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## Government policy in providing legal protection for industrial designs on logos as a characteristic of a business in social media

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### ABSTRACT

Copyright protection is necessary to prevent violations of the economic and moral rights of the owner. Regulations regarding copyright have been regulated in the Copyright Law and intellectual property law to help the public understand and resolve problems regarding copyright. However, there are still many incidents of plagiarism or imitation of designs, including fabrication of logos where they need permission from the creator but use them irresponsibly. This community service is carried out by creating study materials regarding efforts to protect copyright by the government through law. Normative legal research methods that are closer to the rule are used in this research. Some of the results obtained are that there are several legal protections that the government can implement to help protect originality using preventive and repressive efforts. Apart from that, socialization was carried out to the public regarding IPR and the appropriate steps when a work is plagiarized.

### ABSTRAK

Perlindungan Hak Cipta sangat dibutuhkan untuk mencegah terjadinya pelanggaran hak ekonomi dan hak moral bagi sang pemilik. Peraturan mengenai Hak cipta telah diregulasi pada UU Hak Cipta dan UU kekayaan intelektual sehingga dapat membantu masyarakat dalam memahami dan mengatasi permasalahan mengenai hak cipta. Namun, masih banyak kejadian plagiasi maupun peniruan suatu desain, termasuk peniruan logo yang mana mereka tidak mendapat izin sama sekali dari pencipta namun menggunakannya secara tidak bertanggung jawab. Pengabdian masyarakat ini dilakukan dengan membuat bahan kajian mengenai upaya perlindungan hak cipta oleh pemerintah melalui UU. Metode penelitian hukum normatif yang mendekati pada UU digunakan dalam penelitian ini. Beberapa hasil yang diperoleh yaitu terdapat beberapa perlindungan hukum yang dapat dilakukan oleh pemerintah untuk membantu perlindungan keorisinalan dengan cara upaya preventif dan represif. Selain itu, dilakukan sosialisasi pada masyarakat mengenai HKI dan bagaimana langkah yang tepat ketika suatu karya diplagiasi.

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## 1. Introduction

In the current era of globalization, social media is not only done and used as an entertainment object. Social media is used to earn money and even start a business. The rapid progress of technology and information in social media and the internet has provided massive growth worldwide, including in-laws related to copyright. Unfortunately, many people still need to understand the function and impact of technology fully, so many are misguided and follow it without knowing the rights of what they are using.

Within the scope of law, cyberspace is intended to be a forum that manages technological and communication activities. There are close connections and relationships in this virtual world, such as IPR, and between industrial design and copyright. In industrial design, the technological developments in social media include various shapes, sizes, unique designs, lines, patterns, and unique ornaments. Because, in all cases, the work is in the form of a design. The logo of a company website and other designs related to the characteristics of that industry are often used on social media sites, applications, and websites belonging to that industry.

Indonesia has become a brother in the world community by becoming a member of the Agreement Establishing the World Trade Organization (Agreement on the Establishment of the World Trade Organization). Intellectual as described in Law No. 7 in 1994. Apart from that, Indonesia also



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ratified the Berne Convention for the Protection of Artistic and Literary Works (Berne Convention on the Protection of Works of Art and Literature) through Presidential Decree Number 18 of 1997 and the World Intellectual Property Organization Copyrights Treaty (WIPO Copyright Agreement), from now on referred to as WCT, through Presidential Decree Number 19 of 1997).

The World Intellectual Property Organization (WIPO) Copyright Treaty or WCT was created to protect the copyrights of composers, artists, writers, entrepreneurs, and others whose creations are included on social media and internet networks. WCT regulates international norms to protect works taken from one's ideas without taking someone else's property, whether in fine art (ornaments, pictures, etc.), literature, online websites, music, theater, or logos [1]. In Indonesia, the law currently has Law Number 6 of 1982 concerning Copyright, but it was changed into Law Number 7 of 1987 and finally changed again for the last time to Law Number 12 of 1997, which is said to be a Law. -Copyright laws that make things easier for any part of the industry. Copyright protection must be given to a business/industry because copyright that constitutes a work must be personal, which is a thought, creativity, and expertise from which many people can recognize the product. This law contains provisions that contain:

