

Legal Protection For Creators For Plagiarism Of Derivative Copyright Works According To Law Number 28 Of 2014 Concerning Copyright

I Gede Feldika Dwiana¹, Cokorde Istri Dian Laksmi Dewi²

¹dwianafeldika@gmail.com, ²cokdild@gmail.com

^{1,2}Ngurah Rai University

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Abstract

This investigates points to decide the part of law in ensuring subordinate works and how the legitimate system directs their security. As well as what is the part of the institution or office of the Directorate Common of Mental Property Rights in dealing with cases of copyright encroachment related to subsidiaries. This inquire about employments a regulating juridical approach. The sort of information utilized is auxiliary information. The comes about of this inquire about relate to the legitimate assurance of subordinate works, the shapes and cases of which are objects that are not clearly controlled within the Copyright Law. These isolated or isolated security arrangements are not clarified assist, coming about in legitimate vulnerability with respect to how subsidiary works are ensured. The part of the Institution and the Directorate Common of Mental Property Rights in taking care of cases of copyright encroachment related to subsidiary works is exceptionally critical, particularly in settling debate between the parties included within the copyright encroachment.

I. Introduction

The rapid development of life, especially in the economic sector, both at national and international levels, has contributed to changes in the field of intellectual property rights, especially in the field of copyright. Copyright, as the basis for the protection of artistic and intellectual works, creates space for innovation and creative expression to flourish. In this context, derivative works become one of the elements that enrich and expand the scope of creativity. By understanding and engaging with derivative works, we enter a world where interpretation, adaptation, and renewal are the true embodiments of the creative journey. This journal examines the legal protection of derivative works as an implementation of copyright law in Indonesia. A derivative work is any existing work, such as translations of musical arrangements, dramatizations, novelizations, films, sound recordings, artistic reproductions, summary summaries, or other forms of modification, such as variations or adaptations of Creation.¹

In other words, a derivative work is a work derived from or based on another existing work. Transformation or reinterpretation of existing works to reflect the dynamics of developing creativity. In this field, copyright is not just a statement of ownership, but also a form of recognition of the ever-changing creative process. In Indonesia, the legal basis for the protection of derivative works lies in Law Number 28 of 2014 concerning Copyright. In addition to applicable legal regulations, the role of relevant authorities is also highlighted. This raises many questions among the public. Which authority is authorized to resolve copyright infringement cases involving derivative works. And what is the role of such authorities in handling copyright infringement cases involving derivative works. The Directorate General of Intellectual Property Rights (Ditjen HKI) is an institution that focuses on copyright that plays a role in legal protection of derivative works.²

The function and role of this institution is one of the keys to ensuring legal protection of derivative works. But the question is still the role of these institutions, especially the Directorate General of Intellectual Property Rights, in handling cases of copyright infringement, especially cases of derivative works discussed in this study. To better understand how copyright applies to derivative works in Indonesia, we need to look at the meaning and characteristics of derivative works themselves. It includes the range of transformations allowed and any limitations that may exist when creating something new from an existing

¹ Miljana Mićunović and Luka Balković, 'Author's Rights in the Digital Age', *Libellarium: Časopis Za Istraživanja u Području Informacijskih i Srodnih Znanosti*, 8.2 (2016), 27–64 <<https://doi.org/10.15291/libellarium.v0i0.232>>.

² Salsabilla Deniesa and others, 'Copyright Protection for Creators of Digital Artwork', *Indonesian Comparative Law Review*, 4.1 (2022), 43–58 <<https://doi.org/10.18196/iclr.v4i1.15106>>.

one. In this context, examining specific cases and controversies can provide further insight into how the application of copyright law in Indonesia adapts to contemporary challenges. Legal protection of derivative works in Indonesia covers many important aspects. Derivative works are defined as interpretations, adaptations, or modifications to an existing work. The main legal basis is copyright, which provides a comprehensive framework for copyright protection.³

The legal approach to derivative works in Indonesia can also be understood through case studies and controversy analysis. The context in which derivative works are subject to debate reflects the complex dynamics of copyright enforcement. The courts and relevant authorities have an important role to play in addressing this issue. Going forward, it is important to adapt copyright law to media, technology, and cultural developments. Continuous regulatory change is needed to remain relevant and effective in supporting innovation without jeopardizing the rights of creators and copyright holders. Overall, legal protection of derivative works in Indonesia strikes a balance between encouraging new creativity and maintaining the integrity of existing copyrights.⁴

