



CONFLICT TO CLARITY: MEDIATION IN RESOLVING COPYRIGHT DISPUTES OVER ELECTRONIC BOOKS

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ABSTRACT

Mediation as one of the efforts to resolve e-book copyright disputes has become a trend in society to utilize dispute resolution with various advantages, including economic factors, legal culture factors, the breadth of the scope of problems that can be discussed, and coaching factors. The purpose of this paper is to discuss mediation as one of the alternatives to resolving e-book copyright disputes. Intellectual Property Rights are referred to as property rights, and the results of this work can be in the form of intangible objects that come from the work of the brain and the work of rational reason that gives birth to intellectual property rights. Mediation is one type of dispute resolution that can be chosen in resolving problems in the field of IPR, especially regarding e-book piracy disputes that are currently rampant. This study uses a normative legal research method with two types of approaches, namely the statutory research approach and the case research approach. Mediation is the most effective alternative dispute resolution and is needed for copyright disputes because it is regulated in the Copyright Law. In addition, the form of dispute resolution through mediation also has other advantages in that it can be resolved peacefully.

A. INTRODUCTION

Intellectual Property Rights are vital in ensuring a country's industrial and trade excellence, as economic growth heavily depends on trade. HaKI grants exclusive rights to creators in science, art, literature, and technology. According to the World Intellectual Property Organization (WIPO), HaKI includes creations resulting from intellectual ability such as inventions, written works, artistic works, symbols, names, images, and designs used in commerce.¹

Indonesia, which adheres to the civil law tradition, provides copyright protection based on the philosophy of moral rights to creators. By the principles of the Berne Convention, these rights are eternal, inalienable, and

¹ Nuzulia Kumalasari., *Hukum Hak Kekayaan Intelektual; Dasar Dasar Hukum Hak Kekayaan Intelektual Di Indonesia* (Jakarta: Rajawali, 2011).

inheritable. Although economic rights can be transferred to companies or other parties, moral rights remain with the creator. The copyright holder is the creator, the recipient of rights from the creator, or another party who receives rights on an ongoing basis, as regulated in Article 1 point 4 of Law Number 28 of 2014 concerning Copyright.² This law emphasizes that creators must receive remuneration to obtain economic rights. There are two aspects to copyright: economic rights and moral rights. Economic rights give creators the monetary value of their work, while moral rights protect the creator's right not to have their name removed and their work not changed without permission.³

The development of technology is increasingly accelerated by changes in human lifestyle. The current generation is very dependent on digital media and the internet to support their activities. The presence of various media based on digital technology has become part of the lifestyle and has a significant impact on the existence of Intellectual Property Rights, e-business, and e-government activities.⁴ This is what drives the development of shifting values (habits) of literacy patterns in society, especially among practitioners and academics, including students, who are starting to switch to using electronic books rather than visiting the library. The efficient nature of electronic books is that they are easy to carry and do not take up much space, which causes books to no longer be reading materials in the form of printed books but in the form of text and images.

In the past, books were collections of papers containing text or images, while electronic books (e-books) contained digital information in the form of text and images. E-books use electronic advances as interactive media that combine design, text, video, and sound, enabling innovation, collaboration, and communication. Initially, the creation of e-books was unimaginable to the public due to a lack of understanding of the legal protection of copyrighted works. Ignorance of legal instruments and financial capabilities often makes copyright owners ignore the legal aspects when creating or selling their works.

Electronic book creations are easy to copy/duplicate, and the results are almost indistinguishable from the original. The process is fast and cheap because it can be done virtually with a computer.⁵ Traditional bookworks are published physically and distributed via land, water, and air, while e-books are distributed virtually via the Internet. Other parties often copy works due to the limitations of their creators in mass production. Unique works usually come from individuals or groups who do not copy the work of others. Law Number 28 of 2014 concerning Copyright (after this referred to as the Copyright Law) states that e-books are protected adaptation works.

2 Marni Emmy Mustafa., *Aneka Penegakan Hak Cipta, Paten Dan Merek* (Badung: P.T. Alumni, 2022).

3 *Ibid.*

4 Ahmad M. Ramali., *Cyber Law Dan HAKI Dalam Sistem Hukum Indonesia* (Bandung: Refika Aditama, 2010).

5 Ujang Badru Jaman; et all., Urgensi Perlindungan Hukum Terhadap Hak Cipta Karya Digital, *Jurnal Rechten: Riset Hukum Dan Hak Asasi Manusia* 3, No. 1 (2011): 13

Copyright owners of e-books who experience violations must receive clear legal protection and assistance.

Article 95 of the Copyright Law states that creators who experience copyright disputes over e-books can resolve them through alternative dispute resolution, arbitration, or the Commercial Court. However, there is a backlog of copyright cases in the Supreme Court. Alternative dispute resolution helps maintain public order and reduce tension and conflict in the public eye.⁶ Alternative dispute resolution is an institution for resolving disputes or differences of opinion through procedures agreed upon by the parties, namely settlement outside the court using consultation, negotiation, mediation, conciliation or expert assessment.⁷

Mediation is a popular alternative dispute resolution and is favoured by many experts. In this process, a neutral third party helps the disputing parties through negotiations to reach an agreement that satisfies all parties.⁸ Unlike litigation or arbitration, the mediation process in resolving e-book copyright disputes is a non-litigation method. The mediator does not have the authority to decide the dispute but only helps the parties reach a mutually agreed agreement.⁹ Statutory regulations regulate mediation, specifically Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, which governs arbitration and alternative dispute resolution matters.

Data from the Directorate General of Intellectual Property (Ditjen KI) of the Ministry of Law and Human Rights shows many legal disputes related to e-book piracy. The Association for Concerned Creative Works (PPKC) often submits these disputes to the Directorate General of KI. For example, PPKC filed a case of violation of Copyright Law Number 28 of 2014. Another case occurred at the West Java Regional Office of the Ministry of Law and Human Rights. PPKC filed a mediation regarding copyright violations by Nusa Putra University Sukabumi for uploading e-books without the author's permission.

Creators experiencing e-book copyright disputes tend to choose mediation as an alternative resolution. Mediation in e-book copyright disputes is becoming a trend due to several advantages, such as economic factors, legal culture, the breadth of issues that can be discussed, fostering good relations between parties, and a more efficient process. Because of these advantages, mediation is now considered an alternative and a primary step in resolving e-book copyright disputes, which aligns with the increasing public interest in this method.

Research conducted by Khamozaro Waruwu,¹⁰ with the title of mediation as an alternative resolution of electronic book copyright disputes

6 Suyud Margono., *ADR & Arbitrase, Proses Pelembagaan Dan Aspek Hukum*, in *Cetakan I* (Jakarta: Ghalia Indonesia, 2000): 13.

7 Susanti Adi Nugroho., *Manfaat Mediasi Sebagai Alternatif Penyelesaian Sengketa*, in *Cetakan I* (Jakarta: Kencana, 2019): 4.

8 *Ibid.*, 22.

