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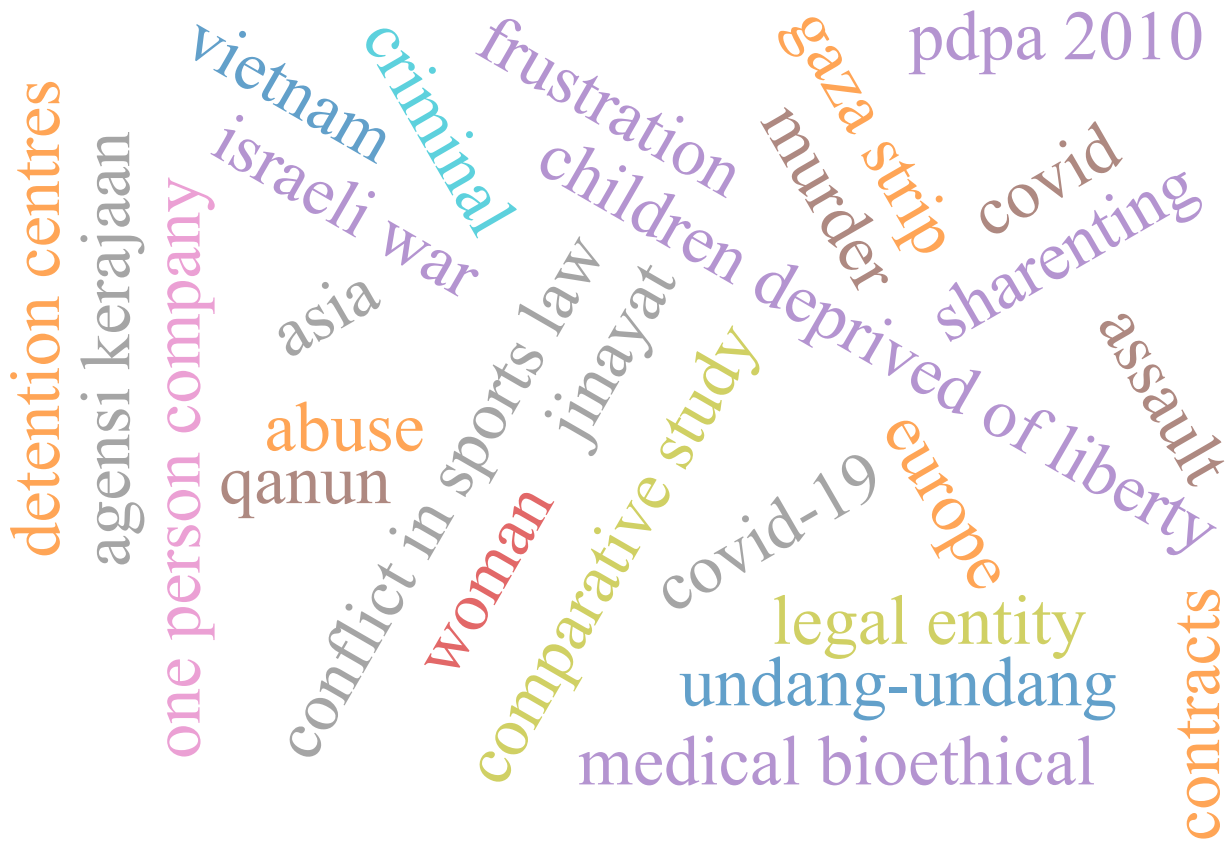

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LEGAL ISSUES OF SCIENTIFIC WORKS IN THE COPYRIGHT DECLARATIVE SYSTEM IN INDONESIA AND MALAYSIA

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ABSTRACT

This research aims to answer the following questions: First, what is the legal certainty of copyright protection in the field of scientific works in the declarative system in Indonesia and Malaysia? Second, how can rights holders prove if a dispute occurs due to copyright infringement in science? Based on copyright law, the basis for the emergence of rights and legal protection is not based on registration. However, it is based on the birth of copyrighted work, realised in a tangible form known as a declarative system. For example, creative works in science have been produced into books that may be read and used as reading material. In such a system, issues may arise concerning the certainty of legal protection and proof in the event of a disagreement. This research employs a normative approach, examining key legal documents such as statutes, rules and case decisions. According to the findings of the study, the declarative system can nevertheless provide clarity and legal protection to copyright proprietors or inventors. At the same time, proof can be done with testimony of witnesses or written evidence, but the proof will be more straightforward if the right to work is registered by obtaining a copyright registration certificate. A copyright registration certificate will provide more certainty of rights and legal protection, and is easy to prove.

Keywords: Declarative system, copyright law, scientific works, comparative legal issues.

