

2023 Juni 26 - Legal Protection for Copyright S4

ORIGINALITY REPORT

24%

SIMILARITY INDEX

20%

INTERNET SOURCES

13%

PUBLICATIONS

11%

STUDENT PAPERS

PRIMARY SOURCES

1	russianlawjournal.org Internet Source	1%
2	Submitted to King's Own Institute Student Paper	1%
3	www.southeastasia-iprhelpdesk.eu Internet Source	1%
4	"Issue Information", Energy Storage, 2023 Publication	1%
5	repository.untag-sby.ac.id Internet Source	1%
6	www.scirj.org Internet Source	1%
7	ukinstitute.org Internet Source	1%
8	www.uibm.gov.it Internet Source	1%
9	lib.ui.ac.id Internet Source	1%

2023 Juni 26 - Legal Protection for Copyright S4

by Pustaka UIB

Submission date: 26-Jan-2024 05:08PM (UTC+0700)

Submission ID: 2278864454

File name: 2023_Juni_26_-_Reviewing_The_Approaches_of_Indonesia_S4.pdf (611.99K)

Word count: 7029

Character count: 39728



LEGAL PROTECTION FOR COPYRIGHT HOLDERS OF ONLINE GAME SOFTWARE: THE ECONOMIC RIGHTS OF THE CREATOR

Tiana Dewi Seroja¹, Rina Shahriyani Shahrullah², Indra Hengky³

¹ Faculty of Law, Universitas Internasional Batam, Batam, Indonesia

Email: seroja@uib.ac.id

² Faculty of Law, Universitas Internasional Batam, Batam, Indonesia

Email: rina@uib.ac.id

³ Faculty of Law, Universitas Internasional Batam, Batam, Indonesia

Email: indra78ng@gmail.com

Corresponding Author: Rina Shahriyani Shahrullah

ABSTRACT

In the game industry itself, particularly in Indonesia, the majority of game developers and publishers are copyright holders who are not the creators themselves, often referred to as license holders. To analyze the legal protection for copyright holders of online game software in relation to the economic rights of the creator, Philipus M. Hadjon's Theory of Legal Protection can be used. The objectives of this research are to analyze the legal regulations for copyright holders of online game software, to analyze the legal protection for copyright holders of online game software in relation to the economic rights of the creator, and to analyze the role of the Government in providing legal protection for copyright holders of online game software. The research used a normative juridical approach, therefore the data used are secondary data obtained from existing literature. It employs qualitative juridical data analysis. The results of the research show that in the legal protection for copyright holders of online game software in relation to the economic rights of the creator, according to Philipus M. Hadjon, "there are two types of legal protection means, namely Preventive Legal Protection means that can be resolved through arbitration/non-litigation, such as Mediation, Negotiation, Conciliation, Arbitration.

Keywords : Online Game Software, Copyright Holders, Legal Protection, Economic Rights.

INTRODUCTION

The internet has experienced rapid development in recent times. It was created in 1969 by ARPANET, connecting four computers.¹ The initial purpose of the internet was to facilitate information exchange among defense researchers in the United States Department of Defense.

¹ Roni Rodhin, "Internet Dalam Konteks Perpustakaan," *Pustakaloka* 3, no. 1 (2011): 1-19. <https://doi.org/https://doi.org/10.21154/pustakaloka.v3i1.631>.

Since then, the internet has continued to grow rapidly and has become one of the essential media in human life.

Advancements in communication and information technology have driven the development and use of new shopping methods, leading to a significant surge in online shopping. Buyers can now purchase goods or services without having to visit physical retail stores.² The growth of online shopping and emerging trends in technology facilitate electronic marketing and promise to provide new ways of serving consumers in the future. Practically, almost all products or services can be quickly and conveniently purchased without leaving home.³

The implementation of information technology and internet development has forced and driven changes in the economic system of society, shifting from traditional manufacturing-based economy to a digital economy based on information, intellectual creativity, and knowledge, also known as the Creative Economy.⁴ The medium that possesses advantages in terms of efficiency, boundlessness, 24/7 availability, interactivity, no need for permits, and absence of censorship, e.g. the internet.⁵ It has attracted various parties to utilize the internet for both business sectors and personal interests. One of the business sectors that emerged due to the convenience offered by the internet is the provision of online gaming services.

Online games are a type of computer game that utilizes computer networks, typically the internet and similar networks, and always utilizes the available technologies such as modems and cable connections. Usually, online games are provided as an additional service by online service providers or can be accessed directly through the systems provided by the companies that offer these games. An online game can be played simultaneously by multiple players using computers connected to a specific network.⁶

Every year, the number of online game players in Indonesia continues to increase, with the country experiencing a growth rate of 33% annually. The average age of online game users ranges from 17 to 40 years old.⁷ The advancement of digital technology has resulted in an increase in copyright infringements in Indonesia, particularly concerning digital works such as computer software. One of the implications of information technology that currently raises concerns is its impact on the existence of Intellectual Property Rights (IPR), in addition to other areas like electronic business transactions, e-government activities,⁸ and more. Copyright is an exclusive right granted to the creator or rights holder to announce or reproduce their work or grant permission for it, without prejudice to the limitations imposed by applicable laws and regulations. This special right is granted based on the creator's ability to produce a distinct work

² Enrique Bigne, Carla Ruiz, and Silvia Sanz, "The Impact of Internet User Hopping Patterns and Demographics on Consumer Mobile Buying Behaviour," *Journal of Electronic Commerce Research* 6, no. 3 (2005): 193–209.

