

The Implementation of Creator Legal Protection in Economic Rights

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Abstract

The development of technology to make people more easier to create a masterpiece or a creation. Making a work or a creation requires great effort. Any effort expended not only in terms of capital, but also in terms of manpower. The difficulty of making an a work or a work made of a work has value both morally and materially as a creation. This makes the creation of a work or need to be protected. This research used normative juridical research. Normative juridical research is research which examined the legislation and also materials in which the literature including the doctrines and principles used in solving the problem. Library materials main used in this study is the Law No. 28 Year 2014 About Copyrights and in Law No. 28 Year 2014 About Copyright linked with the doctrines of the economic rights of creators in accordance with the international conventions on intellectual property rights in particular is copyright. Copyright can be protected in various ways. The results of this research is conducted in Indonesia protection is one of the protection provided by the government is to provide conditions and setting forth in the Act. Indonesia regulation and laws that set forth in Law No. 28 Year 2014 About Copyright. In which there is contained a clause that copyright is given a right, namely the right to a creator economy. economic rights are a right in which an author has the right to reproduce or publish the results of his creation so as to obtain economic benefits in a creation. With economic rights is expected that the economic interests of creators remain unfulfilled due to make a copyright work or creation required no small cost.

Key Words: Copyrights, Economic Rights, Legal Protection.

Introduction

Humans have many needs. Humans continually innovation and creativity to meet those needs. One man's goal also is to facilitate the work. One way to ease the work humans do is to create technology. The technology invented by man are increasingly sophisticated and can help humans work. Technology gets defined as 'that which is changing fast, If the other things are not defined as 'technology,' we filter them out and we don't even look at them. we have enormous anecdotal evidence and visual evidence that points to technology having huge and pervasive effects.

Call this the *but everybody knows it* argument. *Everybody knows* technological innovation is reshaping the world faster than ever before. The proof is in our pockets, which now contain a tiny device that holds something close to the sum of humanity's knowledge, and it's in our children, who spend all day staring at screens, and it's in our stock market, where Apple and Google compete for the highest valuation of any

company on Earth. (ezra klein; <http://www.vox.com/a/new-economy-future/technology-productivity>). Not everyone can create technology. Technology is not something that can be created easily. According to business dictionary Technology is The purposeful application of information in the design, production, and utilization of goods and services, and in the organization of human activities. Technology can be described in the following ways:

1. Tangible: blueprints, models, operating manuals, prototypes.
2. Intangible: consultancy, problem-solving, and training methods.
3. High: entirely or almost entirely automated and intelligent technology that manipulates ever finer matter and ever powerful forces.
4. Intermediate: semiautomated partially intelligent technology that manipulates refined matter and medium level forces.
5. Low: labor-intensive technology that manipulates only coarse or gross matter and weaker forces. (Read more: <http://www.businessdictionary.com/definition/technology.html>).

Making a technology is not easy. In making the technology requires a lot of effort and capital. The difficulty of making the technology is not necessarily that the technology is difficult to be propagated either by permission of its creator or without permission of the creator. For that technology is protected by intellectual property rights. Intellectual property rights are a right enjoyed by the producer of the work. Making a work is not easy. Lots of effort expended both material and immaterial incurred in the making of a masterpiece.

The impact of stronger IPR protection on technology diffusion is ambiguous in theory and depends on a country's circumstances. On the one hand, stronger IPR protection could restrict the diffusion of technology, with patents preventing others from using proprietary knowledge and the increased market power of IPR holders potentially reducing the dissemination of knowledge due to lower output and higher prices. On the other hand, IPRs could play a positive role in knowledge diffusion, since the information available in patent claims is available to other potential inventors. Moreover, strong IPR protection may encourage technology transfer through increased trade in goods and services, FDI, technology licensing and joint ventures. Despite this theoretical ambiguity, the diffusion of technology from countries at the technological frontier to other countries is considered the main potential benefit of the TRIPS Agreement, particularly for developing countries that tend not to innovate significantly. The findings of several studies relating IPRs to technology diffusion through international trade, FDI, licensing and patenting are summarized in table 6 (annex IV). The evidence suggests that stronger IPR protection can encourage technology transfer through a number of channels, though once again its impact has been found to depend upon other factors related to a country's imitative ability and level of development. (Rod Falvey and Neil Foster, 2006)¹.