INTRODUCTION

There are at least two systems for registering intellectual property, namely the declarative system, where registration does not create rights, so rights are not required, and the constitutive system, where registration creates rights, so registration is a requirement for rights to arise. Copyright is one of the intellectual property rights (hereinafter referred as IPR) that pertains to the fields of science, art, and literature; in Indonesia, it follows a declarative system, and the emergence of rights and legal protection is based on the birth of a creation that has been embodied in actual form rather than registration. Registration is not an obligation for the emergence of legal rights and protection, but only functions administratively and facilitates proof (Nemlioglu, 2019). The primary goal of copyright legislation is to stimulate the growth and development of knowledge and culture in order to further develop science for the sake of societal development (Qtait et al., 2023). In a broader sense, copyright law as part of the intellectual property law framework is crucial to safeguarding the invention of human intellect from abusive use without legitimate consent (Razak & Razak, 2023).

Copyright arrangements in national legislation in Indonesia began with Law Number 6 of 1982 concerning copyright and have undergone many changes. Since the system's inception until the passing of Law No. 28 of 2014 relating to copyright, a declarative framework has been in place (Dahen, 2021). However, the law also regulates registration with the term recording of copyrights, which only functions administratively (Regent et al., 2021). Some of the referred IPR fields conform to their particular rights systems; for copyright, the birth of rights and legal protection is automatically based on a declarative system, which begins the minute the work is created in a material form. Legal copyright protection follows an automatic protection system (Paraswari, 2022). For trademark rights, legal rights and protection are born based on constitutive or first-to-file registration. Whoever registers a mark for the first time has the right to get legal protection. Patents provide legal rights and protection based on an application for registration, with the requirement that an invention be distinctive, feature an innovative step, and be useful in the industrial sector. Therefore, an invention registered and obtained a patent must be implemented. Suppose it is not implemented within six (6) months. In that case, another party can apply for a mandatory license from the government through the Direktorat Jenderal Kekayaan Intelektual (DJKI; Directorate General of Intellectual Property), Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia (Ministry of Law and Human Rights of the Republic of Indonesia).

Current innovations in the field of books are not solely produced in physical books, but also in electronic formats such as e-books; therefore, the model for disputes follows the evolution of electronic media. The most recent case involved a copyright violation on electronic books, also known as e-books. However, it was successfully mediated by the Directorate General of Intellectual Property (DJKI) of the Ministry of Law and Human Rights.

This mediation began with a report from the Perkumpulan Peduli Karya Cipta (PPKC; Cipta Karya Concern Association), which complained to DJKI about the discovery of illegal e-book sales on the e-commerce sites, namely Tokopedia and Carousell (Putri, 2021). Furthermore, the DJKI, through the Directorate of Investigation and Dispute Resolution, brought together the PPKC reporting party directly and the reported party who owned the Carousell account "Debobi2802". The meeting resulted in amicable terms between the two parties, with the reported party willing to agree on some compensation for selling e-books illegally. The agreement includes being willing to replace material losses for IDR 20 million, making an apology video, and writing a statement not to repeat the illegal act (DJKI Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia, 2022).

On the other hand, copyright protection in Malaysia started during the British era in Malaya. The law that was in effect at that time was the Act 1911. After Malaysia became independent, the copyright act that was in effect was the Copyright Act 1969, which was valid until 1987. Since then, the law has been used in Act 332. Act 332 states that a copyright is an exclusive right granted to the copyright owner for a certain period. Protection is automatically obtained without prior registration requirement (Desmayanti, 2013).

Without an obligation to register copyrights and no evidence of a registration certificate when a dispute occurs, there may be difficulties in proving who the creator is (Loren & Reese, 2019). Furthermore, an artwork that is not in tangible form, such as a vintage work of art, is difficult to determine and protect who the author is (Clemons et al., 2022). It is not rare for copyrighted material to be an "orphan work" since it was created long ago by our ancestors, such as the art of Wayang. Nevertheless, the law later regulates copyrighted works of national culture, including copyrighted works whose creators are unknown (Susanti et al., 2019).

Based on this background, this research is based on the following problems: First, what is the legal certainty of copyright protection in the internal science declarative systems field in Indonesia and Malaysia? Second, how can rights holders prove if a dispute occurs due to copyright infringement in science? Copyright is an exclusive license to regulate creative works made by the creator, copyright owner, and performers for a specified duration defined by the Copyright Act 1987 (MyIPO, 2024). MyIPO provides copyright notice via the Copyright Voluntary Notification System (MyIPO, 2024). From the resulting analysis, it is expected that it can make recommendations to intellectual property offices in Indonesia and Malaysia on the application of the copyright registration system, especially in the field of science, so that it can provide more legal protection for copyright holders, especially for creators.

In principle, the regulation of the copyright registration system enforced in both Indonesia and Malaysia adheres to the declarative principle that registration does not give rise to rights, so copyright registration does not become a necessity for rights to arise. Indonesia and Malaysia amended the copyright law and the rules regarding copyright contained in international conventions where the two countries are members or have at least ratified, namely the Berne Convention, the World Intellectual Property Organization (WIPO) and the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (Sutikno & Jannah, 2019).

