

Recognition and Legal Protection of Foreign Illustrator's Copyright in Indonesia According to Law Number 28 of 2014 on Copyright

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Abstract. The phenomenon of digital copyright infringement has become a prominent issue these days. One such case involves copyright infringement against foreign illustrators in the form of unauthorized commercial use of illustrative works by Indonesian business owners. The main issue examined in this research concerns the recognition and legal protection of foreign illustrators' copyrights in Indonesia under Law No. 28 of 2014 on Copyright. This research employs a normative legal research method using a statutory approach and library research. The results indicate that the recognition of foreign illustrators' copyrights in Indonesia is regulated under Article 2 letter c of the Copyright Law through the application of the national treatment principle. The legal protection of foreign illustrators' copyrights in Indonesia is provided through the moral rights and economic rights of the creators. Preventive legal protection of foreign illustrators' copyrights has been implemented through the enactment of Law No. 28 of 2014 on Copyright and the ratification of various international agreements. Repressive legal protection may be pursued through the initiation of criminal charges by reporting copyright infringement to the police, or by filing a civil lawsuit for damages and compensation to the Commercial Court.

Keywords: *Copyrights, Recognition, Legal Protection.*

A. Introduction

Illustrations are a type of intellectual property that receives copyright protection (Bramantyo Anindyka, 2018). The importance of this protection is increasingly essential along with the increasing global phenomenon of transition to digital media, where illustration has completely transformed from traditional methods to digital-based. This transition to digital changed the way illustrators worked from the early stages of production to their distribution.

The biggest changes have occurred in the distribution and monetization of works, which now allows for instant distribution and monetization of works to the global market via the internet. Many digital illustrators publish their work through social media such as pinterst, facebook, instagram, pixiv and other sites as a form of distribution and declaration of their works (Jati Restuningsih, *et.all.*, 2021).

The transition to digital media and the distribution of works through social media carries serious risks that every illustrator needs to be aware of. In a global perspective, digital artwork such as illustrations have a high level of vulnerability to piracy caused by the ease of access and duplication in online environments (Ok. Saidin, 2015). In addition, digital illustration piracy can also occur across jurisdictions, where illustrations can be downloaded, duplicated, and used for commercial purposes by any party in various countries without providing legitimate attribution or compensation to the creator.

The risk of cross-jurisdictional infringement of digital illustrations demonstrates the need for affirmation, recognition and protection of digital illustrations in international law. In this context, the protection of illustrations as works of art and intellectual property is guaranteed internationally by the Berne Convention for the Protection of Literary and Artistic Works 1886.

The Berne Convention not only protects illustrations as copyright but also protects the illustrator as the owner through the principle of national treatment. The principle of national treatment provides the same treatment to foreign citizens (from member countries) as the treatment given to its own citizens in terms of intellectual property rights protection (Rizky Iswandi, *et.all.*, 2025).

Indonesia through Law Number 28 of 2014 concerning Copyright, also adopts the principle of national treatment through Article 2 letter c of the Copyright Law which states that copyright protection for foreign citizens whose countries are bound by international agreements (bilateral and/or multilateral) with Indonesia, is given the same treatment as protection for Indonesian citizens themselves. These provisions form the national legal basis for the recognition and legal protection of the foreign illustrators' works.

The phenomenon of copyright infringement of the foreign illustrators' works has become an interesting issue these days. One case that occurred in early 2025 involved copyright infringement in the form of the unauthorized use of illustrations belonging to a foreign illustrator by Coffee Shop Space Roastery Yogyakarta for the design of its coffee bean products. Coffee Shop Space Roastery is a business based in Yogyakarta that is engaged in the processing and sale of coffee and coffee beans.

Space Roastery's action of using illustrations belonging to foreign illustrators for commercial purposes raises the issue of copyright infringement related to unauthorized use, which can violate the moral rights and economic rights of the creator—in this case, the foreign illustrator. As copyright holders, these foreign illustrators should receive recognition (attribution) and compensation for the use of their work.

