

Legal Protection of Digital Design Works Sold on E-Commerce Digital Platforms

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Abstract

The development of digital technology means that creators can now use e-commerce platforms to sell their digital design works. However, the ease of access and digital nature of these designs raises concerns about potential copyright infringement. This is an article on the legal protection of digital design works sold on digital e-commerce platforms. Digital intellectual property, such as logos, illustrations, and icons, must be protected. In today's internet age, creators use e-commerce platforms as one of the main ways to sell their works to customers around the world. However, the ease of access and digital nature of these design works make copyright infringement easier. The researcher used normative legal research. Research with normative methods is conducted by examining literature sources as secondary data. In normative legal research, literature documents serve as a foundation of information to serve the research field. This research data is categorized as secondary data because it is obtained from a collection of rule-based literature reviews. especially intellectual property rights law, especially copyright and copyright of online magazines and digital works. The results show that digital design itself gets protection against ownership of intellectual property rights and gets exclusive rights to its creation for the creator. Efforts to resolve graphic design copyright issues; temporary legal remedies, civil legal remedies, and criminal legal remedies.

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INTRODUCTION

Many world-recognized works were created by modern society. To achieve this, of course, is not easy. One must have a strong desire and have extraordinary ideas (Weibel 2017). As Indonesians, we have the right to be proud of the achievements our country has made, due to its ability to compete with other countries. Indonesia has passed the latest Intellectual Property Rights (IPR) Protection Law, namely Law Number 28 of 2014 concerning Copyright, which aims to protect the work of the nation's children from plagiarism and irresponsible third party recognition of their work (Alfani, Rahmawati, and Dwinta 2023).

Technological advances influence the progress of many things, including the field of art (Richita 2018). One of them is illustration art, which has increasingly developed over the last two decades and is very popular with the public. One clue is the abundance of digital illustrations. The existence of digital illustration in Indonesia can now be said to be very developed (Barendregt 2020). All forms of digital works often contain data or files that can be distributed not only by copying them manually using a USB or CD, but can also be copied from websites. Digital images are susceptible to copyright infringement, whether or not the image is used without permission, or is acknowledged by another person (Jannah 2018).

E-commerce is a process and technique for carrying out business transactions without using paper as a transaction tool (Sawitri and Dharmawan 2021). According to Jony Wong, quoted by Ambo Aco and Andi Hutami Endang, e-commerce is the purchase, sale and

marketing of goods and services using electronic systems, such as radio, video television, computer networks or the internet. Internet users can easily use e-commerce to buy, sell, and market various goods and services, such as podcasts, digital music, and videos. Parties who are not responsible for dissemination and distribution actually take advantage of this convenience.

The specific problem discussed in this research is the lack of understanding of the legal protection of digital design works sold on e-commerce platforms. While technological advancements have enabled creators to sell their digital designs online, the ease of access and reproducibility of digital works raises concerns about potential copyright infringement. This research is crucial to ensure that digital creators are aware of their rights and can effectively protect their intellectual property.

Previous research has examined the general legal protection of digital works (Jannah 2018) and the growth of e-commerce in Indonesia (Sawitri and Dharmawan 2021). However, there is a gap in the literature regarding the specific legal issues surrounding digital design works sold on e-commerce platforms. This research aims to fill this gap by providing a comprehensive analysis of the legal protections available for such works.

The novelty of this research lies in its focus on the legal protection of digital design works, which have become increasingly prevalent in the digital age but have not been fully addressed in the existing literature. By analyzing the relevant laws and regulations, this research will provide valuable insights for digital creators, e-commerce platforms, and policymakers to ensure effective protection of intellectual property rights in the digital realm.

The main objective of this research is to examine the legal protection of digital design works sold on e-commerce digital platforms. The findings of this research will have important implications for digital creators, enabling them to better understand and exercise their rights, as well as for e-commerce platforms to develop policies and practices that support intellectual property protection.

RESEARCH METHODS

Researcher use type study law normative, research with method normative has done through stages review source References for become secondary data. In study law normative, documents literatures become base serving informationfield study. Classified as secondary data. Secondary data for study this obtained from gathering review literature based rule. Specifically Constitution related right riches intellectual, legal right create, as well right create online magazines and related digital works right riches intellectual. Data analysis in this study involved a comprehensive review and synthesis of relevant laws, regulations, and scholarly literature to identify the legal protections available for digital design works sold on e-commerce platforms. This includes an analysis of the provisions in the Copyright Act, as well as any specific regulations or guidelines that may apply. The findings are then discussed and interpreted to provide a thorough understanding of the legal landscape and its implications for digital creators and e-commerce platforms.