9 *Ibid.*

10 Khamozaro Waruwu, Ida Nadirah., *Mediasi Sebagai Alternatif Penyelesaian Sengketa*, Hak Cipta Buku Elektronik, *Jurnal USM Law Review* 6, No. 1, (2023): 141-157

that Mediation is the most effective alternative dispute resolution and is required for copyright disputes because it is regulated in the Copyright Law. In addition to this, the form of dispute resolution through mediation has other advantages in that it can be completed faster, lighter, costs less and satisfies both parties.

Research conducted by Chrisna Bagus Edhita Praja,¹¹ with the title Urgency of Mediation as an Alternative for Resolving Copyright Disputes The result indicated that several factors are considered for selecting mediation in copyright disputes. These factors are including the following: the litigation process that costs a lot of money; Mediation is an alternative solution for sharing copyrights; Mediation as a means of building a business network and reputation; Difficulty in proving in copyright disputes;) The will of Pancasila in dispute resolution amicably; litigation may damage the business relationship or reputation of the parties; and Mediation eases the work of procedural law

The practice of resolving e-book disputes based on Article 95 of the Copyright Law shows that this regulation does not provide certainty and opens up room for interpretation.¹² The implementation of this article creates a biased and debatable understanding, thus requiring further clarification. Article 95, paragraphs (1), (2), and (3) of the Copyright Law do not require mediation documents as a condition for a lawsuit in the Commercial Court, indicating that mediation is not a requirement. Until now, no instructions have been given for expanding the Commercial Court's authority in handling copyright dispute lawsuits. If absolute competence is applied, the provisions for exceptions to mediation in the Commercial Court, as stipulated in the Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2016 concerning Mediation Procedures in Court, must be adjusted and synchronized. Almost no copyright lawsuits, including e-books, have been filed in the Commercial Court. To improve the mechanism for resolving copyright disputes, especially e-books, the Mediation Institution needs to be better regulated by improving imperative norms, processes, and systems. The purpose of writing is to discuss regulation of copyright of electronic books according to statutory regulations and analyze electronic book copyright infringement in the digital age.

B. RESEARCH METHOD

The research method used in this research is normative legal research or literature considering that the problem studied concerns legal

11 Chrisna Bagus Edhita Praja, Budi Agus Riswandi, Khudzaifah Dimyati., Urgensi Mediasi sebagai Alternatif Penyelesaian Sengketa Hak Cipta, *Kertha Patrika* 43, No. 3 (Desember 2021): 275-295

12 M. Sanusi Helmi et al., The Effectiveness of Mediation as a Dispute Resolution for E-Book Copyright Infringement Cases in Indonesia: (Case Studies Occurring in the Jakarta and Riau Areas), *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 1, No. 2 (June 20, 2023): 103–11

materials such as statutory regulations and legal literature.¹³ Meanwhile, the data analysis method in this research uses qualitative normative analysis

C. DISCUSSION

1. Regulation of Copyright of Electronic Books According to Statutory Regulations

a. Copyright of Electronic Books According to Law Number 28 of 2014 concerning Copyright

HaKi protect creations and products of human creativity derived from intellectual abilities. Scholarly works are considered necessary because of the economic benefits generated.¹⁴ HaKi aims to provide legal protection to individuals or groups for the results of their intelligence and creativity, with adequate legal tools to safeguard these rights.

Copyright is a part of Hak atas Kekayaan Intelektual (HaKI) that grants exclusive rights to creators or holders to publish and reproduce their creations. This right covers works in science, art, and literature.¹⁵ Based on Law Number 28 of 2014, Copyright is defined as an exclusive right granted to the creator of his/her work, without prejudice to the applicable legal restrictions.¹⁶ Copyright infringement, which is rife in the book copying market, hurts authors, publishers, and the government as revenue from piracy is not taxed. While creators or copyright holders are free to exercise their rights, the law sets limits so that the use of copyright does not violate the law.

Based on the definition of copyright as stated in Law Number 28 of 2014,¹⁷ the elements of copyright can be described into three main elements, namely publication rights, reproduction rights, and assignment rights. Publication rights are exclusive rights held by creators or copyright holders to announce, disseminate, or publish creative works to the public in various forms, both physically and digitally. Reproduction rights include the authority to duplicate creative works, either in whole or in part, including in the form of physical or electronic copies such as e-books. Meanwhile, assignment rights refer to the ability of creators to transfer copyright to other parties, either in full or in limited quantities, through legal mechanisms such as license agreements, sales, or inheritance. These

13 Muhamad Azhar Kornelius Benuf., Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer, *Jurnal Gema Keadilan* 7, No. 1 (June 2020): 20–34.

14 Nahfidatul Nurlaela Oktavia., *Implementasi Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta Terkait Penggandaan Buku (Studi Kasus Usaha Fotokopi Di Kawasan Universitas Negeri Semarang)*, (Semarang: Universitas Negeri Semarang, 2015).

15 Eko Budihardjo., *Arsitek Bicara Tentang Arsitektur Indonesia* (Bandung: Alumni, 2007).

16 Neni Sri Imaniyati dan Panji Adam Agus Putra., *Hukum Bisnis* (Bandung: PT Refika Aditama, 2017).

17 Jeanette Jade Wangsa, Kalam Fransisca Fortunata, and Salma Zhafira Hanunisa., Impact of Artificial Intelligence on Intellectual Property Rights in Indonesia, *Anthology: Inside Intellectual Property Rights* 1, No. 1 (March 27, 2023),

three elements integrally protect the rights and interests of creators within the legal framework, while balancing individual interests and public interests in the use of intellectual works. HaKi including copyright, are property rights granted exclusively to the creator or right holder to publish, reproduce, and distribute their work and to authorize others to do so. Copyright arises automatically after the job is created and is protected by law for a certain period. The creator, who can be either an individual or a legal entity, is the party who gives birth to the work, as defined in the Copyright Law.

According to Article 1 number 2 of the Copyright Act, the creator is one or several people who individually or jointly produce distinctive and personal creations. The creator automatically becomes the copyright holder, but not all are the creators.¹⁸ Article 1 point 4 states that the copyright holder can be the creator, the party who receives the right legally from the creator, or another party who gets the right legally from the previous right holder. The state will hold copyright on works whose creator is unknown or has not been published, such as unrecorded music, to protect the creator's rights. If, in the future, there is a party that can prove to be the creator, the state will hand back the copyright to the rightful party.¹⁹

Copyright protection in the era of globalization is becoming increasingly complex, especially for works such as books, which play a role in improving the quality of human resources. Books can be printed, electronic (e-book), or in digital formats such as doc, pdf, txt, and jpg, which can be downloaded and read through electronic devices. One of the advantages of printed books circulating in major stores is that they have an International Serial Book Number (ISBN), which lists their international identity. With an ISSN, printed books remain a trusted academic reference in compiling scientific papers. However, in the era of information digitization, books are also affected by the emergence of digital versions, namely e-books, which offer a new form of delivering knowledge and information.

