



Legal Protection for Tiktok Content Creators from Re-Uploading Other Parties Without Permission Based on Law Number 28 of 2014 Concerning Copyright

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Abstract

Protection of creative video copyrights of Tiktok content creators taken without permission through social media for commercial purposes based on Law Number 28 of 2014 concerning Copyright. Copyright is the exclusive right of the creator that arises automatically based on the declarative principle after a work is realized in tangible form without prejudice to restrictions in accordance with the provisions of laws and regulations. Moral rights are rights that must remain eternally attached to the work born by the creator, which is basically done to honor the creativity of the creator by including his name in the work of creation. Economic rights are the exclusive rights of creators or copyright holders to obtain economic benefits for their creations. In practice, there are many violations committed by Instagram account users by reuploading creative videos of Tiktok content creators without permission to the creator. The rise of copyright infringement against Tiktok content creator creative videos carried out by other parties, hinders the development of creativity in the field of cinematography and decreases income to creators. The results showed that all creative video works created are protected by Law Number 28 of 2014 concerning Copyright, as long as the party concerned can prove that his work is his creation. In the terms of service on Tiktok, there is already copyright protection by granting a non-exclusive license to works uploaded by their creators. This research was conducted to find out a truth and legal reality that occurs in society. The legal relationship between Tiktok content creators and Instagram account users will be born if there is an agreement based on a contract as stipulated in the Civil Code. The sanctions contained in Law Number 28 of 2014 have regulated sanctions for copyright infringement. For dispute resolution, it can be through litigation or non-litigation. Copyright claims can be made to the Commercial Court. We recommend that the lawsuit be carried out after a criminal verdict that has permanent legal force. In taking creative videos of Tiktok content creators, Instagram users should ask permission first to the Tiktok content creator.

Keywords: *Copyright; Content Creator; Tiktok*

Introduction

In the era of digitalization, the development of technology, information, and communication is very rapid. The rapid development of technology has brought changes in all areas of life. In 2020, the world was shocked by the Covid-19 virus which required all world citizens to limit their activities and

that also happened in Indonesia. In Indonesia, the policy of Large-Scale Social Restrictions or abbreviated as PSBB is enforced. Many people who should be doing activities outside then switch to activities at home such as studying at home, working at home which in the end this has become a habit of society until now. In the midst of community saturation during study, work or activities at home with lack of access to entertainment causes people to turn to social media applications to entertain themselves. Along with technological advances, various media are used by the people of Indonesia to obtain information, both information in the form of images, videos, text and sound. Accessing social media is very easy, with the development of the digital era accessing social media can use smartphones or smartphones and laptops. Social media applications that are widely used in Indonesia today are Facebook, Instagram, *Tiktok*, Youtube and Twitter applications. These applications are now being widely used by the people of Indonesia because they fill their time at home. People use social media both watching Korean dramas, sharing daily stories, sharing tips and tricks, playing online games from an application and also making creative videos on certain applications uploaded. These social media applications provide different facilities and criteria. However, each application has the same function which is to share information with many social media users. In the midst of the Covid-19 pandemic, there is a tendency to increase the number of social media access, certain applications, including the *Tiktok* application. This *Tiktok* application has been famous since early 2019, but due to the Covid-19 pandemic, the *Tiktok* application has reached the peak of its popularity. Quoted from wikipedia *Tiktok is a Chinese social network and music video platform.*¹ In the *Tiktok* application provides many interesting features, such as special effects features or it can be said that a unique and funny filter makes users interested in making creative videos. In addition to special effects, the *Tiktok* application provides diverse music so that *Tiktok* users can perform both dance and other activities. These creative videos are usually from 30 seconds to 3 minutes long. This is what causes people to compete to produce creative videos in the *Tiktok application* to become viral. Of course, to realize this, it requires all *Tiktok* users to be more creative in producing some content in the *Tiktok* application. The amount of creativity of a person is made through the *Tiktok* application, which must be protected by this creativity. Creative videos are widespread not only in the *Tiktok* application itself but in other applications, namely in the Instagram, Twitter and Youtube applications. The creative video is a content that contains several ideas poured by the video creator can be said to be a content creator. A creative video uploaded in the *Tiktok* application is the work of a content creator, where the creator of the work expresses his ideas in real in videos made in the *Tiktok* application. The increasing popularity of this application causes many content creators to use *Tiktok* to channel their creative ideas in order to gain fame, profits and even become a new profession. Creative videos that are created are the result of creation, taste, and charity, so content creators make the *Tiktok application* a place to make money from the creative videos they produce, which gets a profit from the video. The emergence of several phenomena in society where many Indonesians make content creators as a new profession. Many creative videos downloaded from the *Tiktok* application and rebroadcast without permission on other social media applications, namely Instagram, Youtube, Twitter and even television stations also rebroadcast creative videos without the consent of the content creator so it can be declared a copyright infringement. A creative video that is tangible is actually protected by its creation. According to Article 1 point 3 of Law Number 28 of 2014 concerning Copyright (hereinafter referred to as UUHC), it specifies that: "Creation is the work of a creator of a work whether the work is part of science or art created with imagination, thought, and inspiration expressed in real form". The creator of the work has rights in his work called copyright. The definition of a separate copyright is contained in Article 1 point 1 in the UUHC that: "Copyright is an exclusive right that is only for the creator of the work so that no one uses the right without the consent of the creator, and in exclusive rights includes several rights, namely moral rights and economic rights". Copyright is one part among several branches of intellectual property rights. In the field of copyright has benefits for creators by having intellectual power in creating protected works. Legal protection should also be given to someone who has created an intellectual work. A content is a work of art that is shaped in a moving picture, that is, a video can be said to be a cinematographic work. According to Article 40 paragraph (1) letter m of the UUHC, that: "Cinematographic works are creations that are images that can move and can be made in video dishes or other media that allow to be

shown on television or in other media". Therefore, creative videos as works of art are objects that should be protected by copyright, but it can be understood that *the Tiktok application explains the terms and conditions in using the Tiktok application*, users rarely read these *terms and conditions*. Even though this is a legal basis that is a legal protection for *content creators* against *Tiktok developers*. Examining the background of the problem that has been presented above, that *Tiktok content creators still do not get effective protection, therefore the author is interested in conducting research on protection* for content creators *and pouring it in the form of legal writing entitled: "Legal Protection for Tiktok Content creators from the Act of Reuploading Other Parties Without Permission Based on Law Number 28 of 2014 concerning Copyright"*.