³ Sevgin A. Eroglu, Karen A. Machleit, and Lenita M. Davis, "Empirical Testing of a Model of Online Store Atmospherics and Shopper Responses," *Psychology & Marketing* 20, no. 2 (2003): 139–50, <https://doi.org/https://doi.org/10.1002/mar.10064>.

⁴ Imon Makarim, *Tanggung Jawab Hukum Penyelenggara Sistem Elektronik* (Jakarta: Rajawali Pers, 2010).

⁵ Adi Agus Riswandi, *Hukum Dan Internet Di Indonesia* (Yogyakarta: UII Press, 2003).

⁶ Krista Surbakti, "Pengaruh Game Online Terhadap Remaja," *Jurnal Curere* 1, no. 1 (2017): 28–38, <https://doi.org/http://dx.doi.org/10.36764/jc.v1i1.20>.

⁷ Tri Wulan Wijayanti, "Motif Dan Adiksi Pemain Game Online: (Studi Deskriptif Tentang Motif Dan Adiksi Pemain Game Online Dragon Nest Di Surabaya)," *Media Commonline* 2, no. 1 (2013).

that showcases their original creativity as an individual.⁸ Works protected by copyright on the internet, such as news stories, software, novels, screenplays, graphics, images, Usenet messages, and even emails, can be easily duplicated and disseminated worldwide by anyone. This poses a threat to the protection of copyright on the internet.

Copyright holders, according to Article 1 number 4 of Law Number 28 of 2014 concerning Copyright, are the creators as the owners of Copyright, individuals who have legally received the rights from the creator, or individuals who have further received the rights from those who have legally received them. Copyright itself is an exclusive right consisting of moral rights and economic rights. However, it should be noted that "exclusive rights" are intended for the creators, so no other party can utilize those rights without the creator's permission. Therefore, copyright holders who are not the creators only have a portion of the exclusive rights, specifically the economic rights.

In the game industry, particularly in Indonesia, the majority of game developers and game publishers are copyright holders who are not the creators, often referred to as license holders. A license is the granting of intellectual property rights by the owner to an individual or legal entity, allowing them to engage in certain business activities, whether in the form of technology or knowledge, for the production, sale, or marketing of specific goods, which includes the exclusive rights of the intellectual property owner.⁹ This licensing is related to the principle adopted by Indonesian Copyright laws, which is the principle of national economic interest. National economic interest must be the top priority. Therefore, when granting licenses to other parties, provisions that directly or indirectly cause detrimental effects to the Indonesian economy are prohibited.

Copyright includes economic rights, which means rights that have monetary value and can be transferred and economically exploited. Due to economic reasons piracy is rampant, especially in Indonesia.¹⁰ Intellectual Property Rights (IPR) is a legal aspect closely related to the protection of creative efforts and economic investments in creative endeavors. Based on the Trade-Related Aspects of Intellectual Property Rights (TRIPs) agreement, which pertains to intellectual property rights related to trade within the World Trade Organization (WTO), Intellectual Property Rights cover copyrights, industrial property (patents, trademarks, industrial designs, protection of integrated circuit layouts, trade secrets, and geographical indications of origin). Among these rights, copyright, originally known as author rights, is a branch of intellectual property law that aims to protect creative works produced by authors, artists, musicians, playwrights, filmmakers, software developers, including video game software.

In Indonesia, cases of copyright infringement regarding online game software also occurred in the case between PT Lyto Datarindo Fortuna and Yonathan Chandra. The case began in 2010 when Yonathan Chandra (Defendant), 26 years old and residing in Surabaya, created Ragnarok Online with his own server, commonly known as a private server named Ragnarok

⁸ Sudaryat, Sudjana, and Rika Ratna Permata, *Hak Kekayaan Intelektual: Memahami Prinsip Dasar, Cakupan, Dan Undang-Undang Yang Berlaku* (Bandung: Oase Media, 2010).

⁹ Suyud Margono, *Aspek Hukum Komersialisasi Aset Intelektual* (Jakarta: Nuansa Aulia, 2010).

¹⁰ Ibid, P. 15.

Online Lebay (RO Lebay). This was done without the consent of PT Lyto Datarindo Fortuna, the sole licensee of Ragnarok Online. Yonathan Chandra's purpose in creating this private server was to seek profit, as in RO Lebay, users could quickly level up without much effort and could also purchase in-game items without buying Game On vouchers issued by PT Lyto Datarindo Fortuna.

From the above description, it can be observed that there is an issue where the copyright holder of online game software is used by someone else without authorization or permission from the copyright holder. This ²⁹ causes harm to the copyright holder, especially in terms of their economic rights, raising the following questions: 1) How is the ² legal regulation for copyright holders of online game software established? 2) How is the legal protection for ²¹ copyright holders of online game software related to the creator's economic rights? 3) What is the role of the government in providing legal protection for copyright holders of online game software?

58

RESEARCH METHOD

This research utilizes a normative research method. Normative legal research is a type of legal research that regards law as a system of norms. The type and source of data used to support this research are secondary data.¹¹ Secondary data commonly used in normative legal research were collected via library research¹² and can be categorized ²⁶ to three types: primary legal materials, such as Law Number 28 of 2014 on Copyright, Law Number 19 of 2016 Amendment to Law Number 11 of 2008 on Electronic Information and Transactions, Government Regulation of the Republic of Indonesia Number 29 of 2004 on High Technology Production Facilities for Optical Discs, Government Regulation Number 36 of 2018 on the Recording of Intellectual Property Licensing Agreements, and secondary legal materials such as journal articles, books, and other relevant sources related to this research. This research employs qualitative juridical data analysis, which is descriptive in nature.