- a. Database is one of the copyrights that must be protected;
- b. Whatever device is used, whether in the form of a cable or wireless connection, whether in terms of the internet and social media or a product that will be seen and heard by many people, both visually and telecommunications;
- c. Commercial courts, arbitration, or other alternatives related to dispute resolution will resolve disputes.
- d. Making a temporary injunction in court to prevent significant losses for the injured party;
- e. Copyright proceedings involving civil law are subject to a time limit, either in the commercial court or the supreme court;
- f. Be given a label regarding electronic management information rights as well as technological control facilities;
- g. Inclusion of mechanisms and protection for products/works that use high-tech facilities;
- h. There are also criminal threats for related problems;
- i. There is a criminal threat as well as a minimum fine for this matter;
- j. Criminal threats against computer programs' unauthorized and unlawful use for commercial purposes.

The updated renewal provisions concerning industrial design are also included in Law No. 31 of 2000. However, from a practical point of view, internet technology must have speed, and changes must be made continuously on both the web and the homepage. So, in this case, two alternative options were created for protection or protection from a legal perspective, namely in industrial design law and copyright. With this, we can see how subtle the differences in safety are, so if this were the case, it would be difficult to distinguish them. Even if it gets worse, it will cause legal opacity if it is shown that there is an overlap with copyright.

In copyright, there are positions such as those where, on the one hand, a brand. On the other hand, the government decides to protect copyright, whether it is protection for a logo, which is a characteristic, or an intellectual work with legal certainty. A logo not only has a function and a form of identification for a product/company, but a logo has meaning where the logo is usually used as a company sign and has a deep sense that characterizes the company/product. Logos have an essential role in the level of product selection that a consumer will choose. Making a logo costs a considerable amount of money because it has a significant connection to a business, which will become the characteristic of a product/business. Taking ideas from other people can be called stealing, and an article will be introduced for theft of property rights and beliefs and must be prosecuted and will pay a significant amount; that is the government's effort to protect the copyright of an industrial company, and other industries that related to the characteristics of a business [2].

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## 2. Method

This paper uses a study of normative legal research methods, in which this study prioritizes studies related to documentation. The process is by reading, summarizing in a discussion, and summarizing what is used in the method used to be discussed. Normative research is research aimed at written regulations or other legal materials.

In the law discussed, the source is taken as primary legal material, including legal material taken from statutory regulations created by the discussion, also linked to the core of the problem to be discussed and studied; apart from that, there is legal material which has a secondary nature, which is law. It examines and shares an understanding of primary legal materials that can be taken from book studies, articles, and other theoretical materials. In this case, this can help resolve the problem being studied in a primary legal manner.

After being obtained from various legal materials and having been studied and combined, the studies discussed are analyzed interpretatively and argumentatively, where the legal theory is examined in the two legal methods that have been explained, then explained and given their own opinion to obtain a final result, namely which conclusion will be the end of the research.

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## 3. Results and Discussion

Graphic design work is a creation that must have a copyright. As time goes by, in today's technological era, where traders can sell their products on social media to get customers, they must have their characteristics in their shops so that the public can recognize them. A business logo is one way for a shop to be recognized by the general public. Technology is developing rapidly, meaning online traders can find logo creation services from graphic designers on social media [3]. But unfortunately, in social media, there are advantages and disadvantages when we carry out activities there, especially in creating work for graphic designers and traders. We have encountered several cases in Indonesia regarding plagiarism from a business, be it product design or logo. Examples of graphic design that are often imitated or plagiarized can be product labels, packaging shapes, and business logos, in which case the characteristic is a sign of the business so that the public can recognize it.