Discussion

1. Legal Protection for *Tiktok Content Creators* whose Works Are Reuploaded Without Permission Based on Law Number 28 of 2014 concerning Copyright

In 2020, *Tiktok* became one of the social media whose names soared. In the *Tiktok* application, people can be creative from the idea of thinking to make a short video. However, digital creation also has consequences that cannot be separated from modern legal problems. In Article 1 point 3 of the Law on Copyright, it is explained that creation is the result of copyrighted works in the fields of science, art, and literature produced by inspiration, ability, thought, imagination, dexterity, skill, or expertise expressed in tangible form. Videos from *Tiktok* can be interpreted as one of the audio-visual works. Then came a new change, namely a video camera that is able to record images and sound at once. Based on this, it can be said that video, film, and cinematography are elements of audio-visual technology.

Audio-visual works in Indonesia are currently still protected through the Copyright Law. In the Copyright Law, national legal rules regarding audio visual works in Indonesia have not been specifically explained. Regulations regarding the types of works protected by the Copyright Law covering the fields of science, art, and literature, have been regulated in Article 40 paragraph (1) of Law Number 28 of 2014, one of which is cinematographic works.

According to the explanation in the letter m, what is meant by "cinematographic works" is the creation of moving images, including documentaries, films, advertisements, reportage or story films made with screenplays, and cartoons. Cinematography is also included in audio-visual works. But if examined more deeply, the definition of audio-visual works is relatively broader than that, which includes short music videos, slideshows, video games, CCTV footage, and others. If a person buys an object that is tangible in reality, then he has the right to have control over the object. This also applies to *Tiktok* users. The rights owned by the audience are only to watch and play audio-visual works on *Tiktok*, while the exclusive rights in the form of the right to announce and reproduce the video are in the hands of the copyright holder.

Judging from the explanation in the Copyright Law, it is not clear on the statement related to videos that are categorized into cinematographic works. By looking at the explanation of Article 40 paragraph (1) letter m that what is meant by cinematography is limited to documentaries, advertising films, and films mentioned in the explanation of the article. However, the explanation regarding the limitation of cinematographic works in Article 40 paragraph (1) letter m is still an unclear rule or vague norm. So it is still a question whether *Tiktok short videos* can also be included in the form of cinematography, seeing from the explanation in Article 40 paragraph (1) letter m that short videos are not mentioned in the form of cinematographic works.

As a way to prevent violations in internet media, the role of the state and government is needed to create order in society. Content is the content of creations available in various media, then one form of

disseminating content by uploading it through internet media. Article 54 of the Copyright Law applies to all forms of content dissemination that occur on the internet.

According to Article 25 paragraph 3 of the Copyright Law, that:

"Everyone is prohibited from disseminating without permission for commercial purposes the content of broadcasters' broadcast works."

Dissemination is the use of broadcast works carried out both sourced from Public, private, and subscription Broadcasting Institutions, for commercial use. One of the broadcaster's content is cinematography or film. Copyright protection for Cinematographic Works is valid for 50 (fifty) years from the first announcement, as stipulated in Article 59 of the Copyright Law. What is meant by announcement is reading, broadcasting, exhibiting, a work that uses any device whether electronic or non-electronic or does in any way so that a work can be read, heard, or seen by others.

Violation of copyright is motivated by several factors such as the lack of public understanding to help protect the work of others, people who still consider that a creation, especially copyrighted works uploaded on the internet, is not an individual right but a common property right that triggers violations to piracy the creator's work in order to obtain economic benefits. From these factors, it proves that copyright violations in cyberspace often occur, as experienced by many *content creators*, especially those who create Tiktok short video works. The problem began with the account owner @Septriandivasaras one of the *content creators* from the city of Bogor who shared his healthy lifestyle journey through a Tiktok video *that he uploaded himself on his Tiktok account*, experiencing an act of piracy against Tiktok videos. The *Tiktok video* owned by *the creator* was spread and made into a *slimming drug testimonial video which was beyond the creator's permission and the creator had never used the slimming drug*. By the violator reuploaded on the Instagram platform as if the ad was very convincing and the violator reuploaded the video without including the *creator's* account name.

The act of reuploading *Tiktok* videos is certainly done with the aim of tricking consumers into believing in the slimming drug, increasing the number of visits to slimming drug seller accounts and increasing slimming drug sales so as to obtain economic benefits. This directly has a detrimental impact on creators because consumers feel deceived into blaming them on *content creators on creators' personal Tiktok accounts and declining audience trust in creators and declining economic income*.

Factors that influence citizens to violate intellectual property rights include:

1. Infringement of intellectual property rights is carried out to take shortcuts in order to obtain the maximum benefit from the violation;
2. Violators consider that the legal sanctions imposed by the courts so far are too light and there are no preventive or repressive measures taken by law enforcers;
3. There are some community members as creators who are proud if their works are imitated by others, but this has begun to disappear thanks to increased legal awareness of intellectual property rights;
4. By committing a violation, the tax on the infringing product need not be paid to the government; and
5. People do not pay attention to whether the goods purchased are genuine or fake, which is important to them that they are cheap and affordable with economic capabilities."

For the actions committed by the owner of the slimming drug Instagram account, the content creator, *especially the Tiktok creator*, submitted his complaint through his Instagram and Tiktok social media accounts *to hold the slimming drug Instagram account* accountable to delete the fake slimming

drug testimonial content that was reuploaded on the violator's Instagram account. In addition, *Tiktok creators* also ask for help from their followers on Instagram and *Tiktok* to report slimming drug seller accounts that use fake testimonials as piracy. The act of re-uploading the copyrighted work of video *content creators* by the accounts of slimming drug sellers when viewed from a legal point of view, can be qualified as an infringement in the form of copyright duplication, where part of a piracy is duplication as stipulated in Article 1 number 23 of the Copyright Law piracy is:

"An unlawful act of duplication of works and/or related rights products and distribution of such duplicated goods is widely intended to obtain economic gain."

