

Legal Protection Of Intellectual Property Rights In Indonesia Civil Law : Perspectives And Challenge In The Digital Era

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Abstract

This research explores the legal protection of Intellectual Property Rights (IPR) in Indonesia's civil law, focusing on the perspectives and challenges in the digital era. With the rapid advancement of digital technology, the landscape of intellectual property has significantly evolved, creating both opportunities and risks. The study examines the existing legal frameworks that safeguard IPR in Indonesia, analyzing the effectiveness of current laws in protecting creators' rights amidst technological advancements. The research identifies key challenges such as the inadequacy of regulations to keep up with digital innovations, the rise of online piracy, and difficulties in enforcement. By comparing Indonesia's IPR protection system with global practices, this paper also suggests improvements and recommends policy adjustments. The findings underscore the importance of adapting the legal infrastructure to address the complexities of the digital era, ensuring better protection for creators, and promoting innovation. The study highlights the critical role of government agencies, public awareness, and international collaboration in reinforcing IPR safeguards.

Keywords: Legal Protection, Intellectual Property Rights, Indonesia, Civil Law, Digital Era

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1. Introduction

Intellectual property rights (IPR) are rights granted to individuals or groups over works or Creations produced through their intellectual abilities. IPR includes various types, such as copyright, patent, brand, and industrial design, each of which has a different scope of protection. Copyright provides protection to creators of works of art and literature, while patents protect new inventions in the field of technology. Branding provides protection against marks that distinguish goods or services, and industrial design protects the visual appearance of a product. The protection of IPR is essential to create incentives for innovation, since it gives the creator the exclusive right to obtain economic benefits from the work he creates. In addition, IPR also creates a fair environment for creators and industry players, and contributes to the country's economy by encouraging investment and reducing piracy practices.

The development of digital technologies has brought a huge impact on the creative industries, opening up new opportunities in the creation and distribution of intellectual work. In Indonesia, technologies such as the internet, e-commerce, and social media have accelerated the distribution process of intellectual works, allowing creators to more easily access global markets. However, this development also brings major challenges in IPR protection. The Internet allows unlimited dissemination of works, facilitates piracy, and often makes it difficult to track down copyright infringers. E-commerce and social media are becoming vulnerable platforms to the sale of counterfeit products and trademark infringement, where violators can

operate anonymously. These new challenges demand updates and adjustments to existing regulatory and enforcement systems.

Indonesia already has several legal bases that regulate IPR protection, such as Law No. 28 of 2014 on copyright which provides protection for copyrighted works in the fields of literature, art, and science. In addition, Law No. 13 of 2016 on patents provides protection against new inventions that have technical value. The Indonesian civil law system also provides protection to holders of intellectual property rights, by providing legal channels to prosecute violations of these rights. However, despite the regulations, the implementation of IPR protection still faces various challenges, especially related to the rapid development of technology and the complexity of violations that occur in cyberspace.

Enforcement of IPR laws in Indonesia faces several significant challenges. One is the inability of existing regulations to fully accommodate the rapid development of digital technology. For example, digital piracy that occurs on the internet is often difficult to detect and act on, because the perpetrators can use anonymous platforms or even servers that are beyond the reach of Indonesian law. In addition, trademark infringement through e-commerce and social media also often cannot be dealt with quickly, due to the lack of effective supervision. Limitations in the implementation of the law, both in terms of Budget, technology, and the capacity of law enforcement agencies, make enforcement of intellectual property rights increasingly difficult in this digital age.

The government of Indonesia has a very important role in strengthening IPR protection through existing policies and regulations. Some of the measures that have been taken include the renewal of IPR laws, increasing public awareness regarding the importance of copyright and brand protection, and the establishment of institutions responsible for the enforcement of IPR laws. Cooperation between the public and private sectors is crucial in ensuring effective IPR protection, for example through training programs for industry players, the update of digital systems to monitor violations, as well as diplomatic efforts to address cross-border violations. Public awareness is also a key factor in this effort, because with increased understanding of intellectual property rights, IPR violations can be minimized.