Malaysia accepted the WTO Agreement on April 15, 1994, while Indonesia ratified the WTO by Law No. 7 of 1994 About the Ratification of the World Trade Organization Agreement. This is the reason copyright regulations in the two countries are identical. Article 2 Letter C of the Copyright Law states that Indonesia also safeguards creations by foreign citizens so long as their country and Indonesia are associates or members in the same multinational agreement for the protection of copyright and associated rights. Indonesia and Malaysia, as signatories to the Berne Convention for the Protection of Literary and Artistic Works, are participants in the same multilateral agreement on the protection of copyright and associated rights (Berne Convention). Article 5 of the Berne Convention explains that each member state is obligated to give protection to all citizens of all Berne Convention members and to accord them the same treatment as its people (the principle of national treatment) (Paraswari, 2022).

During the General Agreement on Tariffs and Trade (GATT) negotiations, several agreements occurred, one of which became an attachment, namely the agreement on Trade-Related Aspects of Intellectual Property Rights, abbreviated as TRIPS, which are international standards in the protection of IPR that

must be agreed upon and implemented with IPR for participating countries or at least ratifying it, including Indonesia and Malaysia. IPR within the TRIPS framework consists of copyrights and related rights such as trademarks, geographical indications, industrial designs, patents, topographical rights of semiconductor integrated circuits, protection of undisclosed information, and oversight of practices that limit concurrency in license contracts.

METHODOLOGY

The study used a qualitative research method, which is a method of acquiring information for research that employs data that is both primary and secondary (Darmalaksana, 2020). The study used the normative research technique, which includes research on legal principles, legal systems, legal synchronisation, and legal comparison (Benuf & Azhar, 2020). Normative legal research is a strategy and approach for scientific investigation into the law and its normative basis (Arliman, 2018). It is doctrinal research that employs both a statutory and a conceptual approach. A statutory approach is a strategy that analyses important legal regulations. The primary source of legal information is Law No. 28 of 2014 concerning Copyright and the Copyright Act 1987 (Act 332). The data was thoroughly evaluated using all available resources. The conceptual method enabled comprehension by employing doctrines as legal experts' judgments. The study's conceptual approach helped to elaborate further on legal doctrines regarding the topic and the legal issue. Furthermore, the approach of content and critical analysis was used to analyse the data obtained for this study (Rajamanickam et al., 2015; Shariff et al., 2019; Rajamanickam et al., 2019). Data was collected mainly from primary sources such as statutes and documents from Indonesia and Malaysia. The collection of data was significant for the research and the reviewing process (Rahman et al., 2023; Rahman et al., 2022; Zahir et al., 2022). When conducting research and developing this study, secondary sources and qualitative approaches were highlighted, with an emphasis on both primary and secondary sources. At the end of the study, the authors discussed the results and made suggestions.

RESULTS

Copyright Protection System in Indonesia

Legal Certainty of Copyright Protection in the Field of Knowledge in the Declarative System

Intellectual property rights, also referred to as IPR, are rights resulting from human intellectual efforts (Rais et al., 2022). Indonesia considers intellectual property protection to be a manifestation of the fifth precept of Pancasila, the country's ideology, which is to provide social justice for all Indonesians (Weley, 2023). Intellectual property rights are protected by law for two reasons. First, moral rights that represent the creator's personality are inherent in intellectual works. Second, due to commercial rights in the intellectual work or economic considerations (Azmi, 2021). Formerly administered by the Dutch East Indies government, IPR in Indonesia has been codified into national law since the introduction of Law No. 6 of 1982 Regulating Copyright. Then, in 1987, Law No. 7 was passed to amend Law No. 12 of 1982 on Copyright, and in 1997, Law No. 12 was passed to amend Law No. 6 of 1982 on Copyright, as amended by Law No. 7 of 1987, which was later replaced by the issuance of Law Number 19 of 2002 Concerning Copyright, and was replaced by Law Number 28 of 2014 Concerning Copyright which is in effect until now. The main motive of the amendment is to respond to the massive development of creative industries, communication, and information technology, which ultimately builds a sustainable

ecosystem for the industry (Barizah, 2016). Indonesia considers its copyright law to be the conceptualisation of 'the right to the economy' as well as 'the right to morals' (Nugroho & Utama, 2020a).

Currently, intellectual property rights (IPR), or Kekayaan Intelektual (KI) in Indonesian, refers to the legal framework administered by the Directorate General of Intellectual Property under the Ministry of Law and Human Rights. The products of the human mind or intellectual processes that result in works of functionality for humans are the source of intellectual property rights. When it comes to intangible or tangible items, intellectual property rights are like other property rights. As a right, it is inherently accompanied by the necessity for legal protection.

The Paris Convention for the Protection of Industrial Property and the 1883 Paris Convention, which have undergone numerous modifications or revisions, including the 1925 Paris Convention in The Hague, in London in 1934, in Lisbon in 1958, and in Stockholm in 1967 by creating the World Intellectual Property Organization (WIPO), also have impacted Indonesian regulations pertaining to intellectual property (Singhai, 2019), and Indonesia ratified it by Presidential Decree No. 24 of 1979. Through Presidential Decree No. 18 of 1997, Indonesia ratified the Bern Convention on the Protection of Artistic and Literary Works, also known as the World Intellectual Property Organization Copyright Treaty (WCT), and through Presidential Decree No. 19 of 1997, it ratified the World Intellectual Property Organization Performances and Phonograms Treaty (Agreement on Performing Works and Phonogram Works WIPO), also known as WPPT. Finally, through Decree President Number 74 of 2004, Indonesia ratified the World Intellectual Property Organization Performances and Phonograms Treaty (WIPO Performances and Phonograms Treaty), also known as WPPT.

