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Legal Issues of Scientific Works in the Copyright Declarative System in Indonesia and Malaysia

ABSTRACT

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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 a copyrighted work, realized 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 statute 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 witness or written evidence, but the proof will be more straightforward if a work is registered by obtaining a copyright registration certificate. With a copyright registration certificate, it provides more certainty of rights and legal protection and is easy to prove.

Keywords: *declarative system, copyright law, scientific works, comparative legal issue.*

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 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 (Law, 2022a). 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 need 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 6 (six) months. In that case, another party can apply for a mandatory license from the government through the Directorate General of IP, Ministry of Law and Human Rights.

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, sometimes 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 (Kemenkumham).

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 at the e-commerce, 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 20 million rupiahs, making an apology video, and writing a statement not to repeat the illegal act (DJKI Kementerian Hukum & HAM RI, 2022).

On the other hand, Copyright protection in Malaysia has started since the British era in Malaya. The law that was in effect at that time was 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 Copyright is an exclusive right granted to the copyright owner for a certain period. Protection is automatically obtained without prior registration required (Rakhmita 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 (Pallas Loren, 2019). Furthermore, a work of 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 a "orphan work" since it was created long ago by our ancestors, such as the art of Wayang, you, and others. Even though 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 made the Copyright Law amended and adjusted the rules regarding copyright contained in international conventions where the two countries are members or at least ratify, namely the Berne Convention and also the World Intellectual Property Organization (WIPO). and TRIP's WTO Agreement (Sutikno & Jannah, 2019).

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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. It is the reason why 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 protection of copyright and associated rights. Indonesia and Malaysia, as signatories to the Berne Convention for the Protection of Literary and Artistic Works, participants to 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) (Law, 2022b).

During the 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 IPRs that must be agreed upon and implemented with IPR for participating countries or at least ratifying it, including Indonesia and Malaysia. Intellectual Property Rights within the TRIPs framework consist 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

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The study used the qualitative research method. Qualitative research 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 synchronization, and legal comparison (Kornelius Benuef, 2020). Normative legal research is a strategy and approach for scientific investigation into the law and its normative basis (Arliman S, 2018). It is doctrinal research that employs both a statute and a conceptual approach. A statute approach is a strategy that analyzes 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 were 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 analyze the data obtained for this work (Ramalingam Rajamanickam et al., 2015; Ahmad Azam Mohd Shariff et al., 2019; Ramalingam 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 so significant for the research and this reviewing process (Nurul Hidayat Ab Rahman et al., 2023; Nurul Hidayat Ab Rahman et al., 2022; Mohd Zamre Mohd Zahir et al., 2022). When conducting research and developing this work, secondary sources and qualitative approaches were highlighted, with an emphasis on both primary and secondary sources. At the end of the study, the authors discuss the results and make suggestions.

RESULTS

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Copyright Protection System in Indonesia

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

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Intellectual property rights, also referred to as or IPR, are a right resulting from human intellectual efforts (Rais et al., 2022). Indonesia considers intellectual property protection as a manifestation of the fifth precept of Pancasila, the country's ideology, to provide social justice for all Indonesians (Nadia Carolina 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 (Chichi Fahria 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 -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 as the conceptualization of "the right to the economy" as well as "the right to morals" (Nugroho & Utama, 2020a).

As of right now, Intellectual Property Rights, also known as IPR for short, utilizes the word Intellectual Property, also known as KI, to refer to the institution that has the power to become the Ministry of Law and Human Rights' Directorate of Intellectual Property. The acronym for intellectual property rights, or IPR, is another phrase that is frequently used. The products of 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 intangible items, intellectual property rights are similar to other property rights. As a right, it is only natural that you have to get legal protection.

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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 an impact on Indonesian regulations pertaining to intellectual property (Singhai, 2019), and Indonesia ratified or 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 (WIPO Copyright Agreement), 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.

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Aside from that, the negotiations for the General Agreement on Tariff and Trade (GATT) or General Agreement on Tariffs and Trade, 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 ratifies 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 a number of 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 a number of 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 that would typically avoid making investments in a certain nation because of the laxity of the local intellectual property laws (Albino-Pimentel, João Dussauge, Pierre Elnayal, 2022).

