

THESIS

LEGAL PROTECTION OF THE VOICE OVER OWNER



Drafted and submitted by:

SHAFIRA FAJRATUN AIN
NIM. B011191062

BACHELOR OF LAW STUDY PROGRAM
FACULTY OF LAW HASANUDDIN UNIVERSITY
MAKASSAR
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TITLE PAGE

LEGAL PROTECTION OF THE VOICE OVER OWNER

Submitted as one of the requirements to achieve a bachelor's degree
in the Bachelor of Law study program

Drafted and submitted by:

SHAFIRA FAJRATUN AIN
NIM. B011191062

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FACULTY OF LAW HASANUDDIN UNIVERSITY
MAKASSAR
2024

THESIS APPROVAL
LEGAL PROTECTION OF THE VOICE OVER

Drafted and submitted by:

SHAFIRA FAJRATUN AIN
B011191062

Has been defended before the Thesis Examination Committee formed the
framework of Completing the Study of Undergraduate Program
Departement of Civil Law,
Legal Studies Program
Faculty of Law, Hasanuddin University
On the day of

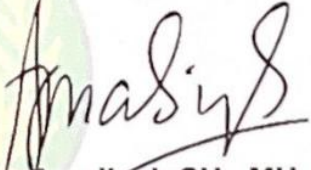
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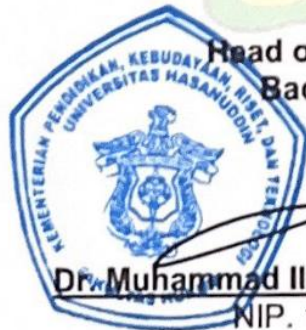
Main Supervisor

Co-Supervisor,


Dr. Winner Sitorus, SH., MH., LL.M
NIP. 19660326 199103 1 002


Amaliyah SH., MH
NIP. 19870226 201404 2 001

Head of Study Program
Bachelor of Law




Dr. Muhammad Ilham Arisaputra S.H., M.Kn.
NIP. 19840818 201012 1 005



KEMENTERIAN PENDIDIKAN, KEBUDAYAAN,
RISET, DAN TEKNOLOGI
UNIVERSITAS HASANUDDIN
FAKULTAS HUKUM

Jln. Perintis Kemerdekaan KM.10 Kota Makassar 90245, Propinsi Sulawesi Selatan
Telp : (0411) 587219,546686, Website: <https://lawfaculty.unhas.ac.id>

PERSETUJUAN MENEMPUH UJIAN SKRIPSI

Diterangkan bahwa skripsi mahasiswa :

Nama : Shafira Fajratun Ain
N I M : B011191062
Program Studi : Ilmu Hukum
Departemen : Hukum Keperdataan
Judul Skripsi : LEGAL PROTECTION FOR VOICE OVER OWNER

Memenuhi syarat untuk diajukan dalam ujian skripsi sebagai ujian akhir program studi.

Makassar, Januari 2024



Prof. Dr. Hamzah Halim, S.H., M.H., M.A.P.
NIP. 19731231 199903 1 003

STATEMENT OF AUTHORITY

Name : Shafira Fajratun Ain
NIM : B011191062
Study Program : Bachelor of Law

I hereby declare that the thesis entitled **Protection of The Voice Over Owner** is genuinely my own work. Anything that is not my own work in this thesis is appropriately cited and indicated in the bibliography.

If in the future is proven that my statement is untrue, I am willing to accept sanctions in accordance with the regulations of the the Minister of National Education of the Republic of Indonesia Number 17 of 2010 and the applicable law and regulation.

Makassar, 20 Desember 2023



Shafira Fajratun Ain
NIM B011191062

FOREWORD

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ABSTRACT

SHAFIRA FAJRATUN AIN (B011191062) with the title “***Legal Protection of The Voice Over Owner***” . Supervised by **Winner Sitorus** and **Amaliyah**.

This research aims to find out and analyze whether the use of voice over without permission is a copyright infringement and to analyze the legal remedies that can be taken.