According to Law Number 28 of 2014 concerning Copyright, specifically Article 40 Paragraph (1) letter a, books are protected works.²⁰ Although this law protects creators and copyright holders, its implementation needs to be improved as deviations. Parties who commit copyright infringement can be prosecuted legally. Copyright infringement often occurs in digital books (ebooks) piracy and selling them at low prices, starting from Rp. 5,000. For example, two Instagram accounts, *nuel Ebook* and *ebook-kuu2* sell best-selling books and novels at meagre prices. On one of the accounts, they offer 12 ebooks for Rp. 5,000, with payment methods through credit or bank transfer.

18 Rachmadi Usman., *Hukum Hak Atas Kekayaan Intelektual* (Bandung: Alumni, 2003).

19 *Ibid.*, 120.

20 Eddy Damian., *Hukum Hak Cipta* (Bandung: Alumni, 2015).

Article 40 Paragraph (1) of the Copyright Act does not explicitly explain the protection of e-book copyright works, only mentioning books in general. The availability and popularity of e-books depend on the format and ease of the device used to read them. Some well-known e-book formats include EPUB, AZW, KF8, and PDF. These formats are adapted to the devices used, and as technology evolves, new formats will likely emerge that better suit users' needs.²¹

Article 40, paragraph (1) letter a of the Copyright Law states that books, including electronic books, are protected creations. Bookworks are a form of copyright that needs legal protection, produced through authors' and publishers' ideas, thoughts, and designs. Copyright arises automatically after an idea is put into the form of a work, and the law protects both registered and unregistered creations. Copyright registration does not prove ownership but serves as an evidentiary tool to determine the rightful creator in the event of a dispute in court.

Copyright protection by law encourages creators to continue innovating and creating new works. This protection is regulated in law with criminal sanctions for copyright infringers. Although the Copyright Act protects photography, law enforcement is still weak compared to the more established music copyright protection. The government is expected to provide adequate security so that creators of photographic works can continue to work. With good legal protection, quality book work can likely continue to grow.

b. Legal Protection of Electronic Book Copyright Infringement

Legal protection of copyright aims to encourage individuals with intellectual and creative abilities to be more enthusiastic in creating works that are beneficial for the progress of the nation.²² Through the Copyright Law, creators do not need to worry about the status of their work because legal protection is given since the work was first published, not when it was registered. Legal protection against unauthorized copying of books can be carried out preventively and repressively. Preventive protection is carried out by establishing regulations by the competent authorities to protect weaker parties, which is part of the legal development effort in creating a climate conducive to creativity in the fields of science, art, and literature. However, copyright infringement continues and can even be found in everyday life, with serious impacts including damaging the order of national life in the fields of economy, law, and socio-culture, reducing the enthusiasm for work among creative

21 Rina Tiya Lestari; et all., E-Book Interaktif, *Jurnal Kajian Teknologi Pendidikan* 1, No. 1 (2018): 71–76

22 Abu Muna et al., Basic Capital of Creative Economy: The Role of Intellectual, Social, Cultural, and Institutional Capital, *Apollo: Journal of Tourism and Business* 1, No. 2 (March 7, 2023)

actors, and reducing state revenues that should be obtained from income tax of creators or copyright holders.²³

Copyright is granted for tangible creations, such as those that can be seen, read, or heard, and does not protect ideas that are still abstract. Copyrighted works provide inner satisfaction and also have economic value. Copyright infringement is not considered an offense if the source is indicated and it is used for non-commercial, including social, activities. In Europe, the copyright system emphasizes the "moral right" which gives recognition to the creator and their work. Meanwhile, America prioritizes "economic rights" which focuses on economic protection for the creator.

The Indonesian government needs to review the integration of moral rights and economic rights in the Copyright Law,²⁴ especially for the field of architecture which has unique characteristics as a work born from deep ideas and thoughts. In the context of photography, it is recommended that the government prioritize a consistent approach as the basis for legal protection, taking into account the overlapping practices and ethics of the architectural profession. Architectural works as original creations need serious attention to prevent plagiarism or piracy by both Indonesian citizens and foreign parties. Protection as regulated in Law Number 28 of 2014 emphasizes the importance of the expertise and creativity of creators in producing distinctive and original works in the fields of science, art, and literature. In this case, the scope of protection for books as one of the works of creation is also emphasized in Article 40 paragraph (1) of the law. However, increasing public awareness of the importance of respecting works of creation is not easy and requires support in the form of facilities, infrastructure, and active collaboration from academics, students, law enforcement officers, the government, and the wider community. Efforts that can be made include through ongoing socialization in the campus environment, making the Intellectual Property Rights course a compulsory course to form a positive perception of students towards copyright, and encouraging lecturers to prepare standard learning modules that can be used as teaching materials without violating copyright.

In addition, Article 40 Paragraph (1) letter N of the Copyright Act recognizes e-books as adapted works that also receive protection, so e-books must be protected as adapted printed books.

The enactment of the new Copyright Law in 2014 is a refinement of the previous law, aiming to provide better protection to creators and their creations. Rapid developments in science, technology, art, and literature create the need for increased security

23 Hanafi, *Tindak Pidana Hak Cipta Dalam Problematika Penegakkan Hukumnya (Dalam Insane Budi Maulana, Kapita Selekta Hak Kekayaan Intelektual I)* (Jakarta: UII Yogyakarta dan Yayasan Klinik HAKI, 2005).

24 Rufinus Hotmaulana Hutauruk et al., Copyright Law And Investment In Indonesia: A Legal Bridge, *Mimbar Hukum* 35 (December 28, 2023): 197–217

and assurance of legal certainty for creators, copyright holders, and owners of related rights. This is reflected in the articles of the law that show seriousness in providing such protection.

2. Electronic Book Copyright Infringement in the Digital Age

The Copyright Law, specifically Article 40 Paragraph (1) letter n, recognizes that digital or electronic books (e-books) are adapted works entitled to protection.²⁵ E-books are considered a form of printed book adaptation and must be protected. Article 40 Paragraph (2) confirms that adapted works also receive protection equal to original works. To prevent infringement in the duplication of e-books, a license agreement can be made to appreciate copyrighted works, in which the copyright holder will receive royalties, per Article 80 Paragraph (3) of the Copyright Act. This license agreement must follow the provisions of Article 1320 of the Civil Code regarding the contract's validity.

Legal protection for creators of electronic books is conventionally equivalent to printed books in the context of Intellectual Property Rights, especially Copyright. Copyright law was born to protect intellectual property rights. The creator has certain Moral Rights after transferring his creation through a license to another party. The Copyright Act regulates protected creations.²⁶ The growth and development of HaKi elerating along with the progress of society. One type of IPR that contributes to improving the quality of human resources is scientific work, especially in the form of books. This scientific work can be in printed books or e-books in file formats such as PDF, doc, or txt, which can be downloaded and read through electronic devices. Each form of book has its advantages and disadvantages.