RESULTS AND DISCUSSION

Legal Regulations for Holders of Copyrights in Online Game Software

Legal protection aims to provide safeguarding to the human rights that have been infringed upon by others. This protection is granted to society so that they can enjoy all the rights provided by the law. In other ³² words, legal protection refers to various legal measures that law enforcement authorities must provide to ensure a sense of security, both mentally and physically, from disturbances and threats from any party.¹³

27

¹¹ Bicar Franki Leonardo Manurung, Elza Syarif, and Rina Shahriyani Shahrullah, "Legal Consequences of Bankruptcy and Postponement of Debt ²⁸ Payment Obligations: Are They Similar?," *Journal of Law and Policy Transformation* 7, no. 1 (2022): 85–96. <https://doi.org/http://dx.doi.org/10.37253/jlpt.v7i1.6746>.

¹² Marfin Timu Apy Phymma, Rina Shahriyani Shahrullah, and Lu Sudirman, "Handling the Covid-19 Pandemic in Indonesia ²⁸ and India: A Critical Flashback in 2020," *Journal of Law and Policy Transformation* 7, no. 1 (2022): 49–43. <https://doi.org/http://dx.doi.org/10.37253/jlpt.v7i1.6749>.

¹³ Satjipto Rahardjo, *Ilmu Hukum* (Bandung: Citra Aditya Bakti, 2000).

64
In the Copyright Law Number 28 of 2014, software games are not explicitly mentioned and described in detail. However, there are indications that point to software games. Article 40, paragraph 1, in letters R and S state that the Copyright Law provides protection for video game works and computer programs. Since software is a type of software that is literally executed with computer programs, and video games are not explicitly explained in the law, the World Intellectual Property Organization (WIPO) defines video games as a manifestation of the language of games, which combines audio and visual elements into one and is executed on a device. Video games generally provide reward systems such as scores based on the level of success achieved in completing tasks within the game.

In the Copyright Law, works that are protected by copyright must meet the three fundamental elements of copyright, namely involving science, art, and literature, to be eligible for copyright protection. In this case, it can be observed that software games fall under the three fundamental elements of copyright, as they encompass science, art, and literature. Software games are part of the field of science because they contain a structure of programming languages explained by mathematical algorithms. This enables the execution of commands using the algebraic formulas derived from these algorithms. Therefore, software games are considered to be in the field of science. Additionally, many types of games also incorporate educational applications within their gameplay.

Specifically, games are also categorized as art because at first glance, video games can be perceived as visual art. This is because they encompass all the elements that constitute the understanding of visual art. However, video games are not solely based on visual images but also on auditory elements. In that sense, video games can also be interpreted as musical art. It doesn't stop there, video games also contain elements of literature and choreography, as they include storytelling, characterization, theatrical expressions, and bodily movements. At this point, video games are equivalent to cinema, which is a combination of visual art, music, literature, and dance. Literature is one of the components of art, and software games are also considered as literary works. In this case, copyright protects the original creations of a creator in a computer program as a literary work. The source code can be seen as a readable human literary work that expresses the ideas of software experts who created it. It is not only the human-readable commands (source code) but also the machine-readable binary commands (object code), which are represented by numbers, that are considered as literary works or written expressions, and therefore, both are protected by copyright.

59
Furthermore, software games also fall under the scope of movable property in accordance with Article 503 of the Civil Code, as software games are considered intangible movable assets. In addition, I found that software games are also covered in other regulations, namely Law Number 19 of 2016 on Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions, commonly known as the ITE Law. Although this law does not explicitly regulate software games, several articles in this law mention piracy related to intellectual property rights. Article 25 states the following: "Electronic Information and/or Electronic Documents that are arranged as intellectual creations, internet sites, and the

intellectual works contained therein, are protected as Intellectual Property according to the provisions of the legislation".

Based on the above provision, software games can also be categorized as electronic documents protected by this Law. The term "electronic document" in this Law is defined in Article 1 number 4, which states: "Electronic Document is any Electronic Information created, transmitted, delivered, received, or stored in analog, digital, electromagnetic, optical, or similar forms, which can be seen, displayed, and/or heard through a Computer or Electronic System, including but not limited to writing, sound, image, map, design, photo or similar, letters, signs, numbers, Access Codes, symbols, or perforations that have meaning or significance or can be understood by those capable of understanding it".

Therefore, software games fall under the category of electronic documents. In Article 25 of the ITE Law, they are considered intellectual works, and if classified as electronic documents, there are several prohibitions stated in Article 30. It is strongly prohibited to damage or breach the security system of an electronic document. In reality, many software games are pirated by compromising the security system by coding experts, allowing them to be played on various platforms and freely transferred and accessed in the online world, such as through uploads and downloads. Thus, this can be classified as cybercrime or saber crime. Cybercrime is categorized into three types: economic crimes related to computers, including computer manipulation fraud, computer software piracy, computer espionage, sabotage, theft of services, unauthorized access to computer systems or networks, and using computers to attack traditional businesses. The second category involves violations of personal privacy, such as misuse of data, unauthorized data collection, data abuse, and breach of company secrets.

