

Forms of Legal Protection Against Commercial Violation of Tiktok Video Copyright

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Abstract

This research has the aim of explaining the form of legal protection for TikTok video content which is republished without the consent of the creator or TikTok creator for commercial personal gain, one example of which is being used for advertising. This is because there is still a lack of understanding on how to take action against or report individuals who violate Intellectual Property Rights on Copyrights that have harmed creators/authors/copyright holders. Information technology has an important influence on Intellectual Property Rights, information technology updates that are increasingly developing have a positive impact on Intellectual Property Rights as well. Creators can utilize and use information technology to create works, one example is creating video content on the TikTok application. Human intellectual skills can create a work in the fields of technology, science, art and literature referred to as intellectual property to obtain legal protection in accordance with statutory regulations in the field of Intellectual Property Rights (IPR) which can be owned by individuals, groups and companies. Works in the form of moving images or short videos published in the TikTok application are one of the cinematographic works that receive legal protection under the Copyright Law. But now there is one negative impact that is increasingly prevalent, namely the misuse of the download feature provided by the TikTok application to take video content works and take advantage of personal interests in the form of advertisements without the consent of anyone. The actions of the responsible party can harm the creator/creator/copyright holder who does not get the slightest royalty and doesn't even receive an apology.

Keywords: Intellectual Property Rights, Copyright, Legal Protection, TikTok, Creators.

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Introduction

In this modern era, the internet is a basic need for everyone. Internet services are now more complete because of technological developments in the field of telecommunications which are getting more advanced every year, thus creating convenience for internet users. Communication technology is an electronic tool or device that can communicate remotely, one of which is a cellphone that is easy to carry anywhere. It is very easy to access the internet using a cell phone as a technology medium and communication tool to communicate quickly with those who are far away, get all information from the fields of business, health, industry, entertainment for fun and can even create works on applications (Yusti Amelia Sundawa & Wulan Trigartanti, 2018). Whatapps, Telegram, Line, Facebook, Instagram, Twitter, Youtube and TikTok are social media applications that are used daily by internet users with the most devotees in Indonesia. The number of users using the internet has increased rapidly during the Covid-19 pandemic because all activities are required from home and online. During the Covid-19 pandemic, the TikTok application has the highest demand in 2020 as a short music video platform with a duration of 15 seconds containing entertainment.

In September 2016, a graduate of Nankai University majoring in Software Engineering named Yiming Zhang, the founder of the ByteDance company in China, launched a music

video application with the name Douyin specifically for China. Because in just 1 year the Douyin application reached 100 million users, the ByteDance company expanded internationally by changing its name to Tiktok and merging with the musical.ly application in August 2018. Then at the end of 2019, Tiktok experienced a high increase after nearly 4 years of launch by getting a number of 500 million more users worldwide. The Tiktok application is one of the social media that contains the most downloaded entertainment on the App Store and Google Play as an application store. In Indonesia, there are 30.7 million users of the Tiktok application in 2020, even though Tiktok was blocked because it was deemed not educational by the Ministry of Communication and Information Technology (Kominfo).

The Tiktok application was created as a social network and music video platform that can be used to create, edit and share videos that contain entertainment or education. Tiktok provides live streaming, ready-to-use effects and music supports various categories such as R&B, Western, Dance, Classical music, Jazz, Rhythm, Funk, Rock, and Hardcore. Someone who creates short video content and uploads it on the Tiktok application can be called a creator, works created in the fields of art, technology and science by creators are the result of growth from human intellectual skills to get legal protection that can be owned by a person, group or company according to the regulations per law in the field of Intellectual Property Rights (IPR) and get protection from Tiktok (Daniel Hemawan, 2018). Intellectual Property Rights can be described as granting rights to creators without any restrictions on human intellectual property. Among the Copyright, Brand, Trade Secret, Patent, Industrial Design, Integrated Circuit and Plant Variety sections, one of the IPR sections that protects video content creators is Copyright which is regulated in Law Number 28 of 2014 concerning Copyright (Sujana Donandi S., 2019). Copyright, the right is to give authority to certain parties that are free and while copyright or creation is a work that has been produced by humans using experience, reason, knowledge, feelings and imagination (Yusran Isnaini, 2019). Tiktok's video content includes cinematographic works in the form of creations that are protected by Copyright, creations related to documentaries or using scenarios or visual moving images.

