



Digital Content Crimes in Criminal Liability

Azizul Hakiki¹, Nuruz Zakiyatul Mufidah², Kunarso³, Natalia Setyawati^{4*}
¹azizul@ubhara.ac.id, ²zakiyamufidah@ubhara.ac.id, ³kunarso@ubhara.ac.id,
⁴nataliasetyawati@gmail.com
Universitas Bhayangkara Surabaya

*Corresponding Author: Natalia Setyawati
Email: nataliasetyawati@gmail.com

ABSTRACT

The retransmission or plagiarism of digital content on online platforms infringes intellectual property rights, especially copyright, and violates provisions related to electronic information. These actions include modifying, duplicating, rebroadcasting, or concealing the authenticity of works such as videos, photos, and music, which damages the moral and economic rights of the creator. This research uses a normative method to examine the classification of criminal acts of plagiarism in the Copyright Law and the ITE Law and the criminal sanctions imposed, namely imprisonment or fines in accordance with applicable regulations. The act of duplicating and plagiarizing digital content such as photos, videos, music, and other works with digital tools or through other irresponsible people violates the Copyright Law and ITE Law, so it can be subject to criminal sanctions or fines. This offense is considered to be committed intentionally, detrimental to the creator morally and economically, and will be sanctioned in accordance with applicable legal provisions. The result showed that people or groups who commit digital content crimes, like duplicating or plagiarizing copyrighted works on digital platforms, will face criminal liability under the Copyright Law and Electronic Transaction Information Law. These intentional acts, often done for commercial gain, violate the creator's moral and economic rights and may result in imprisonment or fines as outlined in the law.

Keywords: *Copyright, Digital Content, Duplication, Electronic Transaction Information, Plagiarism*

INTRODUCTION

Advancing technology has created a plethora of digital platforms and social media apps that have captured the attention of the public, including in Indonesia. The phenomenon of “Fear of Missing Out” (FOMO) makes many people feel like they have to keep up with new platforms to stay updated, and this can lead to a habit of constantly checking gadgets or spending excessive amounts of money to be “up to date.”

A platform like TikTok also allows users to expressed their creativity. Despite having policies to protect Intellectual Property Rights (IPR), TikTok often still shows duplicate or plagiarized content, such as videos that are re-uploaded without credit, or content that is slightly altered to appear original, but is actually someone else’s work (Chazawi, 2019).

Duplicate or plagiarized content without permission violates copyright according to Law No. 28/2014 on Copyright and the ITE Law, which provide legal protection to intellectual property rights. This research aims to analyze the classification of criminal acts of duplicate and plagiarism and the way of legal settlement, including punishment or fines, to protect the moral and economic rights of the creator.

Research on digital content crime in criminal responsibility still has several gaps that need to be explored further. One of them is the lack of comparative studies between countries related to digital crime regulation, which can provide a broader understanding of the effectiveness of law enforcement in various jurisdictions. This comparative analysis is particularly important, given that digital content crimes are often cross-border in nature, so legal approaches from one country may not be effectively applied in other countries (Pamungkas et al., 2024).

In addition, research tends to focus on the economic losses of digital copyright infringement, while creators’ moral rights such as attribution and integrity of the work are often ignored. A more balanced perspective between moral and economic rights could provide a more comprehensive picture of the impact of digital content infringement on original creators. Meanwhile, digital crime detection technologies also need to be further developed to be more effective in identifying and preventing acts of plagiarism or duplication of works in the digital age (Raharjo, 2021).

Furthermore, studies on the effectiveness of sanctions and the role of education in preventing digital content crime are limited. An in-depth analysis of the impact of sanctions on preventing repeat offenses and an emphasis on educating the public about digital copyright could help reduce these crimes. The right educational approach can build public understanding of the legal as well as ethical implications of digital content crime, thereby encouraging more responsible behavior in the digital world (Wulandari et al., 2021).

Therefore, this research is conducted to classify the acts included in the criminal acts of duplication and plagiarism as stipulated in the Copyright Law and the Electronic Information and Transaction Law (ITE).

LITERATURE REVIEW

Theory of Justice

Justice is not only about right or wrong in action, but also about giving others the rights to which they are morally entitled. According to John Stuart Mill, justice is a moral rule that is closer to human welfare, making it a primary obligation. Justice means that everyone has rights that must be respected, while injustice includes actions such as taking away someone's legal or moral rights, not giving a deserving person what he or she deserves, and using power unfairly, such as bullying others who are not equal (Lebacqz, 2015).

