

Conference Paper

Legal Protection of Film Copyright Holders Against the Distribution of Free Film in Telegram Media

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Abstract.

Copyright is an exclusive right owned by someone who creates a product that can be realized in a tangible form without compromising the laws and regulations. The function of copyright is protection of the work inherent in the maker, but it is the best compared to the reality in the field. In Internet media, in this case, telegrams are widespread and accessible regarding film series, the legal phenomenon violates copyright in the film works made by someone even though the legal protection arrangements for copyright have been regulated in Law Number 28 of 2014 concerning Copyright and are also contained in Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions. Of course, law enforcement and legal efforts need to be carried out through various solutions which will be discussed later in this paper where the method used in this paper uses normative juridical research with literature and assesses several relevant laws and regulations using qualitative descriptive analysis techniques. The study results indicate that the regulation regarding Law Number 28 of 2014 and its joint ministerial regulation has not been effective and does not work for the legislation to protect copyrights for works owned by someone.

Keywords: copyright, films, legal protection, telegram

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1. INTRODUCTION

The film copyright here is a part of the intellectual property inherent in the creator, in that right, it is usually called copyright where copyright is an exclusive right where it arises automatically based on declarative principles after a person's work is realized in a tangible form without prejudice to provisions of the legislation.

Regarding the definition of copyright, there is an understanding that legal terminology explains that copyright is represented as rights granted to the creator or owner of works

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in science, literature, and art [1]. The inability of everyone to maximize the power of thought, reason, and intellectuality, therefore, for all the efforts made by film producers in creating a film, is categorized as part of the protected Intellectual Property Rights. Intellectual Property Rights (IPRs) or in Indonesia known as Intellectual Property Rights (IPR) is the granting of economic rights to the creator or inventor of a work of human intellectual abilities granted by law [2].

Copyrights that are attached to a person have economic rights and moral rights where as economic rights are rights owned by a person or as a copyright holder to be able to get feedback on the economic benefits of their creation, while moral rights are rights that cannot be separated from someone who created it. The work, in terms of moral rights here, has a personal and eternal nature which means that the right can be attached as long as the creator is still alive, even until the creator dies [3][4].

The attachment of economic rights and moral rights here can be seen when a creator in the process of making the film experiences many processes and obstacles, besides that the idea in the film's story certainly has value when a creator and film producer realize an idea into a film they are working on of course. pouring out the idea, the creator and producer must have spent a lot of money there is capital that must be prepared by the creator and producer, capital here can be defined into several points apart from money capital or funding capital, there are also prepared capital including natural resource capital, human resource capital even includes science and technology which can be concluded with the issuance of various kinds of capital as mentioned above, of course here the state must be present to provide legal protection and efforts in protecting a creation of a creator.

Problems begin to occur when the film that the general public has been waiting for has been announced and gets good attention from the public, in this case, it certainly opens a gap for someone or an irresponsible party to get feedback on the film, of course, this can threaten copyright a creator is only for profit by irresponsible parties, the mechanism carried out by these irresponsible parties is to open a channel on telegram with the channel name according to the title of the film that is on the rise, where in the channel provided watching streaming or someone can also access it by downloading it first.

The principle of copyright protection is distinguished from the protection of other intellectual property rights, namely that copyright becomes a protective umbrella for literary and artistic works with all kinds of world developments [5]. When someone does this, it is permissible when someone asks for permission or gets approval to use the work of the film he made, then someone takes advantage of the economic rights

of the creator with the correct legality with the license agreement and pays royalties as a form of compensation for the creator in making it. the film, but the reality on the ground is the opposite where someone is mostly not responsible for the ownership of someone's film creation where the party does not have permission to distribute the film on social media telegrams of course this violates the rights of the creator including economic rights, moral rights even the exclusive rights owned by the creator. Actually, in the regulations, copyright has been regulated which is contained in Law No. 28 of 2014 concerning Copyright where someone who violates the copyright ta can be sentenced to a maximum imprisonment of 10 (ten years) and a fine of Rp. 4,000,000,000 (4 billion rupiahs) and is contained in Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions, but of course, this arrangement it still does not provide a legal umbrella for film creators against actors who are not responsible for disseminating films in the media. Social telegram, of course there will be some very detrimental impacts as previously described, namely economic losses in the form of royalties.

