

## Legal Protection of Intellectual Property Rights for Digital-Based Creative Industries in Indonesia

Ratu Shyfa N.C.<sup>1</sup>, Amad Sudiro<sup>2</sup>

Universitas Tarumanagara, Indonesia

E-mail: mrsshf@gmail.com<sup>1</sup>, ahmads@fh.untar.ac.id<sup>2</sup>

### Abstract

The progression of time and advancements in technology and information have provided many benefits to human life. Technological advancement is evident in several fields, such as photography, cinematography, and design, which fall under the scope of intellectual property, particularly copyright. However, technological and digital development has also brought several global impacts that transcend national borders. Indonesia's economy has largely relied on the tourism sector which has led to the growth of the creative industries that support this sector. Advertising, as a part of the creative industries, plays an important role in society. Various strategies have been applied to compete and to excel in the business category of communication and technology services to maintain competitiveness in the digital creative communication industry of an advertising agency in Indonesia. However, these developments have made uploading someone's work common. Subconsciously, easy and practical access to the virtual world can result in copyright infringement, in which the works uploaded on digital/online platforms can be misused by irresponsible parties for personal gain. The legal regulation for intellectual property rights in Indonesia, particularly copyright, is regulated under Law Number 28 of 2014 on Copyright. As specified in Article 40 Paragraph (1) of the Copyright Law, it addresses the creations protected under its regulations. However, with the changing times and technological advancements, there has been a blur in the norms of these regulations, which need adjustments.

**Keywords** intellectual property rights, creative industries, legal protection.

### INTRODUCTION

Humans in their existence are living creatures who have highly developed specialties and abilities, so that humans can investigate deep things related to everything that can be used for their lives. As creatures created by God, humans are endowed with various potentials, so their existence is certainly different from other creatures created by God, one example is that humans are equipped with reason. With this reason, humans are then charged with responsibility as recipients of the mandate to protect and manage everything on earth.

Every human being on this earth has absolute rights to the creations they have envisioned or have realized in the form of goods or ideas. According to Gatot Soepramono, a person who creates something is generally the result of his creation, not only for his own use, but also then reproduced so that it can be used by other people. A creative work can usually be reproduced by other people because the person who created it has limited abilities so they cannot do it themselves in large quantities according to demand.<sup>1</sup>

In the current era of globalization, technological developments are developing very quickly every year and are global without exception in Indonesia. The industrial revolution brought very significant changes in industrial processes carried out by the development of digital technology in the industrial world which made industrial processes increasingly rapid.

<sup>1</sup>Gatot Supramono, Copyright and its Legal Aspects, Jakarta, Rineka Cipta, 2010, p.2.



On the other hand, the industrial revolution has taken over the role of humans in work, so that available Human Resources (HR) are required to be responsive to changes to balance global competition in the industrial world.<sup>2</sup>

Developments in the fields of technology and information cause changes in social relations in society. This cannot be avoided because advances in technology and information have entered aspects of daily life very quickly. One of the developments in the field of technology is in the fields of photography, cinematography and design, but developments in the field of technology and digital also bring several impacts which cover a scope that does not recognize national boundaries because it is global.

The creative economy has considerable potential to be developed and can become a mainstay of the national economy. The creative economy is an industry that produces various products that are related to the process of realizing an idea or idea into intellectual property that has high economic value for the welfare and employment of the community and can increase a country's economic growth. The creative economy was born from the creative industry. The creative economy is formulated as an economic activity that includes industry with the creativity of human resources (HR) as the main asset for creating added economic value.<sup>3</sup>

In order to achieve this, cooperation from all parties, including the business world, government and society, is required. This is very important because creative economy actors are generally the younger generation and Micro, Small and Medium Enterprises which have various limitations. For this reason, government intervention is urgently needed in encouraging the progress of the creative economy through guidance in various matters.