the Tiktok application includes audio visual examples of one form of Cinematography. Cinematography is the result of taking a video or combining several images into a series of story ideas in the resulting video form which can easily capture the meaning and message to convey and according to the wishes of the creator (Cita Citrawinda, 2020). Tiktok is not only liked by teenagers, even parents and minors are also interested in entertainment videos and take advantage of features for expression. Tiktok creators create video content that is entertaining and has appeal to viewers, can generate lots of likes and comments, so that content will enter the for you page (fyp), which can be interpreted as a homepage that can be seen by everyone. Even though Tiktok is easy to access and free, now you can make money from creating video content, live streaming and selling. However, the results of video content uploaded by creators are often downloaded, but other parties publish it without the consent of the Tiktok creator, even to other platforms for trading, such as Facebook, Instagram and Youtube applications for personal gain.

Content that is republished without permission to other platforms is used to benefit other parties that are commercial in nature, one of the cases in which content is republished without permission to other platforms is used as advertisements for the benefit of other parties, namely the case that has been experienced by the creator account on Tiktok @essi.karissi as the owner of KDU Beauty creates video content about changing a face covered in black spots to become clean and healthy for her own business, namely KDU Beauty. However, there are many who republish it without permission to various applications, for example, parties who are not responsible for using videos for Bioaqua advertisements even though the brand is already known as a big brand. This action is certainly detrimental to creators who have worked

hard to create content for their skincare business, but many parties without permission use the video to be traded as advertisements for other skincare brands.

Until 2023, no content creators have reported irresponsible persons republishing videos without permission to be traded to the authorities, some content creators on TikTok only complain to those who harm them for taking content to be traded as advertisements without the consent of the content creator. The reason the creator content has not reported it to a dispute resolution institution is because they think that it can be resolved privately by admonishing the offending party to remove the video and not knowing how to report someone who has abused their video to the authorities. To reduce the problem of taking videos and republishing videos without permission from other parties, content creators can add a watermark to the video and turn off the save video feature so as not to provide opportunities for naughty parties to take videos to be traded as advertisements on several other platforms.

According to the results of this background description, I would like to examine the form of legal protection for content creators whose video content works are violated by irresponsible parties for commercial personal interests by finding a formula, namely: What is the form of legal protection for TikTok creators whose videos are published reproduced without permission to trade?

Materials and Methods

The research method is a process or stage where the legal materials to be used are analyzed and collected. Using normative legal research, according to Soerjono Soekanto, legal research uses library materials or secondary data when conducting research. Serves to resolve issues of legal protection for TikTok creator content by reviewing a Conceptual Approach to provide views or insights, concepts and legal principles that are significant to the issue in question and also to explore statutory regulations (Statute Approach) that have been regulated in the Law - Law on Copyright No.28 of 2014.

Results and Discussion

Forms of Legal Protection for TikTok Content.

Useful works in the economy in the form of knowledge, art, literature, and those created by humans thanks to human intellectual skills or abilities that have sacrificed time, cost and effort are intellectual property. R. Djubaedillah & Muhammad Djumhana argue that Intellectual Property Rights are rights that grow from someone's Intellectual Work which is materially beneficial. Intellectual Property Rights include granting unlimited rights to intangible works and can be legally protected by Laws on Brands, Copyrights, Patents, Layout Designs of Integrated Circuits, Trade Secrets, Plant Varieties and Industrial Designs (OK. Saidin , 2019). Legal protection can be interpreted as legal protection as an action by the authorities or the government to protect through existing regulations and laws, legal protection is also located to carry out legal objectives in providing benefits, legal certainty, peace and justice. creating video content with your own work and then uploading it to the TikTok application is automatically human intellectual property that gets legal protection in the field of copyright.

The law, if enforced, has a function as a means of protecting human rights and interests in order to protect human interests. All Indonesian residents receive legal protection which is given to protect society by legal officials from arbitrary actions from parties that are not in accordance with the rule of law, threats from any party, and to feel safe both mentally and physically (Abel Nicholas, 2021). Every Indonesian citizen without exception gets legal protection, which can be seen in the 1945 Constitution of the Republic of Indonesia (1945 Constitution). Protection using legal means that are legal and can be implemented in certain ways, namely:

1. Issuing regulations that have the objective of providing rights and obligations as well as protecting the rights of legal subjects.
2. Regulatory compliance through preventive law as prevention of violations in the form of registration and supervision, repressive law as a settlement of violations of the law in the form of imprisonment or fines and civil law to repair or cure rights that have been violated in the form of paying compensation or compensation.