Referring to Article 9 paragraph (1) point b of the Copyright Law, the act of copying a work as an economic right may only be carried out by the copyright holder.

Then in paragraphs (2) and (3) of this article it is determined that for everyone who wants to exercise economic rights as referred to in paragraph (1) is required to obtain permission and is prohibited from copying or commercial use of the work if without the permission of the copyright holder. Regarding the actions taken by the owner of the slimming drug seller account who reuploads *Tiktok* video content on his Instagram account without the creator's permission, of course, it is included in copyright infringement. The threat of punishment for such infringement is affirmed in accordance with Article 113 paragraph (3) of the Copyright Law that any person who does not have permission from the creator of the work for his actions violates economic rights as in Article 9 paragraph (1) letter a, b, e, g of the Copyright Law (publishing, duplicating, distributing, announcing the work) for the purpose of unauthorized commercial use, then get a sanction, namely a maximum prison sentence of 4 years and / or a fine of Rp. 1,000,000,000.00 (one billion rupiah).

The Copyright Law adheres to a complaint offense system in accordance with Article 120, namely a complaint of a person who feels aggrieved to law enforcement officials for a criminal act, a complaint offense can be processed if the complaint is made directly by any person who is a victim and is harmed by his personal interests. With regard to the case of re-uploading the creator's *Tiktok* video copyright, it means that the perpetrator can only be convicted if the creator has made a complaint about the action to law enforcement. In addition to making complaints, resolving copyright disputes can also be carried out with alternative dispute resolution, arbitration or filing a claim for compensation to the competent court, namely the commercial court as contained in Article 95 of the Copyright Law. The legal consequences of the violation, which if it can be proven are in the form of payment of compensation, it can be observed that piracy includes unlawful acts as in Article 1365 of the Civil Code which determines every act that violates and brings harm to others, requiring the person who caused the loss because of his fault to compensate for the loss. Liability by paying compensation to the creator whose work is used unlawfully for commercial purposes, is required for the party who violates the law if the act can be blamed on him. The period of payment of compensation is a maximum of 6 (six) months after a court decision that has permanent legal force (Article 96 paragraph (3) of the Copyright Law).

Thus, for the act of re-uploading *Tiktok* video works without permission, criminal sanctions can be imposed as mentioned in Article 113 paragraph (3) of the Copyright Law, as long as the creator who feels himself aggrieved carries out a complaint first to the authorities. The creator can also file a claim for compensation to the commercial court for violations of economic rights as stipulated in Article 99 paragraph (1) of the Copyright Law so that the infringing party can be sanctioned in the form of payment of compensation comparable to the losses suffered by the creator. In this case, the government has the authority to supervise the creation and dissemination of copyright infringement content through technological means (Article 54 of the Copyright Law). The government is also authorized to partially or completely close content that infringes copyright in electronic systems or makes the service inaccessible if sufficient evidence is found (Article 55 letter b of the Copyright Law). In that case, the owner of the

Tiktok video copyright work can request an interlocutory injunction to the commercial court to stop the activities of distributing, communicating, announcing, duplicating copyright works that are the result of copyright infringement (Article 99 paragraph (2) letter b of the Copyright Law).

Regarding the theory of positivism, it is very, very clear because with the general rules contained in Law Number 28 of 2014 concerning Copyright which clearly regulates the regulations, and regarding the theory of legal certainty based on the rights owned by the creator itself listed in Article 4 of the UUHC, namely moral rights and economic rights.

It is known that Article 80 of the UUHC regulates obligations related to the transfer of copyright, namely granting licenses to other parties using written agreements that have been approved by the creator or related rights holders to distribute, duplicate, reproduce and announce the creation and broadcast of performance images and / or sound recordings. There are rights and obligations in making a License agreement that must be followed by both the Grantor and the Licensee. One of the obligations that must exist is the provision of royalties from the licensee to the copyright holder or related rights owner as the licensor. For the amount or amount of royalties issued, it is determined based on an agreement that has been determined or agreed upon by both parties. This royalty is a form of appreciation given to creators because of works that have created a copyrighted work, which in the process of creation goes through a long process of finding creative ideas. This is the same as the rules that have been specified in the Tiktok terms of service. The regulations in Tiktok's terms of service are a form of binding agreement between *Tiktok* and its users. This agreement is called a license agreement which is a standard clause that must be obeyed by its users. The agreement will be displayed *on the Tiktok page* when a new user will create an account on the *Tiktok* application. If the user agrees to the agreement, then the user can create an account on the *Tiktok application*.

In the standard clause, it is explained that *Tiktok* and its users are each given a license. Both users and *Tiktok* are granted non-exclusive rights. With the existence of non-exclusive rights, the exclusive rights of the creator will remain and the creator also has the right to give them to several parties. The consequence is that non-exclusive recipients of rights cannot or have no right to take legal remedies for copyright infringement committed by any party.

The problem is that in the Copyright Law itself, the audio-visual work in question only includes cinematographic works. Based on this, the UUHC still generalizes that every moving image is a cinematographic work. But literally, a cinematographic work is formed through a long process, starting from shooting a video, to the editing process that requires teamwork until finally it becomes a form of cinema or film. While the copyright work on the *Tiktok* application is in the form of short videos, which are also through the process of shooting videos to the editing process, but these short videos can be done by the creator himself and the process of making is shorter than the process of making cinema or film.

Then the user is also granted a limited, non-transferable, and irrevocable license. While *Tiktok* is granted an irrevocable, fully transferable, and unlimited global license. In this case, it means that *Tiktok* can utilize user-owned content for its needs such as through advertising sales, and so on. But it is different with *Tiktok* users who cannot earn a share of the revenue in any way. Further in its terms, *Tiktok* users are granted the license subject to the applicable terms and conditions, namely not having the right to receive income received by *Tiktok* from the sale of user content, and may not use any rights to monetize on any third-party services.