The creative industry is considered by many people to be a promising industry for the future because the creative industry is dynamic and continues to follow the demands of changing times, especially in the industrial era. Currently, the creative industry is an industry that uses knowledge and information management as the basis and reference for future industrial development. According to data from the Ministry of Communication and Information of the Republic of Indonesia, the growth of the creative economy sector increased quite significantly, namely around 5.76%. This figure is projected to continue to grow in the following years. Meanwhile, the Creative Economy Agency projects that the creative industry's contribution to GDP will be almost 1,000 trillion rupiah in the current year and will continue to grow in the coming year. This can be seen from the fact that various start-ups or companies operating in the creative industry are mushrooming, such as companies operating in the craft, fashion, culinary, application and game development sectors, as well as advertising.<sup>4</sup>

Nowadays, there are many agencies and/or creators who offer creative communication services that are integrated with digital advertising to facilitate product or service campaigns so that they can reach the target audience. One effective way to reach the target audience is

<sup>2</sup>Wafa Abdullah Fagih A, HR Development Strategy in Creative Industry Business Competition in the Digital Era, Adliya Journal of Law and Humanity, Vol.13, No.1 E-ISSN: 2657-2125, 2019, p.116.

<sup>3</sup>Ibid.

<sup>4</sup>Hardika Widi Satria, Dewi Kurnia Agustine, Review of Copywriter Workflow for the Suitmedia Content Division in the Digital Marketing Creative Industry, Journal of Applied Social Humanities Volume 2 No.1, P-ISSN 2622-1764, 2019, p.35.

through creative digital communication content. Development of various strategies to be able to continue to compete and be at the forefront in the communication services and technology business category so that it becomes competitive in the digital communication creative industry from a digital agency in Indonesia.

Copyrighted works themselves fall within the scope of Intellectual Property Law. In Indonesia, copyright is regulated in Law no. 28 of 2014 concerning Copyright. In essence, Intellectual Property Rights are granted as a form of appreciation or appreciation for a person's creative results, whether in the form of inventions or creative or artistic works. This violation of copyrighted works can be motivated by increasingly rapid advances in technology which makes internet access very easy. Apart from that, in the current digital era, photography and cinematography works as well as designs in soft file form are very easy to duplicate and take by other parties who see them and feel interested in using them.<sup>5</sup>

With the development of technology, it has become commonplace for someone to upload personal work, but without realizing it, easy and practical access in this virtual world can pose a big risk. Works uploaded on digital/online platforms can be misused by irresponsible parties and used for personal gain. Moreover, portraits are the main weapon to attract people's attention.<sup>6</sup>

The internet is increasingly needed in carrying out daily activities such as when shopping online, providing services, providing information services and the services and features on the internet contain elements of intellectual property both in terms of copyright such as works of music, photography and cinematography. As time goes by, more and more problems arise, such as piracy, plagiarism and various other problems. This cannot be separated from everyday life, especially in the business world, especially in the advertising industry. Advertising is a factor that greatly influences consumers to decide to purchase a product and can increase the selling value of a product. The presence of portraits makes consumers clearly aware of the products being offered, not based on words alone, but attractive visuals make consumers more enthusiastic and interested in the products being marketed. However, nowadays there are quite a few business actors who make a profit by using other people's copyrighted works to sell products without going through the procedures stipulated by law. This causes intellectual property issues to become increasingly complex, let alone obtaining economic rights to obtain moral rights, the creators cannot even obtain them.

On the other hand, one of the implications of information technology, especially the digital sector, which has currently received attention is its influence on the existence of Intellectual Property Rights (IPR). In the legal framework in the internet world, Intellectual Property Rights have a very special position considering that digital sector activities are closely related to the use of information technology which is based on the protection of the

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<sup>5</sup>Riefa Adzany, Neni Sri Imaniyati, Asep Hakim Zakiran, Legal Protection for Unlicensed Portrait Works as Advertisements Judging from Law Number 28 of 2014 concerning Copyright, Bandung, Conference Series: Law Studies, ISSN: 2828-2493, Volume 2, No. 1, 2022, p.352.

