

# CHAPTER I

## INTRODUCTION

### 1.1. Research Background

Creating a piece of artwork needs ideas, creativity, mind-process, and extended exhausting steps, for a long time and much energy. For that, other people must appreciate and respect these authors and their work. Intellectual property rights are a product attributed to the human brain implemented into work in the model of art, design, or invention, which can be used in human life. That said product of the human brain is formulated as intellectuality. Munir Fuady declared intellectual property right is a material right legally admitted in law upon intangible objects in the form of resource/intellectual creation, which are in the shapes of copyright, brand, patent, and many others.<sup>1</sup>

In Indonesia, the author has a right upon his/her work to watch over the usage of his/her work in society and even has the right to forbid other people in using his/her work without permission and also has the right to sue the violator in law. As such, intervention by the government/state is needed to create/declare an intellectual property rights law to bestow protection upon work and or its author.

Copyright is one of intellectual property rights. It covers science and knowledge, art, and literature in which also comprises a computer program and therefore becomes one of the most extensive right. Copyright by general definition is an exclusive right for authors or the right recipient to announce or multiply its work or give permission for it in knowledge, art, and literacy with certain limits allowed by the law. As one of the forms of a state's culture and richness, it is a state's obligation to protect its intellectual property rights from other copycat parties.

Protection for copyright in the international trading world is essential since it is considered as one of the forms of innovation in the hope of dominating world trading. Recognition of a successful product with better innovation from its competitor will implicate multiplication of profit for the state as the owner of said

---

<sup>1</sup> Munir Fuady, *Pengantar Hukum Bisnis*, (Bandung: Citra Aditya, 2011), p. 208

innovation. Especially with such a modern digital era in the 21<sup>st</sup> century, where information can be accessed everywhere, copyright law is considered essential and crucial. Whether the issue is merely downloading a song without permission, traditional principles of copyright are being merged with modern technologies.

To be used as an international forum for intellectual property services, World Intellectual Property Organization, or WIPO, is established in 1967 by United Nations based on WIPO convention with the mission to lead the development of a balanced and effective international intellectual property system that enables innovation and creativity for the benefit of all.<sup>2</sup> There are 192 states joining this organization, including Indonesia.

In this modern era, works are not merely created with papers and pens anymore. Technology has advanced so far in humanity's daily life. It has become an unseparated part of society. People nowadays can write works of literature with smartphones, gadgets, and computers instead of using pens and papers. Artists can draw a painting or picture using computer programs instead of canvas and brush dipped in paint. Musicians can also create a piece of music without using any musical instrument. Technology is so advanced they could tap individual buttons on their gadgets following their desired idea or creativity to realize their work.

In this era of Industry Revolution 4.0, "Artificial Intelligence" is vastly used in business and daily life, by consciousness or involuntarily. Popular movie culture made people think that artificial intelligence is simply a smart robot, when, in fact, it is so much more than that. By short, artificial intelligence is an area of computer science that emphasizes the creation of intelligent machines and works while reacting like human minds. According to Francis Gurry, the General Director of World Intellectual Property Organization ("WIPO"), artificial intelligence has been considered as the new digital front line that will have a profound impact on the world, transforming the way we work and live.<sup>3</sup>

---

<sup>2</sup> World Intellectual Property Organization, "Inside WIPO", <https://www.wipo.int/about-wipo/en/>, accessed in 31<sup>st</sup> August 2019.

<sup>3</sup> World Intellectual Property Organization. *WIPO Technology Trends 2019: Artificial Intelligence*. (Geneva: WIPO Publication, 2019). p. iii.

As the digitalized human mind, artificial intelligence can create copyrighted works such as literature, arts, music, and many more. For example, Sony Corporation has been using artificial intelligence to create music by using 665 data of music from different genres, such as pop, rock, and electronic music.<sup>4</sup> In 2016, a group of museums and researchers in the Netherlands unveiled a portrait entitled “The Next Rembrandt,” a painting generated by computer by analyzing thousands of works from the 17<sup>th</sup>-century Dutch artist Rembrandt Harmenszoon van Rijn. Google-owned artificial intelligence company Deep Mind has created software that can generate music by listening to recordings.<sup>5</sup>

With the newest development of artificial intelligence, a computer program is no longer a tool like a pen or musical instrument, but rather the actual creator of the work in the creative process without human intervention. Thus, the next question that arises is whether the company, the person who owns the artificial intelligence or the artificial intelligence itself who owns the copyright if these works is going to be copyrighted. In this case, there are two legal approaches that can be used. The option is to either deny the copyright protection for works created by artificial intelligence or grant it to one of the parties involved in the making of works created by artificial intelligence.