From this explanation, it is known that users as *Tiktok* content creators, will not get income from every content uploaded, be it by *Tiktok* or third parties. If *Tiktok* wants to earn revenue or increase the value of *Tiktok* from the use of services by users who cooperate with third parties, it must be accompanied by a prior written agreement and the licensee is required to provide royalties to *Tiktok* as

the copyright holder, as described in Article 80 of the Copyright Law. This is intended as a form of respect and social appreciation for *Tiktok* which has provided a forum for content creators to be able to realize their creative ideas in the form of short videos.

Furthermore, *Tiktok* also provides protection for users. This is explained in the *Tiktok* terms of service in the section "access and use of our services by you" namely you (the user) may not to:

1. Pretend to be any person or entity.
2. Intimidate or harass others, or promote material that contains sexually suggestive, violent, and racial content in a blatant manner.
3. Use someone else's identity or create a false identity on the Service.

B. Problems in Reuploading *Tiktok* Content Creators by Other Parties and Efforts to Resolve Them

Copyright infringement that occurs in the *Tiktok* application is a form of utilization carried out by irresponsible parties that cause losses to the creator or copyright holder. In the concept of the state, the form of violation that occurs related to the property rights of others without the permission of the owner of the work is a crime.

The *Tiktok* application has provided supporting services that provide protection for the creator's intellectual work against modification, distortion, plagiarism and others. If someone wants to use the content, they must get permission from the content owner. Other parties are not allowed to exercise their rights to the creator's content if there is no permission to minimize the losses obtained if the applicable provisions are not applied properly.

The real manifestation of violations of intellectual property rights occurs over time and the rapid development of science. One example is the re-uploading of *Tiktok* video content which is widely done not only among young people but almost evenly distributed to various circles of internet service users, whether used for the benefit of general information or getting profits only.

Problems in reuploading short videos or creative videos made by creators are experienced by many *content creators*, especially those who create *Tiktok* short video works. The problem began with the account owner @Septriandivasaras one of the *content creators* from Bogor City who shared his healthy lifestyle journey through a *Tiktok* video that he uploaded himself on his *Tiktok* account, experiencing an act of piracy against *Tiktok* videos. The *Tiktok* video owned by the creator was spread and made into a slimming drug testimonial video which was beyond the creator's permission and the creator had never used the slimming drug. By the violator reuploaded on the Instagram platform as if the ad was very convincing and the violator reuploaded the video without including the creator's account name.

The creator has reported this to the police, but the police only told the creator to make clarification videos on *Tiktok* and Instagram accounts, the creator asked for help from his followers on *Tiktok* and Instagram to report or block the accounts of the slimming drug seller.

For the actions committed by the owner of the slimming drug Instagram account, the content creator, especially the *Tiktok* creator, submitted his complaint through his Instagram and *Tiktok* social media accounts to hold the slimming drug Instagram account owner accountable to delete the fake slimming drug testimonial content that was reuploaded on the violator's Instagram account. In addition, *Tiktok* creators also ask for help from their followers on Instagram and *Tiktok* to report slimming drug seller accounts that use fake testimonials as piracy. The act of re-uploading the copyrighted work of video

content creators by the accounts of slimming drug sellers, when viewed from a legal point of view, can be qualified as infringement in the form of copyright duplication.

1. Basis of Copyright Claim

Copyright law in the digital age is experiencing a very rapid development. This is mainly in the scope of its protection. Previously, the scope of copyright protection was only focused on conventional objects of creation. However, with the presence of this era, the object of copyright protection has expanded. The object of copyright protection has penetrated into digitized forms of creation in the form of art, literature and science.

Activities on *Tiktok* are also not free from crime and violations, one type of which is copyright. In addition to copyright there are several things that are infringement on *Tiktok*:

- a. Access or use the service if the user is not fully able and not legally authorized to agree to these terms;
- b. Make unauthorized copies of, modify, adapt, translate, reverse engineer, disassemble, decompile or create derivative works of any service or content contained therein, including any files, lists or documentation (or any part thereof) or determine or attempt to determine the source code, algorithm - any algorithm, method, or technique - any technique contained in the service or derivative works;
- c. Distribute, license to, transfer, or sell, in whole or in part, any part of the service or a derivative work thereof;
- d. Market, rent, or provide rent for the service by charging fees or rates, or use the service to advertise or solicit anything of a commercial nature;
- e. Use the service, without our express written consent, for commercial or unauthorized purposes, including delivering or facilitating any advertising or solicitation or spam of any commercial nature;
- f. Interfere or attempt to interfere with the proper running of the service, interfere with our website or any networks connected to the service, or circumvent any measures we may use to prevent or restrict access to the service;
- g. Incorporate the service or any part thereof into any other program or product. In this case, we reserve the right to refuse to provide the service, close accounts or restrict access to the service at our sole discretion;
- h. Use automated scripts to collect information from or otherwise interact with the service;
- i. Impersonate any person or entity, or misrepresent or otherwise replace the identity of a user or user affiliation with the identity of any person or entity, including giving the impression that any content uploaded, loaded, transmitted, distributed or otherwise made available by users comes from the service;
- j. Intimidate or harass others, or promote material that contains sexually explicit content, violence or discrimination on the basis of race, sex, religion, nationality, disability, sexual orientation or age;
- k. Use or attempt to use another party's account, service, or system without permission from *Tiktok*, or create a false identity on the service;
- l. Use the service in a manner that may create a conflict of interest or interfere with the purposes of the service, such as trading reviews with other users or writing or encouraging the creation of fake reviews;
- m. Use the service to upload, transmit, distribute, store, or otherwise make available in any way:
 - 1) Files that contain viruses, trojans, worms, logic bombs or other material that is harmful or technologically destructive;

- 2) Any advertising, solicitation, promotional materials, "junk mail," "spam," "chain letters" "pyramid schemes," that are prohibited or unauthorized or any other form of solicitation;
- 3) Any personal information belonging to any third party, including addresses, telephone numbers, email addresses, numbers and features on personal identification documents (e.g., BPJS numbers, passport numbers) or credit card numbers;
- 4) Any material that infringes or may infringe another person's copyright, trademark or other intellectual property or privacy rights;
- 5) Any material that is defamatory, indecent, abusive, pornographic, hateful or inflammatory;
- 6) Any material that forms, encourages, or instructs the commission of a criminal offence, dangerous activity, or self-harm;
- 7) Any material that is intentionally intended to provoke or antagonize others, particularly tracing and bullying, or that aims to harass, hurt, injure, frighten, distress, humiliate or provoke the emotions of others;
- 8) Any material that contains threats of any kind, including threats of physical violence;
- 9) Any material that is racist or discriminatory, including discrimination on the basis of a person's race, religion, age, sex, disability or sexual orientation.