<sup>6</sup>Ibid.



legal regime of Copyright, Patents, Trademarks, Trade Secrets, Industrial Designs and so on.<sup>7</sup>

Issues regarding copyright in digital-based copyrighted works require separate supervision. As a guide to monitoring copyright violations, the authorities can take several actions, including improving the law on copyright so that it explicitly includes protection for files placed on internet media and/or digital platforms, requiring all internet service providers and/or platforms to digital to monitor copyright infringement and increase knowledge about copyright through schools and educational institutions.<sup>8</sup>

It is not an exaggeration to say that the protection of IPR is as important as the protection of legal and economic interests, especially from an international perspective because then IPR disputes will no longer be technical legal issues, but also involve business disputes to gain profit. Indonesia as a state of law has several objectives which are stated in the 4th paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia (UUD 1945), that the Indonesian government protects the entire Indonesian nation and all of Indonesia's blood and to promote general welfare, educate the nation's life. and participate in implementing world order based on freedom, eternal peace and social justice. In relation to general welfare, one aspect that can be used as an indicator of this achievement is success in the field of economic development.<sup>9</sup>

Developments in the last few decades have been characterized by social dynamics and increasingly rapid progress in legal development, both in Indonesia and internationally. One of the developments that stands out is developments in the field of copyright. In Indonesia, the legal regulatory framework in the field of copyright is quite developed. However, in Indonesia, even though there are regulations regarding the protection of intellectual rights, there is still ambiguity and/or uncertainty in the regulation of IPR legal protection on the Internet and/or digital platforms, which is contained in article 40 paragraph (1) of Law Number 28 of 2014 concerning Copyright regarding creations. which is protected. IPR violations, especially in the field of copyright, have become a topic of discussion in many countries, especially the United States, regarding piracy. In 2020, the United States Government again included Indonesia on the priority list of countries that need to be monitored (Priority Watch List) as is also applied to countries such as China, Argentina and Russia. This is related to the widespread piracy of products from various industrial sectors in this country. This situation has not changed since 2019.<sup>10</sup>As a result of Indonesia's inclusion in the Priority Watch List category, Indonesia is threatened with economic sanctions in the form of export restrictions, reduction in trade quotas and even an economic embargo.<sup>11</sup>

In Indonesia, cases of copyright infringement often occur through the process of downloading, uploading or copying and pasting various kinds of digital content, such as

<sup>7</sup>Ahmad M. Ramli, *Cyber Law and Rights in the Indonesian Legal System*, Bandung, Refika Aditama, 2004, p. 4-5.

<sup>8</sup>Asril Sitompul, *Internet Law (Introduction to Legal Issues in Cyberspace)*, Bandung, Citra Aditya Bakti, 2004, p.18.

<sup>9</sup>Rahmi Jened, *Interface of Intellectual Property Law and Competition Law*, Jakarta, Rajawali Pers, 2013, p.1.

<sup>10</sup>Adrian Sutedi, *Intellectual Property Rights*, Jakarta, Sinar Graphics, p.15.

<sup>11</sup>*Ibid*, p. 17.



songs and photos, films/dramas and even animation designs.

The use of copyrighted works without the permission of the creator occurs very often, one example is using copyrighted works without permission in a product advertisement which is often carried out by digital creative industry entrepreneurs or the public in general, which makes the creator feel disadvantaged.

One of the cases was the Vivo smartphone product advertisement which was widely discussed by the media in Indonesia. Because the advertisement to promote the Vivo V20 series was reported to have used other people's songs without permission for commercial purposes. The owner of the song, Anna Lotterud or Anna of The North, accused her directly via her social media account (Instagram). If the 60 second advertisement uses a song that is similar to the song entitled "Dream Girl".<sup>12</sup>In other cases, CFC Grande Karawaci Tangerang and PT Pionerindo Gourmet International Tbk faced lawsuits for copyright infringement. The lawsuit was filed by a blogger, Rembulan Indira. the two defendants had used his photo without permission for promotion. This happened on June 19, 2015, when Rembulan posted a photo of her eating chicken on her priadi blog. Based on these various problems, the author is interested in studying the legal protection of intellectual property rights for digital-based creative industries in Indonesia.