This research uses normative legal research methods by compiling research through statutory, conceptual, and case approaches. In solving the legal issues of this research, primary legal materials consist of Burgerlihk Wetboek, law number 28 of 2014 related to copyright, Bern Convention, and Trade Related of Intellectual property right agreement. Secondary legal materials are books, journals, and scientific works. The non-legal materials are an Indonesian Big Dictionary and interviews. The problems studied are analyzed prescriptively and systematically, to provide arguments related to legal actions.

The results of this study indicate that (1) the sound recording of a voice over is one of the objects protected by copyright and needs to be regulated explicitly, and the use of a voice over without the permission of the owner of the voice over is an infringement of copyright. (2) dispute resolution on using a voice over owner without permission can be pursued through litigation and non-litigation. The non-litigation path is divided into two, namely arbitration and alternative dispute resolution, through litigation by filing a lawsuit in court.

Keywords: Copyright; Legal Protection; Voice over.

TABLE OF CONTENTS

	Pages
THESIS LEGAL PROTECTION OF THE VOICE OVER OWNER	I
TITLE PAGE	II
THESIS APPROVAL	III
THESIS EXAMINATION APPROVAL	IV
STATEMENT OF AUTHORITY	V
FOREWORD.....	VI
ABSTRACT	XI
TABLE OF CONTENTS	XII
CHAPTER I INTRODUCTION	1
A. Background of the Problem	1
B. Problem Formulation	3
C. Research objectives	4
D. Usefulness of Research.....	4
E. Originality of Research	4
CHAPTER II LITERATURE REVIEW.....	7
A. Intellectual Property Rights.....	7
B. Copyright.....	10
1. History of Copyright	10
2. Definition of Copyright	14
3. Copyright Recording	20
4. Basic Principles and Scope of Copyright	21
5. Copyright Restrictions	24
6. Objects of Copyright.....	26
7. Copyright Subject.....	28
8. Rights Attaching to the Creator	30
9. Copyright Term	33
C. Voice Over	36
CHAPTER III RESEARCH METHODS.....	37
A. Type of Research	37
B. Type and Sources of Legal Materials	38
C. Legal Material Collection Technique.....	39
D. Legal Materials Analysis.....	39
CHAPTER IV RESEARCH RESULTS AND ANALYSIS.....	40
A. Unauthorized use of Voice Over.....	40
B. The Legal Remedies of Copyright infringement	57
CHAPTER V CLOSING	70
A. Conclusion.....	72
B. Recommendation	72
BIBLIOGRAPHY	74

CHAPTER I INTRODUCTION

A. Background of the Problem

Intellectual Property Rights (hereinafter abbreviated as IPR) are rights that arise from the results of thoughts that produce a product or work that is beneficial to humans. The right in question is the right to legal protection based on legislation in the field of IPR. According to OK Saidin, IPR is a property right, the right to an object that comes from brain work and ratio work; on the other hand, there is also the result of emotional work. The work of the heart in an abstract form known as feeling, a combination of the effects of analytical and emotional work, creating a work called intellectual work.¹ IPR is divided into two categories, namely copyright and industrial property rights.

Copyright is an exclusive right that originates from an idea owned by the creator that arises automatically through the declarative principle. The creator can be an individual, a group of people, or a government or private legal entity. The object of copyright is any form of creation that has scientific content, artistic content, and literary nuances.² Based on the basic principle of copyright, which is protected by copyright is a real and original idea; because copyright is an exclusive right owned by the creator, the creator has the right to publish or reproduce his creation,

¹ OK. Saidin, 2019, *Legal Aspects of Intellectual Property Rights*, Depok: PT RajaGrafindo Persada, p.10

² Henry Soelistyo, 2011, *Copyright Without Moral Rights*, Jakarta: Rajawali Press, p.46

which means no one else can use the right except with the permission of the creator.³

Copyright has two rights, namely economic rights and moral rights. Exclusive rights are rights only owned by the copyright holder to do anything against his creation and the right to prohibit others from doing something that does not get permission from the copyright holder. Economic rights include the right to publish and the right to reproduce. These economic rights are considered because IPRs can be used or utilised by other parties in industry or trade that generate profits.⁴ Furthermore, moral rights are rights owned by the creator to include his name as the creator in his creation and prohibit others from duplicating and altering his creation.

