

Legal Protection of Copyright in social media: Instagram Case Study

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Abstract

This research illustrates that the use of technology, especially the internet, is currently experiencing extraordinary development which includes the use of social media as a means of communication and self-expression. One of them is Instagram social media, a platform that is currently experiencing significant growth and trends in Indonesia. The focus of this research is on legal protection for Instagram users regarding copyrights owned by rights holders for images uploaded on the platform. The research uses normative juridical methods by relying on secondary data. The research results show that there is a form of legal protection for Instagram users regarding the copyright of uploaded images. This protection is regulated based on the provisions of applicable laws and regulations. In conclusion, the legal basis contained in the Law provides a clear framework for protecting the rights of creators regarding images or visual works uploaded on platforms such as Instagram.

Keywords Legal Protection, Copyright, Instagram

INTRODUCTION

Technological developments are currently progressing very rapidly, this can be seen from good growth in various aspects of life. Innovation and rapid adoption of technology are not only changing the way people communicate, work, and access information, but are also forming new foundations for the development of global society as a whole. With the ease of technological development, one's work not only becomes more affordable, but can also be accessed quickly and widely by a global audience.¹This phenomenon not only opens the door to a wider dissemination of ideas and creativity, but also creates a platform for creators to expand their reach of influence. While it provides benefits in terms of exposure and distribution, it's important to remember that this impact can also raise a number of questions about copyright, the sustainability of business models, and the role of ethics in the digital age.²

One social media that has become very popular among internet users is Instagram. With its unique features, Instagram provides facilities that enable its users to quickly and easily share various types of content. This platform not only makes it easy for users to upload photos and videos, but also provides various creative tools such as filters, stickers and other features, which make the content sharing experience more interesting and interactive. Through its user-friendly interface, Instagram has become the premier place for individuals, brands and content creators to interact, inspire and build communities around the world.

¹ Gitta Astari Adipurwanto, Igrissa Majid, and Khaerul Anwar, 'Legal Protection for Photos or Videos of Photographers Uploaded on Instagram', Jentera: Legal Journal, 4.1 (2021), 479–93.

² Ujang Badru Jaman, Galuh Ratna Putri, and Tiara Azzahra Anzani, 'The Urgency of Legal Protection for Digital Work Copyright', Rechten Journal: Legal Research and Human Rights, 3.1 (2021), 9–17
<<https://doi.org/10.52005/rechten.v3i1.22>>.



However, this can also raise issues related to copyright because content can easily be downloaded, re-uploaded, or modified by other users. In this context, managing and enforcing copyright is an important challenge for platforms and their users, requiring solutions that are in line with the principles of justice and recognition of creativity and intellectual property.³

Muhammad Djumhana and R. Djubadillah, as explained in OK. Saidin explained the concept of Intellectual Property Rights as rights arising from human creative activities in various fields such as technology, science, art and literature. This right originates from the ability of human thought which is expressed to the general public in various forms. These expressions, which can take the form of technological discoveries, scientific works, works of art, or literary works, have values and benefits that support life. Not only that, but Intellectual Property Rights also have a significant economic dimension, regulating legal rights related to the use, distribution and economic utilization of creativity and innovation, in accordance with the provisions set out in the vision.⁴

Based on Law Number 28 of 2014, it states that copyright is the exclusive right of the creator which arises automatically based on declarative principles after a work is realized in real form without reducing restrictions in accordance with statutory provisions.⁵ These exclusive rights give creators complete control over the use, reproduction, distribution and exploitation of their work. The importance of this principle is to provide legal recognition and protection to creators without the need for complicated administrative processes. Even though copyright arises automatically, this does not reduce the need to comply with the restrictions stipulated by statutory regulations. Thus, this principle confirms that while creators automatically have exclusive rights to their work, these rights remain subject to the provisions stipulated in applicable copyright law.⁶

Based on the explanation of the problem above, the author took several problem formulations as follows: How is the legal protection for social media on Instagram in the Copyright Law. The author attempts to investigate and analyze in more depth how aspects of legal protection for copyright are implemented or regulated within the existing legal framework. By setting this question, the author can direct research to explore legal norms and provisions relating to copyright in the context of social media, especially on the Instagram platform.

