

THE ROLE OF CYBER LAW IN PROTECTING INTELLECTUAL PROPERTY RIGHTS IN THE DIGITAL WORLD

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ABSTRACT

In the digital era, the development of information and communication technology has revolutionized human civilization, presenting both opportunities and challenges. Intellectual Property Rights (IPR) are critical to fostering creativity and innovation, but they face increasing threats in cyberspace, including piracy and unauthorized distribution. This research examines the role of cyber law in protecting IPR and identifies challenges in enforcing it, such as limited resources and rapid technological advances. Through normative legal research methods, including statutory and conceptual approaches, this research evaluates the existing legal framework and proposes solutions. Concrete steps include increasing resources, updating cyber laws to match technological advances, and raising public awareness through education and campaigns. In addition, multi-stakeholder collaboration involving government, academia, the private sector and civil society is essential for effective IPR protection in the digital era.

Keywords: Cyber Law, Intellectual Property Rights, Digital World

INTRODUCTION

Information and communication technology has changed the behavior of society and human civilization globally. Apart from that, the development of information technology has also caused the world to become borderless and caused significant social changes to take place very quickly. Information technology is currently a double-edged sword, because apart from contributing to improving the welfare, progress and civilization of mankind, it is also an effective means of carrying out unlawful actions. (Febriharini, 2016)

Advances in science and technology as well as developments in national development have brought progress to various aspects of people's lives. Therefore, it is necessary to create and update regulations to ensure legal certainty. Likewise, in the fields of science, arts and literature which are closely related to Intellectual Property Rights (IPR), increased activity in the field of technology is marked by the emergence of new and innovative discoveries. However, it is very unfortunate that in the midst of the development of the science and technology sector, this is not supported by public awareness and honesty of market players in understanding the importance of protecting Intellectual Property Rights.

This grants certain exclusive rights to the owner of any original idea or signature work, so replicating or reusing the work without the owner's consent is illegal. It falls under property law. This can be applied to commercial activities by those involved in the arts, such as writers, musicians and inventors. This also refers to the legal rights

given to inventors or creators to protect their creations for a predetermined period of time. This legal right gives the sole right to the inventor/creator or recipient of his rights to fully exploit his invention/creation for a certain period of time. (Mulyani, 2008)

IPR protection is very important to encourage creativity and innovation and provide incentives for creators to produce work that is beneficial to society. However, easy access and connectivity in cyberspace also opens up opportunities for IPR violations. Piracy, misuse and distribution of works without permission are serious problems that threaten the rights and economy of creators.

Law is considered progressive when it can keep pace with societal developments. In this context, a new legal regime known as Cyberlaw has emerged. Cyberlaw is defined as the equivalent of "Cyber law," which is currently used to refer to legal terms related to the use of information technology. (Indah Meisyana Suci, 2023)

However, as the digital space expands, new challenges emerge in the form of online intellectual property rights violations. The practice of piracy, misuse and distribution of works without permission is a serious threat that disrupts the economy and the rights of creators. Therefore, to respond to this dynamic, protecting intellectual property rights in the digital realm requires an appropriate legal approach that is responsive to developments in information technology. In this context, the urgency of cyber law in regulating and protecting intellectual property rights becomes increasingly important to maintain a balance between technological innovation and the creative rights of creators. This research discusses how developments in information technology affect intellectual property rights, and identifies new challenges that arise in the digital era, such as online violations of intellectual property rights. Apart from that, this research also highlights the urgency of cyber law in protecting intellectual property rights amidst the dynamics of information technology that continues to develop.

Research on intellectual property rights is not something new, there has been previous research such as research conducted by Umami Salamah Lubis with the title Intellectual Property Rights as Objects of Waqf in the journal *Iuris Studia* in 2020 stated that IPR Endowment is giving away the benefits of IPR to other parties who have waqf, causing the heirs not to have the right to inherit the IPR by right of the IPR has been transferred through waqf. IPR that has a long term The protection also places a time limit on the object of the waqf, so that with The end of IPR protection means the end of the transfer of the patent as an object waqf. When the IPR protection period expires, the IPR can become property general. The public can utilize these IPRs freely without having to pay royalties anymore to IPR holders. (Lubis, 2020)

Furthermore, research conducted by Bonaraja Purba, et al with the title Legal Protection of Intellectual Property Rights and Music Copyright in the journal *Innovative*, said that low knowledge and law enforcement systems are the main problems in dealing with copyright violations in Indonesia, further development and study is needed in making With a better legal framework to eradicate copyright violations in Indonesia, the government and related agencies in the music industry must also further develop supervision regarding copyright in Indonesia. (Purba et al., 2023)

