

The Urgency Of Determining Commercial Value Of Copyright As Property Rights

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Abstract—Copyright is a form of legal protection for works of creation produced by individuals or groups, whether in the form of scientific, literary, artistic, technological works. Copyright grants exclusive rights to creators to regulate, utilize, and obtain economic benefits from the works they have created. However, although copyright has been recognized as a property right that can be traded or licensed, in reality, creators often face major obstacles in determining the commercial value of their creations. Determining the commercial value of copyright as a property right is a solution, both in terms of protecting the economic rights of copyright owners and in encouraging the growth of creative industries based on intellectual works. This study aims to examine the urgency of determining the commercial value of copyright as a property right and to provide an ideal legal formulation to support the determination of such commercial value. The method used in this study is the normative juridical method, by analyzing applicable laws and regulations, legal doctrines, and analyzing legal theories related to copyright and commercial value. The results of the study indicate that the determination of commercial value on copyright as a property right has a very high urgency in increasing the protection of economic rights for creators and supporting the development of the creative industry in Indonesia. The ideal regulation regarding the determination of the commercial value of copyright must include a license agreement, strong legal protection, and standards for assessing works of creation by involving copyright appraisers or competent institutions in determining the economic value of a work. Determining a clear commercial value will provide balanced economic benefits for creators and parties who use the work of creation.

Keywords— *Commercial Value; Copyright; Property Rights*

I. INTRODUCTION

Intellectual Property Rights (IPR) can specifically be defined as rights that arise from works based on human intellectual abilities, which have utility value for society,

especially in economic aspects. As a form of ownership born from intellectuality, IPR covers various fields, including science, technology, and works that contain moral, practical, and economic values.

Based on information listed on the page of the Directorate General of Intellectual Property of the Ministry of Law and Human Rights of the Republic of Indonesia, the types of creations that can receive protection include:

1. Books, computer software, pamphlets, layouts of published works, and various other types of written works.
2. Lectures, lectures, speeches, and similar forms of information delivery.
3. Teaching aids used for educational purposes or the development of science.
4. Works in the form of songs or music, either with or without text.
5. Drama performances, musical dramas, dances, choreography, puppetry, and pantomimes.
6. Fine arts in various forms and mediums.
7. Architectural works.
8. Maps or similar works related to geographic information.
9. Batik art.
10. Photography.
11. Translations, interpretations, adaptations, anthologies, and other works of transformation.

Copyright is a form of legal protection given to creators for works of creation produced, whether in the form of science, art, and literature that can be enjoyed by the public. This copyright arises automatically when a work or creation

is produced, without requiring prior formal registration. As part of civil rights, copyright is personal and directly attached to the individual who created it. Protection of copyright is intended to provide exclusive rights to creators to regulate, utilize, and obtain economic benefits from the work they have created [1].

The basis for justifying the existence of copyright lies in the fact that a work is the result of the creator's creative process, which involves thinking activities and imagination. Therefore, copyright can only be granted if the work produced is the fruit of human creativity, not from something that already existed before or that is not the result of human activity. In the Indonesian legal system, copyright is regulated in Law Number 28 of 2014 concerning Copyright, which provides legal protection for works of creation and gives creators exclusive rights to control the use and utilization of the work.

However, although copyright in the Copyright Law has been recognized as a property right that can be traded or licensed, in reality creators often face major obstacles in determining the commercial value of their creations [2]. This commercial value is very important because it determines how much economic potential can be generated from a work of creation. This is where the main problem arises, namely the ambiguity and inaccuracy in determining the economic value of copyright. This can lead to unauthorized exploitation of the work of creation by certain parties who use the work without consent or without providing proper compensation to the creator [3]. Determining the commercial value of copyright as a property right plays an important role, especially in terms of the increasingly developing creative economy. The creative economy is a sector that relies on creativity and innovation as the main source of added value and economic growth. In Indonesia, the creative economy sector has become one of the important pillars of the national economy, covering various industries such as film, music, design, fine arts, literature, and others [4]. In order for this sector to develop optimally, clear and transparent regulations are needed regarding how the commercial value of copyright is determined and protected. Determining the right commercial value not only provides benefits for creators, but also provides incentives for creative industry players to invest in developing creative works and expanding the market reach of these works. However, in Indonesia, the determination of the commercial value of copyright is still not well organized. Most creators, especially those from the small or independent creative industry sector, often do not have adequate knowledge about how to set the price or economic value of their creative works. In addition, many creators do not receive adequate protection regarding the exploitation of their creative works [5]. This ignorance is often exploited by parties who are more powerful or have more resources to exploit these creative works without giving the creators appropriate rewards. This creates injustice and losses for creators, who often do not receive proper economic rewards from their work.

In this case, the determination of the commercial value of copyright as a property right becomes increasingly urgent. A

clear commercial value will provide legal certainty for creators in utilizing and managing their economic rights. This determination will facilitate fairer transactions between creators and interested parties, such as publishers, producers, or licensees. In addition, the determination of commercial value will also strengthen legal protection for creative works and ensure that creators can obtain reasonable economic benefits from their works [6]. In this case, the determination of the commercial value of copyright is not only beneficial for creators, but also for the development of the creative industry as a whole.