By exploring derivative works related to copyright in Indonesia, we will examine the practical application of copyright law. The law views the process of transformation, combination, or editing as a creative aspect that can produce new works. However, there are restrictions that must be adhered to to avoid existing copyright infringement. This limitation should consider the extent to which a work is considered derivative and the extent to which the change is material

The law requires that derivative works must contain sufficient elements of originality to qualify as independent works, while respecting copyright to the original work. Further understanding of the status of this controversy will be gained. When derivative works become the focus of discussion, the court or relevant authorities respond to the situation by considering various aspects. Their responses reflect an attempt to balance copyright in original works with copyright in derivative works and to understand the creative context in which such debates arise. Next, let's look at the future prospects. Given the dynamic changes in media, technology and culture, Indonesia's copyright law faces future challenges regarding innovation and technological development. The desire to address these challenges is reflected in the efforts of governments and stakeholders to ensure the relevance and effectiveness of copyright provisions.⁵

In this regard, Indonesia must continue to work on updating existing copyright laws to reflect dynamic changes in media, technology and culture. These efforts require in-depth research into the latest developments in the creative industries and an understanding of copyright issues that arise over time.

³ Rachmad Abduh, 'Intellectual Property Rights Protection Function in Resolving Copyright Disputes', *International Journal Reglement & Society (IJRS*, 2.3 (2021), 170–78 <<https://doi.org/10.55357/ijrs.v2i3.154>>.

⁴ Julie E Cohen, 'COPYRIGHT IN A GLOBAL INFORMATION 2018 Case Supplement', 2018.

⁵ BRIA STEPHENS, 'BATTLE OF THE REMEDIES: COPYRIGHT V. PLAGIARISM BRIA', 2020.

Copyright Law Number 28 of 2014 provides a legal basis for copyright protection, including the regulation of works of art, science, and literature. This integrated approach is expected to provide a comprehensive picture of how copyright and derivative works are applied and protected in Indonesia.⁶

2. Research Method

The approach method used in this study is a normative legal approach. This study is based on applicable laws and regulations. This study used secondary data sources. The type of data used is secondary data, namely data obtained from library materials by collecting various reading sources related to the problem under study. The data collection step includes the selection of legal materials related to the research topic from various sources, both through the internet and libraries. In addition, such legal materials are collected through downloading, printing, or borrowing from libraries. The next process is to read, understand, record, and group the collected data based on categories such as laws, regulations, decisions, and doctrines.⁷

3. Results and Discussion

The Role of Law in Protecting Derivative Works and the Legal Framework Governing the Protection of Derivative Works

Derivative works are works inspired by existing works. This raises questions about the legal protection of the work. Of course, to be classified as a derivative work, the new version of the work must be sufficiently different and include a certain amount of new content or material. In addition, any new material added must be original. Copyright on derivative works is different from copyright on the original work. In Indonesia, the main protection for derivative works is provided by Copyright Law Number 28 of 2014. There is no specific statement or provision in this law that expressly states derivative works. But within the framework of copyright law, derivative works are considered as creative expressions that deserve the same protection as previous works/original works. The Copyright Law gives exclusive rights to the owner to reproduce, distribute, and use derivative works, this is also stated in Article 1 number 1 of Law Number 19 of 2002. Article 40(1), letter n, includes translations, interpretations, adaptations, anthologies, databases, adaptations, arrangements, modifications, and other works, adaptations, adaptations, conversions or alterations. Traditional Cultural Expressions provides a brief explanation of derivative works. Paragraph (2) states that "the work referred to in paragraph (1)(n) is protected as a stand-alone work, without

⁶ Natasha Noor, 'Copyright Law in Protecting Creators' Exclusive Rights in The Creative Industry: A Comparative Study', *The Lawpreneurship Journal*, 1.2 (2021), 200–217 <<https://doi.org/10.21632/tlj.1.2.200-217>>.