RESULTS AND DISCUSSION

Legal Protection of Exclusive Rights to Digital Designs

Law Number 28 of 2014 concerning the Copyright Law only states the protection of digital designs implicitly (Disemadi, Yusuf, and Zebua 2021). So many people do not know about the protection of digital design works as works of art or creations. In this era of ever-growing technological advances, many young people are competing to create works of art, especially digital art (Palfrey and Gasser 2016). so they can work, but don't understand the legal protections they may have. Currently, paintings or drawings that previously used canvas media have switched to digital. Work created digitally is no less interesting than work created manually or using canvas or other media. Because many people don't really understand about protecting creations produced through digital media, making art using digital media itself is an attraction that must be discussed (Zahida and Santoso 2023).

Because digital design issues are implicitly explained in the law, many people do not understand the legal protection of their creations, especially when it comes to digital design. In Article 40 of the Copyright Law, protected works include works in the fields of science, art and literature, and letter (p) defines a compilation of works or data in a format that can be read by a computer program or other media. Therefore, digital designs or digital images resulting from computer or digital processes are categorized into points (p). Therefore, implicitly, intellectual works such as digital designs can be protected by intellectual property rights laws, especially the Copyright Law. This article explains that protected works are data or creations whose format can be read by a computer program. This is not limited to digital design; This includes other works of creation that can be read by computers or other digital media, such as songs and music, both with or without text. However, the focus of this research is digital design, which is one of the works mentioned in point (p) of article 40 of the Copyright Law, which results in legal recognition and protection for digital designs. In the article about protected works, intellectual works produced through digital media whose format can be read by computer programs are not yet listed. As a result, the Copyright Law complements Law Number 19 of 2002, which is lacking regarding creations created via digital media.

Article 40 of the Copyright Law is explained as follows: Paragraph 1 states that "protected creations include creations in the fields of science, art and literature, consisting of: Books, pamphlets, published displays of written works, and all other written works; lectures, lectures, speeches, and other similar creations; teaching aids made for educational and scientific purposes; songs and/or music with or without text; drama, musical drama, dance, choreography, puppetry and pantomime; works of fine art in all forms such as paintings, drawings, carvings, calligraphy, sculpture, sculpture or collage; works of applied art; architectural works; map; batik artwork or other motif artwork; photographic works; portrait; cinematographic works; translations, interpretations, adaptations, anthologies, databases, adaptations, arrangements or modifications of traditional cultural expressions; compilation of works or data, either in a format that can be read by computer programs or other media; a compilation of traditional cultural expressions as long as the compilation is an original work of art; video games; and computer programs". Paragraph 2 continues, "The creation as referred to in paragraph (1) letter n is protected as a separate creation without prejudice to the copyright of the original work." And paragraph 3 regulates "protection as referred to in paragraph (1) and paragraph (2), including protection for works that have not or have not been published but have been realized in a tangible form that allows the reproduction of the work."

While the previous article discusses protected works, article 59 paragraph (1) of the Copyright Law regulates copyright for compilations of works or data, whether in a format that can be read by a computer program or other media (Strong 2014). This article is more or less the same as Article 40 of the Copyright Law, and both articles clearly state that a work or creation is a creation that can be read through a computer program or other digital media (Arlan 2023). Although not specifically explained, it is understood that digital design falls into this category. Exclusive rights will arise if the digital design is included in the category of copyrighted intellectual work. As stated in article 4 of the Copyright Law, exclusive rights consist of moral and economic rights, as stated in article 3 letter a. Article 5 states that moral rights are eternally attached to the creator, which means that the creator can use a real name, a pseudonym, or not include a name in his work to defend the creator's rights in cases where it could harm other people. Therefore, it is important to provide a watermark in digital designs before giving digital design work to buyers of copies of the original work.

Watermarking is a technique for inserting, hiding, or embedding certain data or information into other digital data so that humans do not know about it (be it public or confidential records), and they can carry out processing on their images or creations (Rasmi, Arunkumar, and Anees 2019). Watermarks, especially on digital designs, are used to show credit to the original creator and reduce the risk of harm such as theft and duplication without the original owner's permission. However, whether the creator wants to include his name or not, the inclusion of the name on this digital design must be adjusted to the choice

of the owner of the original work. To clarify the contents of article 5 itself, it reads "(1) Moral rights as intended in article 4 are inherent rights it is eternally up to the creator to continue to include or not to include his name on the copy in connection with the use of the work for the public; using an alias or pseudonym; changing his creations according to appropriateness in society; change his creation in accordance with decisions in society; change the title and sub-title of the work; and defend their rights in the event of distortion of the work, mutilation of the work, modification of the work, or anything that is detrimental to their personal honor or reputation. (2) Moral rights as referred to in paragraph (1) cannot be transferred while the creator is still alive, but the executor of these rights can be transferred by will or other reasons in accordance with the provisions of statutory regulations after the creator dies. (3) In the event of a court case. In the exercise of moral rights as intended in paragraph (2), the recipient may waive or refuse the exercise of the right provided that the waiver or refusal to exercise the right is stated in writing."