In reality, Space Roastery did not provide proper attribution or compensation to the owners of the original work. After formal objections were raised by foreign illustrators on social media, Space Roastery only offered compensation equal to the total sales of the product, without including any compensation for copyright infringement.

This research examined how the copyright of foreign illustrators is recognized in Indonesia under Law No. 28 of 2014 on Copyright and what forms of legal protection are available for foreign illustrators against the unauthorized commercial use of their illustrations in Indonesia under Law No. 28 of 2014 on Copyright.

The objectives of this research are to analyze the recognition of foreign illustrator's copyright in Indonesia and to identify legal protection for foreign illustrators against digital copyright infringement used for commercial purposes without permission in accordance with the provisions of Law No. 28 of 2014 on Copyright.

The results of this research are expected to complement theoretical studies on the recognition of digital copyright of foreign illustrators in Indonesia and become a reference for the development of the concept of legal protection for cross-jurisdictional copyright in the digital era. Furthermore, this research provides a comprehensive understanding of copyright recognition and legal protection mechanisms in Indonesia and the steps that can be taken when dealing with cross-jurisdictional copyright infringement in Indonesia.

B. Method

The method used in this research is a normative juridical approach through a statutory approach. This statutory approach is carried out by examining laws by analyzing all laws and regulations related to the research problem. In this research using Law Number 28 of 2014 on Copyright, TRIPs Agreement, Berne Convention, WIPO Copyright Treaty. The research specification used by the author in this study is descriptive analytical, which means that the author draws conclusions which are then analyzed with the data that has been obtained.

The methods and techniques for collecting data in this research were carried out through literature studies (library research) which means that this research was conducted by studying laws and regulations, books and other documents related to this research (Soerjono Soekanto, 2015).

In this research, the author collected secondary data which includes primary legal materials (such as Law No. 28 of 2014 on Copyright, the Berne Convention, TRIPs Agreement, WIPO Copyright Treaty), secondary legal material (such as expert opinions, books, journals, scientific papers and research results) and tertiary legal materials (such as the Great Dictionary of the Indonesian Language and internet media). The analytical method used in this research is a qualitative analysis method.

C. Result and Discussion

Recognition of Foreign Illustrators' Copyright in Indonesia According to Law Number 28 of 2014 on Copyright

Recognition of foreign illustrators' copyright in Indonesia is a legal implication of Indonesia's status as a contracting state in various international agreements relating to copyright protection. Based on the dualism theory in the relationship between international law and national law, Indonesia has an obligation to adopt and harmonize the provisions of these international agreements into national law (Niken Prasetyawati, 2011).

Provisions regarding the recognition of foreign illustrators' copyrights in various international laws are based on the principle of national treatment. The Berne Convention, as one of the international agreements relating to copyright protection, affirms the principle of national treatment in Article 5 of the Berne Convention whereby creators have rights to their works in all member countries of the convention. Creators have the right to the same treatment regarding the protection of their works as is given to their own citizens.

This principle is then reinforced by the principle of automatic protection in Article 5 Paragraph (2) of the Berne Convention, which states that legal protection must be provided directly without having to fulfill any conditions. Article 5 Paragraph (2) also emphasizes the principle of independent protection, where legal protection is provided without having to depend on the legal protection regulations of the creator's country of origin. Therefore, protection is regulated exclusively by the laws of the country where protection is requested.

Article 5 Paragraph (3) of the Berne Convention reaffirms the principle of national treatment, whereby the fulfillment of legal protection in the country of origin is fully regulated by national legislation. This provision guarantees that if a creator is not a citizen of the country of origin of the protected work, the creator is still entitled to receive protection equivalent to the rights granted to creators who are citizens of that country.

Under the provisions of this article, the Berne Convention explicitly applies the principle of national treatment to all member states. This principle mandates that each member state is obliged to provide the same level of copyright protection to creators from other member states as it provides to its own citizens. This creates uniform legal treatment, where creators' rights are automatically recognized across all member states' jurisdictions without relying on additional formalities.