From the description described previously, it has explained various problems regarding film copyright infringement through social media telegrams that still exist today and the irresponsible actor should be punished for his actions, so from the description of the problem above, the problem can be drawn, namely how regulation of legal protection for film creators when the film is spread on telegram social media and how law enforcement is carried out by law enforcement officials to provide legal protection against copyright infringement on films spread on social telegram media.

2. METHODOLOGY/ MATERIALS

This paper, using a normative juridical approach, where this approach refers to the applicable laws and regulations while normative here is intended to research and review library materials and readings on cases that occur in the problems described previously or in this case the normative approach. often referred to as the library approach [6]. What is meant by juridical research in this writing is the 1945 Constitution, Law Number 28 of 2014 concerning Copyright, and Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions which examine legal products in the form of legislation that focuses on problems in writing this law, it is called library research where the target is the rules, norms or *das solen*. The meaning of the method here is in the form of concrete legal regulations.

3. RESULTS AND DISCUSSIONS

3.1. Legal Protection Arrangements for Filmmakers When The Film Is Spread On Social Media Telegram

In the era of globalization and technological developments that are rapidly changing human habits, with the support of all kinds of capable technological devices, it has a positive impact which provides easy access to all information for all purposes that will shorten a person's time in doing or accessing everything including all available information but with the rapid development of technology, not only has a positive impact but also a negative impact with the rapid development, one of which is terms of piracy in this case in the film world. Piracy is a term used in terms of describing various kinds of illegal acts, illegal downloading, or counterfeiting related to the internet. Internet piracy is a dangerous thing and is usually illegal and even tends to be criminal, in this case including unauthorized copying and distribution through an application.[7]

Of course, in this case it is very detrimental to the creator and owner of the film and also contradicts Law Number 28 of 2014 concerning copyright where this piracy is an illegal act because the parties involved are not responsible for duplicating/multiplying a work of intellectual creation someone without permission from the copyright owner in question, what is meant by conflict here is that the law is contained in article 1 number 1 where it is described in essence is that copyright is an exclusive right owned by the creator that arises automatically when a work is realized in the form of without reducing restrictions by applicable laws and regulations, of course, copyright has economic value and moral value as previously explained. Where it is said that economic rights (economic rights) are rights granted for economic benefits over copyrights created. Economic rights in general are in the form of profit, a sum of money obtained from the use of a copyright.[8] Appreciation and acknowledgment for the copyright owner as a person who is recognized as the party that produces a copyrighted work.[9]

Piracy in this case what the author means is piracy carried out using social media telegram where the mechanism is someone creates a telegram channel with the name of the related film and then the party uploads the film so that it can be accessed by all people who have the telegram application to access, watch and download the distributed film in the telegram channel. Of course, films or web series films are the results of intellectual works attached to copyright.[10] Where of course, in terms of piracy, legal remedies can be taken that can be taken by providing protection to film creators to obtain legal protection, but in terms of regulation Law Number 28 of 2014 it is not yet specific in regulating piracy in social media telegrams, but it is still can be

anticipated with several arrangements that will be discussed after this, before going further as for the opinion of an expert, namely R. Soeroso which said that law is a collection of regulations formed by authorized institutions with the aim of regulating the behavior of life in society, with its governing, binding, and coercive, and there are sanctions for violators.[11]

Therefore, to provide legal protection for creators, strong legal regulation is needed as expert R. Soeroso previously said, where the law must regulate behavior, it can be interpreted that the law must be present in all one's actions, both written and unwritten law to realize security, orderly and provides a legal umbrella to provide legal certainty to creators, legal arrangements regarding copyright protection as stated at the beginning of writing are regulated in Law Number 28 of 2014 where the legislation protects someone's creations related to intellectuals where the regulations have undergone several changes for improvement in which to anticipate the ways and techniques of piracy along with the development of technology, as for the articles that regulate copyright protection for creators, namely Article 1 number 11, Article 4, Article 9 paragraph (1), Article 40 paragraph (1) letter (m), and Article 113. As for the correlation between the articles in particular in Article 1 number 11 with piracy and telegram if you want to study legal protection for creators, namely where films can be understood with audiovisual creations from the film industry which deserves exclusive rights as creators to give or announce the films they make, then in this case the announcement can be correlated with article 1 number 1 where the announcement is like broadcasting by any means, either electronic or non-electronic or by other means. anything so that creation can be heard, or seen by others.[12] So it can be concluded that the understanding in the laws and regulations of Law Number 28 of 2014 is recognized that internet media in this case is the same as social media telegram because telegram requires internet to access it can be understood as a medium for announcing copyright, so legal protection can be given to the creator. When you have violated Article 1 number 11 of Law Number 28 of 2014 if you violate Copyright directly or through internet media, you can submit it to the Court by filing a civil lawsuit or criminal complaint.