Voice over is a sound production technique that is often used for off-screen use. Voice over has also been used in audiovisual media, such as documentaries, audiobooks, and automated voice messages. In 2021 and 2022, globally, we are facing a life-impacting COVID-19 pandemic; people should practice social distancing, including avoiding touching objects frequently used or touched by many people in public places. For example, when you want to enter the mall parking area, the ticket counters that initially used buttons become touchless with sensors.

³ Eddy Damian, 2005, *Copyright Law*, Bandung: PT. Alumni, p.102

⁴ Habi Kusno, "Protection of Copyright Law for Song Authors Downloaded Via the Internet", *Fiat Justicia Journal of Law*, Faculty of Law Unila, Vol. 10, Issue 3 July-September 2016

Based on these changes, people need to adapt again. Information on how to use the touchless parking ticket counter machine equipped with sensors is required. Therefore, it is necessary to have a voice recording as a medium of information on the use of the touchless ticket machine. Voice over is a copyrighted work that needs to be protected under Law Number 28 of 2014 concerning Copyright. A voice over talent requires some skills, so not everyone can become a voice over talent.

In this research, the author will examine cases related to copyright infringement in voice over. The author sees a legal problem in this case after Winda Sihotang found her voice over voice recording used on touchless parking ticket machines in other malls without her permission as the owner of the voice over, which is a violation of the exclusive rights owned by Winda Sihotang as the owner of the voice over and violate Article 40 paragraph (1) letter b of the copyright law. Based on the description above, the creator is interested in studying whether using a voice over without permission is a copyright infringement and a form of legal action that the owner can take.

B. Problem Formulation

1. Is the use of voice over without permission an infringement of copyright?
2. What legal remedies can be taken by the owner of the voice over?

C. Research objectives

1. To analyse whether the use of voice over without permission is a copyright infringement.
2. To analyse the legal remedies that the owner of the voice over can take.

D. Usefulness of Research

1. Theoretical benefits that the study results can provide or increase readers' knowledge about copyright.
2. Practical benefits are expected to add insight into the types of copyrights, especially voice over, which also needs a straightforward arrangement.

E. Originality of Research

After researchers conducted a literature search on the title and the problems to be studied, there are several related works, among others:

1. Copyright Protection of Commentator Voices in DOTA 2 Tournaments, Journal of Jurist-Diction Vol 3 No. 5 of 2020. The results showed that the commentator's voice must be authentic to be copyrighted under the doctrine of actual fixation. To determine the Creator and Copyright Holder of the commentator's voice, you must look at the employment agreement between the commentator and the tournament organiser and the arrangement or relationship between the tournament organiser and Valve Corporation.

2. Copyright Protection of Audio Podcasts Based on the 2014 Copyright Law, Kertha Negara Journal Vol. 9 August 2021. The results showed that copyrighted podcast audio works have a broad social media reach, making it difficult for creators to know if their work is being pirated, so electronic signatures are significant for creators, especially podcasters and content creators, to provide digital protection. To further guarantee the safety of audio podcasts work. It is also essential to regulate the legal protection of the exclusive rights of podcast creators, given the ambiguity of the norm in Article 40 paragraph (1) letter b of the Copyright Law regarding the absence of further explanation of the phrase "other similar creations".
3. Legal Protection of Rights Holders and Recording Licence Owners Under the Copyright Law, Journal of Yuridika Vol. 28 Number 3 Year 2013. The results showed that because the rights to be protected are personal (private), coupled with the provisions of Article 56 of Law No. 19/2002, which confirms that a criminal offence against copyright is a complaint offence that hampers the maximum protection of copyright because copyright offences are considered valid if there is a complaint from the injured party so that it is also an opportunity for individuals to continue to commit such crimes in the field of Copyright.