Book piracy is an increasingly prevalent form of infringement,²⁷ especially in big cities in Indonesia, such as Jakarta, Surabaya, and Yogyakarta. Factors causing this piracy include lack of law enforcement, public ignorance about copyright protection, and economic conditions. Books often targeted for piracy include reference books, dictionaries, and popular textbooks. Both printed books and electronic books are protected by copyright. According to the Copyright Act, infringement occurs when a person commits an act against a copyrighted work whose copyright is exclusively owned by another person without the permission of the owner of the right.

25 Aqilah Shafa Qhintara Idris and Rakhmita Desmayanti., Perlindungan Hukum Pencipta Terhadap Plagiasi Di Aplikasi Wattpad Berdasarkan Uu Hak Cipta, *Reformasi Hukum Trisakti* 4, No. 5 (October 3, 2022): 1363–76

26 Destiara Meisita Fafitrasari; et all., Perlindungan Hukum Karya Cipta Lagu Yang Di Aransemen Ulang Tanpa Izin Pencipta, Universitas Jember, 2014, *Notarius* 14, No. 2 (2021)

27 Miftah Anggun Winanda, Saidin Saidin, and Tengku Keizerina Devi Azwar., Implementation of Book Copyright Protection under Copyright Law: A Case Study of Pirated Book Sales on the Shopee Marketplace, *Al-Ishlah: Jurnal Ilmiah Hukum* 27, No. 2 (June 6, 2024): 92–112

Copyright for books can be registered through the Directorate General of Intellectual Property (DJKI),²⁸ Ministry of Law and Human Rights of the Republic of Indonesia, by following several stages and certain costs, including a license registration fee of IDR 75,000 and a registration fee for one creation of IDR 200,000. DJKI also provides a complaint service for publishers or book authors who want to sue for illegal use of their work. In the Indonesian legal system, copyright is divided into two types, namely moral rights and economic rights. Copyright holders have the right to grant licenses or permission to use their work to other parties in various forms. For example, exclusive rights are granted when a photo may only be used by one party and cannot be resold to another party. Meanwhile, non-exclusive rights allow one photo to be sold to several parties at once, provided that the buyer is aware that the rights are not singular. In addition, the license may be accompanied by a fee or certain form of compensation paid to the rights holder. Use can also be specifically limited, for example only for digital media and not for print, or only for posters and not other products such as t-shirts, so this flexibility reflects how copyright can be managed dynamically according to agreement and commercial value.

The low level of legal literacy in society leads to a lack of interest in taking care of legal aspects, including intellectual property rights. Publishers and book authors should register their works with the Directorate of HaKi the Ministry of Law and Human Rights to obtain legality, avoid plagiarism, and ensure that they do not infringe on other people's copyrights. Registering written works, such as books, is reasonably quick. In case of infringement, the rights owner can immediately file a subpoena or report to the police if the subpoena is ignored. It is essential to stop copyright infringement from being utilized by others without the rights owner's permission.

The Copyright Act generally²⁹ regulates the infringement of copyrighted works but does not explicitly regulate the infringement of books or their indicators. There is also a discrepancy between the provisions of the law and practices in the field, especially regarding the Moral Rights of the creator, which prohibits unauthorized alteration of the work. In practice, many violations occur, such as the duplication and piracy of books for resale. According to Article 1 point 23 of the Copyright Law, piracy is the unauthorized duplication and distribution of works for economic gain. Piracy methods have evolved from retyping and photocopying to using scanners and OCR (Optical Character Recognition) programs, with the results sold as e-books or printed books.³⁰

28 Erlan Ardiansyah et al., The Role and Authority of the Directorate General of Intellectual Property in Handling Complaints of Copyright Infringement in Indonesia, *Lambung Mangkurat Law Journal* 8, No. 1 (March 5, 2023): 1–13

29 Muhammad Saiful Fahmi et al., Penal Mediation in Settlement of Copyright Crimes in Indonesia, *Technium Social Sciences Journal* 49 (2023)

30 Etry Mike., Perlindungan Hukum Hak Kekayaan Intelektual Terhadap Tindakan Pelanggaran Pembajakan Buku Elektronik Melalui Media Online, *Al-Imarah: Jurnal Pemerintahan Dan Politik Islam* 2, No. 2 (2017): 135–44

Actions not considered copyright infringement are regulated in Article 43 Letter d of the Copyright Law, which states that creating and disseminating copyright content through information and communication technology media can be done non-commercially or with the creator's permission. However, unauthorized use of works in the context of digital literacy can violate the rights of the work owner. Economic utilization, such as the duplication and distribution of e-books for profit, is considered copyright piracy if it harms the creator's or copyright holder's financial interests, following the Explanation of Article 4 paragraph (1) of the Copyright Act.

3. Legal Consequences of Electronic Book Copyright Infringement

Legal consequences are the consequences of legal actions taken by legal subjects against legal objects,³¹ or the consequences of certain events determined by law, which give rise to rights and obligations for the parties involved. In the context of copyright infringement, the legal impact is widespread and detrimental to various parties. Creators and performers are harmed because they do not receive the financial compensation they should receive for their work or performance. Publishers and record producers suffer financial losses because they do not benefit from the investment and expertise they have invested. Sellers and distributors are also affected because they have to compete unfairly with parties who violate the law through the distribution of pirated works. Consumers and the public are harmed because they obtain low-quality works and lose the enthusiasm to create new, better works. On the other hand, the government is also harmed because copyright infringement is often accompanied by violations of tax obligations, so that state revenues from this sector are significantly reduced.

Violations of Intellectual Property Rights (IPR),³² particularly in the form of plagiarism and piracy of architectural works, are increasingly prevalent and significantly harm creators. Such acts not only infringe upon the moral and economic rights of the creator but also violate existing legal provisions, both in civil and criminal domains. In the context of civil law, these violations can be prosecuted under Article 1365 of the Indonesian Civil Code³³ (Burgerlijk Wetboek/BW) concerning unlawful acts. To be classified as an unlawful act, several elements must be fulfilled: the act must contradict legal norms or infringe upon the subjective rights of others, there must be fault (objectively or subjectively), actual loss must occur, and a causal relationship must exist between the act and the resulting loss.