However, to achieve this goal, clearer and more detailed regulations are needed regarding the determination of the commercial value of copyright. The current regulations, although they provide a legal basis for copyright, do not cover in sufficient detail how the mechanism for determining the commercial value can be carried out. Without adequate regulations, creators and other parties involved in copyright transactions will find it difficult to determine fair and transparent prices. Therefore, the development of regulations that specifically regulate the determination of the commercial value of copyright is very necessary.

Previous research shows that the absence of copyright collateral appraisal in banking in Indonesia results in legal certainty in utilizing copyright as collateral that cannot be applied, because there are no guidelines as a legal basis for providing copyright material value [7]. Citra & Silaen also found that copyright assessment is difficult to do, because the artistic tastes of one person and another are different [8]. Moreover, the marketability to offer collateral objects in the form of copyright is also considered very limited. Copyright is an intangible asset, so the collateral object in the form of copyright is not a saleable object or in fact is not easy to sell. Furthermore, Maslamah found that copyright has great potential in terms of economic value and can help drive economic growth in the community [9]. However, on the other hand, banks are still reluctant to use copyright as additional collateral in credit for various reasons including the absence of clear regulations, the absence of valuation standardization, and the risk of market decline and loss. Of the many existing studies, qualitative research that examines the need to determine the commercial value of copyright as a property right has not been widely conducted. This study aims to examine the urgency of determining the commercial value of copyright as a property right, as well as to analyze the ideal regulations to support the determination of such commercial value. This study raises two main problem formulations, namely, first, what is the urgency of determining the commercial value of copyright as a property right in terms of economic protection for creators and the development of the creative industry in Indonesia, and second, what are the ideal regulations to support the determination of the commercial value of copyright in Indonesia.

II. METHOD

The method used in this study is the normative legal method and qualitative approach, namely by analyzing existing

laws and regulations, legal doctrines, and relevant legal theories related to copyright and commercial value [10]. The normative legal approach allows researchers to analyze applicable legal norms and their application in practice [11]. This approach was chosen to analyze existing legal regulations related to the practice of applying commercial value to copyright in Indonesia, as well as the challenges faced by creators in setting the price or commercial value of their works. Researchers conducted a study of available literature both in print and digital form, such as textbooks, law journals, and scientific articles [12]. Then, the data obtained was analyzed using qualitative analysis methods.

III. RESULTS AND DISCUSSION

The regulations regarding copyright in Indonesia are currently regulated in Law Number 28 of 2014 concerning Copyright (UUHC). Copyright is defined as an exclusive right owned by the creator and is obtained automatically based on the declarative principle after the creation is manifested in a tangible form. The exclusive rights owned by the creator give the creator the right to announce or reproduce his creation, or grant permission for it, without reducing the restrictions in accordance with applicable laws and regulations [13]. In Law No. 28 of 2014, copyright is recognized as a movable and intangible property right. This means that copyright can be transferred, sold, licensed, or used as an object of fiduciary collateral. In accordance with the principle of property rights, exclusive rights to copyright remain subject to the limitations and provisions stipulated in applicable laws and regulations. Copyright regulations in Indonesia are quite adequate in terms of moral and economic protection of creators, but have not fully regulated the mechanism for determining the commercial value of copyright as a property right

In Law Number 28 of 2014 concerning Copyright (UUHC), there is no specific regulation regarding the determination of the commercial value of a creation in the form of a definite number. However, it is determined through an agreement in an agreement between the creator and the user, a management mechanism by the Collective Management Institution (LMK) and guidance from derivative regulations such as PP No. 56 of 2021 concerning Management of Copyright Royalties for Songs and/or Music.

1. The Urgency of Determining the Commercial Value of Copyright as a Property Right

Copyright is an important part of intellectual property that has a very broad scope of protection, covering various fields, such as science, art, and literature, including computer programs. With the development of the creative economy as one of the main pillars of the Indonesian economy and other countries, as well as the rapid progress in the field of information and communication technology, the need to update the Copyright Law is becoming increasingly urgent.

The update aims to ensure that copyright not only functions to provide protection for intellectual works, but is also able to be a driver for the growth of the creative economy sector. Through this update, it is hoped that the Copyright Law can accommodate various aspects of protection for intellectual

works while supporting innovation and creativity in the creative economy sector [14].