METHOD

In terms of methods, it can be seen that the method used in this research is a normative juridical method. The normative juridical approach is a method based on analysis of the main

³ Solehoddin Solehoddin, 'Legal Protection for Photographic Works Uploaded on Internet Media', Jatiswara, 35.2 (2020), 178–91 <<https://doi.org/10.29303/jatiswara.v35i2.243>>.

⁴ H. OK Saidin, *Legal Aspects of Intellectual Property Rights* (Jakarta: Raja Grafindo Persada., 2014).

⁵ M Dewi, S Ardhyia, and K Dantes, 'IMPLEMENTATION OF LEGAL PROTECTION AGAINST OWNERS OF COPYRIGHT WORKS PORTRAITS BASED ON LAW NUMBER 28 OF 2014 CONCERNING COPYRIGHT IN BULELENG DISTRICT', *Communications Yustisia*, 5 (2022).

⁶ Lie Natanael, 'Legal Protection and Ownership of Intellectual Property Rights for Content on Indonesian Social Media Platforms', *Legal Reform*, 27.2 (2023), 97–107 <<https://doi.org/10.46257/jrh.v27i2.638>>.

legal materials. This approach involves an in-depth study of theories, concepts, legal principles, and statutory regulations that are relevant to the research focus. By adopting a normative juridical approach, this research seeks to explore and analyze the legal framework that is the basis of the phenomenon being researched, provide a strong foundation for an in-depth understanding of the relevant regulations, and build a solid argumentative basis in compiling research results. Apart from primary data, there is secondary material in it related to material that helps to continue this research, where this material comes from books and journals.⁷

RESULTS AND DISCUSSION

Legal protection of copyright on social media has significant implications for the rights of creators, which can cause losses due to the potential loss of moral rights and economic rights which are important aspects of copyright. Limitations of creators' access to these benefits may occur when their work is downloaded, re-uploaded, or modified by other users without permission. Copyright infringement in the world of social media is a serious issue and must be dealt with firmly. In the Indonesian Copyright Law, namely Chapter XIV which includes Articles 95 to Article 105, the legal steps that can be taken if someone feels that their copyright has been violated are explained.⁸The existence of this legal framework provides a clear and structural basis for individuals who wish to fight for their copyright in the digital realm. The Positive Law that regulates Copyright is not only beneficial for creators but also provides real legal protection for Indonesian society in general. The presence of the Copyright Law creates a guarantee that any original content published on social media, across various platforms, is protected by copyright. This confirms that people have the legal right to protect their creativity and innovation, as well as reduce the potential for copyright infringement in the digital era.⁹

Article 55 paragraph (3) of the Copyright Law states that the Minister who has authority in the field of telecommunications and information technology has the right to block some or all of the content that violates the law on electronic systems or disable access to services on electronic systems if there is sufficient evidence after reviewing reports from complainant. Settlement of disputes related to Copyright can be done outside of court, through arbitration, or through court proceedings in accordance with Article 96 of the Copyright Law. Creators, copyright holders or related rights holders who experience losses are entitled to receive compensation, in accordance with the provisions in Article 99 which stipulates that they can file a claim for compensation with the Commercial Court for violations of Copyright or Related Rights products. Article 99 also provides options for:

⁷ Muhammad Farhan, Grasia Kurniati, and Devi Siti Hamzah Marpaung, 'Legal Protection of Copyright in Social Media: Pinterest Case Study', *Widya Juridika*, 5.1 (2022), 87 <<https://doi.org/10.31328/wy.v5i1.2613>>.

⁸ Shafira Inan Zahida and Budi Santoso, 'Copyright Protection of Images That Have Been Uploaded on Instagram Social Media', *Indonesian Legal Development Journal*, 5.1 (2023), 186–203 <<https://doi.org/10.14710/jphi.v5i1.186-203>>.

⁹ Fani Budi Kartika, 'Legal Protection for the Use of Copyright for Songs Covered via Instagram', *Lex Justitia Journal*, 3.1 (2021), 99–113.



1. Creator, Copyright Holder or Related Rights owner to submit a claim for compensation to the Commercial Court, which may take the form of a request to hand over part or all of the income from activities that infringe Copyright or Related Rights products.
2. In addition, Article 99 provides the right to request a provisional or interlocutory decision from the Commercial Court to confiscate works or duplication tools used in copyright infringement and related rights products, or to stop activities that infringe copyright.