The Definition of Criminal Act

The definition of a criminal offense according to several legal dictionaries indicated that a criminal offense is an act that is threatened with punishment, either as a crime or offense regulated in the Criminal Code or other regulations. Moeljatno (2021) defines a criminal act as an unlawful act committed intentionally or negligently and punishable as a crime or offense, emphasizing the elements of guilt and unlawfulness in the act. According to Van Bemmelen, criminal offense includes three main elements: actions (*mens rea* and *actus reus*), the threat of strict punishment in the regulations, and the existence of actions that violate legal norms. Similarly, Lamintang & Lamintang (2014) also explained that criminal offense includes elements of guilt, unlawful act, and criminal punishment in the applicable regulations. Therefore, a criminal offense does not only involve a physical act, but also the intention or mental state of the perpetrator upon which the act is based. The statements of these experts clarify that criminal offenses have specific characteristics, including the existence of a specific fault or intention, infringement of the law, and criminal consequences for the perpetrators.

The Definition of Duplication, Plagiarism and Digital Content

Duplication refers to content that appears in the same or similar form across multiple web locations or platforms. The issue of duplication often appears in Search Engine Optimization (SEO) strategies, as search engines may assess the same content in multiple places as an indication of low-quality or irrelevant content (Enge et al., 2012). On the other hand, plagiarism is defined as the act of taking someone else's work or ideas without giving credit, often in a copied text or visual form on the internet. Plagiarism in the digital context is not only damaging to reputation, but can also have legal consequences related to copyright (Ahmad & Fauzi, 2024). Digital content is defined as all information produced, broadcasted and used through digital media, such as articles, videos, images and

social media. This content is important in digital marketing, where quality, originality and audience engagement are key to success (Pulizzi, 2014).

The Definition of Criminal Liability

Criminal liability is a concept in law that refers to the conditions or reasons that make a person legally responsible for his or her criminal acts. In this context, the perpetrator must have the awareness and ability to understand his/her actions and the possible consequences. In addition, criminal liability also refers to the element of culpability attached to the perpetrator, either in the form of intentionality or negligence, which can affect the level of sanction received.

According to Liyus et al (2019), criminal liability not only determines the criminal act itself, but also the psychological state of the perpetrator and the circumstances in which the act was committed. Therefore, the application of criminal liability is complex and relies on evidence that indicates the existence of intent or negligence leading to a violation of the law.

RESEARCH METHODOLOGY

Legal research using normative research methods is conducted by analyzing laws and regulations and other legal documents relating to criminal acts of duplication and plagiarism. This research aims to classify the acts included in the criminal acts of duplication and plagiarism as stipulated in the Copyright Law and the Electronic Information and Transaction Law (ITE). In addition, this research also examines the resolution of cases and criminal liability applied to overcome these violations. In this context, normative research is important to understand the construction of the applicable law, and how the law regulates criminal liability for perpetrators of duplication and plagiarism.

According to Marzuki (2017), normative research is the core of legal research because in the Dutch legal context, the term “rechtsobderzoek” or “legal research” always focuses on a normative approach. Normative legal research is generally concerned with the study of existing legal norms or rules to determine and explain how they should be applied in particular cases.

RESULT AND DISCUSSION

Classification of Duplicate and Plagiarism Crimes in the Copyright and Electronic Transaction Information Law (ITE)

The crime of duplicate and plagiarism is an offense that is regulated under both general and specific legislation. In general, these offenses are regulated by the Criminal Code (KUHP), which stipulates prohibitions and sanctions for violators of the law. Meanwhile, specifically, these offenses are governed by the Copyright Law and the Electronic Information and Transaction Law (ITE Law),

which regulate offenses related to copyright and digital information, including unauthorized plagiarism and duplication (Fadilla et al., 2023).

A criminal offense is basically an act that is prohibited by law and threatened with criminal sanctions for violators. Every criminal offense has two main elements, which are objective elements and subjective elements. The objective element includes the act committed by a person, the consequences of the act, and the accompanying circumstances. On the other hand, the subjective element includes the individual's capacity to be held legally responsible, including the existence of fault or bad intent in the act committed. This fault can be related to the direct result of the act or the conditions under which the act occurred (Wahyuni, 2017).