Every Tiktok user has the potential to commit copyright infringement because almost all videos on *Tiktok* are copyrighted.

2. Dispute Resolution Mechanism on *Tiktok*

Legal relations are a relationship between legal subjects regulated by law, in every legal relationship there are always rights and obligations. According to the types of relationships, there are 2 (two), namely legal relationships that are one-sided or unilateral, there is only one party who is obliged to perform a service that does something, while two-sided legal relationships are legal relationships that can give rise to rights and obligations for each party. The party who has the right to sue something is called a creditor, while the party who is obliged to fulfill the demand is called a debtor.

The legal relationship between Tiktok application users and copyright holders is stated in an agreement in the form of a clause on User Generated *Content*, whose clause states that:

"When you submit User Content through the Services, you agree and represent that you own that User Content, or you have received all necessary permissions, clearances from, or are authorised by, the owner of any part of the content to submit it to the Services, to transmit it from the Services to other third party platforms, and/or adopt any third party content."

When a user submits user content through the service, the user is deemed to agree and represent that the user who owns the content, or the application user has received all permissions or permissions required by the owner of each piece of content to submit it to the application service. To transmit it from the service to other third party platforms or adopt any third party content. Between Tiktok application users and copyright holders have a legal relationship if Tiktok application users have permission to be able to use songs uploaded by Tiktok application users.

With this permission, an agreement will appear regarding the use of songs to be used and uploaded as well as song cutting carried out by Tiktok application users. So with this agreement, the legal relationship between these two parties is as a cooperative relationship agreement as stated in the User Generated *Content* Agreement, because *the Tiktok application user was previously given free freedom by the Tiktok application to use songs or content uploaded by themselves on the Tiktok application provided that you have obtained prior permission from the copyright holder.*

Then, the legal relationship between Tiktok application users who commit copyright infringement and creators whose rights are violated is an engagement that arises because of the law. As it is known that laws and regulations can be a source of engagement. The thing that makes a law used as a source of engagement in question is when there is an engagement born from unlawful acts or unlawful acts. So, even though between Tiktok application users who commit copyright infringement with the creator or copyright holder never meet to make an engagement, then there is an illegal act or unlawful act by the Tiktok application user earlier, the laws and regulations that automatically become the source of the engagement between the two. In other words, the laws and regulations that give rise to the legal relationship between the two.

From this legal relationship, it will cause rights and obligations from both parties, especially for Tiktok application users with copyright holders. The obligation of the *Tiktok* application user is to ask permission from the copyright holder to use the song that the song will be used and cuts and changes are made to the song to be used and the right of the application user is to be able to use the song if it has obtained permission from the copyright holder. Then the right of the copyright holder is the right to get protection for the copyright work that has been realized in the form of a song that has been created, while the obligation of the copyright holder is to maintain his copyrighted work whether it can be cut or changed to the content of the song to be uploaded on the *Tiktok application*.

In the Tiktok application *itself* there is a term of services *in the user generated content section*, which regulates user-generated content uploaded on the Tiktok application in the first clause listed in the Tiktok application *states that*:

"You warrant that any such contribution does comply with those standards, and you will be liable to us and indemnify us for any breach of that warranty. This means you will be responsible for any loss or damage we suffer as a result of your breach of warranty."

Based on this meaning, the application user warrants that any such contributions are in accordance with these standards, and the application user will be liable to us and indemnify us for any breach of such warranty.

Then in the second clause which is also contained in the user generated *content section* which states:

"Any User Content will be considered nonconfidential and nonproprietary. You must not post any User Content on or through the Services or transmit to us any User Content that you consider to be confidential or proprietary. When you submit User Content through the Services, you agree and represent that you own that User Content, or you have received all necessary permissions, clearances from, or are authorised by, the owner of any part of the content to submit it to the Services, to transmit it from the Services to other third party platforms, and/or adopt any third party content."

Content from users of any application it will be considered non-confidential and non-proprietary. Users may not post any user content on or through the service or transmit to the application any user content that you consider confidential or proprietary. When a user submits user content through the service, the user is deemed to agree and represent that the user who owns such content, or the application user has received all permissions or permissions required by the owner of any part of the content to submit it to the application service, to transmit it from the service to other third-party platforms or adopt any third-party content.

Then in the next content in the User Generated *Content* clause states that:

"You or the owner of your User Content still own the copyright in User Content sent to us, but by submitting User Content via the Services, you hereby grant us an unconditional irrevocable, non-exclusive, royalty-free, fully transferable, perpetual worldwide licence to use, modify, adapt, reproduce, make derivative works of, publish and/or transmit, and/or distribute and to authorise other users of the Services and other thirdparties to view, access, use, download, modify, adapt, reproduce, make derivative works of, publish and/or transmit your User Content in any format and on any platform, either now known or hereinafter invented."

That the user or the owner of such content still owns the copyright in the user content submitted to the application, but by submitting the user content through the service, the user hereby grants to the owner an unconditional, non-exclusive, royalty-free, fully transferable, and unlimited worldwide license to use, modify, adapt, reproduce, create derivative works, publish and/or transmit, and/or distribute and authorize other Service Users and other third parties to view, access, use, download, modify, adapt, reproduce, create derivative works from, publish and/or transmit User Content in any format and on any Platform, whether now known or hereinafter created.

