectual abilities and creativity to be more enthusiastic about creating as many copyrighted works as possible that are useful for the progress of the nation. Protection is also directed at protecting related rights, namely the exclusive right for actors to reproduce or broadcast their sound recordings, broadcasting institutions to create, reproduce, or broadcast their broadcast works. Legal protection of Copyright in Indonesia is currently regulated in Law Number 28 of 2014 about Copyright. So the protection of copyright aims to protect all rights inherent in the creator so that these rights are not taken away by others. Legal protection of Copyright is to encourage individuals in society who have intellectual abilities and creativity to be more enthusiastic about creating as many works as possible that are useful for the progress of the nation. With the Copyright Law, the creators no longer need to worry about the binding status of their creation because the Copyright Law will guarantee a creation at the first time it is created, not the first time.

2.2. Responsibility

Responsibility is a sense attached to each individual subject of law where an individual is responsible for his own violations; In this theory there are two terms that refer to responsibility, namely liability (the state of being liable) and responsibility (the state or fact of being responsible). Liability is a broad legal term (a board legal term), which among other things implies that liability refers to the most comprehensive meaning, covering almost every character of risk or responsibility, which is certain, dependent or possible. Liability is defined to designate all the characteristics of rights and obligations. In addition, liability is also a condition of being subject to actual or potential obligations. the condition of being responsible for actual or possible things such as losses, threats, crimes, costs, or burdens; conditions that create a duty to implement the law immediately or in the future. [9] Responsibility means something that can be accounted for by an obligation, and includes decisions, skills, abilities, and skills. Responsibility also means, the obligation to be responsible for the laws that are implemented, and to repair or otherwise compensate for any damage that has been caused. In addition, there are other opinions about the principle of responsibility in law, which is divided into three namely accountability,

responsibility, and liability. Understanding Legal Responsibility, there are three kinds of legal responsibility, namely legal responsibility in the sense of accountability, responsibility, and liability. Responsibility in the sense of accountability is legal responsibility in relation to finance, for example accountants must be responsible for the results of the bookkeeping, while responsibility is the responsibility to bear the burden. Responsibility in the sense of liability is the obligation to bear the losses suffered. Responsibility in the sense of responsibility is also defined as a moral attitude to carry out its obligations, while responsibility in the sense of liability is a legal attitude to account for violations of its obligations or violations of the rights of other parties.

2.3. Copyright

Copyright is one part of intellectual property that has the widest scope of protected objects, because copyright includes science, art and literature (art and literary) and also includes computer programs. The development of the creative economy which is one of the mainstays of Indonesia and various countries and the rapid development of information and communication technology requires an update of the Copyright Law, considering that Copyright is the most important thing in the national creative economy. With the existence of a Copyright Law that fulfills the elements of protection and development of the creative economy, it is highly expected that the contribution of the Copyright and Related Rights sector to the country's economy will be able to run more optimally. From a historical perspective, the concept of copyright protection began to grow rapidly since the invention of the printing press by J. Gutenberg in the mid-fifteenth century in Europe. The need in this field arises because with the printing press, copyrighted works, especially written works, are easily reproduced mechanically. It was this incident that initially grew copyright. For Indonesia itself, the term copyright was first proposed by St. Moh. Shah, S.H. at the Cultural Congress in Bandung in 1951 (which was later accepted by the Congress) as a substitute for the term author's rights which was considered to be less broad in its meaning. The term author rights itself is a translation of the Dutch term *Auteurs Rechts*. It is declared "less broad" because the term author's rights gives the impression of "narrowing" the meaning as if what is covered by the author's rights are only the rights of the authors, which has something to do with composing. Meanwhile, the term copyright is broader, and it also includes composing corals. Indonesia adheres to the notion of creator based on an individual person, so in the Copyright Law Article 1 paragraph (2) the creator is a person or several people who jointly with inspiration give birth to a creation based on the ability of the mind, imagination, dexterity, skill, or expertise as outlined into a unique and personal form. Seen in Law Number 28 of 2014 concerning Copyright, provides an