To be more rapid development of technology, it is necessary arrangements in the field of intellectual property rights. In this case in copyright affirmed that their economic rights in any implementation of technology creation.

Literature Review

Intellectual property refers to creations of the mind: inventions; literary and artistic works; and symbols, names and images used in commerce. Intellectual property is divided into two categories: (WIPO Publication No. 450(E), www.wipo.int, pp 2).

¹Rod Falvey and Neil Foster , 2006, 'The Role of Intellectual Property Rights in Technology Transfer and Economic Growth: Theory and Evidence' United Nations Development Organisation, pp. X.

- a. Industrial Property includes patents for inventions, trademarks, industrial designs and geographical indications.
- b. Copyright covers literary works (such as novels, poems and plays), films, music, artistic works (e.g., drawings, paintings, photographs and sculptures) and architectural design. Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and broadcasters in their radio and television programs.

There are some reason that makes intellectual property need to be protected. First, the progress and well-being of humanity rest on its capacity to create and invent new works in the areas of technology and culture. Second, the legal protection of new creations encourages the commitment of additional resources for further innovation. Third, the promotion and protection of intellectual property spurs economic growth, creates new jobs and industries, and enhances the quality and enjoyment of life. (WIPO Publication No. 450(E), www.wipo.int, pp 3).

According to article 1, paragraph 1 of Law No. 28 of 2014 on Copyrights, Copyright interpreted as Copyright is the exclusive right of the creator that arise automatically based on the principle of declarative after an invention is embodied in a tangible form without reducing restrictions in accordance with the provisions of the legislation and the Creator is the person or persons who individually or jointly produce a work that is unique and personal.

According to Article 4 of Law No. 28 of 2014 regarding Copyright, Copyright is an exclusive right which consists of moral rights and economic rights. If you own the copyright in a work, you have exclusive rights over certain uses of that work. These rights fall into two categories: economic rights and moral rights. (<https://www.gov.uk/guidance/the-rights-granted-by-copyright>, 2015).

Based on the United Kingdom law, Economic rights give you the opportunity to make commercial gain from the exploitation of your works. This would usually be by licensing others to use the work, or by selling the rights. The author of a copyright work has the exclusive right to authorise or prohibit the following acts:

1: Reproduction

This covers copying a work in any way. For example, photocopying, reproducing a printed page by handwriting, typing or scanning into a computer, or taping recorded music.

2: Distribution

This covers issuing copies of a work to the public. This would include, for example, a book being sold in a bookshop. This right only applies the first time a copy of a work enters into commercial circulation and so would not prevent the re-sale of that copy, for example by a second hand shop.

3: Rental and Lending

This covers renting or lending copies of a work to the public. For example, renting from a video store or loaning a CD from a library.

4: Public Performance

This covers performing, showing or playing a work in public. This would include performing a play in a theatre, and playing sound recordings or showing films in public. This right does not extend to the exhibition of literary, dramatic, artistic or musical works (for example, in a museum or gallery).

5: Communication to the Public

This covers communication of a work to the public by electronic transmission. This would include broadcasting a work or putting it on the internet.

6: Adaptation

This covers the making of an adaptation of a work. This would include making a film out of a novel, transcribing a musical work, translating a work into a different language or converting a computer program into a different computer language or code.

Economic rights give you the right to earn money from your creative work. This means you can give or deny people permission to: (http://www.copyright.com/protect/find_out).

1. Copy your work (for example by photocopying, scanning, recording, reproducing in a different format)
2. Rent or lend copies of your work to the public (except that library loans are always permitted, and are compensated under the Public Lending Right Scheme)
3. Show, play or perform your work in public
4. Broadcast the work to the public – this includes putting the work on the internet
5. Making an adaptation of your work (for example by translating it).

Economic rights are exclusive rights of the creator or copyright holder to obtain the economic benefits of Creation. Author or the Copyright Holder to have economic rights can do:

- a. Publishing the work;
- b. Doubling creation in all its forms;
- c. Translation of the work;
- d. Adaptation, or transforming the work;
- e. Distribution;
- f. Distribution of the work or a copy of it;
- g. The performance of the work;
- h. Announcement of the work;
- i. Communication of the work; and
- j. Creation rental.