Then here there is a clause contained in user generated content which states that all content sent to the application is not the responsibility of the application which states that:

"We accept no liability in respect of any content submitted by users and published by us or by authorised third parties."

"We are not responsible for any content submitted by users and published by us or by authorized third parties."

From this clause, it means that the Tiktok application submits all matters and is not responsible if there are problems, especially in the field of copyright between application users and copyright holders, it becomes a problem between the two parties because previously it was stated in the clause made by the Tiktok application in the form of user generated content.

3. Dispute Resolution Mechanism According to Law Number 28 of 2014 concerning Copyright

In Law Number 28 of 2014 concerning Copyright, the authority of commercial courts in resolving copyright disputes can be seen in Chapter XIV and Chapter XV from Article 95 to Article 109.

Article 95 specifies:

- 1) Copyright dispute resolution can be done through alternative dispute resolution, arbitration, or court.
- 2) The competent court as referred to in paragraph (1) is the commercial court.
- 3) Other courts other than commercial courts as referred to in paragraph (2) are not authorized to handle the resolution of copyright disputes.
- 4) In addition to copyright infringement and/or related rights in the form of piracy, as long as the parties to the dispute are known to exist and/or are in the territory of the Unitary State of the Republic of Indonesia, they must first pursue dispute resolution through mediation before making criminal charges.

From the provisions above, the resolution of copyright infringement disputes, in addition to being able to be resolved through commercial courts, can also be resolved through arbitration or alternative dispute resolution. Resolution of copyright disputes through alternative dispute resolution can be done

through negotiation, mediation, consolidation, or through other means chosen by the parties in accordance with applicable laws governing Alternative Dispute Resolution.

Settlement of IPR disputes through commercial courts basically provides opportunities for the parties to resolve their disputes in a relatively short time when compared to the dispute resolution process through district courts. Based on Copyright Law No. 28 of 2014, that the right to file a claim for compensation for loss of economic rights from the creator, this is based on losses incurred by acts of copyright infringement, which are not only suffered by the owner or copyright holder and, but also by the state, then in this regard, Article 96 determines:

- 1) Creators, copyright holders and/or related rights holders or their heirs who have suffered economic rights losses are entitled to compensation.
- 2) Compensation as referred to in paragraph (1) is given and included at once in the court decision on the case of copyright and/or related rights.
- 3) Payment of compensation to the creator, copyright holder and/or related rights owner shall be paid no later than 6 (six) months after the court decision with permanent legal force.

Conclusion

Based on the description in the previous chapters, several conclusions can be given as follows:

1. Legal protection for Tiktok content creators *whose works are reuploaded without permission, legal protection for the copyright of cinematographic works uploaded without permission on Tiktok social media* is against creators or copyright holders in the Copyright Law given moral rights and economic rights. If anyone violates it, it will be punished according to the article in Article 113 paragraph (3) of the Copyright Law, in which it is explained that any person who without the permission of the creator or copyright holder violates the economic rights of a creator by publishing, duplicating, distributing and announcing a work for commercial use shall be punished with a maximum penalty of imprisonment for 4 years and a fine of Rp. 1.000,000,000.00. But in its implementation, it would be better to still pay attention to the moral rights of a copyright holder by creating content by uploading content creator cinematography works to include the copyright holder's name into the content created by Tiktok application users to better appreciate the existence of the copyright holder. Even though in the Tiktok application *there is also a legal relationship between Tiktok application users and copyright holders is a cooperation relationship agreement in a legally binding agreement in the form of standard clauses* in the Tiktok application terms of service which requires application users to accept the provisions in the terms of service and comply with them contained in the user generated *content* agreement. And for a copyright infringement is also contained in the intellectual property policy on copyright infringement. It is explained in the clause in the intellectual property policy that the Tiktok application *does not allow* Tiktok application users to create content that violates copyright and will result in violations of *the Tiktok application policy*.
2. Problems in reuploading Tiktok *content creators* by other parties and how to solve the problem, Copyright problems that occur in the *Tiktok application* are forms of utilization carried out by irresponsible parties that cause losses to the creator or copyright holder. Problems in reuploading short videos or creative videos made by creators are experienced by many *content creators*, especially those who create Tiktok short video works. The problem began with the account owner @Septriandivasaras one of the *content creators* from Bogor City who shared his healthy lifestyle journey through a *Tiktok video* that he uploaded himself on *his Tiktok account*, *experiencing an act of piracy against* Tiktok videos. The *Tiktok video* owned by the creator was spread and made into a slimming drug testimonial video which was beyond the creator's permission and the creator had never used the slimming drug. By the violator reuploaded on the Instagram platform as if the

ad was very convincing and the violator reuploaded the video without including the creator's account name. That the Tiktok application submits all matters and is not responsible if there are problems, especially in the field of copyright between application users and copyright holders, it is a problem between the two parties because it has previously been stated in the clauses made by the Tiktok application in the form of user generated *content*. Resolution efforts that can be made by copyright holders to copyright infringement for problems in re-uploading short videos as stipulated in Article 95 – Article 109 of Law Number 28 of 2014 concerning Copyright, can be done through non-litigation (through outside the court) or litigation (through court institutions). The court authorized to examine and adjudicate is the commercial court as stipulated in article 95 paragraph (2) of the Copyright Law Number 28 of 2014.

Suggestion

Based on the research conducted and information obtained during the study, researchers can provide suggestions as follows:

1. There must be further socialization of the provisions of copyright laws and regulations, especially Law Number 28 of 2014 concerning Copyright and other organic regulations, so that the public can understand the rights of copyright holders. Copyright holders who suffer as a result of infringement of their rights suffer economic rights losses are entitled to compensation. Compensation is given and included at the same time in the court decision on copyright criminal cases.
2. Tiktok application users *if they want to create content as "content creators" to pay more attention to what videos will be uploaded in the Tiktok application*. The low knowledge of one's legal awareness of copyright attached to cinematographic works makes a person or user of the *Tiktok* application still like to disseminate cinematographic works without permission from the copyright holder. Therefore, it is necessary to thoroughly evaluate the existence of copyright laws and regulations, especially those related to cinematographic rich copyrights, evaluation is carried out to provide awareness and understanding to the public of the importance of copyright protection and sanctions obtained if copyright infringement.