The research to be studied differs from previous studies, where this research focuses on the issue of liability for commercial use of voice over without the cooperation and permission of the owner of the voice over and legal action that the owner can take. Based on this, the creator can be responsible for the authenticity of this research.

CHAPTER II

LITERATURE REVIEW

A. Intellectual Property Rights

Intellectual Property Rights is a general legal term for patents, copyrights, and trademarks, which provide legal rights to protect ideas, expressions of ideas, and the inventors and creators of those ideas.⁵ Intellectual property rights are rights that arise from the results of a mindset that produces a product or process that is beneficial to humans.⁶ Intellectual Property Rights consist of 3 keywords: Rights, Property, and Intellectual. Rights are defined as a form of truth, authority, ownership, degree, and power and are valid according to law; property is a description of something that can be owned, transferred, bought, or sold. Intellectual property is the wealth of all products derived from intelligence, such as technology, science, art, literature, songs, written works, caricatures, and others.⁷ Intellectual property rights are a system inherent in the modern order of life that arises from the results of brain thinking to produce a product or process that is of value to humans.

⁵ William M Brown, Intellectual Property Law: a primary for scientists, <https://pubmed.ncbi.nlm.nih.gov/12665692/>, accessed date March 1, 2023, on 03.24

⁶ Winner Sitorus, Amaliyah, and Ahmadi Miru, "Intellectual Property Rights Protection On Dance And Song As An Traditional Cultural Expression In South Sulawesi Under National And International Law", *IPR Review*, Hasanuddin University, Vol. 3, Number 01, January 2020, p.185

⁷ Adrian Sutedi, 2009, *Intellectual Property Rights*, Jakarta: Sinar Graphic, p.38

Intellectual property rights are an official translation of the Dutch Intellectual *eigendom*.⁸ According to Adrian Sutedi, intellectual property rights are rights or authority or power to do something over the intellectual property and these rights are regulated by applicable norms or laws. Based on the word intellectual property rights, the meaning of the term is property rights and intellectual rights. Property right is something abstract that can be owned and transferred and has economic value, meaning that it can be sold or bought. Intellectual property is property that results from intelligent thought such as art, literature, writing, and others. WIPO (World Intellectual Property Organization) defines intellectual property rights as creations resulting from the human mind, which include investments, literary works, symbols, names, images, and designs used in commerce.⁹

According to Muhammad Djumhana & R. Djubaedillah, intellectual property rights are rights derived from human creative activities expressed to the general public in various forms, which have benefits, help support human life, and have economic value.¹⁰ Intellectual property rights also mean discussing rights and protections, such as copyrights, patents, brands, etc. These rights give

⁸ Sophar Maru Hutagulung, 1956, *Copyright Position and Its Role in Development*, Jakarta: Sinar Graphics, p.87

⁹ Hari Sutrisno, 2016. Paper: “*Strategy to Obtain Intellectual Property Rights (IPR) in the Field of Health*”, Faculty of Mathematics and Natural Sciences, Yogyakarta State University, Yogyakarta, March, p.1.

¹⁰ Maria Alfons, “Implementation of Intellectual Property Rights in the Perspective of the State of Law”, *Journal of Indonesian Legislation*, Legal Human Resources Development Agency and Human Rights 5

the owner the right to use them to their advantage. These rights provide the owner the right to control and enjoy the benefits of his work for a certain period.

Not all humans can use their brains to the fullest. Therefore, not all humans can produce intellectual property rights. Only capable people can create intellectual property rights. It also causes intellectual property rights to be exclusive. Not all intellectual property rights are property rights in the true sense; they may only be rights to reproduce or use specific products; they may even be lease rights or other rights arising from obligations such as licences, broadcasting rights, and others.¹¹

The limitation of intellectual property rights is the separation of intellectual property rights from the material of the creation. The intellectual property rights protection system as part of intellectual property rights is one of the supports for fair business competition. John Locke believed that goods are provided but cannot be enjoyed in the status of natural goods, so it is necessary to change these goods from natural goods to private goods by doing business on these goods. The added value of the action on the goods makes them enjoyable. It is this sacrificial effort of a person that should be appreciated. The same applies to intellectual property rights if one creates or invents

¹¹ OK. Saidin, *Op. Cit*, p.12

something.¹² Intellectual property rights are the right to enjoy intellectual creativity's economic and moral fruits.