Copyright, trademarks, and patents are just a few of the many intellectual property rights that the general 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 lies in the fact 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 color 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 work that are eligible for protection. Books, pamphlets, printed copies of works, and other written works; (a) lectures, speeches, and similar works in the fields of science, art, and literature; (b) visual aids designed to educate or inform (c) musical compositions (with or without lyrics); (d) theatrical performances (including but not limited to plays, musicals, dance, choreography, wayang, and pantomime; (e) artistic works of any kind, including but not limited to paintings, drawings, carvings, calligraphy, sculpture, and collages; g) objects of decorative or functional art; (f) buildings I have mapped; (g) batik and other works with repeating motifs images made by photographers; Photographs; Movies; (h) works resulting from the transformation, such as translations, interpretations, adaptations, anthologies, databases, adaptations, arrangements, alterations, and so on; (i) the act of translating, adapting, arranging, altering, or transforming traditional cultural expressions. (j) a new work that collects traditional cultural expressions. Computer software; 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) (Denny 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 electronic books 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, if you look closely, the internet is where someone can easily commit copyright infringement. Through the internet, someone can easily copy and adapt other people's work without including the original link from the owner (Losung et al., 2021a). An e-book is an electronic version of a book that requires an electronic medium (computer/laptop, smartphone, tablet, and others) to be read. E-books automatically possess the characteristics of digital things since they are electronic objects, or more accurately, digital objects (Labetubun, 2019).

Since it 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, 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 include scientific, artistic, and literary works that intellectual property laws have protected as the product of someone's original ideas, abilities, insights, and efforts (Abduh, 2021).

The meaning of "exclusive rights" is reserved solely for the creator, called exclusive rights, since these rights are exclusively meant for the author, preventing third parties from utilizing 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, for example from 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 work, including works in science, such as books, emerges automatically. This means that there is no need to register; copyright is formed immediately when creativity is realized in actual form (Fuadi & Diniyanto, 2022). A copyright record is not mandatory and will not give birth to a right (Amelia Nofianti, 2022). In the case of scientific creations such as books, copyright is born when the book has been compiled in such a way as a book with the name of the author listed, and it is printed, reproduced, announced, distributed, and traded so that a book can be used and read (Nugroho & Utama, 2020). Thus, the copyright has been born, and the creator gets legal protection.

Therefore, copyright registration simply acts as a means of facilitating evidence that the registrant is the author of the registered copyright work; 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 that he is the author and has the right to a scientific work, such as a book, may utilize the work's form—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 (Agus Sardjono, 2009), making it easier to

prove and provide legal certainty. Apart from that, creators who register their creations by obtaining a Creation Certificate can function as strong evidence and make it easier to transfer rights or licenses (Maya 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., 2021a). Legal protection is the ability of the author to forbid third parties from utilizing his creations without the creator's permission or approval, with the exception of 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 the Copyright Law follows a declarative approach, since the creative was born in a physical form, copyright rights and legal protection instantly arise rather than requiring registration. However, the law also regulates the registration or recording of copyrights, meaning a creation can also be registered and a Copyright Registration Certificate 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 /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 been economic rights. Copyright includes both moral and economic rights. Moral rights are those that are permanently tied to the Creator himself to:

- a. still include or do not include his name;
- b. use aliases or pseudonyms;
- c. change the Creation;
- d. change the title and subtitle of the Work, and
- e. 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 capitalize on copyright rights and protection for creators; rather, anybody wishing to exercise or utilize 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 (seventy) years following their passing.

In the event that 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 authorization 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., 2021b). However, if the violation is not committed for a commercial purpose, legal action cannot be taken civilly or criminally. For example, it is used to make works as a requirement for the final study assignment in the form of a thesis, 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 in the higher education environment.

Some copyright infringements in the field of science in the form of books are several violations that may occur in the form of taking part of the contents of a book created by another party without mentioning the source altogether and compiling a book or other written work, taking part of the contents of a book created by another party with mentioning. Still, the part taken is too far beyond reasonable limits, plagiarizing by taking the entire creation of another party as if it were his creation or plagiarism, duplicating the creation of the book. Forms of copyright infringement can be piracy and duplication. A book is considered to be pirated if it is attempted to be duplicated by printing, photocopying, or any other method without the publisher's and author's express written consent (Ardianto, 2022).