The following is an explanation of preventive and repressive legal protection:

Forms of Preventive Legal Protection.

Preventive legal protection based on freedom of action is very meaningful for the government, because with the existence of preventive legal protection the government is encouraged to be careful in making decisions based on considerations (Philipus M. Hadjon, 2011). The government provides preventive legal protection as a form of protective action in preventing legal violations that are likely to occur. Government action in preventive legal protection when protecting creators of cinematographic works or copyright owners by issuing Law on Copyright No. 28 of 2014. Because TikTok video content is a cinematographic work, content creators can register copyrights to prevent copyright infringement of TikTok video content and can prove ownership of the video content they create (khwarizmi Maulana Simatupang, 2021).

There are a number of other laws and regulations that can protect content creators or copyright holders, including Article 25 of Law no. 11 of 2008 concerning Information and Electronic Transactions states that electronic information and/or electronic documents that are compiled into intellectual works, websites and intellectual works whose contents are protected as Intellectual Property Rights under the provisions of Laws and Regulations. So the ITE Law is the protection of Copyright in the Information System, The Joint Regulation of the Minister of Law and Human Rights Number 14 of 2015 and the Minister of Communication and Information Number 26 of 2015 concerning Implementation of Closing Content and/or User Access Rights Copyright Violations and / or Related Rights in Electronic Systems.

An creator, to prove ownership, can register his copyright at the regional office of the Ministry of Law and Human Rights or online, following the steps for registering a copyright online:

1. Visit the e-hakcipta.dgip.go.id website.
2. Register to register your username and password
3. Log in with the username you have been given
4. Upload the required documents
5. Make a payment after receiving the payment code for copyright registration
Biaya pendaftaran:
 - Computer program:
 - Micro enterprises, small enterprises, Educational institutions and Government R&D: Rp. 300,000
 - General: Rp. 600,000
 - Non Computer Program:
 - Micro Enterprises, Small Enterprises, Educational Institutions, & government development divisions: Rp. 200,000
 - General: Rp. 600.000.

6. Waiting for the inspection process, validation of the formal requirements document, if it is included in the class of types of works that are excluded, an inspection is carried out, uploading the required documents.
7. Approval or acceptance, the applicant can download and print the certificate himself.

The government on preventive legal protection can act to educate the public in the form of seminars with experts on copyright infringement to reduce copyright infringement, especially internet users and even users of the TikTok application.

Forms of Repressive Legal Protection

Repressive legal protection as a final measure to protect which is carried out by the competent judicial institution either absolutely or not absolutely, provides sanctions in the form of imprisonment, fines and additional punishment, if a violation has been committed or a dispute arises. Resolution of Copyright Disputes can be carried out by alternative dispute resolution, arbitration or court as appropriate in Article 95 paragraph (1) of the Copyright Law No. 28 of 2014 (Riza Gineung Adi Anggara, 2021). There are 2 (two) ways to resolve disputes in the form of repressive legal protection in the event that the rights of the holder of legal protection for creators of Cinematographic works and Copyright owners are infringed, namely:

- 1). The path of the litigation process: Dispute resolution through the litigation process or called the judiciary is a dispute resolution process in court which begins in the form of investigations, investigations and examinations and then submits the public prosecutor who will be brought before the court trial. Described in article 99 paragraph (1) of the Law on Copyright No. 28 of 2014 states that copyright creators or copyright owners have the right to file a claim for compensation at the Commercial Court for reports of copyright or cinematographic works that are infringed. Then the owner of a Cinematographic Copyright who suffers a loss by another party can file a claim for compensation or a report on closure of the content and/or access rights to the Commercial Court (Made Yunanta H et al., 2021).
 - a. Claim for Compensation: Article 96 paragraph (1), 98 paragraph (1) and 99 paragraph (1) of the Copyright Law stipulates that the creator, copyright owner and their heirs who feel a loss can claim compensation if there is an economic right and legal right. The morals that were violated before the Commercial Court.
 - b. Reports on Closing Content and/or Access Rights: Based on article 56 paragraph (2) it has been regulated in the Joint Regulation of the Minister of Law and Human Rights No. 14 of 2015 and the Minister of Communication and Information No. 26 of 2015 concerning Implementation of Closing Content and/or Related Rights in Electronic Systems. Electronic System Rights, where every copyright creator or owner can make a report against copyright infringers on the official website of the Directorate General of Intellectual Property, to block all or only part of the content that has violated copyright in the electronic system or can make electronic system services not accessible.