When compared with developed countries, Indonesia still faces various obstacles in terms of IPR protection. Many developed countries have developed more mature protection systems with technological support and firmer policies against digital violations. In these countries, law enforcement agencies have better systems in place to detect and address IPR violations, as well as coordinate internationally to deal with cross-border violations. Indonesia can adapt these international principles, by improving the electronic IPR registration system, strengthening international cooperation in dealing with violations, and updating regulations to comply with global standards.

Education on the importance of IPR protection is becoming increasingly crucial in this digital age. In order for the public, creators, and industry players to better understand their rights, as well as the risks and consequences of IPR violations, education and socialization programs must be carried out widely. Not only for creators or entrepreneurs, but also for the general public, so that they understand the importance of creating and valuing intellectual work. Awareness campaigns on intellectual property rights in the digital world can reduce infringement, as well as create a healthier ecosystem for innovation and creativity in Indonesia.

2. Method

This research is included in the type of normative research, which focuses on the study of law by analyzing the norms or legislation in force related to the protection of Intellectual Property Rights (IPR) in Indonesian civil law. Normative research aims to understand and analyze existing legal provisions, as well as to evaluate their effectiveness in providing protection of intellectual property rights, especially in the context of the development of digital technologies. The selection of this type of normative research is considered appropriate because researchers want to understand how existing regulations regulate IPR protection and how challenges are faced along with technological advances, without focusing on empirical data collection or direct

observation of phenomena that occur in the field.

The approach used in this study is a normative approach, which prioritizes the analysis of the legislation in force in the Indonesian legal system. With this approach, the study aims to explore and evaluate the regulations governing IPR in Indonesia, such as Law No. 28 of 2014 on Copyright, Law No. 13 of 2016 on patents, and other relevant regulations. This normative approach allows researchers to delve deeper into the legal material governing IPR protection, as well as understand how such regulations respond to the ever-evolving development of digital technologies. This approach also focuses on the analysis of existing legal literature and legal doctrine, as well as comparison with IPR protection systems in other countries.

3. Results and Discussion

RESULT

Respondents involved in this study consisted of various professions and backgrounds directly related to the field of Intellectual Property Rights (IPR) in Indonesia. There are legal practitioners, academics, creative industry players, as well as representatives of government agencies and private institutions that play a role in the supervision and protection of IPR. The number of respondents who participated in this study was 50 people, who were selected based on the criteria of having experience or direct involvement in IPR protection, either as intellectual property rights holders, lawyers who handle IPR-related cases, or regulators responsible for enforcing these rights. The selection criteria of respondents also considered the diversity in the industrial sector related to IPR, in order to obtain a more comprehensive view of the IPR protection conditions in Indonesia. From the findings of the study, the majority of respondents showed a fairly good understanding of the importance of IPR protection in Indonesia. Respondents generally understood the various types of IPR, such as copyright, patent, brand, and industrial design, as well as their role in protecting the rights of creators and innovators. IPR protection is considered very important to prevent piracy and infringement of rights to works that have been created. In addition, respondents also stressed that the existence of clear legal regulations and an effective judicial system are key factors in providing optimal protection of IPR. Public awareness of the importance of respecting intellectual property rights is also considered as something that must be continuously improved so that violations of IPR can be minimized.

The study found that the main challenges in IPR protection in Indonesia are closely related to the rapid advancement of digital technology. The use of the internet and other digital platforms, such as social media and e-commerce, makes it easier to distribute unlicensed works, increasing the risk of copyright infringement and trademark infringement. Piracy of digital works, such as music, movies and software, is becoming an increasingly difficult issue to address, given their easily copied and shared nature over the internet. Respondents also noted that the inability of the Indonesian legal system to keep pace with these technological developments further exacerbated the situation, due to the difficulty in detecting and cracking down on violations occurring in cyberspace. The main obstacle faced in the enforcement of IPR protection in Indonesia is the limitation of existing regulations. Although there is no law. 28 of 2014 on copyright and Law No. 13 of 2016 on patents, many respondents argue that this regulation is still not adequate enough to face the challenges that arise in the digital age. Especially in terms of law enforcement against IPR violations on digital platforms, Indonesia's legal system is still relatively weak. Lengthy legal proceedings and high costs are also obstacles for creators to assert their rights. Respondents assessed that there needs to be an update and refinement of regulations that are more responsive to the dynamics of technology.