The previously mentioned article has a relationship where article 1 number 11 talks about announcements regarding broadcasting in the media, both electronic media and non-electronic media which is connected to article 4 which discusses copyright containing exclusive rights, namely moral and economic rights where economic rights are described. Article 9 paragraph 1, which essentially contains economic rights, contains publishing of creations, copying of works in all their forms, translators of works, adaptation, arrangement, the transformation of works or distribution of works or copies

thereof, the performance of works, the announcement of creations, communication of creations, and rental of works, then if someone posts a film on a telegram, then it has complied with article 9 paragraph 1 and is clarified in article 40 paragraph 1 letter m, namely in a cinematographic work or it can be interpreted as film work and in article 113 it is a legal consequence of the piracy. Regarding moral rights, it can be explained that the personal nature of creation shows characteristics related to the ability, integrity, and good name of the creator. Eternal, in this case, will continue to be attached to the creator as long as he lives until the time after death. [13]

In addition to Law Number 28 of 2014, there are also arrangements that have a correlation with film copyright in this social telegram media where in this regulation is more directed and targeted to providers who regulate users in the telegram social media, these regulations are Government Regulation Number 71 of 2019 where it is stated in article 3 in paragraphs 1 and 2 where in essence every electronic operator must implement a safe and reliable electronic system and be responsible for the operation of the electronic system and also in paragraph 2 it is stated in essence the electronic system operator must be responsible for the operation of the electronic system which in the article protects the creator as well which stipulates that in this case the telegram operator must have a safe and reliable telegram system and must be responsible when film piracy occurs and violates rights the copyright.

Not only in article 3 but in Government Regulation Number 71 of 2019 it is also contained in article 5 which has a correlation with copyright, which essentially says that the provider of mandatory electronic systems in the system does not contain things that violate the provisions of laws and regulations. the invitation and must ensure that the electronic system does not facilitate the dissemination of information and/or electronic documents that are prohibited in accordance with the provisions of the legislation, of course in this article it is intended that the telegram provider is obliged to supervise the system so that it does not contain things that violate the provisions and does not facilitate dissemination of electronic information and/or electronic documents. Therefore, from the two articles, there will be sanctions for the provider if the electronic system owned by the provider harms the creator in terms of illegally distributing films, then law enforcement actually has a supervision division on the compliance of application providers to have these provisions and enforce sanctions for application users who violate copyright by uploading films illegally.

From the explanation above, it can be concluded that legal protection for creators has actually provided clear and complete legal certainty that will truly protect creators, but in terms of enforcement it is not optimal, which will be discussed in the next point,

but before moving on to the next point, it would be according to The author here needs to explain why out of the many platforms that exist to spread films, why was telegram social media chosen, before telegram was a chat application which was more or less the same as *whatsapp* but it turned out that there was a very significant difference that could be used as the reason why telegram was in great demand by someone to spreading movies including the flexibility in storage space and security to share anything including files and videos in this case can share any file with a maximum size of 2 GB, of course a very large size because 2 GB is counted per document, so this is what we get. can be used as a loophole by the parties to distribute films on telegram for personal interests, apart from easily accessing film content through Telegram media, they can also upload large size (2 GB) video films so that they contain videos with the duration of the film in general. In contrast to other applications that only upload videos up to 100Mb. This is because the cloud owned by Telegram is very good and safe, films that are shared via social media telegram with the channel system are usually foreign films, Korean films (K-Drama), Indonesian films, and so on. The age of the films is distributed differently, such as films that have been showing for a long time, films that are currently showing in cinemas, and even episodes of films that are currently airing with a weekly viewing system. So of course this is very detrimental to the creator where the losses experienced automatically are economic losses and moral losses as described in Law Number 28 of 2014, then how is law enforcement to provide legal protection to creators against parties who disseminate or other parties next point will explain who commit piracy to the creator's film work.