Intellectual property rights in Indonesia have become part of positive law due to the ratification of international conventions, including the Paris Convention for the protection of industrial property and the Berne Convention for the protection of literary and artistic works. Of the two conventions ratified by Indonesia, intellectual property consists of copyright and industrial property rights.¹³

Industrial property rights consist of the following:

- a) Patents
- b) Trademark
- c) Industrial Design
- d) Integrated circuit layout design
- e) Trade Secret
- f) Plant variety
- g) Geographical indication

B. Copyright

1. History of Copyright

Copyright, part of Intellectual Property Rights known initially in common law, is used to describe the right to copy and or reproduce a

¹²Rahmi Jened Parinduri Nasution, 2017, *Interface of Intellectual Property Law and Competition Law (misuse of IPR)*, Depok: Rajawali Press, p.29-30

¹³Duwi Handoko, 2015, *Positive Law Regarding Intellectual Property Right in Indonesia*, Pekanbaru: Hawa and Ahwa, p. 1-2

work protected by copyright. In the view of the common law, copyright is a justification of function, meaning that common law countries view copyright as an instrument and economic policy to increase knowledge and support socio-economic development.

In contrast to the common law countries, in countries that embrace the concept of a civil law system, copyright is a justification of natural rights that view copyright as a fundamental right granted to the creator without looking at the broader economic and political consequences. The purpose of copyright is to give credit to the creator. It is a moral argument that emphasises the protection of the creator's personality through his creation above the protection of the copyrighted work itself.¹⁴

Copyright in Indonesia began with the enactment of the 1912 *Auterswet*. In 1982, this *Auterswet* 1912 was revoked after Law Number 6 of 1982 on "Copyright" was enacted. Furthermore, in 1987, the Copyright law of 1982 was amended by Law Number 7 of 1987. Then Law No. 7 of 1987 was refined again with Law No. 12 of 1997, and Law No. 12 of 1997 was replaced by Law No. 19 of 2002, then in 2014 issued the latest copyright law in force today, namely Law No. 28 of 2014 on Copyright.¹⁵

¹⁴ Budi Agus Riswandi, dan M. Syamsudin, 2004, *Intellectual Property Rights and Legal Culture*, Jakarta: PT Rajagrafindo Persada, p.196-197

¹⁵ Zainal Asikin, 2019, *Second Edition of Commercial Law*, Depok: PT Rajagrafindo Persada, p.131-132

Copyright Law is a written legal product in copyright issued by authorised officials or institutions. Changes in the law are also inseparable from cooperation between countries. Based on Law Number 7 of 1994 concerning ratification of the Agreement Establishing the World Trade Organization, hereinafter abbreviated as WTO, Indonesia is one of the participants of the Agreement Establishing the World Trade Organization. This agreement significantly affects the national legal system, including Indonesian copyright law.

The consequence of Indonesia's participation in the WTO agreement is the existence of annexe 1C, entitled Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement), which raises the need to complement and amend some legislation in the field of Copyright, namely the Copyright law of 1987 with new legislation relating to some of the main characteristics and elements referred to in the TRIPs agreement.¹⁶ Indonesia's participation in the TRIPs agreement since 1989, in the TRIPs agreement, there are several new rules in the field of Intellectual Property Rights with regulatory standards and protections that are more than adequate compared to national legislation, as well as severe sanctions in the form of economic retaliation addressed to countries that do not comply with its provisions. The presence of the

¹⁶ *Ibid*, p.129

TRIPs Agreement indirectly also requires member countries to adjust their laws and regulations to various international conventions.¹⁷ Therefore, related to the 1972 Bern Convention, Indonesia is inevitably obliged to comply with the provisions of articles 1-21 of the Bern Convention and its appendices, as stipulated in Article 9 of the TRIPS agreement, namely:

1. The parties to the agreement must comply with the provisions set out in articles 1 to 21 of the Berne Convention (1971) and its attachments. The parties to the agreement have no rights or obligations insofar as they relate to the rights permitted under Article 6 bis of the convention or the rights arising therefrom.
2. Copyright protection covers forms of embodiment and does not cover ideas, procedures, ways of working or similar concepts.