Aside from that, the negotiations for the General Agreement on Tariffs and Trade (GATT), which took place in multiple sessions beginning in 1947 and 1994, in Marrakesh, Morocco, produced the Agreement Establishing the World Trade Organization (WTO), which includes the approval documents found in every attachment. Under Law Number 7 of 1994 about the Ratification of the Agreement to Establish the World Trade Organization, Indonesia likewise ratified the agreements in the WTO in this instance.

By granting approval or ratification, Indonesia becomes legally bound by the intellectual property rights provisions found in both the WIPO and the Agreement Establishing the World Trade Organization (WTO), which contains several approval documents. Among these is the Agreement on Trade-Related Aspects of Intellectual Property Rights, or TRIPS for short. TRIPS are international guidelines for intellectual property rights that all parties to the convention, including Indonesia, must abide by, even though intellectual property rights have long been implemented and protected there.

In order to guarantee legal protection for intellectual property worldwide, particularly for intellectual property brought forward by investors in the context of investing in Indonesia, the Government of Indonesia is interested in ratifying several international agreements pertaining to intellectual property rights. Its goal is to both draw foreign investment to Indonesia and offer legal protection for intellectual property, including patents and trademarks. Naturally, investors will be able to make investments in Indonesia if they have legal protection. Businesses would typically avoid making investments in a certain nation because of the laxity of the local intellectual property laws (Albino-Pimentel et al., 2022).

Copyrights, trademarks, and patents are just a few of the many intellectual property rights that the public is familiar with. In general, it is occasionally incorrect in society to refer to copyrights as patents and brands as copyrights, or vice versa. The distinction between the three is that a brand is a sign or identity that can be used to distinguish goods and services produced by an individual or legal entity in the activity of trading goods and services. Examples of these elements include images, logos, names, words, letters, numbers, or colour arrangements; they can also take the form of two or three dimensions, sounds, or a combination of two or more of these elements. The right to work in science, art, and literature is known as copyright. A patent, however, also represents a legal claim to a technological invention.

According to Law Number 28 of 2014, which deals with copyright, some kinds of works are protected. Article 40, paragraph one, lists works that are eligible for protection. They include books, pamphlets, printed copies of works, and other written works, artistic works of any kind (paintings, drawings, carvings, calligraphy, sculpture, and collages), music, cinematographic works, computer software and video games.

In the scientific field, a printed book or an electronic book (e-book) may be protected by copyright (Tiawati & Pura, 2021). It may be downloaded and read on electronic devices in the form of files (PDF, DOC, and TXT) (Kusmawan, 2014). With current technological developments, what is meant by the embodiment of creation in a tangible form is interpreted broadly in printed form on sheets of paper and in electronic media such as e-books, which can be printed and read. Like literary works of novels, even though they are not printed on paper but in e-book format, they are protected by law because they are tangible (e-book) (Simangunsong et al., 2020).

Along with the advancement of time and technology, internet access has become one of the primary human needs. However, upon closer examination, the internet is where an individual can easily commit copyright infringement. Through the internet, the individual can easily copy and adapt other individuals' work without including the original link from the owner (Losung et al., 2021). An e-book is an electronic version of a book that requires an electronic medium (computer or laptop, smartphone, tablet, etc.). E-books automatically possess the characteristics of digital things since they are electronic objects, or more accurately, digital objects (Labetubun, 2019).

Since copyright was regulated in 1982 with changes and was replaced by Law Number 28 of 2014 concerning Copyright, the registration system adopted is a declarative system. Registration is not an obligation to raise rights and legal protection (Atsar, 2017). It is reaffirmed in the first paragraph of Article 1: When a work of art is manifested in a physical form, a copyright is the creator's exclusive right that arises instantly based on the declaratory principle and is unaffected by legislative restrictions (Nurdahniar, 2016). In addition to scientific, artistic, and literary works, point three states that all works created by humans are protected by copyright. Products such as scientific, artistic, and literary works are protected by intellectual property laws as a result of an individual's original ideas, abilities, insights, and efforts (Abduh, 2021).

The meaning of 'exclusive rights' is reserved solely for the creator since these rights are exclusively meant for the author, preventing third parties from utilising them without the creator's consent (Simatupang, 2021). As a result, just one party can profit from these rights with the author's consent. The exclusive rights as economic rights are only partially possessed by copyright holders who are not creators (Kholiq et al., 2022). Copyright holders in the field of science, book publishers as copyright holders who obtain rights from creators to publish and reproduce works, only have the right to exercise

copyrights in the form of announcing and multiplying works by bringing benefits in the form of income with economic value, e.g., through book sales (Rahaditya et al., 2022).