The principle of national treatment in the WIPO Copyright Treaty (WCT) is based on the provisions of the Berne Convention. This is affirmed in Article 3 of the WCT which applies the principle of national treatment in Article 5 of the Berne Convention with necessary or important changes to the protection regulated in the WCT.

The TRIPs Agreement, in terms of the application of the principle of national treatment, has one special article that explicitly regulates the principle of national treatment, namely Article 3 of the TRIPs Agreement which emphasizes the principle of national treatment, where the TRIPs Agreement requires all member countries to provide equal treatment (not less favorable) to citizens of other member countries, as is the legal treatment given to their own citizens in terms of protecting intellectual property rights.

Indonesia as a member country that signed and ratified these international agreements has an obligation to harmonize them into domestic regulations. Indonesia has ratified international agreements related to copyright protection, including the Berne Convention through Presidential Decree Number 18 of 1997 concerning the Ratification of the Berne Convention for the Protection of Literary and Artistic Works, the WCT through Presidential Decree Number 19 of 1997 concerning the Ratification of the WIPO Copyright Treaty, and the TRIPs Agreement through its membership in the World Trade Organization (WTO) as outlined in Law Number 7 of 1994 concerning the Ratification of the Agreement Establishing the World Trade Organization.

The implementation of all ratifications of international agreements relating to copyright protection was then accommodated into national law through Law No. 28 of 2014 concerning Copyright. In this case, regarding the recognition of foreign illustrators copyright, Indonesia adopted the principle of national treatment through Article 2 letter c of Copyright Law.

The principle of national treatment in Article 2 letter c of the Copyright Law emphasizes that the Copyright Law applies to all creations by foreign nationals whose countries have copyright protection agreements with Indonesia. This article provides that foreign illustrators have the same rights as local creators under Indonesian law as long as their country of origin has an international agreement (either bilateral or multilateral) with Indonesia regarding copyright protection.

The legal consequences for Indonesia of adopting the principle of national treatment are that Indonesia has an obligation to provide recognition, protection, and legal certainty for foreign illustrators in Indonesia. Article 2 letter c, emphasizes specific provisions related to the recognition of copyright by foreign illustrators in Indonesia, namely that their country must have an international agreement with Indonesia.

The recognition of copyrights held by foreign illustrators in the Space Roastery infringement case may be substantiated by examining the membership status of the illustrators' countries of origin in international copyright protection agreements. In this instance, all foreign illustrators whose works were pirated and utilized for commercial purposes by Space Roastery without prior authorization are citizens of nations that maintain reciprocal international agreements with Indonesia—specifically as signatories to the Berne Convention, the WIPO Copyright Treaty (WCT), and the TRIPs Agreement.

The membership status of the foreign illustrators countries of origin in the international agreement is the basis for the application of the principle of national treatment for the recognition of foreign illustrators copyright in Indonesia in accordance with Article 2 letter c of the Copyright Law.

Therefore, the illustration works of foreign illustrators are recognized and protected in the legal jurisdiction of Indonesia without requiring formal registration in accordance with the declarative principle in Article 1 Number 1 of the Copyright Law and the principle of automatic protection in Article 5 Paragraph (2) of the Berne Convention.

In this case, foreign illustrators obtained legal standing in Indonesia based on the recognition of the copyright of foreign citizens in Article 2 letter c, which is in line with the principles of national treatment and automatic protection in the Berne Convention. Therefore, fulfilling the aspect of copyright recognition for foreign illustrators serves as the basis for legal protection efforts for foreign illustrators in Indonesia against unauthorized commercial copyright infringement by Space Roastery.

Legal Protection for Foreign Illustrators Regarding Unauthorized Commercial Use of Copyright in Indonesia According to Law Number 28 of 2014 on Copyright

Legal protection against copyright in the Law No. 28 of 2014 concerning Copyright includes

protection of the moral rights and economic rights of the creator (Muhammad Sadi Is, 2022). Space Roastery's act of pirating illustrations belonging to foreign illustrators is an act that violates the moral and economic rights of these foreign illustrators.