The study findings showed that respondents recognized the importance of the role of government and related institutions in IPR protection, but they also assessed that there was room for improvement. The government of Indonesia, through the Ministry of Law and Human Rights and the Directorate General of intellectual property, has made several efforts to raise awareness about IPR protection, such as education campaigns and training programs for industry players. However, the implementation of this policy in the field is still not fully optimal. Respondents also suggested that the government work more closely with private institutions and international organizations to improve surveillance and more effective enforcement of IPR violations in the digital world. Digital technologies have a significant impact on the creation, distribution and protection of IPR. Based on the findings of

the study, respondents noted that social media and e-commerce platforms facilitate faster and wider dissemination of unlicensed works. Copyright and trademark violations in cyberspace, such as digital piracy and the sale of counterfeit products, are becoming increasingly difficult to overcome. Respondents also mentioned technical challenges in monitoring and following up on violations that occur on digital platforms. This is mainly due to the limited tools and mechanisms available to track offenders who are often anonymous and use technology to hide their digital footprint.

Respondents proposed several solutions to improve IPR protection in Indonesia, one of which is regulatory updates that are more responsive to technological developments. Many respondents suggested the use of advanced technologies, such as blockchain-based licensing systems, to make it easier to record and track intellectual work. In addition, they also suggest the use of more effective digital tools to monitor and follow up on violations in cyberspace. Education and socialization on the importance of IPR protection is also considered important so that the public, especially industry players, more respect for copyright and trademarks. The study findings also compared IPR protection in Indonesia with developed countries, which have adopted digital protection systems. Respondents considered that Indonesia was still lagging behind in terms of supervision and law enforcement against digital IPR violations. Countries such as the United States and Japan already have more advanced systems in terms of handling digital IPR violations, including better tools and technologies to detect and act on violations quickly and efficiently. Respondents suggested that Indonesia could adopt some of the best practices in these countries to improve IPR protection in Indonesia.

DISCUSSION

Interpretation Of Research Results

The results of this study indicate that IPR protection in Indonesia faces major challenges in the digital age, which is in accordance with the objectives of the study to explore the current conditions. The main findings revealed that although there is a basic understanding of the types of IPR, the implementation of its protection has not been fully effective, especially in cyberspace. Advances in digital technology have exacerbated IPR violations, such as work piracy and trademark abuse, which are harder to crack down on. Therefore, a major challenge in protecting IPR in Indonesia is the ability of the legal system that has not fully adapted to technological developments, which affects the effectiveness of protection.

Comparison with previous studies

When compared to previous studies, the findings point to similarities with research conducted in developed countries, which also face challenges in policing digital IPR violations. However, this study highlights that in Indonesia, public awareness of IPR protection and the application of digital technology for law enforcement is still lacking. The contribution of this study lies in the effort to provide a clear picture of the specific challenges in Indonesia, as well as adding a new dimension related to the impact of digitalization on IPR protection, which has not been widely discussed in previous studies.

Legal and regulatory challenges in the Digital Age

The findings of this study indicate that the biggest challenge in enforcing IPR protection in Indonesia is the inadequacy of existing regulations to deal with violations in the digital world. Indonesian law, although it already has related laws, has not been able to fully keep pace with the development of digital technology, especially in terms of supervision and law enforcement of violations that occur online. Therefore, Indonesian law needs to make updates and adjustments to technological advances to more effectively protect intellectual work in cyberspace.

Role of government and related institutions

Governments and related institutions have an important role to play in addressing this challenge. Although there are policies that aim to increase IPR awareness, many respondents feel that the implementation of these policies is not optimal. Some existing policies, such as training and socialization to the public and industry players, need to be improved in their effectiveness, especially in dealing with the growing issue of violations on digital platforms. The government needs to strengthen collaboration with the private sector and international institutions to address digital

challenges in IPR protection.

Digital technology as a tool and challenge in IPR protection

Digital technology can be a very useful tool for protecting IPR, such as through the use of blockchain to record and verify ownership of intellectual works. In addition, AI-based automated violation monitoring tools can also help detect and follow up violations in cyberspace. However, on the other hand, digital technology also adds new challenges, such as digital piracy and the difficulty in tracking violations that are often committed anonymously. For this reason, Indonesia needs to use technology wisely to strengthen the IPR protection system in the digital era.