3.2. Law Enforcement That Can Be Done By Law Enforcement Officers To Provide Legal Protection For Copyright Infringement On Films Spread On Telegram Social Media

It is undeniable that telegram social media does have several advantages and conveniences for its users, especially for actors who are not responsible for distributing film content that should be in paid legal applications, but if the telegram is given free of charge or free, a very basic question. Some people must have asked, then where did the party distributing the film for free get the benefits, even though he originally also bought the film from a legal application to be able to download the film, then the answer is that the party who spreads the film will benefit when the channel owned already has subscribers who it can be said that in tens or hundreds of thousands, the creator of this channel includes several advertisements among several films that he will distribute to the channel's subscribers, if you see this, the distribution of film

content on social telegram media has fulfilled your needs. The element in article 1 number 11 in Law Number 28 of 2014 where the distribution of a work using electronic tools so that it reaches other people who can be seen, read, or heard by others and also through Telegram media can also occur announcements of copyrighted works owned by the creator of the film followed by several previously described articles. It should be remembered that there are three areas of creation in the form of literature, art, and science, which are protected copyright objects. Because of the wide variety of principles, creations, and norms, the regulation of copyright protection is greatly influenced by the form and nature of the various kinds of creations. Therefore, the nature or form of each copyrighted work will affect the presence or absence of copyright.[14]

Actually, in the news that the author reads, there are advantages of the telegram application in terms of security and reliability, namely that it is said that telegram is a free chat application that can be accessed easily and quickly by its users because it uses a cloud base. Telegram makes it easy for users to send various document files such as photos, videos, and files with reliable security based on the 256-bit symmetric AES encryption scheme, RSA 2048, and Diffie Hellman, but in fact, it is still considered less reliable and secure.[15] Briefly, in telegram social media, there is a process of uploading files and downloading films and even streaming the film's content on telegram which of course falls into the category of illegal access and download, if downloading and making access illegally is done in large quantities and used for commercial purposes are certainly included in copyright infringement this, of course, can be interpreted as taking the work of other people's creations without the permission and knowledge of the owner. Meanwhile, there is an economic loss felt by the creator where the thousands of telegram subscribers should be able to access and pay for the film on legal media such as *WeTv*, *Iflix*, *Netflix*, and *Vidio* which officially gives benefits to the creator, but this is inversely proportional to where if calculated legally Mathematically in films that are currently on the rise, for example, the betting film series and my lecturer my husband. The first is that the researcher wants to take an example and calculate mathematically, although it is not accurate, it can be used as an estimate of the loss experienced by the creator, namely the series betting film, which in the streaming and download application is legally priced at Rp. 49,000 while on the telegram channel that releases the series betting films for free there are 697,242 subscribers where if it is calculated $Rp\ 49,000 \times 697,242$, which is Rp 34,164,858,000, more or less that amount is the loss experienced by the owner of the series betting film creation if all customers were 697,242 subscribers In Telegram, using legal application services using an official account that has collaborated with the creator, that is the number of benefits that will

be obtained by the creator, of course, by sharing with the legal film service provider, namely video.

Besides that, not only in the betting film series but on telegram there are also several other films that are on the rise, namely my lecturer my husband season 2 where the film is legally available in the *Wetv* application provided that the customer pays a fee of Rp. 39,000, while on the telegram channel that gives the film for free or has 1,742,720 subscribers on my lecturer my husband season 2 channel, it can be concluded that the loss suffered by the creator, in this case, is approximate Rp. 39,000 x 1,742,720, which is Rp. 67,966,080,000. Such is the description of the losses suffered by the creators of the illegal Telegram channels that provide these free films. So if it is allowed to continue, it will damage the Indonesian film industry because, in terms of film copyright, law enforcement officials are not protected enough even though the law that regulates it is clear and provides legal certainty to the creator. In short, there are still economic rights and moral rights of the creator or owner of the work that are violated. Where a film is a supporting factor for the creative economy, which is not only protected by economic rights but also for the welfare of the creator. The transfer of media watching movies illegally hampers the economic benefits of the creators. Where people should consume a film through cinemas or paid official broadcasts such as *Wetv* and *Vidio* which can provide reciprocal economic benefits and with shortcuts through film distribution channels, the economic rights that should be obtained are not fully fulfilled.