Furthermore, research conducted by Sesde Seharja and Andin Rusmini with the title Protection of Intellectual Property Rights (HKI) for Local Creative Businesses in Supporting the Tourism Sector in the journal *Mutiara Jurnal Ilmiah Multidisciplinary Indonesia*, in 2023 stated that every creative industry actor needs to register copyrighted works with Directorate General of Intellectual Property. Apart from that, synergy is needed between the Government and the public in increasing awareness of creators or creative industry players to register copyrighted works as Intellectual Property Rights (HKI) through regulations and facilities provided by the authorized government institution, namely the Directorate General of Intellectual Property, Ministry of Law and Human Rights. Indonesian people so that creative works receive legal protection. (Seharja & Rusmini, 2023)

Furthermore, research conducted by Kerenina Sunny et al, with the title legal aspects of intellectual property rights in franchise businesses in the journal *Journal of Law and Citizenship* in 2024, determined that franchise businesses are in great demand by the public because they have their own characteristics and advantages that are difficult for other people to imitate. People Others can benefit from the economic value of a franchise business by entering into a licensing agreement with the franchisee and the franchisee is obliged to provide royalties to the franchisor. Legal aspects of a franchise business, such as copyright, brand rights and patents. IPR certificate by the

Director General of IPR, Ministry of Law and Human Rights.(Sunny et al., 2024)

Next, research conducted by Rafi Harits Anandito et al, entitled analysis of video piracy from the perspective of intellectual property rights in the academic media journal (JMA) in 2024, determined that video piracy is an act of violating copyright in which a person or entity uses, distributes, or utilize videos without permission from the copyright owner or authorized party. Piracy refers to the theft and illegal redistribution of content and services without proper rights or permission.(Rafi Harits Anandito & Mustaqim, Tubagus Aswin Aswangga, 2024) Based on this, it shows that the research conducted by the author is different from previous research, namely that this research discusses the role of law in protecting intellectual property rights in the digital era.

LITERATURE REVIEW

The state is an organization that has a purpose. In the context of the Indonesian state, the goals of the state are stated in the fourth paragraph of the Preamble to the 1945 Constitution, which identifies that Indonesia is a legal state that adheres to the concept of a welfare state. As a legal state that aims to realize general welfare, every activity must be oriented towards the goals to be achieved and must also be based on the laws that apply as rules for state, government and social activities.(Juniarso Ridwan, 2014)

In its enforcement, the law is required to fulfill three domains of validity which Gustav Radbruch calls tradism which includes three legal applications, namely philosophical, dogmatic and sociological legal implementation. Each legal application is based on three different basic values. These three basic values are the value of justice, the value of certainty and the value of usefulness. The core of Radbruch's legal philosophy consists of his teachings on legal concepts and legal ideas. Radbruch said that. "the idea of law is defined through a triad of justice, utility and certainty".(Suteki & Galang Taufani, 2018)

Where to achieve legal objectives, a policy is required. Policy is defined as the aim of forming a provision or decision in the form of a law or certain standards.(Suharno, 2010) Policy is defined as a process which is an inseparable unit to achieve goals, where if one process has a problem it has an impact on the next process and has an impact on the results. In this case, the policy issue or government agenda is the input, strategy and program implementation are the process, and strategy performance is the output.(Aji Wahyudi, 2016)

Cyberlaw, as a field of law that regulates the digital space, plays a crucial role in protecting Intellectual Property Rights (IPR). It provides a legal framework for regulating various activities in the virtual world, including those related to the creation, use, and distribution of intellectual works. Governments have also taken steps to formulate policies to address these issues, such as:

- The Electronic Information and Transactions Act No. 11 of 2008: This law regulates various aspects of electronic transactions, including e-commerce and digital signatures, and provides a legal framework for protecting IPR in the digital environment.
- The Personal Data Protection Law No. 27 of 2022: This law aims to protect the personal data of individuals and establishes a legal framework for the collection, use, and processing of personal data.

Despite the important role of cyberlaw in protecting IPR in the digital world and the existence of laws and regulations, there are still challenges and obstacles in enforcing cyberlaw. One of the main challenges is the lack of resources. Many countries, especially developing countries, lack the resources to enforce cyberlaw and combat IPR violations. This includes adequate digital infrastructure, skilled personnel, and sufficient budget.

This research aims to:

- Understand the role of cyberlaw in protecting IPR in the digital world. This involves examining the legal framework provided by cyberlaw, its key features, and its impact on safeguarding IPR in the digital environment.
- Identify the challenges and obstacles in the implementation of cyberlaw for IPR protection. This includes exploring the various factors that hinder the effective enforcement of cyberlaw, such as resource constraints, lack of awareness, and cross-border enforcement issues.

- Formulate solutions to address the challenges and obstacles. This involves proposing concrete measures and strategies that can be implemented by governments, businesses, and individuals to strengthen the enforcement of cyberlaw and enhance IPR protection in the digital age.