## METHOD

This writing uses a type of normative legal research, with a conceptual approach and a statute approach. The data source used is secondary data consisting of primary legal materials, secondary legal materials and tertiary legal materials. The primary legal material used is Law Number 28 of 2014 concerning Copyright and other Implementing Regulations. Meanwhile, secondary legal materials explain primary legal materials, namely various books and journal articles that are relevant to the problem of this writing. Apart from that, it also uses tertiary legal materials such as the Law Dictionary and the Big Indonesian Dictionary. In this writing, qualitative descriptive analysis is used with deductive thinking methods.<sup>13</sup>

## RESULTS AND DISCUSSION

Public policy is action taken by the government in a social context to improve the welfare of society as a whole. The government has the right to create laws or regulations that determine its internal structures, with the aim of safeguarding the interests of society. Public policy decisions aim to overcome an issue, such as poverty, by seeking to increase employment opportunities.

In the provisions of Article 1 paragraph (1) of the Copyright Law, it is stated that "Copyright is the exclusive right of the creator which arises automatically based on the declarative principle after a work is realized in real form without reducing restrictions in accordance with the provisions of statutory regulations". Based on the provisions of Article 1 paragraph (1), it can be concluded that the copyright of a work can be protected automatically. This copyright is exclusive and has legal protection. In accordance with

<sup>12</sup>Adrian Sutedi, Opcit.

<sup>13</sup>Soerjon Soekanto, Legal Research Methods, (Jakarta: Rineka Cipta, 2014), p.17.



Article 1 point 1 of Law no. 28 of 2014 explains 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 regulations. Based on this explanation, it can be concluded that protection for Copyright is protection that is and/or is given automatically, without registration of Copyright, such as cinematographic video copyrighted works, still receive legal protection, exclusive rights and/or legal protection will be given to the creator. This applies if a creator is able to realize the results of his thoughts and can show the authenticity of his creation.

This copyright is granted on the basis that everyone has the ability to process their thoughts, but not everyone can use their brains to the maximum extent possible to produce an intellectual work of very high value. Copyright registration is required as authentic evidence in court if a dispute arises in the future regarding copyright ownership. So it is very important to maintain one's ideals as a creator. Each party claiming ownership of the copyright must be able to prove that the person/party who created it is indeed the person/or party who created it. Thus, even though the copyright on a work has not been registered, a work can still be considered legally protected if in the future there is/or it is known that there has been a copyright infringement and/or a dispute over copyright ownership by someone else.<sup>14</sup>

Copyright holders themselves will have legal rights and protection if digital copyright infringement occurs. The copyright must be registered for the copyrighted work. The Copyright Law states that a work receives protection when the work is born. However, it should not be taken for granted that administrative registration of copyright through the Directorate General of Intellectual Property Rights (Ditjen IPR) is necessary to strengthen the existence of the copyrighted work. According to the explanation of Article 64 Paragraph (2) of the Copyright Law (UUHC), registration of works and related rights products is not a necessity for creators, copyright holders and related rights owners. Protection of a work begins when the work exists or is created and not because it is registered. This means that the work, whether recorded or not, is always protected. To obtain creative registration at the Ministry of Law and Human Rights of the Republic of Indonesia, applicants can submit an application through three alternatives, namely as follows:

1. Through the Directorate General of Intellectual Property Rights (Ditjen IPR).
2. Through the Regional Office of the Ministry of Law and Human Rights of the Republic of Indonesia.
3. Through a registered IPR Consultant Legal Counsel.

Before there was legal protection provided by copyright law, all parties who owned a work/creation had to register their copyright. Copyright protection then became something very important, both nationally and internationally, as agreed in Geneva in September 1990 where the Intellectual Property in Business Briefing discussed this issue known as Trade Related Aspects of Intellectual Property Rights (TRIPs). In the era of globalization after the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO) era, there are important issues included in the structure of the WTO institution, namely Trade

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<sup>14</sup>Rahmi Jened, Opcit.

Related Aspects of Intellectual Property Rights (TRIPs) which specifically regulate matters relating to Intellectual Property Rights. This clearly shows that international trade is more than just trade. However, this also includes various pressures exerted in areas that are not actually trade, such as issues of human rights, freedom of strike and so on.<sup>15</sup>

This suggests that the protection of intellectual property rights is as important as the protection of economic interests, especially from an international perspective. Protection is no longer just a technical and legal issue, but also involves commercial disputes to gain profit, because the protection of intellectual property rights is very important in facing the development of the information technology industry.