⁷ Maria Tambunan, Bernat Panjaitan, and Nimrot Siahaan, 'Legal Protection of Copyright Based on Law Number 28 of 2014 Concerning Copyright', *Journal of Social Research*, 2.4 (2023), 1355–62 <<https://doi.org/10.55324/josr.v2i4.807>>.

prejudice to the copyright of the original work.⁸

Copyright Law does not clearly regulate the definition, standards of protection, forms and examples of derivative works, etc. However, Article 40(2) provides different protections for derivative works that are protected by copyright. The work is protected separately or separately from the original work. Separate protection regulations are also not explained in detail, so it is unclear how derivative works are protected and whether derivative works are protected as separate works under copyright. There is legal uncertainty about what standards are required. Based on research, the existence of separate protection means that derivative works have two parts of copyright, namely the original creator and the creator of the derivative work. In Indonesia, derivative works can get legal protection as long as they do not violate the copyright of the original work. This raises the question of whether the modification or transformation of a work can be considered as the result of creativity based on inspiration from an existing work, as long as it is recognized as a derivative work.⁹

It is important to note that the standard of originality plays an important role in the recognition of derivative works. Changes or additions to existing works must meet novelty criteria that provide significant added value. In other words, a derivative work must have distinctive characteristics to be considered an independent work worthy of protection. The copyright holder of the derivative work is recognized as the new author, but retains the copyright to the original work. This reflects the principle of fair copyright protection, whereby innovation and creativity are rewarded without harming the original creator. Legal protection of copyright essentially aims to create a better environment for the growth and development of creative passion in the fields of science, art, and literature. In view of this, the Indonesian government always strives to update laws in the field of copyright in order to adapt to existing developments in both the economic and technological fields.¹⁰

Until now, litigation related to derivative works is still complicated in Indonesia, especially in determining the boundary between modification or creative transformation and copyright infringement. Until now, court decisions are still the determining factor in determining whether a work inspired by an existing work is considered a derivative work or constitutes copyright infringement. Legal reform is expected to create a legal environment that supports the development of creativity while protecting the rights of creators and copyright holders. Indonesia should strive to adapt its copyright laws to the changes and provide a clear and strong framework to meet future challenges. Due to stricter laws and enforcement mechanisms, it is necessary to adapt to technology. Technology and globalization create new dynamics in legal protection of derivative works. One of the impacts of technology and globalization

⁸ A. A. C. Ango and others, 'Level of Awareness of Copyright Law and Infringement by Students of Tertiary Institutions in Niger State, Nigeria', *Jewel Journal of Librarianship*, 16.01 (2021), 52–63.

⁹ Emia Alemina, Budi Santoso, and Sukirno Sukirno, 'Copyright Legal Protection of Writing Work on the Site of Omgjakarta.Com: Law Number 28 of 2014', 28, 2021 <<https://doi.org/10.4108/eai.17-7-2019.2303357>>.

¹⁰ Hazlina Padil and others, 'Awareness on Copyright Among Students', *Researchgate.Net*, 3.September (2020), 978–967 <https://www.researchgate.net/profile/Hazlina-Mohd-Padil/publication/344151791_Awareness_on_Copyright_among_Students/links/5f55e968299bf13a31a7cfe0/Awareness-on-Copyright-among-Students.pdf>.

is the development of the internet and social media, making it easier to distribute works, thereby increasing the risk of copyright infringement.¹¹

We need to strike a balance between encouraging innovation and protecting copyright, as well as strengthening legal protection. It is necessary to revise the law and clarify the standards for the protection of derivative works. Proactive measures aim to address imbalances and ambiguities in copyright regulations that may arise from digital transformation and other innovations. To better appreciate and understand the role of law in protecting derivative works, it is important to understand the dynamics and differences between copyright and derivative works.

The role of institutions or institutions (Directorate General of Intellectual Property Rights) in handling cases of copyright infringement related to derivative works.