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Reference

Laws and Regulations

Indonesian. Law on Copyright. Law No. 28 of 2014. LN No. 266 of 2014. TLN No. 5599.

_____. Law on Arbitration and Alternative Dispute Resolution. Act No. 30 of 1999. LN No. 138 of 1999. TLN No. 3872.

_____. Law on Electronic Information and Transactions, Law No. 19 of 2016. LN No. 58 of 2016. TLN No. 5952.

Book

- Ali, Achmad. *Unveiling the Law (A Philosophical and Sociological Study)*. Jakarta: Gunung Agung Store, 2002.
- Admadja, Hendra Tanu. *Copyright Music or Song*. Jakarta: Postgraduate Program of Faculty of Law, University of Indonesia, 2003.
- Ashibly. *Copyright Law (Special Review of Forming Right Justice-Based Indie Songs)*. Yogyakarta: Genta Publishing, 2016.
- Atalia, Inara. *It turns out that being a Youtuber is Easy!*. Yogyakarta: START UP Yogyakarta, 2019.
- Djamal. *Procedural Law of Intellectual Property Rights in Indonesia*. Bandung: Pustaka Reka Cipta, 2009.
- Hadjon, Philipus M. *Legal Protection for the People of Indonesia*. Surabaya: Bina Ilmu, 2005.
- Hidayah, Khoirul. *Intellectual Property Rights Law*. Malang: Setara Press, 2017.
- HS, Salim. *Introduction to Written Civil Law*. Jakarta: Bumi Aksara 2008.
- Khairani. *Legal Certainty of Outsourced Workers' Rights: Viewed from the Concept of Employment Relations between Workers and Employers*. Jakarta: Rajawali Press, 2016.
- Kurniawan. *Virtual Journalism*. Bandung: Rosdakarya, 2016.
- Kusnadi, Moh. *Complete Dictionary Indonesian (Complete and Practical) Latest Edition*. Surabaya: Cahaya Agency Surabaya, 2012.
- Lutviansori, Arif. *Copyright and Protection of Folklore in Indonesia*. Yogyakarta: Graha Ilmu, 2010.
- M, Sri Soedewi. *Civil Law Law of Things*. Yogyakarta: Liberty, 2005.
- Marzuki, Peter Mahmud. *Introduction to Legal Science*. Jakarta: Kencana, 2008.
- Morrison, Wayne. Et. al. *Early Development of the Foundations of Utilitarian Law*. National Library of the Republic of Indonesia KDT: Nuasamedia, 2021.
- Nasrullah, Rulli. *Social Media Communication, Cultural, and Sociotechnological Perspectives*. Bandung: Rosdakarya, 2016.
- _____. *Intercultural Communication in the Cyber Age*. Jakarta: Kencana Prenada Media Group, 2012.
- Rato, Dominic. *Philosophy of Law Seeking: Understanding and Understanding Law*. Yogyakarta: Laksbang Pressindo, 2010.
- Saidin, O.K. H. *Legal Aspects of Intellectual Property Rights*. Depok: Rajawali Press, 2019.
- _____. *Legal Aspects of Intellectual Property Rights*. Jakarta: Raja Grafindo Persada, 2010.
- Soekanto, Soerjono. *Introduction to Legal Research*. Jakarta: UI Press, 1986.

- Soelistyo, Henry. *Plagiarism, Copyright Infringement and Ethics*. Yogyakarta: Canisius, 2017.
- Soemartono, Gatot P. *Recognizing Alternative Dispute Resolution and Arbitration*. South Tangerang: Open University, 2017.
- Sulianta, Ferry. *The magic of social media*. Jakarta: Elex Media Kompetindo, 2015.
- Supramono, Gatot. *Copyright and Its Legal Aspects*. Jakarta : Rineka Cipta, 2010.
- Sutiyo, Bambang. *Business Dispute Resolution: Solutions and Anticipation for Business Enthusiasts in Dealing with Current and Future Disputes*. Yogyakarta: Citra Media, 2006.
- Shahrani, Riduan. *Summary of the Essence of Legal Science*. Bandung: Citra Aditya Bakti, 1999.
- Tim Lindsey Etc. *Intellectual Property Rights An Introduction*. Bandung: Alumni, 2006.
- Usman, Rachmadi. *Options for Out-of-Court Dispute Resolution*. Bandung: Mandar Maju, 2003.
- Main, Tomo Suryo. *Intellectual Property Rights (IPR) in the Global Era*. Yogyakarta: Graha Ilmu, 2010.
- Widjaja, Gunawan. *Business Law Licensing Series*. Jakarta: Raja Grafindo Persada, 2001.
- Winarta, Frans Hendra. *Indonesian and International Arbitration Dispute Resolution Law*. Jakarta: Sinar Grafika Offset, 2011.
- Wyasa, Ida Bagus and Ni Ketut Supasti Dharmawan. *International Trade Law*. Bandung: Refrika Aditama, 2017.

Miscellaneous

- Anchor FM Inc. "Anchor's DMCA Copyright Policy". Available on: <https://anchor.fm/dmca>. Retrieved May 18, 2022.
- Andre P, Andika; Winarno, Bambang; and M. Zairul Alam. "Review of Unlawful Announcement and Reproduction of Videos Through the YouTube Site". *Journal of Law Universitas Brawijaya*. Published by Universitas Brawijaya. February 2014.
- Anonymous. "Grant of License". Available at: <http://m.hukumonline.com/details/lt550077782a2fb/copyright-holder-andlicensee>. Retrieved May 18, 2022.
- Alexandre, De Streel, et al. "Online Platforms' Moderation of Illegal *Content* Online". Available at: [https://www.europarl.europa.eu/RegData/etudes/STUD/2020/652718/IPOL_STU\(2020\)652718_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/652718/IPOL_STU(2020)652718_EN.pdf). Retrieved March 5, 2022.
- Association for Progressive Communication (APC). "*Content* Regulation in the Digital Age: Submission to the United Nations Special Rapporteur on the Right to Freedom of Opinion and Expression". Available at: <https://www.apc.org/en/pubs/content-regulation-digitalage-submission-unitednations-special-rapporteurright-freedom>. Retrieved March 5, 2022.
- Chander , Anupam. "Internet Intermediaries as Platforms for Expression and Innovation". *Journal. Published by the Centre for International Governance Innovation and Chatham House. Paper Series No.42 2016: 5.*