Furthermore, regulations regarding software games are also covered in the Regulation of the Republic of Indonesia Government Number 29 of 2004 concerning high-technology production facilities for optical discs. This government regulation sets specific standards for production facilities for digital works. In Article 1, it is explained that optical discs are "Optical Discs (Optical Discs), hereinafter referred to as Optical Discs, are various disc-shaped recording media that can be filled or contain data information in the form of sound, music, film, or other data that can be read through optical scanning mechanisms using high-intensity light sources such as lasers." In this case, the software game itself is the data information that is inputted into the optical disc. The government regulation explains the production facilities for optical discs (optical discs). Due to the advancement of modern technology, it has a significant impact not only on the development of intellectual property rights (IPR) but also on sophisticated intellectual property crimes, including widespread copyright infringement, particularly in the unauthorized duplication of software games in the form of optical discs. Therefore, every disc produced must have an internationally accredited production code or Source Identification Code (SID), specifically for the sale of games on optical discs that do not comply with the provisions stated in Articles 4 to 8.

Under this Government Regulation, it can be determined that the products are not genuine but counterfeit. However, in the development of pirated software games, aside from

optical discs, other computer hardware media called hard disks are now used. They can be transferred from one computer to another, from optical discs to computers, or simply by downloading the master software game from illegal websites. Game enthusiasts can play these games with various supporti¹⁷ devices. Further regulations regarding the importation of optical disc goods are stipulated in the Minister of Trade Regulation Number 11/M-DAG/PER/3/2010 concerning provisions for the importation of machines, raw materials, blank optical discs, and filled optical discs.

2 Legal Protection for Copyright Holders of Online Game Software as the Creator's Economic Rights

Copyright protection is essentially granted automatically based on declarative principles. In other words, protection for the creation arises after its announcement without the need for registration, unlike other forms of intellectual property. Although not a requirement for protection, registering the copyright can serve as initial evidence that the creation belongs to someone in the event of a dispute. Several articles in the Copyright Law govern the protection of license holders as copyright holders, as follows: Article 1 paragraph (4) states: "*The Copyright Holder is the Creator as the owner of the Copyright, the party who lawfully acquires the rights from the creator, or another party who subsequently acquires rights from the party who lawfully acquired the rights. This article provides protection not only to the creator but also to other parties who have the copyright lawfully. License holders are categorized as copyright holders*".

Furthermore, Article 4 states: "*Copyright is an exclusive right that includes moral rights and economic rights. Moral rights can only be held by the Creator for a certain period depending on the type of creation. Meanwhile, economic rights are exclusive rights that can be held by²⁴ the Creator or Copyright Holder*".

⁴⁷ The regulation regarding the granting of licenses to license holders is stipulated in Article 80, which states:

1. Unless otherwise agreed, the Copyright Holder or Related Rights Holder has the right to grant licenses to third parties based on a written agreement to carry out acts as referred to in Article 9 paragraph (1), Article 23 paragraph (2), Article 24 paragraph (2), and Article 25 paragraph (2).
- 5 2. The License Agreement as referred to in paragraph (1) shall be valid for a specified period and shall not exceed the term of the Copyright and Related Rights. Unless otherwise agreed, the implementation of acts as referred to in paragraph (1) shall be accompanied by the obligation of the Licensee to provide Royalties to the Copyright Holder or Related Rights Holder during the term of the License.
3. The determination of the amount of Royalties as referred to in paragraph (3) and the procedures for granting Royalties shall be based on the License Agreement between the Copyright Holder or Related Rights Holder and the Licensee.
4. The amount of Royalties in the License Agreement must be determined based on prevailing practices and fulfill the requirements of fairness.

This article discusses the provisions resulting from licensing agreements. For example, Article 80⁶¹ paragraph (1) grants authority over the economic rights obtained by the license recipient as stated in Article 9 paragraph (1), which states: "*The Creator or Copyright Holder has economic rights to: a. Publish the Creation b. Reproduce the Creation in any form c. Translate the Creation d. Adapt, arrange, or transform the Creation e. Distribute the Creation or its copies f. Perform the Creation g. Announce the Creation h. Communicate the Creation i. Rent the Creation*".

Meanwhile, Article 23 paragraph (2) discusses the economic rights of performers, Article 24 paragraph (2) discusses the economic rights of phonogram producers, and Article 25 paragraph (2) discusses the economic rights of broadcasting institutions. These articles authorize the Creator or Copyright Holder to disseminate their creations and prohibit others from pirating their works. They also impose a prohibition on others from selling pirated goods in their managed trading places.

Article 80 paragraph (2) limits the duration of a license agreement, which should not exceed the term of protection of the creation itself. The license holder can either carry out the activities themselves or grant the license they obtained from the creator to a third party to perform them if not restricted in the license agreement. ⁵

This law also imposes restrictions on agreements as stated in Article 82, which states:

1. "*License agreements shall not contain provisions that result in economic losses for Indonesia.*
2. "*The content of license agreements shall not contradict the provisions of laws and regulations.*
3. "*License agreements shall not be used as a means to eliminate or take over all the rights of the Creator over their creations*".