Copyright not only protects the interests of creators in enjoying the fruits of their labor, but also encourages the development of creativity and innovation that contribute to the enrichment of the fields of science, art, and literature at the national and international levels. The use of copyright is hampered by the absence of a precise determination of validation values, the lack of regulations regarding implementation mechanisms, and the absence of a special institution to calculate the economic value of copyright guarantees. Determining the commercial value of copyright as a property right has a very high urgency in terms of economic protection for creators and the development of the creative industry in Indonesia [15]. As an intellectual property right, copyright not only functions to protect the moral rights of creators over their works, but also provides economic rights that allow creators to obtain compensation for the use of their works by other parties [16]. In this case, commercial value is key in determining how much economic benefit can be obtained from the work of creation. Therefore, it is important to examine the urgency and regulations underlying the determination of the commercial value of copyright in order to support the sustainability of the creative industry and the empowerment of creators. Basically, copyright as a property right contains economic value that allows works of creation to be used or traded for the purpose of making a profit [17]. Determining the commercial value of copyright is very crucial, not only for creators as copyright holders, but also for other parties who are interested in using the work in legitimate transactions. In the creative industry, works of creation can be in the form of music, films, fine arts, writing, software, designs, and various other types of works that have the potential to be commercialized [18].

However, despite the enormous economic potential of copyright, not all creators know how to determine the commercial value of their works. Many creators who work in small or independent creative industries often do not have access to or understanding of the right pricing or mechanisms for selling their copyrights [19]. This situation has the potential to cause inequality between creators and users of works of creation, where users may gain greater benefits, while creators do not receive fair compensation.

Determining the commercial value of copyright also plays an important role in preventing copyright abuse. Without clear commercial value standards, creators can be trapped in detrimental agreements, where their work is used without receiving proper compensation. This often happens, especially in creative industries that involve many parties, such as publishers, producers, and advertising agencies, who have a stronger bargaining position than creators [20]. Therefore, establishing a clear commercial value of copyright will provide greater protection for the economic rights of creators and encourage the creation of fair agreements between the parties involved in the transaction.

In line with the rapid development of the creative industry, determining the right commercial value can encourage the creation of a conducive climate for investment in the

development of creative works. With legal certainty about commercial value, parties interested in investing in creative works will be more confident in making transactions, because they know that the value they pay will be in accordance with the economic potential contained in the work. This will encourage the growth of the creative economy based on intellectual property, which in turn contributes to improving the welfare of creators and the development of the creative economy sector in general.

Although determining the commercial value of copyright has great urgency, the implementation of this value determination in Indonesia still faces a number of obstacles. One of the main obstacles is the lack of objective and measurable assessment standards for creative works. Unlike goods or physical property whose value can be clearly measured based on market price or production costs, creative works are abstract and original, which makes assessing their economic value more complex [21]. Creative works such as music, films, or books do not have a fixed market value and can vary depending on the context and market needs at a certain time [22].

In addition, creators often do not have the ability or resources to determine the economic value of their creative works professionally. Many creators do not understand the importance of economic rights in their copyright, as well as lack the skills to negotiate with other parties who want to use their work. This causes creative works to often be undervalued or exploited without adequate permission. In practice, many creators rely on licensing agreements or contracts with more experienced third parties, such as publishers or producers, to obtain compensation for their creative works. However, unfair or unbalanced agreements can be detrimental to creators, especially if there are no clear regulations regarding the standards for determining the commercial value of copyright [23]. In this case, creators are often in a weaker position, leading to an imbalance in the distribution of economic benefits from creative works.

2. Ideal Regulation to Support the Determination of Commercial Value of Copyright as Property Rights

Clear and detailed regulations are essential to support the determination of the commercial value of copyright, both for creators of works and for other parties involved in copyright transactions. One important regulation is the standard for assessing the economic value of works. An objective and transparent assessment of the commercial value of works will help creators determine a fair price for their works, as well as provide a strong basis for parties interested in purchasing or licensing the works.

In addition, regulations governing licensing agreements also need to be strengthened. Fair and transparent licensing agreements will protect the economic rights of creators and ensure that they receive fair compensation for the use of their works. In this case, clear regulations regarding the duration of the license, the area of rights, and appropriate compensation must be stated in detail in the agreement. Regulations regarding the transparency of royalty payments or profit sharing also need to be considered, so that creators are not disadvantaged in the process of sharing the economic benefits of their works.

On the other hand, a stronger legal protection mechanism for works is also essential. Creators must be given legal guarantees to protect their economic rights, so that no party can easily exploit their works without permission or without providing fair compensation. Supervision of the implementation of licensing agreements and the regulation of sanctions for copyright infringement must be tightened, so that creators can obtain their economic rights as best as possible. Based on the discussion above, there are several recommendations that can be submitted to form ideal regulations in determining the commercial value of copyright in Indonesia. First, the government needs to develop more detailed regulations regarding the standards for assessing creative works, by involving copyright appraisers or competent institutions in determining the economic value of a work. Second, creators of works must be given training or education regarding their economic rights, so that they have sufficient knowledge to manage and protect their creative works..

IV. CONCLUSIONS

Determining the commercial value of copyright as a property right is very urgent in order to improve the protection of economic rights for creators and support the development of the creative industry in Indonesia. Determining a clear commercial value will provide balanced economic benefits for creators and parties who use the work. However, this requires clearer regulations and transparent mechanisms in determining commercial value, licensing agreements, and strong legal protection. With the right regulations, it is hoped that creators can receive fair compensation for their work, so that the creative industry in Indonesia can develop more rapidly.

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