Proof of Copyright when a Dispute Occurs Due to a Violation of Copyright in the Field of Knowledge

Based on the declarative principle, copyright for works, including works in science, such as books, emerges automatically. This implies that registration is not required, as copyright is formed immediately when creativity is realised in actual form (Fuadi & Diniyanto, 2022). A copyright record is not mandatory and will not give birth to a right (Nofianti & Bustani, 2022). In the case of scientific creations such as books, copyright is born when a book is compiled in a manner that includes the name of the author, and the book is printed, reproduced, announced, distributed, and traded so that it can be used and read (Nugroho & Utama, 2020). Thus, the copyright is established, granting the creator legal protection.

Copyright registration simply acts as a means of facilitating evidence that the registrant is the author of the registered copyright work, and it is not the foundation for the creation of a copyright. In the case of a violation that results in a dispute, the author, who does not register his creation to demonstrate his ownership and has the right to a scientific work, such as a book, may utilise the published form of the work—a book with the author's name on it—as evidence of his ownership, along with a sales receipt, witness statements, and other supporting documentation. Meanwhile, creators who register their creations by obtaining a creation certificate can use it as solid evidence (Qtait et al., 2023), making it easier to prove and provide legal certainty. Apart from that, the creation certificate can function as strong evidence and make it easier to transfer rights or licenses (Jannah, 2018).

The form of legal protection given to creators or copyright holders/recipients includes prohibitions for anyone publishing or reproducing protected works (Losung et al., 2021). Legal protection is the ability of a creator to forbid third parties from utilising their creations without their permission or approval, except for specific legally allowed usage restrictions (Finck & Moscon, 2019). Should there be a breach, the owner of the copyright, particularly the author, may pursue civil and criminal legal action (Baranyanan, 2021).

Even though Copyright Law follows a declarative approach, since creative work is established in a physical form, copyright rights and legal protection instantly arise, without the need for registration. However, the law also regulates the registration or recording of copyrights, meaning a creation can also be registered, and a copyright registration certificate is issued. However, it does not determine the emergence of copyright because copyright rights and legal protection have existed since the creation of the copyrighted work. If an invention, such as a book in science, is registered or recorded by presenting proof in the form of a certificate of copyright registration, the birth of a copyright is not determined. Copyright protection is automatic when the idea is embodied in concrete, and then the creation has been protected (Ardianto, 2022).

A creator is an individual or collective who, either separately or together, creates a one-of-a-kind, uniquely personal work of art. In contrast, the owners of copyrights are the artists themselves, the persons from whom the creators lawfully get these rights, or other parties who obtain additional rights from the parties from whom the creators lawfully obtain these rights. The only exclusive rights that copyright holders who are not artists have are economic rights. Copyright includes both moral and economic rights. Moral rights are those that are permanently tied to the creator himself:

(i) still include or do not include his name;
(ii) use aliases or pseudonyms;
(iii) change the creation;
(iv) change the title and subtitle of the work, and
(v) defend their rights in the event of something detrimental to their self-respect or reputation.

In contrast, economic rights refer to the creator's or copyright holder's only ability to profit monetarily from a work protected by a copyright. Not everyone is able to capitalise on copyright rights and protection for creators; rather, anybody wishing to exercise or utilise economic rights over a work's copyright must first acquire permission from the author or copyright holder. Therefore, it is forbidden for anybody to reproduce or use works for commercial purposes without the permission of the author or the owner of the copyright. Similarly, it is against the law for trade venue administrators to permit the sale and replication of products that violate copyright and associated rights at their establishments. Every work has a certain length of copyright protection, which is granted for the duration of the author's life and for seventy (70) years following their passing.

If the copyright infringement is carried out for economic gain, there are two types of legal remedies available: civil and criminal. For instance, in a scientific book, if all or a portion of the work created by another party is taken without authorisation by copying and selling the work as a result of copyright infringement, a civil action may be filed by submitting a lawsuit to the District Court's Commercial Court, or a criminal complaint may be made (Losung et al., 2021). However, if the violation is not committed for a commercial purpose, legal action cannot be taken civilly or criminally. For example, it is used as a requirement for a final study assignment in the form of a thesis or dissertation. In such a violation, legal remedies cannot be taken using the copyright law. Still, other regulations can be used, such as regulatory provisions in the field of education, for example, regarding academic ethics regulations, whose sanctions can be in the form of administrative sanctions such as postponement of graduation, up to cancellation or revocation of the degree. It has also happened in several cases within higher education.

Copyright infringements in the field of scientific publishing may occur in the form of taking part of the contents of a book created by another party without proper attribution, or altogether compiling it into a book or other written work. Plagiarism happens when materials are taken far beyond reasonable limits, such as by taking the entire creation of another party's book as one's own. Other forms of copyright infringement include piracy and duplication. A book is considered to be pirated if it is duplicated by printing, photocopying, or any other method without the publisher's and author's express written consent (Ardianto, 2022).