People who commit criminal acts of duplicate and plagiarism fulfill the subjective and objective elements in criminal law. The subjective element in this case is the intention of the perpetrator to commit the crime, while the objective element is realized when the act of duplicate and plagiarism is committed in public, for example on a digital platform, which aims to benefit from the intellectual property rights of the original creator. This is in line with the characteristics of the perpetrators of criminal acts as stipulated in Article 20 of the Criminal Code 2023, where the perpetrators of criminal acts are those who:

1. Commits the criminal offense themselves.
2. Committing a criminal offense through a tool or ordering another person who cannot be responsible.
3. Participate in committing a criminal offense.
4. Induce others to commit a criminal offense by various means, including threats, manipulation of power, or providing opportunities.

Duplicating and plagiarizing are serious threats to intellectual property rights, especially when they are concerned with areas that require high creativity and inventiveness and have economic value, such as art, technological inventions, and the production of original works. Legal protection of these activities is required to ensure that the economic value of these works remains with the creator and is not misused by unauthorized parties. According to research conducted by Amalia et al (2024), legal protection of intellectual property rights is very important to provide a guarantee that creative and innovative works that have economic value are not exploited by other parties without permission.

Law No. 28/2014 on Copyright provides protection for copyright and related rights, which are exclusive and include moral rights and economic rights for the creator. Moral rights are rights that are inherent forever to the creator to be recognized, such as stating his name, changing or maintaining his work, and protecting the work from modifications that could damage his reputation. Meanwhile, economic rights allow creators or copyright holders to benefit from

their work, such as through publishing, copying, adaptation, performance, and rental.

These rights include moral and economic rights for performers, phonogram producers, and broadcasters. All parties using other people's copyrighted works must obtain the creator's permission, so that the creator's moral and economic rights are protected. On digital platforms, copyright infringement often occurs, for example when content is uploaded without crediting the original source, or works such as songs, movies and other artworks are copied or edited without permission to gain popularity or profit. This violates copyright and can cause moral and economic harm to the creator. In addition, Law No. 11/2008 on Electronic Information and Transactions (Article 32) also regulates acts of infringement of electronic information, such as changing or deleting data without authorization. This article describes the elements of infringement, such as intent, unlawful acts, and objects in the form of electronic information belonging to others or the public.

Settlement and Criminal Liability in Overcoming the Crime of Duplicate and Plagiarism

In the Criminal Code 2023 Article 36, criminal liability is explained as follows:

1. A person can only have criminal liability if they commit a criminal offense intentionally or negligently.
2. Crimes committed intentionally are punishable. Crimes committed negligently are only punishable if clearly stipulated in the law.

This means that both individuals and groups can be held criminally liable regardless of gender, age, or position, as long as they fulfill the elements of intent or negligence in the criminal offense. In the case of duplicates and plagiarism, the act is considered intentional, such as re-uploading or claiming another's work without permission for personal gain, which violates the moral and economic rights of the original creator. Criminal liability may include imprisonment or a fine, such following below:

1. Imprisonment (Article 68 of the 2023 Penal Code): Punishment can be life imprisonment or between 1 day and 20 years, depending on the court's decision.
2. Fines (Articles 78 and 79 of the 2023 Penal Code): The amount of the fine depends on the category of offense, ranging from IDR 50,000 to IDR 50 billion.

The article explains the criminal penalties for anyone who fulfills the elements of a criminal act, which include committing an act and engaging in unlawful conduct for commercial use, with a maximum prison sentence of two years and a maximum fine of three hundred million rupiah.

The resolution and criminal liability in dealing with digital content

duplication and plagiarism are also outlined in Law No. 11/2008 concerning Information and Electronic Transactions, specifically in Articles 46, 48, and 51 Paragraphs (1) and (2) (Saifudin & Rosmaya, 2022).

One of the articles cited in the Information and Electronic Transactions Law is Article 46:

- (1) Any person who meets the elements as referred to in Article 30 Paragraph (1) shall be punished with imprisonment for a maximum of 6 (six) years and/or a fine of up to IDR 600,000,000.00 (six hundred million rupiah).
- (2) Any person who meets the elements as referred to in Article 30 Paragraph (2) shall be punished with imprisonment for a maximum of 7 (seven) years and/or a fine of up to IDR 700,000,000.00 (seven hundred million rupiah).
- (3) Any person who meets the elements as referred to in Article 30 Paragraph (3) shall be punished with imprisonment for a maximum of 8 (eight) years and/or a fine of up to IDR 800,000,000.00 (eight hundred million rupiah).

The article explains the criminal penalties that will be received by anyone who fulfills the criminal elements, namely the existence of guilt, the existence of lawlessness, the existence of an act, the existence of an object with a maximum imprisonment of six to eight years, and a maximum fine of six hundred million rupiah to eight hundred million rupiah.