The Berne Convention for the Protection of Works of Art and Literature 1886 was the first to regulate copyright between sovereign states. Under this convention, copyright is granted automatically to copyrightable works, and the creator does not need to register the work to obtain copyright. Once a work is printed or stored in a medium, the creator automatically gets exclusive copyright.¹⁸ Under the Berne Convention, copyright protection is granted to creators who are nationals of member states for their published or unpublished works.

¹⁷ OK. Saidin, *Op.cit*, p.327

¹⁸ Zainal Asikin, *Op.cit*

Protection can also be given to a creator who is not a citizen of a member state but provided that if the creator first publishes his work in one of the member states, then protection can also be given, even though the creator is not a citizen of a member state, so far the creator is domiciled in one of the member states, so it is treated as a citizen of that state. Protection is also given if the work is published simultaneously in several countries, both in a country outside the member state and in a Berne Convention member state.¹⁹

In 1958, the Indonesian Prime Minister, Djuanda, stated that Indonesia would exit the Berne Convention so that Indonesian intellectuals could utilise the works, inventions and initiatives of foreign countries protected by copyright without paying royalties. In 1997, the Indonesian government re-ratified the Berne Convention through Presidential Decree Number 18 of 1997.²⁰

2. Definition of Copyright

Copyright is similar to human rights, which arise when producing something that meets copyright requirements. The protection of IPRs that cross national borders is automatically copyright, as stipulated in Article 5 (2) of the Berne Convention, which specifies that:

The enjoyment and the exercise of these rights shall not be subject to any formality; such enjoyment and such exercise shall be independent of the existence of protection in the country's originating work. Consequently, apart from the provisions the

¹⁹ Rahmi Jened Parinduri Nasution, *Op.cit*, p.94

²⁰ *Ibid*, p.132

extent of protection shall be governed exclusively by the laws of the country where protection is claimed.

Copyright is automatic and independent meaning that copyright protection is granted without any dependence on the legal protection regulations of the state.

Legal protection itself is necessary for various parties because legal protection is a means to provide a form of protection of human rights granted by the law for acts that are considered detrimental to the other party, and the protection is given to the public so that they can enjoy all the rights granted by the law. Repressive legal protection or legal protection in the sense of enforcement against violations committed by other parties is an action given directly to the violator in the form of sanctions provided to the perpetrator. Legal protection itself also functions to protect society. It can be in the form of preventive legal protection or legal protection in the sense of preventing and providing restrictions to various parties so that another party harms no party because of his actions.²¹

Humans are creatures that God has gifted through their ideas and thoughts. Humans have the ability to create works of their own accord, produce technology, produce science, and produce works of art that have value and benefit for human life. The expression of original ideas is considered intellectual property and is protected by

²¹ Ayup Suran Ningsih dan Balqis Hedyati Maharani, 2019, "Copyright Law Enforcement Against Online Movie Piracy", *Jurnal Meta-Yuridis* Vol.2 No.1, p.29

copyright. Any form of expression, from books to computer files, can be protected by copyright. Publications are an essential form of scientific capital; copyright holders must understand the basic concepts of copyright.²²

Copyright based on the Indonesian Big Dictionary means a person's right to the results of his invention, which is protected by law. Copyright is included in the absolute right to an object or commonly referred to as property rights, in this right Copyright is included in the group of intangible movable objects. Copyright is an independent right distinguished by the right to industrial property. In the opinion of Sri Soedewi Masjchoen Sofwan, Copyright is not a property right within the scope of the rights set out in the Civil Code, although Copyright can be classified as a property right because it fulfils the main characteristics of a property. Copyright is an immaterial right regulated within the scope of Intellectual Property Rights.²³