The current view is that legal protection of derivative works is still ineffective and is considered to provide a sense of security to the creator of the work, both the owner of the original work and the creator of the derivative work. As mentioned in the first discussion. In addition to legal regulations that do not meet the needs of creators, the role of related institutions is also in focus. One of the institutions that plays an important role in resolving copyright infringement cases related to derivative works is the Directorate General of Intellectual Property Rights (Ditjen HKI) under the Ministry of Law and Human Rights.¹²

The Directorate General of Intellectual Property Rights acts as an institution that monitors and implements policies in the field of intellectual property rights. The duties of the Directorate General of Intellectual Property Rights are as follows: 1) Receive and process applications for copyright registration, including derivative works. This process helps copyright owners have a strong legal foundation in the event of copyright infringement on their work. This process produces an official record as proof of copyright ownership. 2) Increase public awareness. The Directorate General of Intellectual Property Rights must provide information and education to the public, for example through educational activities about copyright, including its impact on derivative works. The goal is to increase public understanding of copyright law. This is expected to prevent violations. 3) Act as a mediator in the resolution of copyright disputes. Facilitate negotiations between copyright owners and suspected copyright infringers to reach a fair settlement. 4) Enforce copyright laws. This process cannot be done alone and must be coordinated with other law enforcement agencies, such as the police and prosecutors. 5) Make instructions and notices regarding derivative works. This will help stakeholders to better understand the limitations of the copyright legal framework.¹³

¹¹ Adeyinka Tella and Francis Oyeyemi, 'Undergraduate Students' Knowledge of Copyright Infringement', *Brazilian Journal of Information Science: Research Trends*, 11.2 (2017), 38–53 <<https://doi.org/10.36311/1981-1640.2017.v11n2.05.p38>>.

¹² N. Okeke G. and Uzor Kennet, 'An Appraisal of the Protection of Copy Right under International Law', *Journal of Law and Conflict Resolution*, 6.1 (2014), 7–16 <<https://doi.org/10.5897/jlcr2013.0163>>.

¹³ Gregory N. Mandel, Anne A. Fast, and kristina olson, 'Intellectual Property Law's Plagiarism Fallacy', *SSRN Electronic Journal*, 2015 <<https://doi.org/10.2139/ssrn.2588658>>.

The Directorate General of Intellectual Property has an important role in supervising and enforcing copyright in Indonesia, especially in maintaining and monitoring copyright enforcement in various fields. It is a leader in copyright protection, including derivative works. This helps create a supportive legal environment while continuing to protect the exclusive rights of the creator of the work. The Directorate General of Intellectual Property (DJKI) of the Ministry of Law and Human Rights of the Republic of Indonesia (Kemenkumham RI) has appointed a law enforcement team to implement copyright content in response to the increasing number of copyright violations in songs, music, music, and others planned to be formed. DJKI is looking for applications on various websites and digital and plans to form a law enforcement patrol team.¹⁴

Please note that Law Number 28 of 2014 concerning Copyright (Copyright Law) is subject to the prosecution system for unlawful acts. There are two types of complaint offenses that apply in Indonesia: absolute complaint offenses and relative complaint offenses. Absolute complaint means that the person who filed the complaint must be the person whose rights were violated by others. Today, kinship reporting is not only a way to report damage, but also to identify perpetrators of rights infringement and notify copyright holders. The "report a crime" UUHC not only allows copyright holders to report infringers, but also allows them to locate infringers and pass that information on to copyright holders and relevant organizations. In copyright disputes, DGCA accepts all claims of copyright infringement and is responsible for analyzing the elements of infringement contained in those claims.¹⁵

4. Conclusion

Legal protection of derivative works in Indonesia is still unclear, mainly due to unclear copyright laws. Although derivative works are recognized as worthy of protection, the definition of the subject matter, protection criteria, and format provisions are not clearly regulated. As an institution engaged in copyright, the Directorate General of Intellectual Property Rights has a very important role in handling cases of copyright infringement related to derivative works, including receiving complaints, analyzing violations, and resolving disputes through mediation. It is important to constantly update copyright laws in Indonesia in order to keep pace with technological developments and global trends. The focus should be on balancing the rights of the owner of the original work and the creator of the derivative work, while keeping their creative contributions in mind. The ethical aspect is very important. Recognize rights and economic benefits that are proportionate between all parties. The application of the principles of justice is fundamental in creating a balanced environment for the creative industries.

¹⁴ J Michael Keyes, *Musical Musings: The Case for Rethinking Music Copyright Protection*, Mich. Telecom. & Tech. L. Rev., 2003, x.

¹⁵ Iyar Stav, 'Intellectual Property Law Musical Plagiarism : A True Challenge for the Copyright Law MUSICAL PLAGIARISM : A TRUE CHALLENGE FOR THE COPYRIGHT LAW', 25.1 (2014).

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