Furthermore, the derivative regulation of this law, namely ⁹ Government Regulation Number 36 of 2018 concerning the Registration of Intellectual Property License Agreements, imposes limitations on license agreements in Article 6, which states that license agreements shall not include provisions that:

1. ⁵ Harm the Indonesian economy and national interests.
2. Impose restrictions that hinder Indonesia's ability to transfer, acquire, and develop technology.
3. Result in unfair competition; and/or
4. Contradict the provisions of laws and regulations, religious values, ethics, and public order.

Such license agreements must be registered by the Minister in the general list of Copyright License Agreements and are subject to fees. Failure to register the agreement renders it legally ineffective against third parties.

Protection for software⁶⁰ game objects is granted for a period of 50 years if registered. Additionally, the concrete form³⁶ of protection provided by the government is that copyright content is monitored by the Ministry of Communication and Information Technology (Menkominfo), which is authorized to combat the dissemination of copyrighted content, including software games, through technology and information-based platforms. This can be

seen in the explanation that the dissemination through technology and information-based platforms refers to dissemination through the internet world by uploading files, and if proven to infringe on the dissemination without permission from the copyright holder, the content will be closed or blocked. Regarding copyright objects, the current actions mainly involve sweeping operations against infringers, which require prior reports. Typically, these reports are made by organizations such as the Business Software Alliance (BSA) to the police. To carry out such actions, the relevant law enforcement agencies must have specific targets for the sweeping operation, and they can then conduct their actions on targeted stores. In this regard, the author believes that it is necessary for law enforcement to conduct such raids, and it would be even better if the public could participate as informants.

However, it is still far from what is expected due to the lack of understanding among the public regarding the highest appreciation for the creator's intellectual property. In terms of copyright infringement on the internet, the Ministry of Communication and Information Technology (Menkominfo) has full authority to block access to websites suspected of copyright violations. According to the author, the government has not fully implemented this measure to effectively address the high level of infringement occurring online. The government currently requires reports from the creators, whereas it is unnecessary as Menkominfo has full authority to close access to websites.

In terms of legal protection for online game software copyright holders concerning their economic rights, there are often violations related to copyright content, including claims of ownership of copyright content/moral rights or violations of the economic rights that should be obtained by the copyright holders. In Indonesia, violations are usually committed against the economic rights of copyright holders, resulting in significant losses experienced by them.

Preventive Legal Protection involves providing legal subjects the opportunity to express their objections or opinions before a government decision becomes definitive. Its aim is to prevent disputes. Preventive legal protection is highly significant for government actions based on freedom of action because with preventive legal protection, the government is encouraged to be cautious in making discretionary decisions. In Indonesia, there is no specific regulation regarding preventive legal protection. Non-litigation dispute resolution can be conducted through: Mediation, Negotiation, Conciliation & Arbitration.

In its implementation, particularly in the case of intellectual property rights infringement in Indonesia, attempts at reconciliation have been made for copyright infringement cases. However, for software games, it has not yet occurred in Indonesia. Nevertheless, considering the large number of cases received by courts across the country, alternative non-litigation dispute resolution methods are needed. The existence of such methods is necessary as one of the features of dispute resolution. In this case, the creator is given the option to choose which legal path to take for solving copyright infringement disputes.

Repressive Legal Protection is aimed at resolving disputes. The handling of legal protection by General Courts and Administrative Courts in Indonesia falls under this category. The principle of legal protection against government actions is based on the concept of

¹ recognition and protection of human rights. The second principle underlying legal protection against government actions is the principle of the rule of law. In relation to the recognition and protection of human rights, the recognition and protection of human rights hold a central place and can be associated with the goals of the rule of law.

Any violation that occurs can be subject to legal enforcement. Every violation that occurs in software games not only harms the owner or rights holder but also harms public and national interests. Perpetrators of such violations must be prosecuted and compensate for the damages suffered by the owner, rights holder, or the state. The enforcement and compensation are governed by the Copyright Law, and enforcement can take the form of:

1. Civil lawsuit: a. Compensation for damages caused by the infringer. b. Cease and desist order. c. Seizure of infringing goods for destruction. d. The competent court for dispute resolution is the Commercial Court. However, in practice, civil lawsuits filed with the Commercial Court are rare. This is because the plaintiff must prove the damages or violations of economic or moral rights suffered. The process is complex and time-consuming, and civil lawsuits are usually pursued as a means of pressuring or providing a shock therapy to the infringer. However, it is not obligatory for creators to file civil lawsuits. Therefore, besides criminal prosecution, creators have the option to seek justice through compensation in civil proceedings. ¹⁸
2. Criminal prosecution: a. Maximum imprisonment of 10 years and/or a maximum fine of Rp. 4,000,000,000 (four billion rupiahs). b. Confiscation of goods used in committing the crime for destruction. c. Criminal prosecution requires a criminal complaint. In practice, criminal prosecution is expected to deter copyright infringers.

However, the current provisions in the Copyright Law require a criminal complaint, which means creators must actively monitor and report infringers. Creators find this method less effective in providing protection because continuous monitoring of infringements is practically challenging. In some cases, infringements occur within the creator's jurisdiction but do not receive decisive action from law enforcement authorities. Moreover, most infringements are related to economic rights. Creating a software game requires significant time, high creativity, and the use of expensive technology and computer tools. Therefore, criminal prosecution does not provide sufficient protection as evidenced by the widespread circulation of pirated software games.