overview regarding the definition of Copyright which has been stated in Article 1 point 1 of Law Number 28 of 2014 concerning Copyright, namely "Copyright is the exclusive right of the Creator which arises automatically based on the declarative principle after a Work is realized in a tangible form without reducing the restrictions in accordance with the provisions of the legislation." Observing the three definitions of Copyright above, it can be concluded that all three provide the same meaning, namely Copyright is a special right or exclusive right owned by the Creator. Author, in Article 1 point 2 of Law Number 28 of 2014 concerning Copyright is a person who individually or jointly produces a work that is unique and personal. As for the definition of Creation, it is stated in Article 1 point 3 of Law Number 28 of 2014 concerning Copyright, that what is meant by Creation is any copyrighted work in the fields of science, art and literature that is produced on inspiration, ability, thought, imagination, dexterity, skill, or expertise expressed in a tangible form. According to Article 1 point 1 of the Copyright Law Number 28 of 2014, "Copyright is the exclusive right of the creator that arises automatically based on declarative principles after the creation is manifested in a tangible form without being limited in accordance with the provisions of the legislation." In the definition of Copyright above, there is the sentence Exclusive rights. That is a right that is solely intended for the holder so that no other party may use the right without the permission of the right holder. The above definition explains that other than the creator or copyright holder, it is prohibited to announce or reproduce or even distribute a work without the permission of the Copyright Holder for whatever reason. The article also strongly emphasizes how the rights of the creator to a work can be reproduced and get the economic value of his creation and also get the moral value of the copyright. Exclusive rights are closely attached to the owner who is the property's power over the creation in question. Therefore, no other party may take advantage of Copyright except with the permission of the Author. As an exclusive right, Copyright contains two essences, namely economic rights (Economic Rights) and moral rights (Moral Rights). Economic rights are rights to obtain economic benefits from creations and related rights products. The content of economic rights includes the right to announce (performing rights) and the right to reproduce (mechanical rights). [10] As for the moral rights of the creator, the author's right to include his name in the creation and the author's right to change the creation of others, including the title. While moral rights are rights inherent in the creator or actor that cannot be removed or deleted without any reason, even though the copyright or related rights have been transferred. To get the benefits of economic rights to the work, the creator or Copyright Holder has the economic right to:

- Publishing creations;
- Reproduction of creation in all forms;
- Translation of creations;
- Adapting, arranging, or transforming creations;
- Distribution of creations or differences thereof;
- Creation show:

- Announcement of Works;
- Communication of creation; and
- Leasing creations.

Other than the Author or Copyright holder, it is prohibited to reproduce and/or commercially use the creation.

2.4. Electronic information

This technology is a development of computer technology combined with telecommunications technology.

3. CONCLUSION

1. The form of legal protection is divided into two parts, namely prevention and repressive measures. Prevention efforts that will be carried out by the government are providing legal protection by Trying to shut down content that violates copyright based on the provisions of article 15 of the joint regulation of the minister of law and human rights number 14 of 2015 and the minister of communication and information technology number 26 of 2015 concerning implementation of closing content and / or user access rights violation of copyright and / or related rights in electronic systems. While repressive efforts are a Form of legal protection intended for dispute resolution. Where dispute resolution can be definition of the word "information" itself is internationally agreed upon as "the result of data processing" which in principle has more value than raw data. Computers are the first information technology that can process data into information. In Article 1 number 2 of Law Number 11 of 2008 concerning Information and Electronic Transactions, what is meant by Electronic Transactions are legal actions carried out using computers, computer networks, and/or other electronic media. The legal actions of the organizer of electronic transactions can be carried out in the public or private sphere. The parties conducting electronic transactions must have good faith in interacting and/or exchanging electronic information and or electronic documents during the transaction. The implementation of this electronic transaction is regulated by government regulations. In today's ITE world, there is social media or what is also known as social networking which is part of the new media. It is clear that interactive content in new media is very high. Social media, defined as an online medium, with its users can easily participate, share, and create content including blogs, social networks, wikis, forums and virtual worlds. Blogs, social networks and wikis are the most common forms of social media used by people around the world. Including Telegram. Social media has social power that greatly influences public opinion that develops in society. Raising support or mass movements can be

formed because of the power of online media because what is on social media is proven to be able to shape public or community opinions, attitudes and behavior. Through alternative dispute resolution arbitration or courts based on the provisions of 5 uuhc.

2. The cause of the alleged violation of the economic rights of the rights holder to a cinematographic work through the telegram application is the very rapid development of information technology. So That it is very easy for people to use the internet network for various activities in social media, one of which is violation of economic rights by piracy of cinematographic copyrights. In addition, the factors that cause piracy actors to use the telegram Application facility, namely telegram is considered Very easy to use, free and considers that telegram is not too strict regarding users who abuse Channels.
3. The form of legal action that can be taken by the Cinematography copyright holder regarding the Reproduction and/or piracy that occurs in the channel on the telegram application is by making a complaint to the related party.

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ACKNOWLEDGMENT

This work was supported by Ansen Law Firm, Telegram Admin, and also Lecturer from Universitas Tarumanagara.

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