Copyright is an exclusive right that arises over an idea or idea, and only the creator has that right, which occurs automatically through the declarative principle. The intellectual property owner's legal right is referred to as copyright. The right to copy is the simplest

²² Jenelise Favre, Tania Germond et. all, Want a Better H-index?- All You Need to Know About Copyright and Open Access, <https://www.clinicalkey.com/#!/content/playContent/1-s2.0-S1877056820302735?returnurl=null&referrer=null>, accessed date March 1, 2023, on 01.41

²³ Sri Soedewi Masjchoen Sofwan, 1981, *Hukum Perdata : Hukum Benda*, Yogyakarta: Liberti, p. 25-27

definition of copyright. The only people with the sole right to reproduce a work are the original creator and anyone authorised by them. Copyright gives the creator of the original material the exclusive right to use further and duplicate that material for a certain period. Once the copyright expires, the copyrighted item becomes public domain.²⁴

In copyright, there is also the concept of restriction. Still, despite the idea of restriction, this right does not conflict with human rights such as the right to expression, including the right to receive information and personal rights, there is no conflict in this regard. The principle is that everyone is free to develop ideas to the best of their ability as long as the author's specific ideas, choices, and idiosyncrasies in the author's form of expression are not copied. It ensures creativity and originality and does not undermine freedom of speech.²⁵

Copyright provides legal protection against copying any creative work, as well as business and scientific publications, computer software and compilations of information.²⁶ Copyright is one of the essential areas in intellectual property rights that aims to regulate the protection of various kinds of copyrights made by the creator, either

²⁴ Will Kenton, Copyright Definition, Types, and How It Works, <https://www.investopedia.com/terms/c/copyright.asp>, accessed date October 18. 2023 on13:11.

²⁵ Rahmi Jened Parinduri Nasution, *Op.cit*, p.141

²⁶William M Brown, *Op.cit*

individually or with others. Copyright, as part of abstract property rights, controls the workability of ideas and thoughts. The term Copyright was first proposed by St. Moh. Syah at the Congress of Culture in Bandung in 1951 (later accepted by the Congress) as a replacement for the term copyright, which is considered less broad in scope definition. The term creator rights is a translation of the Dutch term *Auteurs rechts*.²⁷ Expressed "less broad" because the term copyright gives the impression of "narrowing", meaning that if covered in the creator's right, it is only the creator's rights associated with composing. At the same time, the term copyright has a broader meaning and includes writing.²⁸ For the definition of copyright, see Article 1 number 1 of the copyright law.

According to Article 1 number 1 of the Copyright Law, Copyright is an exclusive right granted to the creator or recipient of the right to publish, grant permission, or reproduce his creation without prejudice to restrictions under applicable laws and regulations. Article 64 paragraph (2) of the Copyright Law stipulates that recording creations and related rights products is not mandatory for creators, copyright holders, or owners of related rights. The law recognises that Copyright is born automatically from the end of creation. It means that the completion of a creation embodied in material form (fixation)

²⁷ Ajip Rosidi, 1984, *Copyright Law 1982: A Layman's View*, Jakarta: Djtangan, p.3

²⁸ OK. Saidin, *Op.Cit*, p.198-199

under the creator's will, under the uniqueness of the creation, is the starting point for the birth of rights. The protection of a work begins when it exists or is realised and not because of registration.²⁹

Article 1 of the Auteurswet 1912 stipulated, Copyright is the sole right of the creator, or the right of the person receiving the right, to his creation in the fields of literature, science, and art, to publish and reproduce it with due observance of the limitations prescribed by law. The Universal Copyright Convention in Article V stipulated, "Copyright includes the sole right of the creator to make, and to be authorised to translate, works protected by this treaty".³⁰ The sole right is used in the Auteurswet 1912 and the Universal Copyright Convention, whereas the Copyright Act uses the term "exclusive right" for the creator.