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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 (Kemenkumham). Mediate the two parties disputing each other regarding an infringement of copyright on electronic books or e-books on Tuesday, 20 September 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 at the Tokopedia and Carousell marketplaces. 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 20 million rupiahs, writing an apology video, and making a written statement not to repeat the illegal act (DJKI Kementerian Hukum & HAM RI, 2022). The ineffectiveness of IPR law enforcement in Indonesia could be concluded from four indicators:

1. massive distribution of pirated products in the market
2. raising the number of piracies as reported by the authority's agency
3. USTR and IIPA report that includes Indonesia as the "priority watch list."
4. 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 was created in a tangible form, copyright is inherent and is protected by law. Copyrights in the field of science is in the form of books, which have been born and have received legal protection since the book was published in such a way, both physically or in print or electronically (e-book) (Nareswari Manuaba & Sukihana, 2020), so others can read the book. In case of a disagreement, the outcome of 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 copyright for scientific creations like books. If the work is registered, a Certificate of Copyright Registration may also be used as proof.

Table 1: List of cases on copyright dispute in Indonesia

Case position	Parties	Completion/decision
Sales of unauthorized 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 in comparison to the original book of around Rp. 100,000, - while books that are not original range from Rp. 20.000,- to Rp. 25.000,-	Kampoeng Ilmu Surabaya book seller.	There are no resolution actions yet
Use of other parties' creations without the author's permission The model was around 2017, the Aceh regional government issued a book entitled "Flashback on the Development of Aceh After the Helsinki MoU Flashback on The Development of Aceh After Helsinki MoU" which turned out to be the creation of a journalist at the Aceh Government Economic Bureau who at that time was still on duty at there, Name: Junaidi Hanafiah(Kompasiana, 2020).	Aceh Regional Government and Junaidi Hanafiah	Handling of cases by legal advisors
Distributing fake books His mode of action was that the perpetrator, Romy Heriyanto, who owned a printing business, duplicated books illegally by buying the original book or the original dictionary, then photocopying it by scanning it, and then using low-quality paper. It will cut the price of paper and books with the same contents, but they can be sold at a lower price. If some books have e-books, Romy also provides pirated CDs((alg/try)detikNews, 2014).	Romy Heriyanto	Sentenced to imprisonment and a fine of Rp. 500 million rupiahs
Plagiarism, the mode of work that was defended at Cambridge in 1982, was allegedly similar compared to capitalism and The Bureaucratic State in Indonesia(Bobby Chandra, 2014)	Yahya Muhaimin	Both come from the same source, which is considered not copyright infringement.
The modus operandi was plagiarism for making a book entitled "Sources and Availability of Feed Raw Materials in Indonesia." It was carried out by a person named Heri Ahmad Sukria who took data from articles made by a professor who was a lecturer at IPB(Bobby Chandra, 2014).	Heri Ahmad Sukria	Reports and Summons
Anggito Abimanyu's article entitled Disaster Insurance Ideas in the Kompas Daily Opinion column on February 10, 2014. This article is	Anggito Abimanyu Hotbonar Sinaga	Academic Sanctions (resignation from academic staff on campus)

similar to Hotbonar Sinaga's article in the same media on July 21, 2006(Sunu Dyantoro, 2017).		
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Source; (Angie Lauren, 2019)

From Table 1 above, it is evident that there are various ways in which books can be violated by copyright. For example, in the first instance, a book can be copied without the author's permission or consent, using less expensive paper and a simpler method that nevertheless results in an identical copy of the book in terms of both form and content (Siregar et al., 2022). This is harmful to the inventor since it allows the violators to sell it at a far lesser price while still making money. More copies of a counterfeit book can be sold for less money than a genuine book priced higher. Publishers who replicate or print books in greater quantities than the authors have agreed upon are also capable of engaging in this form of reproduction without authorization or approval from the creators. Of course, the creator may also suffer negative effects 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 but has yet to be printed. It can happen when the draft of the book is submitted to another party, which unconsciously can result in the work that is still in the draft form being published and printed duplicated by another party, either by a colleague or another party, even by the printer himself who it had been a long time since the draft had been submitted to the publisher. Still, it had yet to be published and printed, so later, without the creator's consent, it was printed and duplicated.