Apart from settlement through civil proceedings, copyright owners also have the option to report copyright violations to the authorities for criminal treatment. This is regulated in Chapter XVII (Criminal Provisions) of the Copyright Law Articles 112-120. These articles state that anyone who infringes copyright may be subject to criminal sanctions. Every copyright owner has guarantees for his rights, both economic rights and moral rights, in accordance with the Copyright Law. Enforcement of this rule will provide positive protection for copyright, especially in the context of content on social media. Copyright violations, such as piracy, dissemination and distribution without permission, can be pursued both civilly and criminally. It is hoped that this will create respect and appreciation for copyright as a form of appreciation for the efforts of every creator of work or content, especially on social media. Even though the government has implemented effective measures through the ratification and implementation of the latest Copyright Law since 2014, efforts to prevent and enforce the law against perpetrators of copyright infringement still need to be improved. This obstacle is caused by law enforcement that has not been optimal regarding these steps. The legal system that protects copyright holders has been regulated through a series of legal regulations that give the government the authority to take preventive action and take action against perpetrators of copyright infringement.¹⁰

Any person without the permission of the copyright holder or creator is not permitted to reproduce or commercially use a work. The threat of imprisonment and/or fines for these violations is regulated in Article 113 of the Copyright Law, which essentially states that:

1. Any person who, without any right, violates economic rights for commercial use shall be punished with imprisonment for a maximum of 1 year or a fine of a maximum of Rp. 00,000,000.
2. Any person without the Author's permission who violates the Author's economic rights for commercial use shall be punished by a maximum imprisonment of three years and/or a maximum fine of IDR 500 million.
3. Any person who, without the right and/or without the permission of the Creator or Copyright holder, violates the economic rights of the Creator as intended in Article 9 paragraph (1) letter a, and so on.
4. Every person who fulfills the elements as intended in paragraph (3) who commits it in the form of piracy, shall be punished with a maximum imprisonment of 10 years and/or a maximum fine of IDR 4,000,000,000.

¹⁰ Ayuta Puspa Citra Zuama, 'Creating Effective Legal Protection for Copyright of National Film Literary Works: Utopian or Logical?', *Journal of Law and Economic Development*, 8.2 (2021), 95
<<https://doi.org/10.20961/hpe.v8i2.49760>>.

However, it should be noted again that the use, taking and/or modification of a work and/or related rights product in whole or in part which is substantial in nature is not considered a form of copyright infringement if this is essentially for the purposes of:

- a. Education, review of a problem, scientific work without harming the reasonable interests of the creator or copyright holder;
- b. Lecture;
- c. Free performances or performances.

Then there are also exceptions to acts that are considered copyright infringement, which essentially include:

- a. Reproduction of the national emblem and national anthem;
- b. Retrieval of actual news, whether in whole or in part from news agencies, broadcasting institutions, and newspapers or other similar sources and the source must be stated in full; or
- c. Creation and dissemination of copyright content through non-commercial information and communication technology media;
- d. Reproduction of portraits of the president, vice president, former president, former vice president, national heroes, heads of state institutions, heads of ministries/non-ministerial government institutions, and/or regional heads.

So, if the act of copying and modifying an image is included in the acts that are excluded as copyright infringement, then it cannot be categorized as a copyright infringement according to the Copyright Law. Then there are administrative sanctions imposed on copyright violators, namely in the form of freezing or even revoking certificates or business permits. In existing legal arrangements, efforts are made to increase awareness by respecting copyrighted works and the creative efforts carried out by creators.¹¹

CONCLUSION

From the results of the discussion above, it can be concluded that the law provides significant protection for the copyright of images published on social media, including Instagram. The legal basis contained in the Law provides a clear framework for protecting the rights of creators regarding images or visual works uploaded on platforms such as Instagram. Therefore, copyright owners can rely on the Law to maintain the integrity and continuity of their visual works, as well as to take legal action if copyright infringement occurs in these images on these social media platforms.

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¹¹ Republic of Indonesia. Law Number 28 of 2014 concerning Copyright.



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