One example of a copyright infringement case was resolved through mediation by the Directorate General of Intellectual Property (DJKI) of the Ministry of Law and Human Rights between the two parties disputing each other regarding an infringement of copyright on electronic books or e-books on Tuesday, September 20, 2022, at the DJKI Office. This mediation began with a report from the Cipta Karya Concern Association (PPKC), which complained to DJKI about the discovery of illegal e-book sales on Tokopedia and Carousell. Furthermore, the DJKI, through the Directorate of Investigation and Dispute Resolution, brought together the PPKC reporting party directly and the reported party who owned the Carousell account "Debobi2802". The meeting resulted in amicable terms between the two parties, with the notified party willing to agree on some compensation for selling e-books illegally. The agreement includes being willing to replace material losses for IDR 20 million, writing an apology video, and making a written statement not to repeat the illegal act (DJKI Kementerian Hukum dan Hak

Asasi Manusia Republik Indonesia, 2022). The ineffectiveness of IPR law enforcement in Indonesia can be concluded from four indicators:

(i) Massive distribution of pirated products in the market.
(ii) The rising number of piracies as reported by the authority's agency.
(iii) The USTR and IIPA report includes Indonesia as the priority watch list.
(iv) Society's lack of IPR awareness, as concluded by the local IPR Directorate General (Triyanto, 2017).

The absence of copyright registration does not preclude legal rights and protection. As long as the work protected by copyright is created in a tangible form, copyright is inherent and is protected by law. Copyrights in the field of science typically take the form of books, which receive legal protection from the moment they are published, whether in physical print or electronic (e-book) format, making them accessible for others to read (Manuaba & Sukihana, 2020). In case of disagreement, the copyrighted work itself, in the form of a book bearing the author's name and endorsed by witnesses, can be used as proof of ownership for scientific publication. If the work is registered, its certificate of copyright registration may also be used as proof.

Table 1

List of Cases on Copyright Disputes in Indonesia

Case position	Parties	Completion/Decision
(i) Sales of unauthorised or fake copies of books. The modus operandi: The sellers sell counterfeit books, with indications that the paper material is different from the original book, and they are sold much cheaper than the original book, which is around IDR 100,000, while books that are not original range from IDR 20,000 to IDR 25,000.	Kampoeng Ilmu Surabaya book seller.	There are no resolution actions yet.

(continued)

Case position	Parties	Completion/Decision
(ii) Use of other parties' creations without the author's permission. In 2017, the Aceh regional government issued a book entitled "*Flashback on the Development of Aceh After the Helsinki MoU*", which turned out to be the creation of a journalist, named Junaidi Hanafiah, at the Aceh Government Economic Bureau, who at that time was still on duty (Kompasiana, 2020).	Aceh Regional Government and Junaidi Hanafiah	Handling of cases by legal advisors.
(iii) Distributing fake books. Romy Heriyanto, who owned a printing business, duplicated books illegally by buying original books or dictionaries, then photocopying them by scanning and printing them using low-quality paper. With the low quality, the price of the books with the same content was reduced; hence, they were sold at a lower price. If some of the books had e-books, Romy also provided pirated CDs (Detik News, 2014).	Romy Heriyanto	Sentenced to imprisonment and a fine of IDR 500 million.
(iv) Plagiarism claim Plagiarism, the mode of work that was defended at Cambridge in 1982, was allegedly similar to "*Capitalism and the Bureaucratic State in Indonesia*" (Chandra, 2014).	Yahya Muhaimin	Both came from the same source, which is considered not copyright infringement.

(continued)

Case position	Parties	Completion/Decision
(v) Plagiarism in book publication The modus operandi involved plagiarism in making a book entitled "*Sources and Availability of Feed Raw Materials in Indonesia*." It was carried out by Heri Ahmad Sukria, who took data from articles made by a professor who was a lecturer at IPB (Chandra, 2014).	Heri Ahmad Sukria	Reports and summons.
(ii) Content overlap Anggito Abimanyu's article entitled "*Disaster Insurance Ideas*" in the Kompas Daily Opinion column on February 10, 2014. This article is similar to Hotbonar Sinaga's article in the same media on July 21, 2006 (Dyantoro, 2017).	Anggito Abimanyu Hotbonar Sinaga	Academic sanctions (resignation from academic staff on campus)

Source. Lauren (2019).

From Table 1, it is evident that there are various ways in which copyright can be violated in book publication. In the first instance, a book can be copied without the author's permission or consent, using lower-priced paper and simpler production methods that nevertheless result in identical copies of similar books in terms of form and content (Siregar et al., 2022). This practice is disadvantageous to the original writer since it allows violators to sell duplicates at a far lesser price while still making money. More copies of counterfeit books can be sold for less money than genuine copies, which are typically priced higher. Publishers who reprint books in greater quantities than the authors have agreed upon are also capable of engaging in unauthorised reproduction or approval from the creator. Of course, the creator may also suffer negative consequences from it.

Besides that, in the second case, violations can occur when a copyrighted work is still in the form of a draft or material that has yet to be printed. It can happen when the draft of the book is submitted to a third party, which unconsciously, can result in the unpublished draft being duplicated and printed without authorisation, either by a colleague or another individual, even by a printer, especially if a long time has passed since it has been submitted to the publisher. The work had yet to be published and printed, but without the original author's consent, it was printed and duplicated.