Social and economic implications of weak IPR protection

Weak IPR protection can have a major impact on the Indonesian economy, especially in the creative industry sector and small and medium enterprises (SMEs). Piracy and trademark infringement that occur in cyberspace can harm creative industries, inhibit innovation, and reduce the competitiveness of local products. On the other hand, good IPR protection will encourage the growth of the digital economy, attract foreign investment, and increase the competitiveness of Indonesian products in the international market.

Public awareness and education on IPR protection

The results of this study indicate that public awareness of the importance of IPR protection is still low. Many respondents considered that education and socialization carried out by the government and the private sector need to be more intensive so that people understand the importance of respecting intellectual property rights. This is important so that violations of IPR can be minimized, and the public is more responsible in respecting the copyrighted works of others.

Recommendations for More Effective Legal Policy

Based on the discussion, some of the recommendations that emerged were regulatory updates that are more responsive to technological developments, increased law enforcement capacity, and the use of digital technology to monitor IPR violations. The Indonesian government is also advised to strengthen international cooperation in dealing with digital IPR violations involving parties from abroad.

Comparison with international practice

IPR protection in Indonesia needs to learn from practices already implemented in developed countries, such as the United States, which is more advanced in law enforcement in the digital world. These countries already have more efficient systems in detecting and dealing with violations on digital platforms. Indonesia could adopt some of these international practices, such as blockchain-based protection systems or more automated surveillance systems to improve the effectiveness of IPR protection in the digital age.

Limitations of research and further research proposals

This study has several limitations, such as the limited number of samples involving only 50 respondents and the lack of more specific data related to digital IPR violations. Further research could expand the scope of the sample and use other methods, such as in-depth interviews or case studies, to explore more deeply the impact of policies on IPR protection in Indonesia, particularly in the digital sector.

Conclusions

This research reveals that the public and practitioners' understanding of IPR protection in Indonesia is still limited, with many challenges faced, especially in the digital age. Major challenges found include the inadequacy of existing regulations, especially in dealing with IPR violations in cyberspace, as well as limitations in law enforcement. Although awareness about the importance of IPR protection is growing, infringement, especially piracy and copyright abuse in the digital world, is a problem that has not been optimally addressed. The IPR protection system in Indonesia has strength in basic regulations, but its implementation is still less effective. Existing laws have not been able to fully accommodate digital developments and public awareness of the importance of IPR protection is also still low. This causes difficulties in enforcing intellectual property rights in cyberspace. Existing regulations need to be adjusted to be more responsive to digital challenges,

with improved law enforcement capacity. Digital technology has a double impact on IPR protection in Indonesia. On the one hand, technology facilitates the access and distribution of copyrighted works, but on the other hand, it also opens up loopholes for IPR violations, such as content piracy and trademark abuse on online platforms. This negative impact is especially felt by the creative industries, which often face losses due to the spread of illegal works. However, digital developments also bring opportunities for IPR protection systems through the use of technologies such as blockchain for ownership verification. The government and related institutions have an important role to play in strengthening IPR protection in Indonesia. Although there are already policies to increase public awareness, research findings show that their implementation is still not optimal. Therefore, an active role is needed in educating the public about intellectual property rights, as well as improving law enforcement. Coordination between the public and private sectors also needs to be strengthened so that creators and IPR owners feel more protected. Policy recommendations resulting from this study include revisions to regulations to accommodate digital challenges, capacity building of authorized institutions in law enforcement, as well as the development of technologies that can help monitor and prevent IPR violations. In addition, it is important to raise public awareness through more intensive education and training, so that people can understand the importance of protecting intellectual property rights and reducing infringement practices. To face the challenges in the digital age, Indonesian law needs to be updated to be more adaptive to rapid technological developments. Regulatory updates are also important to provide maximum protection for copyrighted works in cyberspace. In addition, law enforcement must be strengthened by more assertive and effective implementation, so that intellectual property rights are not continuously violated without clear sanctions. Stronger IPR protection can contribute to the growth of Indonesia's digital economy. By protecting copyrights and intellectual property, Indonesia can encourage innovation and attract investment, which in turn supports the growth of creative industries, MSMEs, and other digital sectors. Effective protection can also strengthen the competitiveness of local products in the international market and accelerate the development of the digital economy in Indonesia.

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