Based on Article 5 Paragraph (1) letter a of Copyright Law, foreign illustrators as creators have the moral right to include their name on copies of their creations in connection with the use of their creations (in this case illustrations) for the public. Protection of the moral rights of foreign illustrators is not only guaranteed by the Copyright Act, but also by international legal standards through the Berne Convention. Article 6bis of the Berne Convention states that the illustrator as the copyright owner has the right to claim authorship of his work and has the right to refuse distortion, mutilation, modification or other defamatory acts that are detrimental to his honor or reputation.

Protection of moral rights both in national law through the UUHC and international law through the Berne Convention, both require protection of two important aspects of moral rights that were violated in this case, including:

1. The right of attribution, which is the creator's right to claim authorship or to have his name acknowledged in the work. Space Roastery's action of using illustrations without including credit to the foreign illustrator is a clear violation of the creator's moral rights in Article 5 paragraph (1) letter a of the Copyright Law in conjunction with Article 6bis paragraph (1) of the Berne Convention
2. The right of integrity, which is the creator's right to refuse various forms of physical modification to his work. Changes to some visual elements made by Space Roastery without permission has violated the integrity rights of foreign illustrators as regulated in Article 5 paragraph (1) letter e UUHC jo. Article 6bis Paragraph (1) of the Berne Convention.

In this case, Space Roastery's copyright infringement not only violated the moral rights of the foreign illustrator but also violated the economic rights of the foreign illustrator. Economic rights are the rights held by creators to gain profit or benefit from their creations (Hawin and Budi Agus Riswandi, 2020). Based on Article 9 Paragraph (1) letter b, foreign illustrators have the economic rights to reproduce their illustrations in various forms. Copyright Law through Article 9 Paragraph (3) emphasizes the economic rights of foreign illustrators regarding the prohibition on reproduction and/or illustrations without permission for commercial purposes.

Space Roastery's unauthorized use of the illustrations also constitutes a violation of globally recognized economic rights. Article 9 of the Berne Convention states that the illustrator, as the copyright owner, has the exclusive right to authorize the reproduction of his or her work as long as it does not conflict with the normal exploitation of the work and does not prejudice his or her interests.

Space Roastery violates the economic rights of foreign illustrators by using their illustrations for their product packaging designs, which are then duplicated/sold and commercially profited from. Space Roastery's actions are clearly a violation of economic rights under Article 9 of the Copyright Act jo. Article 9 and Article 12 of the Berne Convention. The act of reproducing illustrations belonging to foreign illustrators for sale also violates Article 14 of the Berne Convention jo. Article 6 of the WCT, where foreign illustrators have exclusive rights to engage in the sale of their works.

The protection standards in the WCT are particularly relevant in this case, given that the exploitation of works began with unauthorized access to the work through the internet. Article 8 of the WCT affirms the creator's right to disseminate their work to the public, including through the internet, so that the public has the capacity to access the work at any time.

The availability of the illustration on social media, based on Article 8 of the WCT, does not invalidate the foreign illustrator's exclusive rights and does not automatically change the illustration's status to the public domain. The foreign illustrator uploads their illustration on social media as a form of announcement of his work to the public (right of communication Article 8 WCT), not as a grant of permission for other parties—such as Space Roastery—to pirate and use it commercially.

Philipus M. Hadjon stated that legal protection is an effort to maintain human dignity and provide recognition of the basic rights of every legal subject with the aim of preventing arbitrary actions based on applicable legal provisions, based on the values of Pancasila and the principles of the rule of law (Romli SA *et.all.*, 2024). According to Hadjon, legal protection consists of two types, namely preventive legal protection and repressive legal protection.

Preventive legal protection for foreign illustrators in this case is through the establishment of a regulatory instrument, namely Law Number 28 of 2014 concerning Copyright. The Copyright Law serves as a preventative instrument that establishes legal boundaries for the public in exploiting copyrighted works to minimize the potential for infringement.

The signing of various international agreements related to copyright protection also serves as a form of preventive legal protection for foreign illustrators in Indonesia. In addition, the signing of this international agreement demonstrates Indonesia's commitment to harmonizing its domestic legal framework with international standards, thereby ensuring the protection of foreign illustrators' intellectual property rights.