The third case is the same as the first case, but in the form of duplication by someone with a printing business, who deliberately copies the original books to be reproduced with lower-quality materials and less complicated processes. The copied books are then distributed and sold to the public. In the third case, the perpetrator deliberately bought the original books and reproduced them by reprinting using

lower-quality materials and simpler production methods to reduce the selling price. These copies were sold at lower prices than the originals. Such unethical actions can, of course, generate large profits, but at the expense of the original owner.

The fourth case may be the case in academic settings where students write papers or dissertations as a graduation requirement, and lecturers produce research papers. In writing a work, it is often necessary to support arguments with sources from others' work. According to the Copyright Law, this is not considered a violation as long as the sources are stated completely and clearly. As long as this is done by the provisions of the law, it is not considered a violation. In accordance with the Copyright Act, these actions are considered violations and legal remedies only if they are done for commercial purposes. However, if it is not for commercial purposes, legal remedies cannot be carried out. This includes fulfilling the requirement of the final study assignment for the person concerned, and not being reproduced or traded. However, if the work contains elements of violation and is subsequently reproduced and traded, it constitutes an infringement, and legal action may be pursued under both civil and criminal law. Intellectual property complexity should be considered to enforce the copyright law itself; additional regulation on technical mechanisms might be necessary to further advance law enforcement and effectiveness (Nurhayati et al., 2019).

Copyright Protection System in Malaysia

The Copyright Act 1987 governs copyright in Malaysia (Ghani et al., 2017). The Malaysian Copyright Act Section 7(1) states that a wide range of works, including broadcasts, sound recordings, films, books, and artwork, are protected by copyright. However, Section 8 of the Act protects derivative works, which include translations, adaptations, arrangements, and other modifications to works. It ensures that only the owner of the copyright can use it for a certain amount of time (Peng, 2020).

Ownership is granted to the inventor or creator, according to a fundamental concept of intellectual property rights (Ramli et al., 2016). If the legal conditions of originality and fixation are met, copyright protection emerges immediately at the time of creation. It is consistent with the Berne Convention's automatic protection principle, which stipulates that protection cannot be contingent on procedural compliance. Unfortunately, proving ownership of copyright is not simple. Parties in a dispute are required to produce the relevant evidence of copyright, and direct evidence by the copyright is always preferred, but not practical, where there have been changes to copyright ownership, as in the case of *Ester Metering Ltd. & Anor v. Premier Amalgamated Sdn. Bhd.*, the Court requires that the Court establish the chain of changes beginning from the work's author, and any break in the claim would be fatal to the plaintiff's case.

In Malaysia, several notable copyright cases have set important legal precedents. In *YKL Engineering Sdn. Bhd v. Sungei Kahang Palm Oil Sdn. Bhd. & Anor* [2022] MLJU 1843, the Court acknowledged copyright in design drawings but found no infringement (Saim, 2022). In *Mohd Syamsul bin Md Yusof & Ors v Elias bin Idris* [2019] 4 MLJ 788, the Court of Appeal ruled that the movie '*Bohsia: Jangan Pilih Jalan Hitam*' infringed the novel '*Aku Bohsia*' (Ramly Hj Ali, 2019). Lastly, *Siti Khadijah Apparel Sdn. Bhd. v. Ariani Textiles & Manufacturing (M) Sdn. Bhd.* [2019] 6 MLJ 165, concluded that a Muslim prayer outfit was a graphic work of artistic craftsmanship, granting it copyright protection (Zahir et al., 2022). These cases collectively highlight the judiciary's approach to balancing protection and evidence in intellectual property disputes, particularly concerning copyright law. Table 2 demonstrates a comprehensive summary of the aforementioned four cases.

Table 2

List of Cases on Copyright Disputes in Malaysia

Issues	Parties	Decision
Similarity of fruit bunch splitter drawings.	*YKL Engineering Sdn. Bhd. v. Sungei Kahang Palm Oil Sdn. Bhd. & Anor* [2022] MLJU 1843	Copyright existed in the design drawing, but no copyright infringement had been established.
Similarities and differences of the novel '*Aku Bohsia*' and the movie '*Bohsia: Jangan Pilih Jalan Hitam*'.	*Mohd Syamsul bin Md Yusof & Ors v Elias bin Idris* [2019] 4 MLJ 788	The Court of Appeal held that the movie had infringed the novel's copyright.
Whether a Muslim prayer outfit for ladies constitutes a graphic work of artistic craftsmanship.	*Siti Khadijah Apparel Sdn. Bhd. v Ariani Textiles & Manufacturing (M) Sdn. Bhd*. [2019] 6 MLJ 165	The Muslim prayer outfit was accepted as a graphic work.

Every case is unique, and facts and circumstances determine whether copyright infringement and ownership difficulties are present. To demonstrate that there is a sufficient level of objective resemblance between the two works and that there is a causal relationship between the copyright works and the allegedly infringing copy, direct proof in the form of oral testimony or documentary evidence must be shown in court. More legal clarity is yet required.