The introduction highlights the complex interplay between technological advancements and the legal frameworks governing intellectual property rights (IPR) in the digital age. Here's a breakdown of the key points and relevant literature, incorporating recent scholarly sources:

- The evolution of intellectual property rights (IPR) in the United States has been marked by significant changes and adaptations in response to technological advancements and shifting economic landscapes. Intellectual property encompasses various forms of intangible assets, including patents, copyrights, trademarks, and trade secrets, which are crucial for incentivizing innovation and creativity. (Adams, 2023)
- Intellectual property (IP) refers to creations of the mind – everything from works of art to inventions, computer programs to trademarks and other commercial signs (World Intellectual Property Organization, 2020)
- Digital technologies and data are transformational. People, firms and governments live, interact, work and produce differently than in the past, and these changes are accelerating rapidly. (OECD, 2019)

The introduction effectively outlines the research context. By understanding the evolving digital landscape, the importance of IPR, and the limitations of current legal frameworks, this research aims to investigate the role of cyberlaw, its challenges, and potential solutions for strengthening IPR protection in the digital age.

METHODOLOGY

This paper uses normative legal research methods because the focus of the study departs from norms, regulations, legal theory so that it has the task of systematizing positive law, using approaches: statutory approach, conceptual approach, and analytical approach. The legal material search technique uses document study techniques, and research analysis uses qualitative analysis. This research method is descriptive with a normative juridical research type, using a statutory approach and a conceptual approach. By combining descriptive analytical and legal normative approaches, this research aims to provide a comprehensive understanding of the role of cyberlaw in protecting IPR in the digital age, identify challenges and obstacles, and propose potential solutions for strengthening IPR enforcement.

DISCUSSION

Cyber law plays a role in protecting intellectual property rights

The foundation of Intellectual Property Rights (IPR) is based on the view that these rights arise from intellectual works created by humans. The process of creating an intellectual work requires special skills, perseverance, and sacrifice of time, energy, and thought, all of which are embodied in the work. (Situmeang, 2020)

Cyberlaw plays a crucial role in protecting intellectual property rights (IPR) in the digital age. IPR refers to creations of the mind, such as inventions, literary and artistic works, designs, and symbols, names, and images used in commerce. In the digital era, safeguarding IPR becomes even more critical due to the ease of copying, distributing, and modifying digital content.

The protection of intellectual property rights in the digital environment is very important for several reasons. First, it motivates creativity and innovation by providing incentives for individuals and companies to create and develop ideas for products and services. Second, it ensures that creators and innovators are fairly compensated for their work, which generally helps reduce the cost of research and development. Finally, it prevents the use and distribution of copyrighted content without permission, which can result in significant losses for content creators and owners.

Cyber law exists to play an effective and efficient role in combating intellectual property infringements in the digital world. Examples include the unauthorized use of copyrights, unauthorized use of names or logos, misuse of trademarks, and unauthorized use of trade secrets. Due to its close relationship with crime prevention and criminal proceedings, cyber law serves as the legal foundation for enforcing laws against electronic crimes, including money laundering and terrorism crimes. (Islam dan Kontroversial & Tinggi Agama Islam Al Washliyah Banda Aceh, 2023).

The government has issued several policies to regulate intellectual property rights (IPR) in the digital world, including:

- Copyright Law No. 28 of 2014 on Copyright: This law protects various forms of creative works, such as literary and artistic works, software, and databases.
- Law No. 11 of 2008 on Electronic Information and Transactions: This law regulates various aspects of electronic transactions, including e-commerce and digital signatures, and provides a legal framework for protecting IPR in the digital environment.

The presence of UU ITE through supporting provisions for the protection of Copyright Law has given an important role in preventing irresponsible groups from committing infringements. The policy has established prohibitions against copyright infringement in the online context, imposed sanctions on infringers, and closed access to websites that violate copyright. It also plays a role in strengthening the protection of creative works' privacy. (Indah Meisyana Suci, 2023).

In conclusion, the protection of intellectual property rights in the digital environment is very important because it can motivate creativity and innovation, ensure that creators and innovators are fairly compensated, and prevent the use and distribution of copyrighted content without permission. Cyber law plays a crucial role in protecting intellectual property rights in the digital world and helping to regulate intellectual property in the digital realm. Governments, technology developers, intellectual property owners, and society as a whole must actively participate in protecting intellectual property rights in the digital world.

Challenges and Obstacles in Enforcing Cyber Law to Protect IPR

The digital era has brought a new era for the creation and use of intellectual property. The ease of access and connectivity in the virtual world has opened up new opportunities for creators, but at the same time has created gaps for the infringement of Intellectual Property Rights (IPR). Cyber Law or Cyber Law, as an important tool, has emerged to protect IPR in the digital era.