31 Vidya Lintang Afriantari, Nur Haida, and Muhammad Indra Lasmana., Entrepreneurship Technology in Sharia Economic Perspective, *Icobba_2021* 1, No. 2 (2022): 441–45

32 I Gede et al., Legal Protection for Intellectual Property Holders in Business Activities in The Era of The Industrial Revolution 4.0, *Jurisprudentie: Jurusan Ilmu Hukum Fakultas Syariah Dan Hukum* 11, No. 1 (June 30, 2024): 74–81

33 Ahmad Rizky Siregar, Wieke Dewi Suryandari, and Hono Sejati., Urgency of Implementing Article 1365 of the Civil Code in Addressing Tortious Conduct in Electronic Transactions in Indonesia, *Journal of World Science* 3, No. 11 (November 21, 2024): 1519–30

The element of fault can be assessed both objectively and subjectively. Objectively, fault exists if, in similar circumstances, a reasonable person could foresee the consequences of their actions and would, therefore, refrain from such actions. Subjectively, fault is determined by the individual's ability based on their skills or expertise to anticipate the consequences of their conduct. In certain cases, if the injured party is also at fault, liability may be shared unless the unlawful act was committed with malicious intent. Furthermore, if multiple parties contribute to the loss, each may be held jointly liable under the principle of joint responsibility in civil law.³⁴

Meanwhile, the element of loss includes both material and immaterial damages. Material loss refers to actual damages and potential profits that should have been earned, whereas immaterial loss includes emotional suffering such as fear, pain, and loss of enjoyment of life. To determine the amount of compensation, an assessment is carried out to estimate the extent of the loss with the principle of *restitutio in integrum*, which aims to restore the injured party to the position they would have been in had the unlawful act not occurred. Regarding causation, two theories are applied: the *condition sine qua non* theory, which holds that the perpetrator is liable if their action is a necessary condition for the damage to occur, and the *adequate causality* theory, which limits liability to damages that can reasonably be expected as a result of the unlawful act. These theories are essential tools in proving civil claims for copyright infringement, especially in the field of architecture.

There are three categories of tort: (1) intentional tort, (2) no-fault tort (no element of intent or negligence), and (3) negligent tort. Unlawful acts (*onrechtmatige daad*) are regulated in Articles 1365 to 1380 BW. Any act that violates the law and causes harm to others obliges the perpetrator to compensate, following Article 1365 BW. An act is called a tort if it is generally contrary to the law.

The legal protection of copyright recognizes and protects the rights and interests of creators,³⁵ allowing them to sue infringers. The creator of the relevant organization may pursue legal remedies through criminal prosecution or civil suits. The legal provisions governing copyright are considered adequate for this protection. The general objective of HaKi, particularly copyright protection, is to encourage creators to continue creating by providing material incentives. Although copyright law aims to promote culture and science, the copyright market also creates a generalized property nature by compensating creators without covering other parties beyond buyers and users who participate in the voluntary exchange.

34 Yassine Lefouili and Leonardo Madio., The Economics of Platform Liability, *European Journal of Law and Economics* 53, No. 3 (June 1, 2022): 319–51,

35 Debojoyti Chakraborty., Copyright Challenges in the Digital Age: Balancing Intellectual Property Rights and Data Privacy in India's Online Ecosystem, *SSRN Electronic Journal*, (November 29, 2023)

Copyright protects creators to prevent unauthorized copying and ensures they can utilize their intellectual work, which incentivizes publishing works. Plagiarism of a book's copyrighted work is defined as imitating or claiming someone else's work as one's own. To determine copyright infringement, if two-thirds of the copyrighted work is considered substantial, taking that part can be viewed as an infringement. Thus, two-thirds of a copyrighted work's variety, form, style, or layout is a substantial part that should not be plagiarized.

The Copyright Law is expected to provide legal protection to photographic works,³⁶ encourage the spirit of innovation and creation in Indonesia, and enable creators to enjoy the economic benefits of their works. The Act also provides for several exceptions that are not considered copyright infringement, such as using a work by clearly stating the source for non-commercial activities, including education, research, and development, provided that it does not harm the reasonable interests of the creator.

Copyright law in Indonesia gives the government the right to utilize or require certain parties to reproduce copyrighted works in the public interest, as well as prohibit the dissemination of works that can degrade religious values, cause tribal or racial problems, or disturb state security and moral norms. Copyright infringement, especially in books that are pirated and sold cheaply, can be subject to criminal and civil sanctions. Article 113 paragraph (2) stipulates that infringement of economic rights related to the transformation of creation is punishable by imprisonment of up to three years or a maximum fine of five hundred million rupiah. Meanwhile, Article 113 paragraph (3) regulates violations in terms of duplication and distribution, with imprisonment of up to four years or a maximum fine of one billion rupiah.

a. Electronic Book Copyright Dispute

According to the 2014 Copyright Law, Article 40 Paragraph (1) states that books, including their digital versions (e-books), are protected by copyright. This requires the fulfillment of moral, economic,³⁷ and other rights owned by the creator or copyright holder. Consequently, downloading illegal e-books from the internet can be considered as unauthorized duplication of work, which is subject to criminal sanctions as per Article 113 paragraph (3) of the Copyright Act 2014, namely imprisonment of up to four years and/or a maximum fine of one billion rupiahs (US\$1.5 million).

36 Hongxing Peng and Yuanyuan Xu., How Does Intellectual Property Protection Matter? Infringement Disputes and Corporate Innovation Investment Persistence, *Applied Economics Letters*, (February 23, 2025).

37 Khamozaro Waruwu, Triono Eddy, and Adi Mansar., Mediation As A Settlement Of Electronic Book Copyright Disputes To Provide Legal Certainty From A Benefit Perspective, *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 23, No. 3 (December 20, 2024): 1517–33

Any individual exercising economic rights,³⁸ such as reproduction, must obtain permission from the creator or copyright holder. Any reproduction or commercial use of a work without such consent is prohibited. According to Article 1, paragraph (23) of the Copyright Act 2014, piracy is defined as the unauthorized duplication and distribution of a work for economic gain. This offense may be subject to criminal sanctions under Article 113 paragraph (4), namely imprisonment of up to ten years and/or a maximum fine of four billion rupiah. In addition, the crime of unauthorized distribution, such as the sale or dissemination of the work, is regulated under Article 115 with a maximum fine of five hundred million rupiah.

Illegal e-book sites can violate various economic rights of e-book creators,³⁹ depriving them of rightful financial benefits and control over their intellectual property. These infringements include the unauthorized publishing of the work, reproducing the content in any form whether partially or entirely translating the work into other languages without permission, and adapting, arranging, or transforming it into different formats or derivative works. Additionally, illegal platforms may distribute the work or its copies freely, perform or display the content without consent, announce its availability to the public, and communicate the work through digital or broadcast means. Each of these actions undermines the creator's legal entitlement to monetize and regulate the use of their creation, resulting in significant economic losses and a decline in the incentive to produce original works.

Although e-books are not explicitly mentioned in the 2014 Copyright Law, theoretically, e-books⁴⁰ can be categorized as one type of book based on the definition of a book in the law. The implication of the recognition of e-books in the 2014 Copyright Law is that e-books also get legal protection so that violations against them can be subject to criminal sanctions according to the law. In addition, the moral and economic rights of e-book creators must also be fulfilled.

The creator of the work has the right to fight for his rights, especially in the event of infringement. According to the Explanation of Article 95 paragraph (1) of the Copyright Act, there are three forms of copyright-related disputes: tort, license agreement, and dispute over the rate of remuneration or royalties. The creator or copyright holder can choose how to resolve the dispute, which can be done through alternative dispute resolution, arbitration, or the Commercial Court. Such alternatives include mediation, negotiation,

38 Hutaeruk et al., Copyright Law And Investment In Indonesia: A Legal Bridge The Legal Analysis of Copyright Protection for E-Books in the Form of Non-Fungible Token (NFTs). *Journal of Law and Policy Transformation* 8, No. 2 (January 11, 2023).