The form of repressive legal protection efforts in this case refers to the provisions of Article 9 Paragraph (3) of the Copyright Law, whereby any person without the creator's permission is prohibited from duplicating and/or commercially using the creation. The criminal provisions regarding the prohibition on commercial use and compensation are regulated in Article 113 Paragraph (3) of the Copyright Law, which states that anyone who, without the creator's permission, commits a violation of the creator's economic rights, including publishing, duplicating, distributing and/or announcing a creation for commercial use, shall be punished with a maximum prison sentence of 4 (four) years and/or a maximum fine of 1M (*one billion rupiah*).

The Copyright Law further in Article 113 Paragraph (4) emphasizes protection against violations of economic rights related to piracy in the publication, duplication, distribution and/or announcement of works for commercial use, which is punishable by imprisonment for a maximum of 10 (ten) years and/or a maximum fine of 4M (*four billion rupiah*).

In this case, Space Roastery has committed a violation of foreign illustrator copyright in the form of using, pirating and duplicating the illustration work belonging to the foreign illustrator for commercial purposes without permission, which is contrary to Article 9 Paragraph (3) jo. Article 113 Paragraph (3) jo. Article 113 Paragraph (4) of the Copyright Law.

Foreign illustrators based on Article 105 of the Copyright Law may file civil lawsuits and criminal charges for copyright infringement. Criminal offenses regulated in the Copyright Law are classified as complaint-based offenses, so in this case, foreign illustrators can file criminal charges by reporting copyright infringement to the police in accordance with Article 113 Paragraph (3) jo. Article 113 Paragraph (4) of the Copyright Law. In addition, foreign illustrators may file civil lawsuits for damages to the head of the Commercial Court in accordance with Article 96 jo. Article 100 of the Copyright Law.

These provisions allow for sanctions to be imposed on Space Roastery to create a deterrent effect and prevent similar cross-jurisdictional copyright infringements in the future, with potential penalties of imprisonment or fines. Through these legal instruments, repressive legal protection against the infringement of foreign illustrators' copyrights has been normatively accommodated within the Indonesian legal system through the Copyright Law.

D. Conclusion

Based on the research results and discussion, it can be concluded that the recognition of foreign illustrators' copyright in Indonesia has been clearly regulated through Article 2 letter c of Law Number 28 of 2014 concerning Copyright. Recognition of foreign illustrators' copyright is based on the principle of national treatment in Article 2 letter c of the Copyright Law, which is a form of implementation or adoption of the provisions of Article 5 of the Berne Convention jo. Article 3 of the WCT jo. Article 3 of the TRIPs Agreement.

The membership status of the countries of origin of foreign illustrators in the international agreement is the basis for the application of the principle of national treatment for the recognition of foreign illustrators' copyrights in Indonesia in accordance with Article 2 letter c of the Copyright Law. Therefore, the illustrations of foreign illustrators in the case of copyright infringement in the form of use and piracy of illustrations for commercial purposes without permission by Space Roastery are recognized in Indonesian legal jurisdiction in accordance with Law Number 28 of 2014 concerning Copyright.

Legal protection of foreign illustrators' copyright has been normatively guaranteed based on Article 5 of the Copyright Law jo. Article 6bis of the Berne Convention on moral rights, as well as Article 9 of the Copyright Law jo. Article 9 of the Berne Convention jo. Article 8 of the WCT on

economic rights and announcements in digital media. Legal protection efforts can also be carried out in two forms, namely preventive and repressive.

Therefore, preventive protection for foreign illustrators in cases of copyright infringement in the form of unauthorized use and piracy of illustrations for commercial purposes by Space Roastery is carried out through the establishment of Law Number 28 of 2014 concerning Copyright and the signing of various international agreements on copyright protection by Indonesia as a form of Indonesia's commitment to provide legal protection for foreign illustrators in accordance with international legal standards. Meanwhile, repressive protection may be pursued by foreign illustrators through the initiation of criminal charges by reporting copyright infringement to the police, or by filing a civil lawsuit for damages and compensation within the Commercial Court.

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