Copyright infringement is the legal term for graphic design results that have been paid for by a business/company but have been copied by the business by changing one of the letters, colors, captions, etc. Still, if someone sees the copied logo, it feels familiar and resembles a large existing business/company. An example is logo graphic design piracy. For an entrepreneur who has paid for the results of the logo in a graphic design, the logo is automatically the entrepreneur's property. Still, many entrepreneurs are currently intelligent and clever in determining symbols, but many need to know whether the logo is someone else's work. Whether someone else took it or not, many entrepreneurs don't want to file a lawsuit against piracy of their work because they don't understand the existence of copyright infringement.

The government seeks that the owner of the full rights to a copyrighted work be given a request based on article number 9 of the Copyright Law, the aim of which is to publicize, announce, and reproduce the results of his creation, as well as provide freedom for people to use their copyrighted work

freely but not claim that it was ultimately his. Plagiarism is, by nature, very detrimental to the entrepreneur/creator and can be seen from an economic or moral perspective. Logos resulting from graphic designs made the property of entrepreneurs to indicate their businesses are accessible to take and imitate, not just used as imitation/reference objects. Sometimes, we know that many new entrepreneurs don't know that they have to take someone else's logo, which is the identity of another person's business, or a company allows other people to use its business identity because it feels that it is not a big thing in terms of similarities in sales products, logos, characteristics and so on.

The condition is very beneficial to the economy for other parties so that the owner of a logo that has become his property when it is plagiarized will result in a loss of economic rights to obtain royalties and also the loss of rights as the original owner of a design which is the identity of his business. So, in this case, copyright protection for a graphic design that is a person's characteristic is necessary to overcome the losses that will be experienced. Even though we know that Copyright protection can arise automatically, an entrepreneur should register Copyright protection for Graphic Designs that he owns and already owns. Two types of legal measures can be taken by entrepreneurs/owners of their graphics, including preventive measures and repressive measures.

### **3.1. Preventive legal measures**

Preventive efforts are an effort shared by the Indonesian government to prevent the occurrence of cases of violations involving the economic and moral rights of the creator/owner of a graphic. The efforts made by the government are based on the Copyright Law to prevent losses from occurring to the owner/creator as the owner of an intellectual work. The creator/owner, in this case, is the subject of law; if the owner does not want to take it to legal proceedings, then they cannot because the owner's rights are more significant than the government's decision. The effort used is a preventive effort, which means that this effort can be given other options apart from the government's decision to anticipate punishment. The government also has a significant role in establishing preventive laws.

In this case, Agil 2009 stated that the government handling this case must be impartial and fair in making decisions. The government must be neutral to get satisfactory results. One way that can be used in preventive efforts is by registering its property to the Directorate General of Intellectual Property Rights, where the directorate of intellectual property rights plays an important and numerous role in the Copyright Law. The next step that can be taken is to claim that their design is original and protected by copyright, which is equivalent to the Copyright Law.

### **3.2. Repressive legal measures**

In a study conducted by Welly Angga Nugraha [11], he studied copyright protection in the use of disc-cover graphic designs used by other parties who do not have commercial responsibilities and who do not have permission to use from those who own them. The study details the legal measures that can be used, one of which is preventive legal measures, one of which is to appeal to and sensitize the public about the importance of copyright in an industry and that permission must be granted and reported to the directorate general of IPR so that it can be known that it is those who own the property rights, the second step that can be taken is to file an appeal and also sue in the commercial court so that this problem can be resolved through legal proceedings. Still, if you want to do this, it will cost a lot of time and money [4].

However, when the two parties to the dispute do not find common ground on their problem, they will be taken to a court process where the party who harms them will be subject to criminal sanctions, detention, compensation, and a temporary injunction. Those who have the rights to logos or other things related to the characteristics of a business and those who own the Graphic Design can claim their rights for the losses they receive from plagiarism, which has been stipulated in the Copyright Law article 95 paragraph 1. for other parties who claim an ownership belonging to another person and announcing it is subject to sanctions in Article 9 paragraph 1 which will be used when the owner does not feel fair and will be subject to civil sanctions [2].