39 Ahmad Awwad Albrian., The Cases of Infringement on E-Books Amid E-Learning Process, *Studies in Systems, Decision and Control* 572 (2025): 1267–77

40 Xiaohua Awa Zhu., Digital Ownership: The Case of E-Books, *Proceedings of the Association for Information Science and Technology* 60, No. 1 (October 1, 2023): 505–14

or conciliation. Creators can also use the Intellectual Property Rights Arbitration and Mediation Board (BAM HKI), which has specialized in handling intellectual property rights disputes since 2012 and cooperated with the Indonesian National Arbitration Board and the National Mediation Center since 2019. BAM HKI generally handles disputes related to license agreements and transfer of rights.⁴¹

b. Electronic Book Copyright Dispute Resolution

In cases of copyright infringement involving electronic books (e-books),⁴² the Copyright Act of 2014 provides legal protection by granting access to structured dispute resolution mechanisms as outlined in Article 95. This article states that copyright disputes may be resolved through alternative dispute resolution methods, arbitration, or judicial proceedings. The court authorized to handle such cases is the Commercial Court, and no other court has jurisdiction over copyright disputes. Moreover, if the infringement does not involve piracy and the parties to the dispute are identifiable and located within the territory of the Republic of Indonesia, mediation must first be pursued as a prerequisite before initiating any criminal proceedings. This approach reflects the law's preference for restorative and cooperative resolution methods prior to engaging in punitive legal measures.

Article 96 of the Copyright Act states that creators, copyright holders, holders of related rights, or heirs who suffer losses of economic rights are entitled to compensation. This compensation is included in the court's verdict on criminal copyright and/or related rights cases. Payment of compensation to the rightful party must be made within a maximum period of 6 (six) months after the court decision is legally binding.

Article 99 of the Copyright Law explains that the creator, copyright holder, or owner of related rights has the right to file a lawsuit for compensation with the Commercial Court for infringement of copyright or related rights products. A suit for damages may include a request to forfeit all or part of the income from the copyright-infringing activity. In addition, they may seek a provisional injunction to confiscate the infringing work, means of duplication, and cessation of infringing activities. An available remedy is cassation against the Commercial Court's judgment regarding the claim for damages. The right to file a civil suit does not prejudice the right of the creator or owner of the relevant rights to prosecute criminally.

41 Kementerian Hukum dan Hak Asasi Manusia Direktorat Jenderal Kekayaan Intelektual., Modul Kekayaan Intelektual Tingkat Dasar Bidang Hak Cipta, (Jakarta, 2020).

42 Billy Lauwda, Daniel Putra Gemilang, and Jessica Dara Ferguson., Infringement of Copyright Laws on Books and Documents, *Anthology: Inside Intellectual Property Rights* 1, No. 1 (March 27, 2023)

In cases involving criminal offenses related to Copyright and Related Rights,⁴³ investigators are granted comprehensive authority to carry out a series of investigative actions under the framework of the law. These powers include verifying the validity of reports or information concerning alleged offenses, examining individuals or legal entities suspected of committing such crimes, and requesting information and evidence from relevant parties. Investigators may also inspect books, records, and other documents associated with the offenses, conduct searches at locations where evidence is suspected to be held, and, with court approval, confiscate materials and halt the distribution of goods derived from copyright violations. Additionally, investigators are authorized to seek expert testimony to support the investigation, request assistance from relevant agencies for arrest, detention, issuance of wanted notices, as well as the prevention and deterrence of offenders. If the evidence is deemed insufficient, investigators are also empowered to terminate the investigation in accordance with the procedures set forth in the Criminal Procedure Code. This broad scope of authority aims to ensure effective enforcement of Copyright and Related Rights in Indonesia.

Although e-books are not explicitly mentioned in the 2014 Copyright Law, theoretically,⁴⁴ e-books can be categorized as one type of book. This results in e-books also getting legal protection, and violations of them can be subject to criminal sanctions. The Copyright Law places copyright infringement as an ordinary crime, not a complaint offense as in the previous law. This gives creators and copyright owners the opportunity to defend their rights through civil lawsuits or criminal charges, as stated in Article 1 number 1 of the Copyright Law.

In its development, dispute resolution can be through alternative dispute resolution channels, following Law Number 30 of 1999 Arbitration and Alternative Dispute Resolution (AAPS Law).⁴⁵ Alternative dispute resolution institutions are of several types: consultation, negotiation, mediation, conciliation, and arbitration. As a lawmaker, the government has regulated copyright protection by the Copyright Act. However, understanding of copyright protection is still low among both law enforcement officials and the public. This can be seen from the many photocopy businesses, especially around college campuses in Indonesia, such as in Surabaya, which quickly

43 Oleh Hubanov et al., International Legal Regulation of Copyright and Related Rights Protection in the Digital Environment, *Studies of Applied Economics* 39, No. 7 (August 16, 2021)

44 Christina Christina, Florianus Yudhi Priyo Amboro, and Rufinus Hotmaulana Hutaauruk., The Legal Analysis of Copyright Protection for E-Books in the Form of Non-Fungible Token (NFTs), *Journal of Law and Policy Transformation* 8, No. 2 (January 11, 2023): 136

45 Nurul Khoiriyah., *Lembaga Alternatif Penyelesaian Sengketa; Teori Dan Praktek* (Jakarta: Bina Ilmu Nusantara, 2002).

offer photocopies of whole books, as well as the tendency of students to be reluctant to buy original books.

4. Implementation of Mediation Efforts Based on Law Number 28 of 2014 concerning Copyright

a. Implementation of Article 95 of Law Number 28 of 2014 in the Practice of Electronic Book Copyright Disputes

Article 40, paragraph (1) letter N of the 2014 Copyright Law implicitly states that e-books are included in adapted works that are protected. Therefore, copyright owners of e-books who experience violations have the right to receive protection and assistance related to their rights. Article 95 states that creators who experience e-book copyright disputes can seek resolution through alternative dispute resolution, arbitration, or through the Commercial Court. However, in practice, a backlog of copyright dispute cases is submitted to the Supreme Court for cassation. This shows the need for a fast, effective, and fair dispute resolution approach, which can touch on the humanitarian aspects of the disputing parties. The presence of alternative dispute resolution is expected to support the creation of a peaceful and orderly society and reduce tension and conflict.⁴⁶

Alternative dispute resolution is an institution for resolving disputes or differences of opinion through procedures agreed upon by the parties, namely settlement outside the court using consultation, negotiation, mediation, conciliation, or expert assessment.⁴⁷ Article 95, paragraph (4) states that in copyright disputes, except related to piracy, the parties must undergo mediation before filing a criminal lawsuit. The large number of unregistered and unregistered e-books increases the potential for copyright disputes, especially for these books. Registered copyrights still have the potential to cause conflicts, let alone those that are not. Resolution of copyright disputes can be done through two channels: out-of-court settlement and settlement in court.