Protecting intellectual property rights at the international level requires countries to be able to implement severe legal sanctions against perpetrators of copyright crimes in their legal systems. For Indonesia, this is then stated in Article 113 Paragraph (4) of the new UUHC, namely UHC Number 28 of 2014. Legal protection in the digital era is quite broad because almost all creators, whether in the form of photos, videos, songs, articles and others, are stored in digital form, accessible to everyone. Ease of access to a work creates many problems, so legal protection must be able to handle various types of copyright problems.

Legal protection in the digital era is quite extensive because almost all creators, whether in the form of photos, videos, songs, articles and others, are stored in digital form, and can be accessed by everyone. Ease of access to a work creates many problems, so legal protection must be able to handle various types of copyright problems. Legal Protection according to Law Number 28 of 2014 concerning Copyright, in the following form:

- a. Preventive legal protection is an effort to protect copyright for owners, in the form of prevention to avoid piracy.
- b. Apart from that, the government provides legal protection which aims to enable the state to impose severe legal sanctions on perpetrators of copyright crimes, as regulated in Article 113 Paragraph (4) of Law Number 28 of 2014 concerning Copyright.
- c. Repressive Legal Protection, namely protection that involves the law playing a role in helping to resolve disputes related to copyright protection efforts. This repressive protection measure can be carried out on works or compositions belonging to copyright holders that have been registered with the Director General of Copyright. Even though legally there is no obligation to register it. However, the importance of registering Karya Cita is to protect the work if it is involved in a dispute.

Another effort is repressive protection by enforcing the legal rules regulated in the Copyright Law (UUHC) by law enforcement officials. Law enforcement in the UUHC according to Article 120 is a complaint offense, so it can be carried out with a prior report from the aggrieved party. Enforcement of criminal law for violations of song copyright is carried out by investigators from the Indonesian National Police and certain civil servants within the ministry in the field of copyright crimes. Apart from that, the 2014 UUHC changes regarding ordinary offenses to complaint offenses, according to this author, are more aspirational because the parties who feel disadvantaged who actually report want to follow

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<sup>15</sup>Asril Sitompul, Opcit.



up to claim the rights to their creative works. Because in reality this technological development, especially in copyright. Strict protection of intellectual property rights is essential for the growing sector of the information technology industry. International protection of intellectual property rights requires countries to be able to implement strict legal sanctions against perpetrators of copyright crimes in their legal systems.

The increase in cases of copyright infringement in Indonesia is also driven by several factors, including economic factors, with pressure from situations and conditions that make people try to increase their income in inappropriate ways, such as pirating other people's copyrighted works. Socio-cultural factors, when people buy products, people are still oriented towards the price of goods, not the quality of the original product created by the creator with hard work and intellectual ability, as well as educational factors regarding the existence of the Copyright Law, which is still poorly socialized to the wider community, causing a lack of public understanding of the importance of copyright protection.

The existence of these various factors has an impact on increasing cases of copyright infringement. Including cases of Instagram and YouTube live videos used as advertising material. Where the video is rebroadcast by television advertising parties and/or other media such as YouTube by creating photographic and/or video/cinematographic content that is made for commercial purposes without the knowledge and permission of the creator. This is caused, among other things, by changes in the socio-economic structure of countries in the world and more and more people have higher and higher incomes.

In this case, the digital-based creative industry is related to the advertising industry as a means of promotion and/or marketing to attract consumer interest. However, in practice, creative industry players often do not maximize their ideas and creativity as part of the intellectual property they possess as humans, so they tend to use easy methods to produce products from their services, one of which is by utilizing illegal features available on the internet to make them part of or elements in advertising that are created by downloading files from the internet. Downloading content from internet sites basically also includes acts of reproducing and publishing works that require permission from the creator or copyright holder, especially if this is not used for one's own purposes but is used for a commercial activity and/or interests related to commercial activities which is a form of violation. against copyright on content occurs both on the economic rights and moral rights of the creator and copyright holder which fulfills the elements of exploitation (publication, duplication, distribution) for commercial purposes of a copyrighted work without first asking permission or obtaining a license from the creator, Exclusion the name of the creator on the work, replacing or changing the title of a work without the consent of the creator and the copyright owners regarding content included in advertisements created by advertising industry service providers.<sup>16</sup>

In this case, the creator can be harmed both morally and economically because his rights as a creator are not obtained due to acts of copyright infringement on his work which when linked to the theory of legal certainty put forward by Sudikno Mertokusumo. The

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<sup>16</sup>Ahmad M. Ramli, Opcit, p.9.



creator's rights have received legal certainty as a guarantee that the law is implemented and that creators who have legal rights can obtain their rights.