Other intellectual rights that digital design creators get are economic rights from articles 8 to 19 of the Copyright Law, economic rights are explicitly regulated (Menell 2016). Article 8 of the Copyright Law establishes the exclusive right of the creator or copyright holder to obtain economic benefits from digital works or designs that have been created through sales. Several things that creators can do regarding the economic rights they obtain are explained in article 9 of the Copyright Law which contains "(1) The creator or copyright holder as intended in article 8 has the economic right to: publish the work; the multiplication of creation in all its forms; creative translator; Adapting, arranging, or transforming a work; distribution of the Work or copies thereof; performance of creation; announcement of creation; Creation communication; and rental of creations. (2) Every person who exercises economic rights as intended in paragraph (1) must obtain permission from the creator or Copyright holder. (3) Any person without the permission of the creator or copyright holder is prohibited from duplicating and/or commercially using the work."

In this modern era, many people have interests and talents, especially in digital design. In fact, it makes it a very valuable business field. So many other people are interested in buying this work, especially in digital design (Lewrick, Link, and Leifer 2018). Such as selling digital designs for product brands, logos, t-shirt screen printing, and so on, which is a huge business opportunity on the internet and other media. As a result, economic rights are very important and benefit the creator. Many people don't know about protection laws, especially in digital design, and people don't know about what intellectual rights they get. So there are many parties who are irresponsible and/or deliberately duplicate or even steal the creator's work for personal gain. So you get benefits but only feel it yourself.

Legal Remedies for Exclusive Rights to Digital Designs

To avoid undesirable things happening, digital design owners must take legal action to protect their work. Steps that can be taken are by registering the results of their designs first with the Director General of Intellectual Property Rights, where the method for registering them is explained in article 66 of the Copyright Law. which contains the following "(1) Registration of creations and related rights products is submitted with a written application in Indonesian by the creator, Copyright Holder, Owner of related rights, or their proxy to the minister. (2) The application as intended in paragraph (1) is carried out electronically and/or non-electronically by: submitting examples of works, related rights products; or its replacement; attach a statement of ownership of the work and related rights; and pay the fees."

If someone violates their copyright, the designer or copyright holder has the right to sue others without first asking permission from the copyright holder. This includes three types of copyright disputes: legal violations, licensing agreements, and fees or royalties. In resolving copyright disputes, the copyright holder can choose to settle through the Commercial Court or file a civil compensation lawsuit to resolve the dispute. However, please remember that criminal dispute resolution is a last resort. Here are some attempts to resolve graphic design copyright issues:

a. Temporary Determination

In accordance with Article 99 Paragraph 4 of Copyright Law no. 28/2014, designers or copyright holders can apply for a temporary injunction to the Commercial Court (Restuningsih, Roisah, and Prabandari 2021). A person can submit a request to request the confiscation of a work that has been published, duplicated, or a copying tool used by the plagiarist. A temporary injunction can also stop the publication, distribution, communication and duplication of a creation or work.

b. Civil Remedies

Copyright holders, designers and copyright heirs are entitled to compensation if their work is misused. Law Number 28 of 2014, Articles 96 to 104 regulate the conditions for resolving disputes through civil remedies. If the copyright is given in its entirety to someone else, the creator or his heirs can sue the person who deliberately violates the moral and economic rights to the work. They can do this without first asking permission from the rights holder. In civil settlement efforts, a claim for compensation can take the form of a request to provide some or all of the profits obtained by the infringer as compensation for the unauthorized use of the rights holder's work or works.

c. Criminal Attempts

Copyright Law no. 28/2014, Articles 95, 105, 110 and 120 regulate criminal copyright actions. The creator or copyright holder can file a criminal lawsuit even if they also file a civil lawsuit. However, when both lawsuits are filed simultaneously, the civil lawsuit takes precedence. Please remember that copyright is included in the complaint offense, which means that only the person who created, the copyright holder, or the heir of the work who reports a violation of their work or creation can sue.

d. Arbitration

According to Law no. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, arbitration is a method of resolving civil disputes outside the public courts which is based on an agreement or arbitration made in writing by the parties to the dispute. Most copyright-related disputes are resolved through arbitration. This is due to the law requiring parties to reach a written agreement regarding how to resolve disputes through arbitration. It should be remembered that signing a written arbitration agreement can eliminate the rights of the parties to submit a dispute resolution stated in the agreement to the District Court, and the District Court is required to reject any dispute resolution that has been determined.

CONCLUSION

A work, especially digital design, is very vulnerable to misuse by irresponsible parties who take advantage of it for personal enjoyment, by duplicating or stealing work from the original creator. Therefore, this digital design receives protection from the state. Even though it is not clear, it is implied in the Copyright Law. So many people don't know about the protection of digital works, especially digital designs as creations. Therefore, digital designs themselves receive protection for the ownership of intellectual property rights and obtain exclusive rights for creations for their creators. Attempts to resolve graphic design copyright issues; temporary decree, civil remedies and criminal remedies. Designers or copyright holders can apply for a temporary injunction to the Commercial Court. Copyright holders, designers and copyright heirs are entitled to compensation if their work is misused. The creator or copyright holder can file a criminal lawsuit even if they also file a civil lawsuit.

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