²¹ **The Role of the Government in Providing Legal Protection to Holders of Copyrights for Online Game Software** ³

The existence of Government Regulation No. 36 of 2018 concerning the Registration of Intellectual Property License Agreements, which was recently ⁶⁵ acted, can clarify the position of license holders as legitimate copyright holders as mandated in Article 83 paragraph (4) of the Copyright Law. This allows license holders to obtain legal certainty regarding their status as legal subjects under the Copyright Law and its derivative regulations.

Regarding the actions of creators of modified online game programs that result in economic losses, whether directly or indirectly, several considerations need to be taken into account before discussing the legal aspects. One of them is the obligation for each party entering into a license agreement to register the agreement as stipulated in Article 83 of the Copyright Law, so that the licensed creations can be protected by the state.

The registration of license agreements also signifies that the state recognizes the license holder as the rightful owner of the licensed creation. It allows the license holder to exercise economic rights over the creation and prohibits others from using the creation without permission. Furthermore, Article 40 paragraph (1) of the Copyright Law states: "*Video games are protected as creative works under the Copyright Law. Online games are one type of video game and are therefore also protected under the Copyright Law. The duration of copyright protection granted to online games is 50 years from the first announcement*".

Although the actions of creators of modified programs can harm the economic rights of license holders, both directly and indirectly, Article 9 paragraph (1) of the Copyright Law does not categorize such actions as infringements. Therefore, based on the principle of legalism, according to this law, there is no violation of economic rights. To prohibit the creation of modified programs, other articles must be utilized. One of them is Article 52, which states: "Any person is prohibited from damaging, destroying, removing, or rendering non-functional technological protection measures used to safeguard creations or related rights products, as well as the protection of copyright or related rights, except for defense and national security purposes, or other reasons as stipulated by regulations or agreements." This provision prohibits others from pirating paid software creations by cracking them, making them free, or using other methods that result in economic losses for the creator or copyright holder. However, its enforcement is minimal due to the fact that the perpetrators are online accounts, which require further evidence to establish the identity of the offenders.

To prevent copyright and related rights infringements based on information technology, the government is granted the authority to supervise under Article 54, which states: "*To prevent copyright and related rights infringements through information technology means, the Government is authorized to: a. Supervise the creation and dissemination of content that violates copyright and related rights; b. Cooperate and coordinate with various parties, both domestically and internationally, in preventing the creation and dissemination of content that violates copyright and related rights; and c. Supervise any form of recording of creations using any media*".

Anyone who becomes aware of copyright or related rights infringements through electronic systems for commercial use can report it to the minister. The minister verifies the report as referred to in paragraph (1). If sufficient evidence is found based on the verification results as mentioned in paragraph (2), upon the request of the reporter, the minister recommends to the minister responsible for telecommunications and informatics to partially or completely block the infringing content in the electronic system or render the electronic system service inaccessible. In the case of the complete closure of an internet site as referred to in paragraph (3),

within 14 (fourteen) days after the closure, the minister is obliged to request a court order, stating: "The minister responsible for telecommunications and informatics, based on the recommendation as mentioned in Article 55 paragraph (3), can block content and/or user access rights that violate copyright or related rights in the electronic system and render the electronic system service inaccessible." Further provisions regarding the implementation of the closure of infringing content and/or user access rights that violate copyright or related rights in the electronic system or render the electronic system service inaccessible as referred to in paragraph (1) shall be determined by a joint regulation between the minister and the minister responsible for communication and informatics.

The above provision provides a broader scope for the government to prevent the spread of copyright or related rights infringements. The joint regulation referred to in Article 56 paragraph (2) above is the Joint Regulation of the Minister of Law and Human Rights of the Republic of Indonesia and the Minister of Communication and Informatics of the Republic of Indonesia No. 14 of 2015 and No. 26 of 2015 regarding the Implementation of Content Blocking and/or User Access Rights Violations of Copyright or Related Rights in Electronic Systems (Permenber Kumham and Kominfo No. 14 and 26 of 2015). In this case, copyright holders, including online game license holders, can file a report with the minister responsible for legal affairs. Reports can be submitted for infringements committed through electronic systems for commercial use, whether directly or indirectly causing harm to creators, copyright holders, and/or related rights owners.

Upon the decision to block or render a site inaccessible, the site owner can request the reopening of site access. If there are objections, legal remedies can be sought through the Administrative Court. The existence of this joint regulation can be considered successful in taking preventive measures against the spread of infringements in the online world, considering the decrease in the dissemination of modified programs in various online forums. However, new websites and forums, some even utilizing foreign domains, have emerged to spread modified programs, particularly in online games, which clearly harm the copyright holders, including online game license holders. Third-party software components, known in English as Third-Party Software Components, are widely used in computer programming. They are reusable software components developed for distribution either for free or for sale by parties other than the original vendor.

However, it is different when there are third-party programs created to facilitate users in playing games. Their existence raises pros and cons among the parties involved in a game. If we interpret several articles in this law, we can find one article that can be related to the creators of modified programs, which is Article 52 stating: "*Anyone is prohibited from damaging, destroying, removing, or rendering non-functional any technological control measures used to protect creations or related rights products, as well as the security of copyright or related rights, except for the interests of national defense and security, as well as other reasons in accordance with the provisions of laws and regulations or other agreements*".

The question is whether this provision can be applied to the creators of modified programs or not? As stated in Article 52 of the Copyright Law, it can be applied to individuals or parties who cause damage, destruction, removal, or render non-functional any technological control measures used to protect copyright or related rights. However, it is different for creators of modified programs because there is no prohibition for them based on a literal interpretation of this article.