Providing digital content without permission from the creator or copyright holder on a digital content provider site can be considered a violation of the copyright of the creator or copyright holder of the work. In fact, according to the author, the act of providing digital content on the internet on a site is a form of announcement. This is because everyone who visits the digital content provider site can freely view or download the creation.

Therefore, it can be said that sites providing illegal digital content apart from providing and distributing works/content freely without the permission of the copyright holder, there are also announcements that the digital content provided for download/download does not include information on the rights management of the copyright holder. Because in fact, illegal sites that provide digital content for free download do not include information about the digital content such as the title, creator's name, year and other important information about the digital content, but most illegal sites only list the title.

This incident is clearly an act that violates exclusive rights and causes losses both morally and economically, especially for video/cinematography and photography creators who are clearly protected by Law no. 28 of 2014. Where this action violates Article 9 Paragraph (2) of the Copyright Law which states that if someone wants to exercise the economic rights of a Copyright holder they must obtain the creator's permission, and paragraph (3) which states that a person without the creator's permission Reproduction and/or commercial use of the work is prohibited. Apart from that, copyright violations have also been regulated in Article 113 Paragraph (2) which states that any person who without rights and/or without the permission of the creator or copyright holder commits a violation of the creator's economic rights as intended in Article 9 Paragraph (1). letter c, letter d, letter f and/or letter h for commercial use shall be punished with imprisonment for a maximum of 3 years and/or a fine of a maximum of IDR. 500,000,000.00 (five hundred million rupiah). However, there are no provisions governing sanctions if violations related to moral rights are not carried out for commercial purposes.

From the explanation of the case, if the creator of a video/cinematographic work feels that his economic rights have been disadvantaged due to the use of the copyrighted work without the permission of the creator, he can file a claim for compensation at the Commercial Court for Copyright infringement as regulated in Article 99 Paragraph (1) of Law Number 28 of the Year 2014 concerning Copyright. Meanwhile, the content of the lawsuit is in the form of a request to provide profits in whole or in part for the use of works resulting from copyright infringement in accordance with Article 99 Paragraph (2) of Law Number 28 of 2014. Furthermore, Article 96 Paragraphs (2) and (3) of the Law -Law Number 28 of 2014 explains that this claim for compensation is given and included at the same time in the court decision regarding a Copyright criminal case for payment of compensation to the creator with a grace period of no later than 6 (six) months after a valid court decision is made. the law remains in effect. However, it should be noted that all forms of copyright infringement are classified as complaint offenses, as stated in Article 120 of Law Number 28 of 2014. Every citizen has the right to make a report or complain that a criminal act has occurred to



the competent authorities. However, in this complaint offense, not all citizens or ordinary people can report to the Commercial Court that a Copyright violation has occurred.<sup>17</sup>

Only creators and/or related parties who feel aggrieved and/or dissatisfied can report copyright violations. However, without a request and/or demand from the creator, and/or parties who have an interest in their creation, a person suspected of committing a criminal act of copyright infringement cannot be prosecuted legally. To minimize the possibility of criminal charges and/or claims for compensation and to prevent cases relating to copyright from occurring again, it is necessary to take preventive measures, such as parties who wish to use the video/cinematography or photography copyrighted work must ask for permission from the creator which is usually called a license to use video/cinematography and photography in whole/or in part and can provide royalties as a form of cooperation. In this way, creators get a sense of justice as a form of legal protection for intellectual property rights for digital-based creative industries in Indonesia for owners of intellectual property rights as regulated in Law Number 28 of 2014 concerning Copyright. This is in accordance with John Rawls' theory of justice, which states that justice can only be achieved if it is supported by policies that reduce social and economic inequality. Apart from that, John Rawls stated that everyone must have the same rights to the broadest basic freedoms, as broad as the same freedoms for everyone. In the regulation, the creator/owner of the work has been given the exclusive right to monopolize his work, and this right is regulated in such a way that it is hoped that it will provide benefits to the creator/owner of the work.