In the Law No. 28 Year 2014 About Copyright stipulated that any person conducting economic rights must obtain permission of the Author or the Copyright Holder. Every person who without the permission of the Author or the Copyright Holder prohibited from copying and / or use of the commercially Creation. Creation of protected include the creation in the fields of science, art and literature, consisting of :

- a. Books, pamphlets, typographical arrangement of a published work, and all other written works;
- b. Speeches, lectures, speeches and other works of utterance;
- c. Props created for the benefit of education and science;
- d. Songs and / or music with or without text;
- e. Drama, musicals, dance, choreography, puppet shows, pantomimes;
- f. Works of art in all forms such as paintings, drawings, engravings, calligraphy, sculpture, sculpture or collage;
- g. Works of applied art;
- h. Architectural works;
- i. Map;
- j. Art batik artwork or other motives;

- k. Photographic works;
- l. Portrait;
- m. A cinematographic work;
- n. Translations, interpretations, adaptations, anthologies, databases, adaptation, arrangement, modification and other works from the results of the transformation;
- o. Translation, adaptation, arrangement, transformation, or modification of traditional cultural expression;
- p. Creation or data compilation, either in a format that can be read by the computer program or other media;
- q. Compilation of traditional cultural expressions during the compilation of an original work;
- r. Video games; and
- s. Computer program.

Protection of copyright to a work force during the life of the Author and continues for 70 (seventy) years after his death, starting from January 1 next year in terms of the creation of the form:

- a. Books, pamphlets, and all other written works;
- b. Speeches, lectures, speeches and other works of utterance;
- c. Props created for the benefit of education and science;
- d. Songs or music with or without text;
- e. Drama, musicals, dance, choreography, puppet shows, pantomimes;
- f. Works of art in all forms such as paintings, drawings, engravings, calligraphy, sculpture, sculpture or collage;
- g. Architectural works;
- h. Map; and
- i. Art batik artwork or other motives

Protection of copyright to a work is valid for 50 (fifty) years since the announcement was first made in terms of the creation of the form:

- a. Photographic works;
- b. Portrait;
- c. A cinematographic work;
- d. Video games;
- e. Computer program;
- f. Appearance of the paper;
- g. Translations, interpretations, adaptations, anthologies, databases, adaptation, arrangement, modification and other works from the results of the transformation;
- h. Translation, adaptation, arrangement, transformation or modification of traditional cultural expressions;
- i. Creation or data compilation, either in a format that can be read by the computer program or other media; and
- j. Compilation of traditional cultural expressions during compilation is an original work.

Methodology

Research Questions

In this study there is no question in this study will try to answer by the author. As shown in the background of writing that how the arrangements regarding the economic rights in the copyright. After answering the primary question first, then there is the question of how implementation of the legal protection of economic rights contained in copyright as part of intellectual property rights.

Modeling Volatility

In this study we used normative juridical research method as a method of legal research. Normative juridical research method is a method of legal research with a view from different angles literature that look at the books, laws, doctrines, principles of law, and also the opinion of experts.

Data

In conducting this study we used:

The Primary Legal Materials

In the primary legal materials are materials that bind the community of law and must be obeyed by the people. In this case we use the Law No. 28 Year 2014 About the Copyright, provision of economic rights in English law.

Materials Secondary Law

In the secondary law material used is the literature and material in the book as a complement to the analysis of the problems encountered

Tertiary Legal Materials

In the tertiary legal materials used complementary materials from primary and tertiary legal materials in this case is the dictionary.

Results and Discussion

Many things are regulated in Law No. 28 Year 2014 About the copyright. One is about the protection of rights contained in copyright. Such rights are economic rights and moral rights. Economic rights are important because economic rights guarantees that creators get results on his efforts in making a creation.

Conclusions

The law in Indonesia to protect the economic rights to put in a provision of the legislation. Where the right is the creator of earning on creation used and reproduced. Creator can change, add, lease, lend, and also multiply its creation. All of these activities protected by the law and also the other party without permission enjoy this creators of economic rights

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