Dispute settlement outside of court in copyright cases⁴⁸ can be pursued through alternative dispute resolution methods, including mediation, negotiation, conciliation, and arbitration, as referred to in the Explanation of Article 95 paragraph (1) of the 2014 Copyright Law. Arbitration, governed by Articles 27 to 30 of Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution, results in a binding decision as stipulated in Article 54 paragraph (1) of the same law. Mediation, as defined in Article 1 paragraph (6) of Supreme Court Regulation Number 2 of 2003, is a dispute resolution process

46 Suyud Margono., *ADR & Arbitrase, Proses Pelembagaan Dan Aspek Hukum*, In Cetakan I, (Jakarta: Ghalia Indonesia, 2000): 13.

47 Nugroho., *Manfaat Mediasi Sebagai Alternatif Penyelesaian Sengketa*, In Cetakan I, 4. (Jakarta: Kencana, 2019): 4.

48 Poonam Kadian, Shiafali M. Arora, and Nidhi Arora., Robust Digital Watermarking Techniques for Copyright Protection of Digital Data: A Survey, *Wireless Personal Communications* 118, No. 4 (June 1, 2021): 3225–49

involving negotiation between the parties, facilitated by a neutral third party known as the mediator. Negotiation is a peaceful resolution mechanism where parties attempt to reach a mutual agreement without external intervention. Conciliation, on the other hand, involves the participation of a third party who helps bridge the differences between disputing parties, as defined in Article 1 paragraph (10) and Paragraph 9 of the General Explanation of the AAPS Law. These mechanisms offer flexible, efficient, and less adversarial alternatives for resolving copyright disputes outside the judicial system.

The result of the dispute resolution process through consultation, negotiation,⁴⁹ mediation, conciliation, or expert assessment is an agreement. The implementation of alternative dispute resolution follows the provisions in Article 6 of the AAPS Law. Negotiation is a simple and effective form of resolving disputes based on the principle of deliberation for consensus, where both parties communicate without involving a third party. The primary basis of copyright is the protection of creative works as expressions of ideas introduced to the public. Copyright protects works from unauthorized copying and ensures that creators benefit from the results of their intellectual work, serving as an incentive to publish the work.

Without copyright protection,⁵⁰ creators may be reluctant to publish their works, thus denying the public the benefits of those works. Copyright protection benefits creators but often conflicts with the public interest in social, political, educational, and cultural aspects. While creators have the right to control access to works before publication, publishers can also regulate access after publication. Historically, copyright has been viewed as a monopoly that should be interpreted to serve the public interest over the interests of the copyright holder.

b. Authority of the Commercial Court in Handling Electronic Book Copyright Disputes

Settlement of disputes in court for compensation for the injured party is regulated in Article 96 of the Copyright Law. Filing a lawsuit follows the stages set out in Article 100, with a maximum settlement within 90 days, extendable up to 30 days, according to Article 101. Copyright infringement disputes must be filed to the competent Commercial Court as civil lawsuits.

In copyright infringement lawsuits, a temporary injunction is regulated in Article 106 of the Copyright Law. The Commercial Court issues it at the request of the party whose rights have been violated.

49 Waruwu, Eddy, and Mansar., Mediation As A Settlement Of Electronic Book Copyright Disputes To Provide Legal Certainty From A Benefit Perspective, *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 23, No. 3 (December 20, 2024).

50 Varsha Sisaudia and Virendra P. Vishwakarma., Copyright Protection Using KELM-PSO Based Multi-Spectral Image Watermarking in DCT Domain with Local Texture Information Based Selection," *Multimedia Tools and Applications* 80, No. 6 (March 1, 2021): 8667–88

This injunction aims to prevent further violations and the entry of goods suspected of infringing into trade channels, including exports and imports. Legal protection is regulated by law to avoid copyright infringement, especially in e-books pirated or distributed illegally. The violator will be prosecuted and punished according to applicable provisions if a violation occurs.

Creators or related organizations can sue copyright infringers⁵¹ through criminal charges or civil lawsuits. In resolving disputes in court, the injured party can request a temporary injunction per Article 106 of the Copyright Law. However, there are legal problems related to the requirements that must be met, such as attaching proof of copyright ownership as regulated in Article 107. Difficulties arise because the injured party needs a copy of the rights holder and clear evidence of ownership. At the same time, the regulations do not provide a solution for proving copyright ownership in e-books that cannot be registered.

Based on the Joint Regulation of the Minister of Law and Human Rights and the Minister of Communication and Information Number 14 of 2015 and Number 26 of 2015, copyright owners who feel their rights violated can submit a complaint report to the Directorate General of Intellectual Property. The report will be verified and become the basis for recommendations for the Ministry of Communication and Information to close internet sites or block content that violates copyright and/or related rights, either in part or whole.

According to the Copyright Directorate⁵² of the Directorate General of Intellectual Property, around 800 reports of content violations have been followed up with blocking. Several e-commerce platforms, such as BukaLapak and Tokopedia, use the notice and takedown method to handle violations. Publisher Grafindo, for example, has filed a direct complaint to marketplaces such as Tokopedia. However, the Ministry of Communication and Informatics stated that it is difficult for marketplaces to prevent violations automatically because sales accounts only display a catalog of goods without additional information to filter violations.

Although copyright is automatically protected⁵³ from the time of publication of the work, a copyright certificate is required in the complaint. Only a few e-commerce platforms provide proactive copyright protection, with Lazada being one with an Intellectual

51 Nanda Yuniza Eviani, Maskun, and Ahmad Fachri Faqi., Legal Challenges of AI-Induced Copyright Infringement: Evaluating Liability and Dispute Resolution Mechanisms in Digital Era, *Jambura Law Review* 6, No. 2 (July 28, 2024): 403–28

52 Norma Eka Safitri et al., Virtual Objects Trading in Indonesia: Legal Issues on Ownership and Copyright, *Proceedings of the International Conference on Intellectuals' Global Responsibility (ICIGR 2022)*, (May 22, 2023): 713–21.

53 P. Bernt Hugenholtz and João Pedro Quintais., Copyright and Artificial Creation: Does EU Copyright Law Protect AI-Assisted Output?, *IIC International Review of Intellectual Property and Competition Law* 52, No. 9 (October 1, 2021): 1190–1216

Property Protection Platform (IPP Platform). According to Article 22, paragraph (1) of Government Regulation Number 80 of 2019, e-commerce is responsible for the content on its system. The platform organizer must be legally responsible for illegal content unless they immediately delete the content after learning of its existence, according to Article 22 paragraph (2).

The problem of marketplace authority arose⁵⁴ due to the Circular Letter of the Minister of Communication and Information Technology Number 5 of 2016, known as the Safe Harbor Policy. In this policy, platform providers are not responsible for errors or negligence of merchants or users, so they can focus more on developing services without worrying about prohibited content uploaded by merchants. Thus, if a problem occurs, the responsibility falls to the merchant, not the platform provider.