## CONCLUSION

Regulations on the legal protection of intellectual property rights, especially copyright for digital-based creative industries in Indonesia, have provided legal certainty, as regulated in Law Number 28 of 2014. However, as a result of developments in time and technology, there is uncertainty and/or vagueness of norms in the regulations so that certainty The law regarding creations in the digital space cannot be fully achieved in its regulation, so adjustments are needed.

The digital-based creative industry policy in Indonesia has provided protection in the form of legal sanctions imposed on copyright violators who use the work of creators and/or copyright owners without permission and to obtain personal economic gain so that creators and/or copyright owners experience a sense of injustice due to moral losses. as well as material/economic consequences of the violation. In the provisions of Law Number 28 of 2014 concerning Copyright, basically a sense of justice has been achieved as a form of legal protection for intellectual property rights/copyright for digital-based creative industries in Indonesia for owners of intellectual property rights as regulated in Law Number 28 of 2014 in the form of preventive protection and repressive protection in the form of legal sanctions. This is related to the theory of justice put forward by John Rawls, which states that everyone must have the same rights to the broadest basic freedoms, as broad as the same freedoms for everyone. Apart from that, in the regulation the creator/owner of the creation has been given the exclusive right to monopolize his creation, and this right is regulated in such a way that

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<sup>17</sup>Gatot Supramono, Opcit, p.5.

it is hoped that it will provide benefits to the creator/owner of the creation. This is in line with the theory of economic analysis of law put forward by Richard A. Posner which has a tendency to be oriented towards economic matters, through maximum utilization (utility maximization) and rationality which is in line with legal protection efforts for rights. intellectual property.

## REFERENCES

- Adrian Sutedi, *Hak Atas Kekayaan Intelektual*, (Jakarta: Sinar Grafika, 2009)
- Ahmad M. Ramli, "Cyber Law dan Haki dalam Sistem Hukum Indonesia", (Bandung: Refika Aditama, 2004)
- Asril Sitompul, *Hukum Internet (Pengenalan mengenai Masalah Hukum di Cyberspace)*, (Bandung: Citra Aditya Bakti, 2004)
- Departemen Perdagangan Republik Indonesia, *Pengembangan Ekonomi Kreatif Indonesia 2025*, (Jakarta: Depdag RI, 2008)
- Ganefi, *Sinergitas Industri Kreatif Berbasis Hak Kekayaan Intelektual Dalam Menunjang Pariwisata*, *Supremasi Hukum: Jurnal Penelitian Hukum* p-ISSN: 1693-766X. 2019.
- Heri Iswandi, *Peran dan Pengaruh Tampilan Desain pada Periklanan*, *Jurnal Seni Desain Dan Budaya* Volume 3 No. 3, ISSN: 2502-8626, 2018.
- Kwadzo Doe-Dartey, R. ., & Valand, J. . (2024). An Examination of The Significant Frameworks of International Public Sector Accounting Standards (IPSAS) Adoption in Ghana. *LAW&PASS: International Journal of Law, Public Administration and Social Studies*, 1(1), 13–28. <https://doi.org/10.5281/zenodo.11545363>
- Ni Made Rian Ayu Sumardani and I Made Sarjana, "Perlindungan Hukum Terhadap Pencipta Karya Sinematografi Terkait Pembajakan Film Pada Situs Online", *Kertha Semaya* 4, No. 2, 2016.
- Rahmi Jened, *Interface Hukum Kekayaan Intelektual dan Hukum Persaingan*, (Jakarta: Rajawali Pers, 2013)
- Fernando M Manulang, *Hukum Dalam Kepastian*, (Bandung: Prakarsa, 2007).
- Hutagalung, Sophar Maru, *Hak Cipta: Kedudukan Dan Perannya Dalam Pembangunan*, (Jakarta: Sinar Grafika, 2012).