The third case is almost the same as the first case, in the form of duplication by someone with a printing business who deliberately copies the original book to be reproduced with material of lower quality than the original and with a more straightforward process. Then, the book that is copied is sold to the public. In this case, the perpetrator deliberately sought the original books and then reproduced them by reprinting them using lower-quality materials in a simpler way to reduce costs. These copies were sold at a lower price than the originals. Such actions can, of course, generate large profits but at the expense of the creator.

While in this fourth case, perhaps it happened a lot, especially among academics, both students making papers for their final assignments as a requirement for terminating their studies, as well as lecturers. In writing a work, sometimes you have to use reference sources from other people's work just to strengthen your argument or compare. According to the Copyright Law, this is not considered a violation as long as it states the source completely and clearly. As long as this is done by the provisions of the law, it is not considered a violation, besides that in the Copyright Act generally, actions are considered violations and legal remedies can be taken, if this is done for commercial purposes, however, if it is not for commercial purposes, legal remedies cannot be carried out. For example, the results of his work are only to fulfill the requirements of the final study assignment for the person concerned, not being reproduced and traded. Unless the result of his work which contains an element of violation is then reproduced and traded, then this constitutes a violation and legal action can be taken both civilly and criminally. IP's complexity should be considered to enforce the copyright law itself, additional regulation on technical mechanism might be necessary to further advance the 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's 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 same 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 Berna 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. Table 2 below lists several copyright dispute cases in Malaysia.

Table 2 : List of cases on copyright dispute in Malaysia

Issues	Parties	Decision
Similarity of fruit bunch splitter drawings.	<i>YKL Engineering Sdn. Bhd v. Sungei Kahang Palm Oil Sdn. Bhd & Anor</i> [2022]	Copyright existed in the design drawing, but no copyright infringement had been established.
Similarity of 'Beras Mughal Faiz Basmathi' packaging and 'Beras Moghul Faiza Basmathi' packaging	<i>Sykt. Faiza Sdn. Bhd. & Anor v Faiz Rice Sdn. Bhd & Anor</i> [2019]	Close striking objective similarity raises a rebuttable presumption of copying.
Similarity and differences of a novel 'Aku Bohsia' and a movie 'Bohsia: Jangan Pilih Jalan Hitam'	<i>Mohd. Syamsul bin Md. Yusof & Ors v Elias bin Idris</i> [2019]	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	<i>Siti Khadijah Apparel Sdn. Bhd. V Ariani Textiles & Manufacturing (M) Sdn. Bhd.</i> [2019]	Muslim prayer outfit was accepted as a graphic work.

Source: Author's own interpretation

Every case is unique, and the 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*, the Federal Court had to consider issues of law relating to originality, subsistence of copyright, and test of copyright infringement. It was held that copyright subsisted in the design drawing, but no copyright infringement had been established. The evidentiality 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 s 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.

2

In the second case of *Sykt. Faiza Sdn. Bhd. & Anor v Faiz Rice Sdn. Bhd & Anor*, rice is a product of both parties' production, distribution, and retail businesses under different labels. The Court held a close striking objective similarity between 'Beras Mughal Faiz Basmathi' and 'Beras Moghul Faiza Basmahti.' There was a reputable presumption that the Faiz logo had been copied from the Faiza logo since the defendant had access to the Faiza logo. Since not enough work was done to make the Faiz logo unique, no copyright ownership could be established.

2

In the third case of *Mohd. Syamsul bin Md. Yusof & Ors v Elias bin Idris*, 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 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. Even 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 copyright of the novel had been violated by the movie.

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 cannot be said to be substantial similarities. 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.

2

In the fourth case of *Siti Khadijah Apparel Sdn. Bhd. v Ariani Textiles & Manufacturing (M) Sdn. Bhd.*, 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 Malaysian 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 work at the period indicated in the affidavit or statutory declaration.

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 can be made based on the analysis and discussion's 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 utilizing 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 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, a 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 TRIP's 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 in the field of copyright, whoever created and used the copyrighted work first is considered entitled to be the copyright holder. This is because the determination of copyright rights and legal protection is based on the realization of a produced creation, not on registration.

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