Stopping infringement⁵⁵ is the main objective of litigation in the field of intellectual property rights, including copyright. Civil procedures are divided into two: pre-trial procedure and provisional measures. Before suing, the aggrieved party can warn the alleged infringer to avoid the return of litigation costs if the trial is held without allowing the infringer to know the lawsuit. Disputes over damages fall under the civil court's jurisdiction, with the local court being the relevant legal place, especially if the dispute relates to breach of contract or tortious acts.⁵⁶ The parties who can file a lawsuit for intellectual property infringement are the intellectual property holders and, in the case of joint ownership, one of the rights holders. The exclusive licensee has the right to file a lawsuit, while the ordinary licensee needs to obtain authorization from the rights holder. Defendants in a copyright infringement case can include individuals or companies responsible for the infringement since infringement can occur in various marketing channels, including manufacturers, importers, or parties offering or advertising goods in trade.

In copyright cases, the evidence follows the same rules as in ordinary civil cases, considering that not all creators register their creations to obtain a Creation Registration Certificate. Common defenses in copyright cases include arguments that there is no infringement, that the existing exclusive right is valid but has been maximally implemented (exhaustion right), or, in some cases, there is an issue of copyright abuse by the owner so that the opposing party can question the validity of the copyright. In addition, the issue of no infringement can be raised in a separate procedure to request

54 Stewart M. Hoover., The Shifting Terms of Religious Authority in North Atlantic Politics and Culture, *Entangled Religions* 11, No. 3 (November 3, 2021).

55 Winanda, Saidin, and Azwar., Implementation of Book Copyright Protection under Copyright Law: A Case Study of Pirated Book Sales on the Shopee Marketplace. *Al-Ishlah: Jurnal Ilmiah Hukum* 27, No. 2 (June 6, 2024): 92–112

56 Rahmi Jened., *Hukum Hak Cipta (Copyright's Law)* (Bandung: PT. Citra Aditya Bakti, 2014).

a determination from the court in response to a summons filed by the plaintiff.

There are three forms of copyright disputes:⁵⁷ (1) unlawful acts, (2) licensing agreements, and (3) disputes regarding fees or royalties. After identifying the type of dispute, the creator or copyright holder can choose to resolve it peacefully through alternative dispute resolution (such as mediation, negotiation, or conciliation), arbitration, or courts. The Commercial Court has sole authority to adjudicate copyright disputes. If the court route is chosen, the creator or copyright holder can file a civil lawsuit for damages or criminally. However, the criminal route should be the last resort (*ultimum remedium*).

Article 96 of the Copyright Law grants creators,⁵⁸ copyright holders, and their heirs the right to claim compensation for losses resulting from infringements of their economic rights. There are two recognized methods for calculating such losses in a compensation lawsuit. The first is *damages*, which involves monetary payment as compensation for the infringement; however, this can only be claimed against parties directly responsible for the violation. The plaintiff bears the burden of proof to demonstrate that the infringement caused actual harm and must show that the compensation would restore their position to what it was prior to the violation. The second method is *reasonable royalty*, which is determined by estimating the amount of royalties that would have been agreed upon in a license agreement, had one been negotiated. This approach is particularly relevant in situations where infringement cannot be entirely prevented, such as due to rapid technological developments, and serves to ensure that creators receive fair remuneration for the use of their works despite the infringement.

This compensation payment functions as restitution, namely the return of any profits and income obtained by the infringer from the use of the creation.

Creators and copyright or related rights⁵⁹ holders can still file criminal charges even though they have filed a civil lawsuit. However, if a civil and criminal lawsuit are filed simultaneously, the civil lawsuit will take precedence. Copyright is a complaint offense, so prosecution can only be carried out if the creator, copyright holder, or their heirs report a criminal act related to their creation.

57 Fakhira Meshara Salsabila, Ranti Fauza Mayana, and Laina Rafianti., Copyright Commercialization of Songs Uploaded in TikTok Application Without the Creator's Permission, *Jurnal Sains Sosio Humaniora*, (June 30, 2021)

58 Desmond O Oriakhogba and Eunice O Erhagbe., The Copyright Amendment Bill: A New Vista for Fair Remuneration for South African Creators and Performers?, *GRUR International* 73, No. 10 (September 24, 2024): 959–66

59 Rachmad Abduh and Fajaruddin Fajaruddin., Intellectual Property Rights Protection Function in Resolving Copyright Disputes, *International Journal Reglement & Society (IJRS)* 2, No. 3 (October 26, 2021): 170–78

Criminal complaints can be made through the complaint. Dip.go.id site by filling out a complaint form with the reporter's data. After submitting the report, the reporter can check the complaint status through the available menu.

Before making a criminal charge, the creator or copyright holder usually reprimands the party who committed the violation through a warning. Following Article 95, paragraph (4) of the Copyright Law, mediation between the disputing parties must be carried out first. This makes criminal efforts the last step in resolving copyright disputes. If mediation is unsuccessful, the creator or copyright holder can report the crime to investigators at the Police, Civil Servant Investigators (PPNS) at the Regional Office of the Ministry of Law and Human Rights, or PPNS at the Directorate of Investigation and Dispute Resolution.

During the investigation, investigators conduct various examinations to ensure the truth of reports on criminal acts in copyright and related rights.⁶⁰ This process includes examining parties suspected of committing violations, collecting information and evidence, and examining associated documents. Investigators can also conduct searches and confiscate evidence with court permission. Proving copyright infringement, especially those related to digital copyrighted works on the internet, requires a technical approach using technological means. By Article 111 of the Copyright Law, proof in the examination process can utilize information and communication technology, where electronic information and documents are recognized as evidence by applicable laws and regulations.

D. CONCLUSION

Based on the analysis, it can be concluded that the regulation of electronic book (e-book) copyright as stipulated in Article 40 paragraph (1) letter N and paragraph (2) of Law Number 28 of 2014 affirms that e-books are protected as transformative works derived from printed books, and therefore must be granted legal security and recognition equal to original creations. However, in practice, there remains a significant gap between legal norms and legal culture, as evidenced by the persistent occurrence of e-book piracy and unauthorized distribution. Mediation, as mandated in the Copyright Law, emerges as the most effective and efficient method of dispute resolution due to its accessible, low-cost, and mutually beneficial nature. Furthermore, the dual dimension of copyright—economic and moral rights—requires comprehensive protection to preserve the creator's financial interests and personal integrity. The purpose of this paper is to emphasize the urgency of enforcing copyright protection for digital works and

60 Soeleman Djaiz and Baranyanan 1., Simplification of Law Regulations in Copyright Criminal Act Settlement, *Journal of Human Rights, Culture and Legal System* 1, No. 2 (July 31, 2021): 81–92

promoting mediation as a responsive solution to resolve e-book piracy disputes in accordance with the dynamics of the digital era.

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