Those who steal other people's work or plagiarize it, which impacts the owner's economy, can be subject to criminal charges. In this case, Article 113 paragraph 3 of the Copyright Law may be subject to "any person who does not have the rights/permission from the owner/creator and who violates the owner's economic rights by Article 9 paragraph 1 letter a, letter b, letter e, or letter g which he also uses for personal gain may be subject to a maximum prison sentence of around four years or may be subject to a fine of Rp. 1,000,000,000.00 (one billion rupiah). Apart from the previous articles, there is also the Copyright Law in Articles 112 to Article 120 of the Copyright Law.

Many countries that adhere to the standard law system use civil proceedings and compensation for copyright violations. For the Indonesian state to claim copyright, you can file a civil lawsuit in commercial court. This commercial court anticipates significant losses that could occur due to a process detrimental to one party. Commercial courts can provide prosecution with the aim of: [5]

- a. To anticipate that there will be no ongoing copyright violations and prevent trafficking as the result of plagiarism/thieves/other people's rights;
- b. If there is evidence that can be used to prosecute, it will be stored;
- c. For parties who feel this case harmed their rights, evidence is requested for clarity.

### **3.3. Overlapping methods of legal protection for industrial designs**

Law No. 19 of 2002 contains rules regarding digital management information or what is known as Digital Rights Management, which is included as a means of controlling technology. In the latest regulations set by the government for the rights of an entrepreneur or owner of an entity, the creation of this Law shows an excellent path to business, which this Law further strengthens works and property in the form of graphic designs and other works so that they cannot be accessed. In plagiarism, which, if we observe thoroughly every year, we will find cases that have the same problem regarding logos or other business identities, don't look far when we are out and about. We will see a business with a big brand logo, so the development of technology digitalization and internet technology has positive impacts and many negative ones, which make people get assignments for law firms [6].

Currently, plagiarism, copying, and claims for ownership of graphic designs that their creators have paid for pose many challenges to laws that discuss copyright, which must receive legal protection in the form of implementing legal protection for a copyrighted work, both in the field of software, and hardware, which has gaps in determining and discussing appropriate laws. Article 2 Law no. 31 of 2000 explains that design regulations only show that they comply with the applicable provisions and requirements so that they can be brought into the realm of law and have never been discussed regarding this industrial design or used before. Even though Article 3 of Law No. 31 of 2000 can be relieved, the relief is to collect evidence for six months at

official national and international exhibitions. It can also be used in Indonesia for several designs for experiments but specifically for education, research, and development related to education [7].

It should be in Law No. 31 of 2000 that can explain the differences in the form of protection online and offline. For homepage designs, there should be provisions and policies that cannot be stored so that work cannot be stolen and can be given automatic protection from when it is published on social media. For example, there is a feature for entrepreneurs who have their designs/logos that have been created. It's hard to get, but it's also a good idea to protect law firms regarding copyrights issued by the government in Law No. 19 of 2002 [8]. Legal protection from the Copyright Law will provide more benefits for the party who is harmed if they use Steelsel, even though Law no. 31 of 2000 can offer the ability to protect copyright. As long as the guilty party cannot show legal evidence that it is his, as stated in article 35 paragraph (4) of the Indonesian UHC regarding copyright, then the person who has registered the work will be the first to win in the trial at the commercial court so that the design is if submitted, it will become an absolute property right that applies to any industry, be it the music industry, company, business, etc. [9-10].

#### 4. Conclusion

From the definition above, the attachment of industrial legal activities to online graphic design can be seen. The results show two ways to protect industrial design, including Law No. 31 of 2000 and the Copyright Law. For those related to social media, it would be better to use the Copyright Law; apart from that, the homepage section is divided into two options: being given legal protection by the Industrial Design Law or the Copyright Law.

Due to internet activity, which requires time agility on the homepage, it would be better to use the Copyright Law, except when the government revised the Industrial Design Law and provided a new law, which is a Constitutive Stelsel that becomes a declarative specifically for social media and is seen from the difficulty of distinguishing them because of their differences. It could be more visible, so it is difficult to know the difference between two similar forms, and usually, if it is shown, it will be even more unclear and overlap with copyright. However, according to the author, the importance of providing copyright protection must be done so there is no copyright infringement.

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