Articles 100 and 101 of the Copyright Law have explained the procedures for submitting a lawsuit to the Commercial Court and also the decision must be announced in a session open to the public or notified to both parties. Apart from filing lawsuits in court, creators or copyright owners can make requests for provisional decisions or interlocutory decisions to the Commercial Court to request to stop irresponsible parties from publishing TikTok video content without permission for trading and request

confiscation of devices used by irresponsible parties or other parties. third parties who use TikTok video content for trading in order to prevent greater losses being experienced by creators or copyright holders.

2). Non-Litigation Path: Settlement of disputes through a non-litigation process is to take dispute resolution that will be carried out outside the court or trial. In the settlement of disputes outside the court can be done in the form of Alternative Dispute Resolution or Arbitration, Law on Arbitration and Alternative Dispute Resolution No. 30 of 1999 in article 1 paragraph (10) it is explained that Alternative Dispute Resolution is a dispute resolution institution that can be carried out outside the court or without trial by way of consultation, negotiation, mediation, expert judgment, or conciliation.

- a. Consultation: video content creators or copyright holders hold consultations with consultants to obtain legal opinion in resolving disputes. The creator or Copyright holder as a client can carry out consultations in person to meet with outside consultants or law offices and online if there are parties who cannot meet. As a client, you have to accept the consultant's advice or ignore it.
- b. Negotiation: Resolving Copyright disputes by means of discussion or deliberation between the two parties to the dispute without involving a third party whose results will be mutually beneficial. After reaching a mutual agreement, make a letter of agreement in writing to be signed by both parties.
- c. Mediation: Resolving copyright disputes is done by negotiating between the two parties to get an agreement assisted by a mediator. The mediator must have a neutral attitude in order to get a fair decision because his role is to facilitate negotiations between the two disputing parties and create conducive conditions.
- d. Conciliation: resolving Copyright disputes with the help of a conciliator or conciliation commission that has a role as a mediator who can be called a third party to resolve disputes and reach agreement.
- e. Arbitration: resolving disputes assisted by an arbitrator as a third party, the parties to the dispute are obliged to comply with the results of the arbitrator's decision.

Article 1365 of the Civil Code also explains that actually the party that causes harm to people requires that party to pay compensation to the injured party because their rights have been violated.

If a TikTok creator finds that their video content is being used commercially in the form of turning it into an advertisement by an irresponsible party, then the first step is to act to warn the party that harmed them or report the video that has been uploaded. TikTok protects all content copyright works in the form of photos or videos, audio and user personal information data. TikTok parties provide rights to users based on applicable law, including the right to access, edit, update or correct profiles and can delete content that has been uploaded. There are many parties violating copyright, so TikTok has a commitment to accept law enforcement requests for legal proceedings or during emergencies by following the rules that have been made by TikTok in order to maintain rights and respect user privacy data. If creators take action against parties who violate their copyrights by going through litigation, non-litigation or reporting to the authorities, they can request a letter from law enforcement to be sent to

TikTok..

Conclusion

Intellectual Property Rights have an important role as legal protection for inventors or creators who have worked hard at counterfeiting or misusing intellectual works owned by individuals or groups for the actions of other parties and providing legal certainty to anticipate and prevent violations of Intellectual Property Rights from losses due to fraud. other parties. To avoid having their copyright violated by other parties, you can register a copyright through the official website. However, if the creator has reprimanded the violating party but is ignored, the TikTok creator as the creator of the video content work if his copyright is violated by another party, can resolve the case through:

- Litigation: can resolve cases by filing a lawsuit for compensation before the Commercial Court and making a report on closing content or related rights on the official website of the Directorate General of Intellectual Property.
- Non-Litigation: can resolve cases outside the court which will be assisted by a third person by way of consultation, negotiation, mediation, conciliation and arbitration.

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