Although there are no specific terms categorizing the creators of modified programs as perpetrators under this article, the author analogizes modified programs to computer programs in general. Typically, the creators of computer programs conduct tests on their programs before release. By making this analogy, it is possible to categorize the creators of modified programs as perpetrators who can be subject to Article 52 of the Copyright Law. To minimize such occurrences, the Copyright Law also regulates supervision, as stated in Article 54, which states: *"To prevent copyright and related rights infringements through information technology-based means, the government has the authority to: a. Supervise the creation and dissemination of content that infringes copyright and related rights. b. Cooperate and coordinate with various parties, both domestically and internationally, in preventing the creation and dissemination of content that infringes copyright and related rights. c. Supervise the recording of copyrighted works and related rights products in places of performance using any media"*.

This provision grants the state the authority to oversee various content circulating on the internet and take preventive measures by closing down or rendering inaccessible sites that disseminate copyright-infringing content. This is an action that the state can take to prevent the spread of copyright infringements in the online world. To date, Indonesia does not have specific regulations regarding the protection of online games, especially concerning the actions of creators and distributors of modified programs that enable users to cheat and cause direct or indirect harm to other players and copyright holders. Furthermore, the Copyright Law embodies the concept of copyright, which aims to protect creators/copyright holders from unauthorized piracy by irresponsible parties.

CONCLUSION

1. Game software is not explicitly mentioned and detailed in Law Number 28 of 2014 concerning Copyright. However, there are indications that point to game software, as stated in Article 40 paragraph 1 under letters R and S. Additionally, game software is also addressed in the Information and Electronic Transactions Law (ITE Law). While the ITE Law does not clearly regulate game software, several articles in the law touch upon piracy related to intellectual property rights, which indirectly includes game software. Furthermore, the regulation on high-tech production facilities for optical discs, as stated in Government Regulation of the Republic of Indonesia Number 29 of 2004, provides specific standards for digital works' production facilities.
2. There are two types of legal protection means: preventive legal protection through the content of legislation, and repressive legal protection that can be resolved through non-

litigation methods such as arbitration, mediation, negotiation, and conciliation. Repressive legal protection through litigation can be pursued through civil remedies, such as filing a lawsuit for damages against the infringer, or through criminal prosecution.

3. The government plays a role in providing legal protection for copyright holders of online game software, specifically third-party software components.

BIBLIOGRAPHY

- Bigne, E., Ruiz, C., & Sanz, S. (2005). The Impact of Internet User Hopping Patterns and Demographics on Consumer Mobile Buying Behaviour. *Journal of Electronic Commerce Research*, 6(3), 193-209.
- Eroglu, S. A., Machleit, K. A., & Davis, L. M. (2003). Empirical Testing of a Model of Online Store Atmospherics and Shopper Responses. *Psychology & Marketing*, 20(2), 139-150. <https://doi.org/https://doi.org/10.1002/mar.10064>
- Makarim, E. (2010). *Tanggung Jawab Hukum Penyelenggara Sistem Elektronik*. Rajawali Pers.
- Manurung, B. F. L., Syarief, E., & Shahrullah, R. S. (2022). Legal Consequences of Bankruptcy and Postponement of Debt Payment Obligations: Are They Similar?. *Journal of Law and Policy Transformation*, 7(1), 85-96. <https://doi.org/http://dx.doi.org/10.37253/jlpt.v7i1.6746>
- Margono, S. (2010). *Aspek Hukum Komersialisasi Aset Intelektual*. Nuansa Aulia.
- Phymma, M. T. A., Shahrullah, R. S., & Sudirman, L. Handling the Covid-19 Pandemic in Indonesia and India: A Critical Flashback in 2020. *Journal of Law and Policy Transformation*, 7(1), 28-43. <https://doi.org/http://dx.doi.org/10.37253/jlpt.v7i1.6749>
- Rahardjo, S. (2000). *Ilmu Hukum*. Citra Aditya Bakti.
- Riswandi, B. A. (2003). *Hukum dan Internet di Indonesia*. UII Press.
- Rodhin, R. (2011). Internet dalam Konteks Perpustakaan. *Pustakaloka*, 3(1), 1-19. <https://doi.org/https://doi.org/10.21154/pustakaloka.v3i1.631>
- Sudaryat, Sudjana, & Permata, R. R. (2010). *Hak Kekayaan Intelektual: Memahami Prinsip Dasar, Cakupan, dan Undang-Undang yang Berlaku*. Oase Media.
- Surbakti, K. (2017). Pengaruh Game Online terhadap Remaja. *Jurnal Curere*, 1(1), 28-38. <https://doi.org/http://dx.doi.org/10.36764/jc.v1i1.20>
- Wijayanti, T. W. (2013). Motif dan Adiksi Pemain Game Online: (Studi Deskriptif tentang Motif dan Adiksi Pemain Game Online Dragon Nest di Surabaya). *Media Commonline*, 2(1).