The film that has been distributed on social media telegrams, of course, the government and law enforcement officers should have the authority to prevent copyright infringement or copyright-related rights through information technology media, where this is regulated in Article 54 of Law Number 28 the Year 2014 regarding copyright it is stated that supervision of the creation and dissemination of copyright infringing content and related rights and the next point it is said that cooperation and coordination with various parties, both at home and abroad in preventing the creation and dissemination of copyright infringing content and rights related rights copyright.[12] What researchers have observed that the government and law enforcement officers are currently observing is only limited to banning the telegram account that distributes the film for free, but in the author's observation, when the government and law enforcement banned the channel account, another telegram channel account appeared spreading the film is on telegram social media, of course, this will continue to be done if legal efforts by the government and law enforcement officers only ban social telegram channels, of course, this violates Law No. 28 of 2014. Even though there have been actions from

the government in the form of the channel being closed due to copyright infringement (banned), it is possible to stop spreading film content through Telegram media.

In this case, it certainly shows a legal phenomenon where it appears that efforts to be banned by the government and law enforcement officers do not have a significant impact and are not effective, it can be seen that the efforts of those who spread films do not cause a deterrent effect for those who spread it, so action is needed that is more than just being banned. Because there will be a gap to continue to spread films for admins who spread film content through Telegram media. Apart from having more legal efforts from the government and law enforcement officers, of course, there must be awareness among the public about the telegram channel, but this awareness is also needed by the government and law enforcement officials to make them aware that this is a wrong action and violates the law (illegal). In the description above, it can be concluded and understood that there are several problems that must be resolved and become public relations for the government and law enforcement officers, namely that it can be seen that law enforcers are fewer in number when compared to the very many perpetrators of violations where the perpetrators of violations see the gap in the community's need to fulfill the need for entertainment in accessing film content, if this is allowed to continue, then there are more violations in Indonesia than law enforcers. The most effective way that law enforcement can do this is to provide an application to receive information on copyright infringement by Telegram users and establish a task force for supervision and prosecution.

As the previous author said in his explanation, there is a lack of legal awareness in the community who still use the telegram channel for free where there is no awareness of copyright in someone's work, so when they watch movies illegally on telegram media, it is considered a natural thing, this certainly should not be allowed to continue. Because it will cause the destruction of the film world in Indonesia, there must be a role and participation by the government and law enforcement officers in providing socialization on the importance of copyright protection. In addition, it is undeniable that there are limited human resources whereas previously explained the number of law enforcement officers is less than the number of actors making telegram channels, so in this case to minimize the lack of human resources, there must be a control system in every social media, especially in social media. Telegram hopes that when there is a channel for distributing films, it will be automatically blocked by the system, or even when someone is going to create a telegram channel that violates rights, it will be automatically banned by the system so that problems that have occurred so far can be resolved and in the future can provide legal protection for filmmakers and can provide a solution for

violations in the Indonesian film industry and all forms of violations committed through the internet network

4. CONCLUSION AND RECOMMENDATION

First, the conclusion that can be drawn from the results of the writing and research description above, it can be drawn an understanding that the distribution of films via telegram is a copyright infringement that clearly harms the creator in terms of economic value and moral values which if it occurs continuously it is feared that it will damage the world of the Indonesian film industry. the potential loss felt by the creator also reaches the trillions of digits where it is a loss in economic value where there is no reciprocity at all as a form of appreciation for someone's copyrighted work, this is because film lovers our telegram channel subscribers who should use legal applications that provide the film with a paid system, switching to using social media telegram which is free without paying a penny in addition to economic losses there are also moral demands, it is not enough to make people aware not to consume films illegally, it is necessary maximum efforts in enforcing copyright infringement, especially in the film industry. Substantially, Law Number 28 of 2014 concerning Copyright is quite good, but in its implementation, there are still things that are not optimal

Based on the conclusion made above recommendations are offered here and elaboration of the discussion related to the writing above, there are several inputs and suggestions, namely not only banning telegram channels that provide free films but there must be increased security for the spread of film content via telegram by the government and law enforcement in collaboration with the ministry of communication and information to create a system that can monitor the movement of channels on telegram in disseminating a film in the hope that the system created by the related party can minimize and eliminate all forms of activity in the distribution of films on telegram in order to protect someone's copyrighted work, massive public awareness of copyright where it is hoped that the socialization and education carried out can foster self-awareness and moral demands not to underestimate copyright infringement, especially in the field of copyright. In addition to that, the most effective way that law enforcers can provide an application to receive information on copyright infringement by Telegram users and form a task force for supervision and prosecution.

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