Although Cyber Law has a crucial role, there are several challenges and obstacles in enforcing it, which can be categorized into several factors, such as:

- Lack of Resources
In Indonesia, the resources available are still insufficient for enforcing cyber law and resolving IPR infringements. This includes the lack of appropriate digital infrastructure, trained personnel in Cyber Law and IPR, and sufficient budget.
- Rapid Technological Advancements
Cyber Law needs to be updated and strengthened to keep up with technological advancements and new forms of infringement. This requires a complex legislative process and a long time, which can lag behind the pace of technological advancements.
- Low Public Awareness
Low public awareness of the importance of IPR and Cyber Law can hinder efforts to enforce the law. The public needs to be educated about their rights to intellectual property, how to protect IPR in the digital world, and the consequences of IPR infringement.

To address the issue of resources, the government should work with the private sector to build and develop digital infrastructure. In addition, training and education are needed for law enforcement officials and the public about enforcing cyber law and the importance of protecting intellectual property.

In the context of the rapid advancements in technology in the current era, law as a social regulator should be progressive and keep up with these advancements. However, law in Indonesia is not yet able to keep up with these rapid advancements. To address this issue, there should be facilitation or acceleration of the legislative process by forming a special team to review and update cyber law on a regular basis, or through the application of faster and more flexible legislative mechanisms such as omnibus laws.

To address this issue, the government can also develop technology such as blockchain. Blockchain technology can be used as an effective solution. Blockchain is the technology that underpins digital currencies such as Bitcoin. This technology allows digital transactions to occur securely and reliably without the involvement of a third party as an intermediary. In the context of legal protection for IPR, blockchain technology can be used as a digital rights management system. (Lazuardi & Gunawan, 2023)

Blockchain technology has several advantages that make it effective in protecting digital IP rights. First, the data contained within blockchain has a high level of durability and becomes a very reliable source as long as the members of the blockchain remain strong and the data in question is distributed in the blockchain network. Second, digital IP rights information contained within blockchain cannot be deleted or changed without the permission of the IP right holder. Third, digital IP rights data contained within blockchain can be accessed by all individuals, which can help in checking registered works.

The government must support the development of ICT infrastructure and its regulations so that its use is safe and prevents misuse, while respecting the cultural and social values of Indonesian society. (Ramli, 2020) The UU ITE was not created to limit creativity in the field of Information and Communication Technology (ICT). On the contrary, the UU emerged in the era of telecommunications convergence, where telecommunications, broadcasting, and information technology are increasingly integrated. This convergence will eventually unite legal systems.

Regarding the low public awareness of cyber law and IPR, increasing public awareness of IPR and cyber law requires joint efforts from various parties. It requires socialization and education that is appropriate and accessible, so that the public can understand their rights to intellectual property, how to protect IPR in the digital world, and the consequences of IPR infringement. These efforts will help enforce the law and encourage creativity in the digital era. The cultivation of behavior and legal awareness cannot be seen as something standing alone, it requires the involvement of the government, law enforcers, and all relevant sectors involved in the development of legal culture. In fact, to find the right form or even the legal system, it is necessary to build legal awareness and participation from all parties, both from the public and the government.

The enforcement of cyber law in protecting IPR in the digital era requires comprehensive and sustainable efforts from various parties. This is not limited to the government, but also involves active roles from academia, the private sector, civil society, and individuals.

CONCLUSION AND RECOMMENDATION

In the digital era, intellectual property and human creativity have transformed into valuable digital assets. Intellectual Property Rights (IPR) are an important tool for protecting these digital assets. Cyber Law or Cyber Law has emerged as a guardian in the virtual world, ensuring that the rights of creators and innovators are protected. However, the journey of Cyber Law in protecting IPR is not without challenges. Challenges and obstacles include limited resources, the rapid pace of technology outpacing legislation, and low public awareness of IPR and Cyber Law. To overcome these challenges, multi-stakeholder collaboration is the key. The government, academia, the private sector, civil society, and individuals must work together. This synergy can be achieved through various strategic steps. First, strengthening resources. Investment in digital infrastructure, training for law enforcers and the public, and appropriate budget allocation are crucial steps. Second, Cyber Law needs to adapt to the rapid pace of technology. A special team to review and update Cyber Law regularly can be a solution. The application of faster and more flexible legislative mechanisms, such as omnibus laws, can also be considered. Third, education and awareness are key to increasing public awareness. Public campaigns, online education platforms, and easy access to information can open the public's eyes to the importance of IPR and Cyber Law. On the other hand, technology such as blockchain can be an innovative solution in protecting IPR. Digital rights management based on blockchain offers high security

and transparency. The government also has an important role in building legal infrastructure and regulations that support the safe and responsible use of ICT. The convergence of telecommunications and information technology must be balanced with a comprehensive and adaptive legal system. Protecting IPR in the digital era is a shared responsibility. With collective and comprehensive efforts, Cyber Law can become a strong fortress that protects intellectual property and encourages creativity in the digital world.

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