In the first case of *YKL Engineering Sdn. Bhd. v. Sungei Kahang Palm Oil Sdn. Bhd. & Anor* [2022] MLJU 1843, the Federal Court had to consider issues of law relating to originality, subsistence of copyright, and the test of copyright infringement. It was held that copyright subsisted in the design drawing, but no copyright infringement had been established. The evidential value of statutory declaration was also discussed. The respondent chose not to contest the appellant's statutory statement, which said that he had expended enough time, work, and talent to make his drawing unique. Thus, the statutory declaration satisfied the basic test of originality under Section 7(3)(a) of the Copyright Act 1987. However, claims of copyright infringement were not established as the appellant failed to prove the elements of sufficient objective similarity and causal connection between the two works (Saim, 2022).

In the second case of *Mohd Syamsul bin Md Yusof & Ors v Elias bin Idris* [2019] 4 MLJ 788, direct evidence in the form of oral testimony or documentary evidence was adduced in court to prove copyright infringement. The main issue was whether the movie and the book's similarities were the product of copying. At the High Court, the learned judge found that the essential features, such as theme, plot, character, and other related elements involving the *bohsia* phenomenon and *mat rempit* were common social issues that had existed even before the novel's publication. It, in turn, led to the finding that substantial similarity and causal connection were not established. On appeal to the Court of Appeal, the decision was reversed. There were many significant similarities between the two pieces, more than just accidental or conceptual parallels. Not only were there similarities in terms of the overall subject, storyline, names of the characters, and locations, but also specific events and relationships in the characters' lives could not have been "commonplace, unoriginal or consist of general ideas". The Court of Appeal determined that the movie had violated the copyright of the novel (Ramly Hj Ali, 2019). On further appeal to the Federal Court, the High Court's decision was confirmed and made permanent. The

High Court had correctly held that the similarities between the two works could not be said to be substantial. The approach taken by the High Court in examining and evaluating all the evidence in the form of oral testimonies of witnesses from both sides, documents, and exhibits was in line with the established principles of dealing with copyright infringement.

In the third case of *Siti Khadijah Apparel Sdn. Bhd. v Ariani Textiles & Manufacturing (M) Sdn. Bhd.* [2019] 6 MLJ 165, under Section 42 of the Copyright Act, the court acknowledged that a statutory statement was *prima facie* proof of copyright. In this case, the defendant refuted the plaintiff's statutory statement of copyright ownership, which the plaintiff had established. According to Section 42 of the Copyright Act, affidavits, statutory declarations, or copies of the Register of Copyright may be used to demonstrate copyright ownership. The person named in the affidavit or statutory statement is the copyright owner, and the copy of the work attached to the affidavit or statutory declaration is an authentic copy of the work. The owner of the copyright in any works eligible for copyright is required to state that copyright exists in the work at the period indicated in the affidavit or statutory declaration (Zahir et al., 2022).

Legal certainty of copyright ownership is apparent with the introduction of voluntary notification of copyright. In 2012, the Copyright Act was amended to allow proof of copyright ownership through an extract from the Register of Copyright, essentially complementing the existing mechanism under Section 42 of the Copyright Act (Tye et al., 2018). The notification of copyright is voluntary and does not affect the fact that copyright protection is automatic (Abdullah et al., 2021). According to Section 26A(1), the creator of the work, the owner of the copyright in the work, the assignee of the copyright, or anyone to whom a license has been given to have an interest in the copyright may voluntarily notify the controller of their copyright. To comply with Section 26A(3), the copyright notification must include the following information: a statutory statement stating that the applicant is the work's author, owner, assignee, or licensee; the name, address, and nationality of the copyright holder; the work's category; the title of the work; the author's name and, if known, and if the author is dead, the year of the author's death; in the case of a published work, the date and place of the first publication; and any other relevant information.

CONCLUSION

The following conclusions are made based on the analysis and findings. First, in principle, the regulation of the copyright registration system enforced in Indonesia and Malaysia adheres to the declarative principle. With the exception of specific legally allowed restrictions, the declarative approach can give copyright holders clarity and legal protection by allowing artists to forbid other parties from utilising their works without their permission. The owner of the copyright may file a civil lawsuit or a criminal lawsuit in the case of infringement. Second, proof can be carried out with a witness or written evidence in a dispute. It might take the shape of an original work of literature with the author's name on it, provided that it is registered, the certificate of copyright registration can be used as evidence. The existence of a copyright registration certificate provides more certainty of rights and legal protection and is easy to prove.

In principle, the Indonesian and Malaysian copyright law regulations have something in common because Indonesia and Malaysia make copyright law regulations influenced by an agreement in the rules regarding copyright contained in international conventions, including the Berne Convention and also The World Intellectual Property Organization (WIPO) and the TRIPS Agreement which is one of

the attached documents in the formation of the World Trade Organization or WTO Agreement formed in the GATT (General Agreement on Tariffs and Trade) negotiations. In the application of the copyright system in several cases, whoever has created and used the copyrighted work first is considered the copyright holder. This is because the determination of copyright rights and legal protection is based on the realisation of a produced creation, not on registration.

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