- Dharmawan, Ni Ketut Supasti and Wayan Wiryawan. "The Existence and Implications of Mfn and Nt Principles in Regulating Intellectual Property Rights in Indonesia". Available at: <https://Ojs.Unud.Ac.Id/Index.php/jmhu/article/view/9463>. Retrieved May 19, 2022.
- Dwika. "Justice from the Dimension of the Legal System". Available at: <http://hukum.kompasiana.com> . Retrieved December 10, 2021. "Copyright". Available at: <https://artikelsiana.com/hakcipta-pengertian-fungsi-hakcipta-ciri-sifat-dasar-hukumjenis/>. Retrieved February 1, 2022.
- Hermawan, Daniel. "*Content creator* in Creative Industries: The Role of Personal Branding in Social Media". Journal. Published by Parahyangan Catholic University.
- Jamba, Padrisan. "Analysis of the Application of Delik Complaints in Copyright Law to Overcome Copyright Crime in Indonesia". Journal. Published by Light of Justice. Vol 3. No. 1 ISSN: 2339-1693.
- Ministry of Communication and Information Technology. "Kominfo Receives More Than 430 Thousand Complaints of Negative Content Throughout 2019". Available at: https://kominfo.go.id/content/detail/23705/siaran-pers-no04hmkominfo012020-aboutkominfo-receive-more-than430-thousand-aduan-kontenegative-sepanjang2019/0/siaran_per. Retrieved February 1, 2022.
- "Terms of Service". Available on: <https://www.Tiktok.com/legal/terms-of-service?lang=en>. Retrieved March 6, 2022.
- Komardin, Muhammad Fazlurrahman. "Juridical Review of the Responsibilities of Digital Service Providers Through the Internet Acting as Internet Intermediary in Indonesia". Thesis. Published by Hassanudin University Makassar, 2017.
- "Content". Available at: <https://www.komunikasipraktis.com/2019/05/pengertiankonten-dan-jenisjenisnya.html>. Retrieved February 1, 2022.
- _____. Available on: <https://kbbi.kemdikbud.go.id/queues/content>. Retrieved February 6, 2022.
- "User Generated Content". Available at: https://id.wikipedia.org/wiki/Konten_buatan_pengguna. Retrieved February 1, 2022.
- Kurnia, Abi Jam'an. "Criminal Trap of Re-Uploader Video on Youtube". Available at: <https://www.hukumonline.com/clinic/details/reviews/lt597f0045bbbe1/jerat-kriminal-ireuploader-i-video-di-youtubei/>. Retrieved October 4, 2021.
- Listiyani, Dini. "Minimum *Tiktok Followers* Get Money". Available at: <https://www.inews.id/techno/internet/minimal-followers-Tiktok-to-get-money/2>. Retrieved May 18, 2022.
- Miladi, Himam. "Don't know what Tiktok is yet? Here are 10 important facts". Available on: <https://www.kompasiana.com/primat/5e3624dad541df0711281812/et-know-what-itTiktok-follows-10-facts-importance?page=2>. Retrieved February 1, 2022.
- Molina, Kristo. "Indonesia Implements a Safe Harbour Policy for E-Commerce (Marketplace) Platforms". Available at: <https://www.whitecase.com/publications/alert/indonesiainplements-safe-harborpolicy-e-commercemarketplace-platforms>. Retrieved February 1, 2022.

Munawar, Akhmad and Taufik Effendy. "Law Enforcement Efforts for Copyright Infringement According to Law Number 28 of 2014 concerning Copyright".

Al-Adl Law Journal. Vol. 8. No. 2, 2016.

Ultimate, Revian Tri and Djulaeka. "Legal Protection of Copyright Holders of Songs Uploaded on *the Tiktok App*".

Journal of Indonesian Law Symposium. Published by Trunojoyo Madur University Faculty of Law. Vol. 1 No. 1, Year 2019.

"Downloading and Uploading". https://id.wikipedia.org/wiki/Pengunduhan_dan_pengunggahan. Retrieved March 5, 2022.

Rahmayani, beautiful. "Indonesia Asia's Tech Giant". Available at: https://kominfo.go.id/content/detail/6095/indonesiagiant-teknologi-digitalasia/0/sorotan_media. Retrieved March 2, 2022.

Septriandiva. *Content creator Tiktok* Bogor City. Interview results. March 21, 2022.

Siregar, Annisa. "Juridical Review of Copyright Protection of Video Karta for Creators on Youtube Shown on Indonesian Television Based on UUHC". Thesis. Published by University of North Sumatra 2018 Medan. p 6.

"*Tiktok*". Available on: <https://id.wikipedia.org/wiki/TikTok>. Retrieved October 2, 2021. _____. Available on: <https://www.Tiktok.com/legal/terms-of-service?lang=en>. Retrieved March 6, 2022.

"Utilitarianism". Available at: <https://id.wikipedia.org/wiki/Utilitarianism>. Retrieved October 3, 2021.

Vijaya, Andre. "Trade Dispute Resolution in the Study of Geprek Benu Verdict Against I Am Geprek Benu". Thesis. University of North Sumatra, 2020.

Wongsodiwirjo, Oemar. "Legal Protection for Creators". *Yuridika Magazine*. Published by Faculty of Law, Universitas Airlangga. Number 4 Year II, 1987.

Yuda, Endra. "Business Ethics: The Ethics of Utilitarianism". Available on <https://feelinbali.blogspot.com/2013/09/etika-bisnis-etikautilitarianisme.html>. Retrieved October 2, 2021.

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