2023 Juni 26 - Legal Protection for Copyright S4

ORIGINALITY REPORT

24%

SIMILARITY INDEX

20%

INTERNET SOURCES

13%

PUBLICATIONS

11%

STUDENT PAPERS

PRIMARY SOURCES

1	russianlawjournal.org Internet Source	1%
2	Submitted to King's Own Institute Student Paper	1%
3	www.southeastasia-iprhelpdesk.eu Internet Source	1%
4	"Issue Information", Energy Storage, 2023 Publication	1%
5	repository.untag-sby.ac.id Internet Source	1%
6	www.scirj.org Internet Source	1%
7	ukinstitute.org Internet Source	1%
8	www.uibm.gov.it Internet Source	1%
9	lib.ui.ac.id Internet Source	1%

10	Submitted to Coventry University Student Paper	1 %
11	www.portaluniversitasquality.ac.id:5388 Internet Source	1 %
12	lawjournal.ub.ac.id Internet Source	<1 %
13	www.ijssrr.com Internet Source	<1 %
14	ejurnal.ubharajaya.ac.id Internet Source	<1 %
15	ijefm.co.in Internet Source	<1 %
16	repository.unpas.ac.id Internet Source	<1 %
17	rulebook-jica.ekon.go.id Internet Source	<1 %
18	download.atlantis-press.com Internet Source	<1 %
19	journal.uib.ac.id Internet Source	<1 %
20	Taufik H. Simatupang. "Inspired or Plagiarism: Application of Substantial Similarity in the Protection of Architectural Works towards	<1 %

Renewal of Indonesia's Copyright Law", IntechOpen, 2023

Publication

21	journal.iain-samarinda.ac.id Internet Source	<1 %
22	Submitted to Intercollege Student Paper	<1 %
23	intranet.sgss.edu.hk Internet Source	<1 %
24	eprints.unwahas.ac.id Internet Source	<1 %
25	ijhess.com Internet Source	<1 %
26	Submitted to Universitas Terbuka Student Paper	<1 %
27	jurnalnasional.ump.ac.id Internet Source	<1 %
28	journals.usm.ac.id Internet Source	<1 %
29	www.oapen.org Internet Source	<1 %
30	Submitted to Wawasan Open University Student Paper	<1 %
31	ejournal.undiksha.ac.id Internet Source	<1 %

32	journal.yaspim.org Internet Source	<1 %
33	www.iipa.org Internet Source	<1 %
34	Nathania Abigail Hanson, Rika Ratna Permata, Tasya Safiranita Ramli. "Protection of Video Copyrights on the Youtube Platform in Fair Use Principles", JURNAL LEGALITAS, 2022 Publication	<1 %
35	archives.marketing-trends-congress.com Internet Source	<1 %
36	es.scribd.com Internet Source	<1 %
37	jiss.publikasiindonesia.id Internet Source	<1 %
38	aisyah.journalpress.id Internet Source	<1 %
39	www.interteknis.co.id Internet Source	<1 %
40	Submitted to PSB Academy (ACP eSolutions) Student Paper	<1 %
41	Submitted to Universiti Teknologi Malaysia Student Paper	<1 %

42	dokumen.tips Internet Source	<1 %
43	ejournal3.undip.ac.id Internet Source	<1 %
44	jurnal.fh.unila.ac.id Internet Source	<1 %
45	www.sice.oas.org Internet Source	<1 %
46	eprints.uad.ac.id Internet Source	<1 %
47	rjoas.com Internet Source	<1 %
48	legal.isha.or.id Internet Source	<1 %
49	123dok.com Internet Source	<1 %
50	conventuslaw.com Internet Source	<1 %
51	"Intellectual Property in Asia", Springer Science and Business Media LLC, 2009 Publication	<1 %
52	Submitted to Universitas Prima Indonesia Student Paper	<1 %

53 Winsherly Tan. "A Problematic Issue Of Child Marriage In The Sea Tribe (Suku Laut) In Lipan Island at Lingga Regency", Pattimura Law Journal, 2022
Publication <1 %

54 apps.spmb.unsoed.ac.id
Internet Source <1 %

55 journal.maranatha.edu
Internet Source <1 %

56 journal.uii.ac.id
Internet Source <1 %

57 jurnalhukum.unisla.ac.id
Internet Source <1 %

58 unramlawreview.unram.ac.id
Internet Source <1 %

59 www.internationaljournalsrg.org
Internet Source <1 %

60 Julius Mandjo, Mohamad Taufik Zulfikar Sarson. "The Right to Obtain Free Assistance and Legal Protection for The Indigent People Through Legal Assistance Organizations", Jambura Law Review, 2021
Publication <1 %

61 Muhammad Arief Dwi Ramadhan, Syariful Alam. "Legal Validity of Teleconference <1 %

Witness in Indonesia's Criminal Justice System", *Ius Poenale*, 2023

Publication

62

Rudi Natamiharja. "A Case Study on Facebook Data Theft in Indonesia", *FIAT JUSTISIA*, 2018

Publication

<1 %

63

ejournal.uin-malang.ac.id

Internet Source

<1 %

64

iip.ntut.edu.tw

Internet Source

<1 %

65

journal.umg.ac.id

Internet Source

<1 %

66

jurnal.untagsmg.ac.id

Internet Source

<1 %

67

lamlaj.ulm.ac.id

Internet Source

<1 %

68

repository.iainkudus.ac.id

Internet Source

<1 %

69

Dessy Harisanty, Esti Putri Anugrah. "Legality of electronic archive management in realizing Indonesia E-government", *Digital Library Perspectives*, 2021

Publication

<1 %

70

www.researchgate.net

Internet Source

<1 %

71

Muhammad Insa Ansari. "Electronic Business Licensing in Indonesia", Jurnal Penelitian Pos dan Informatika, 2019

Publication

<1 %

Exclude quotes On

Exclude matches Off

Exclude bibliography On