CONCLUSION

People or groups who commit digital content crimes, such as duplicating or plagiarizing copyrighted works using devices such as mobile phones, computers, or the internet, or who instruct other irresponsible people to do so on digital platforms, will be subject to criminal liability in accordance with the Copyright Law and the Electronic Transaction Information Law (ITE).

This digital content crime includes unlawful acts of duplicating or plagiarizing copyrighted works such as photos, videos, music, songs, dramas, dances, films, data compilations, or other digital documents. The purpose of these offenses is often to manipulate or tamper with electronic information, making the uploaded work appear to be the original data on the digital platform. This violates the moral and economic rights of the creator.

These acts of duplicating and plagiarizing are criminal offenses committed intentionally, usually for commercial purposes to the detriment of the original creator. This criminal offense fulfills the criminal elements, such as the existence of guilt, intent, unlawful acts, tools (such as electronic devices or the internet), so that the perpetrators can be subject to criminal penalties in the form of

imprisonment or fines, in accordance with the provisions in the Copyright Law and the ITE Law (Criminal Code 2023).

REFERENCES

- Ahmad, H., & Fauzi, M. A. (2024). Plagiarism in Academic Writing in Higher Education Institutions: A Bibliometric Analysis. *International Journal on Social and Education Sciences*, 6(1), 64–84. <https://doi.org/10.46328/ijonses.623>
- Amalia, D. U., Mulyana, B. B., Ramadhan, F. F., & Fajarwati, N. K. (2024). Perlindungan Hukum terhadap Kekayaan Intelektual dalam Era Digital di Indonesia. *TERANG: Jurnal Kajian Ilmu Sosial, Politik Dan Hukum*, 1(1). <https://doi.org/https://doi.org/10.62383/terang.v1i1.52>
- Chazawi, A. (2019). *Tindak pidana hak atas kekayaan intelektual (HaKI): penyerangan terhadap kepentingan hukum kepemilikan dan penggunaan hak atas kekayaan intelektual*. Media Nusa Creative (MNC Publishing).
- Enge, E., Spencer, S., Stricchiola, J., & Fishkin, R. (2012). *The Art of SEO Mastering Search Engine Optimization*. O'Reilly Media, Inc.
- Fadilla, A. R., Haryadi, H., & Rapik, M. (2023). Plagiarisme Karya Ilmiah dalam Kacamata Hukum Pidana. *PAMPAS: Journal of Criminal Law*, 4(1).
- Lamintang, P. A. F., & Lamintang, F. T. (2014). *Dasar-Dasar Hukum Pidana di Indonesia*. Sinar Grafika.
- Lebacqz, K. (2015). *Teori-Teori Keadilan*. Nusa Media.
- Liyus, H., Rahayu, S., & Wahyudhi, D. (2019). Analisis Yuridis terhadap Tindak Pidana Pertambangan dalam Perspektif Perundang-Undangan Indonesia. *INOVATIF*, 12(1).
- Marzuki, P. M. (2017). *Penelitian Hukum (Cet 13)*. Kencana.
- Moeljatno. (2021). *KUHP (Kitab Undang-Undang Hukum Pidana)*. Bumi Aksara.
- Pamungkas, A. T., Mulyono, A., & Lahangatubun, N. (2024). Krisis Penegakan Hukum Cybercrime di Indonesia: Hambatan dan Jalan Keluar. *Delictum: Jurnal Hukum Pidana Dan Hukum Pidana Islam*.
- Pulizzi, J. (2014). *Epic Content Marketing How to Tell A Different Story, Break through the Clutter, and Win More Customers by Marketing Less*. McGraw-Hill Education.
- Raharjo, A. (2021). Prevention of Cybercrime through the Development of Criminal Responsibility Principles for Internet Users. *Jurnal Dinamika Hukum*, 21(3).
- Saifudin, M., & Rosmaya, I. (2022). The Judicial Protection Against Copyright Holders from Music Piracy in Digital Era. *SRAWUNG: Journal of Social*

Sciences & Humanities, 1(3).

Wahyuni, D. F. (2017). *Dasar-Dasar Hukum Pidana di Indonesia*. PT Nusantara Persada Utama.

Wulandari, E., Winarno, W., & Triyanto, T. (2021). Digital Citizenship Education: Shaping Digital Ethics in Society 5.0. *Universal Journal of Educational Research*, 9(5), 948–956.
<https://doi.org/10.13189/ujer.2021.090507>