In Indonesia, it is not stated clearly whether a computer program can be admitted as the author of a work that is eligible to receive copyright protection for its work. The current Indonesian Copyright Law has not reached the admittance of the computer work revolution, such as artificial intelligence. Indonesia Copyright Law only admits a natural person or a few people as an author to be given copyright protection. In some cases, few companies can act as the copyright holder of the copyright license on their employee’s work, such as record companies and photo studios.

Compared to other advanced countries, copyright law in the United Kingdom has a more up to date approach towards this problem. It is encapsulated in the

---

<sup>4</sup> Hieronimus Patardo, “Sony pakai AI untuk hasilkan musik”, <https://www.tek.id/future/sony-pakai-ai-untuk-hasilkan-musik-b1XkP9fgL>, accessed in 31<sup>st</sup> August 2019.

<sup>5</sup> Andres Guadamuz, “Artificial Intelligence and Copyright”, [https://www.wipo.int/wipo\\_magazine/en/2017/05/article\\_0003.html](https://www.wipo.int/wipo_magazine/en/2017/05/article_0003.html), accessed in 29<sup>th</sup> August 2019

United Kingdom Copyright Act, Section 9 (3) of the Copyright, Design and Patents Act (CDPA). It is stated that the law admits works created by a computer program (computer-generated works). However, the copyright license will be granted to the person whom the arrangements necessary for the creation to be undertaken or in other words, is the operator and or the artificial intelligence.

The United Kingdom has the idea for its regulation on Section 9 Paragraph (3) of the Copyright, Design, and Patent Act 1988 by adopting the “Work Made for Hire” doctrine from the United States copyright law. This adoption does not violate the fundamental principle of the United Kingdom copyright law. Thus it must be researched if Indonesia adopts similar doctrine after researching, will it violates the fundamental principle of Indonesian copyright law or not.

The uncertainty of the status of works created by artificial intelligence as a copyrighted work has sparked debates from all other countries. Based on the background elaborate, the Writer is interested in researching this research titled “The Legal Analysis of the Copyright Law in Protecting Works Created by Artificial Intelligence (Case Study of Indonesia and United Kingdom).”

## **1.2. Research Questions**

Based on the research background elaborated by Author above, the following are the questions which will be answered by this research:

1. How does the World Intellectual Property Organization regulate protected works created by artificial intelligence?
2. How do Indonesia and United Kingdom Copyright Law grant protection towards copyright-protected works created by artificial intelligence?
3. Which approach is more progressive in protecting works created by artificial intelligence?
4. Should Indonesia adapt the approach to protecting works created by artificial intelligence?

### 1.3. Research Objectives and Benefits

Objectives that the Author hopes to achieve in this research are below:

1. To analyze the regulation that WIPO provided for works created by artificial intelligence;
2. To explain the protection provided by Indonesia and United Kingdom Copyright Law towards works created by artificial intelligence;
3. To analyze the progressive approach in protecting works created by artificial intelligence;
4. To discover whether Indonesia should or should not adapt the progressive approach to protecting works created by artificial intelligence.

Benefits that Author hope the parties can reach by reading this research are as below:

- a. For the Government of Indonesia
  1. To understand and to compare the progressive protection provided by Indonesia and the United Kingdom Copyright Law for works created by artificial intelligence;
  2. To improve the protection provided by Law Number 28 of 2014 about copyright to include protection for works created by non-human authors in order to have maximum legal protection and certainty;
  3. To encourage the Government of Indonesia to spread awareness to the public regarding Law Number 28 of 2014 to strengthen the law application.
- b. For the companies and investors in Indonesia:
  1. To help give insight regarding the artificial intelligence wave in Indonesia for efficient productivity in business world;
  2. To help give insight regarding the importance of the necessary knowledge and soft skills for employees in order to help embrace the artificial intelligence as an augmented, not a replacement.
- c. For the academic field:
  1. To enhance public and academic community knowledge in copyright law in the protection provided by WIPO towards works created by artificial intelligence;

2. To help academic field in assisting the government in the process of providing legal certainty for artificial intelligence program and its works.

d. For the public

1. To remind the public to not eliminate the creativity process in creating works using artificial intelligence for an easier and faster copyright protection claim without any issue;

2. To remind the public that every author and every copyrightable work has the right to be protected by the law.