It is Clearly Stipulated in Article 1 number 1 of the Copyright Law. It is stated that exclusive rights are reserved for the holder only so that no other party can utilise them without permission. Each party is planned to have a different meaning with a single right, showing that only the creator can obtain this right. It is what is called an exclusive, specific, and unique right.

²⁹ Habi Kusno, *Op.cit*, p.492

³⁰ Elita Ras Ginting, 2012, *Indonesian Copyright Law*, Bandung: PT. Citra Aditya Bakti, p.61

3. Copyright Recording

The effect of continental copyright doctrine is stipulated in the Copyright Law, which rules that recordation is not required because a copyright can be protected even without registration. This Continental European doctrine does not require registration as proof of rights because copyright allows automatic protection when the copyright is realised; that is, it can be seen, read, heard, and so on. Copyright law does not protect creations that are still in the form of ideas, in contrast to the patent protection system and trade secrets that protect ideas. Provisions governing the implementation of the registration of creations are set out in Article 64 to 73 of the Copyright law. Copyright can also be recorded or not because unrecorded works also receive legal protection. However, if a copyright is recorded, it will be more beneficial to the creator because it is registered in the Regional Office of the Ministry of Law and Human Rights, he is considered the creator. It can facilitate proof in the event of a dispute.

Recordation in copyright law in Indonesia is done passively or called the negative declarative registration system. All registrations are accepted with little research on the right to request unless there is a copyright infringement. The weight of this registration system is placed on the creator's presumption of registered rights until others

can prove otherwise.³¹ The announcement of the recordation of Creation is submitted to the Minister of Law and Human Rights of the Republic of Indonesia through the Directorate General of Intellectual Property and Human Rights.

4. Basic Principles and Scope of Copyright

Rights in copyright are separate from ownership of the underlying physical work. For example, a book or CD buyer does not own the copyright to his purchase.³² For the work to be protected, it must be original, the creator's work; it cannot result from a copy.³³

What copyright law protects is an idea that is tangible and original. Copyright is an intangible movable object regulated in Article 499 of the Civil Code, which rules that goods are every object and every right that can be the object of property rights.³⁴ Referring to the provisions of Article 499 of the Civil Code, it is undeniable that copyright is an object. Although the Civil Code does not mention copyright in its articles, but copyright is an immaterial property that can be controlled as property rights.³⁵

³¹ Maya Jannah, 2018, "Legal Protection of Intellectual Property Rights (IPR) in Copyrights in Indonesia", *Advocary Scientific Journal*, STIH Labujanbatu, Vol. 06, Number 02 September 2018, p. 58

³² Peter B. Hirtle, *Copyright and Cultural Institutions: guidelines for Digitalization for US Libraries, Archives, and Museums*, Melbourne Legal Studies RPS Submitter, University Library Press, 20 December 2019, p.5

³³ I William M Brown, *Op. Cit*

³⁴ Article 499 of the Civil Code

³⁵ Sri Pujianti, Copyright is exclusively attached to the Creator's creativity, <https://www.mkri.id/index.php?page=web.Berita&id=18414&menu=2> , (Online News)

Article 16 paragraph (2) of the copyright law also stipulates that Copyright can be transferred or assigned to another person, either by grant, inheritance, will, endowment, or agreement in the form of sale and also for reasons that can be justified by laws and regulations such as court decisions that have permanent legal force.

License means a written permission granted by the Copyright Holder or Related Rights Owner to other parties to exercise the economic rights over their Works or Related Rights product under certain conditions. In article 80 of the Copyright Law also allows copyright holders to grant permission in the form of a licence to other parties on written terms regarding copyright and rights relating to copyrighted works. Copyright holders under the Copyright Law are stipulated in Article 37, Article 38, and Article 39 of the Copyright Law. The law explains that if the creator of a work uses traditional cultural expressions, an unknown identity or does not want to know his identity (using a pseudonym or pseudonym), makes no announcement, or publishes but is not known by the creator, then the copyright on the creation is held by the state for the interests of the creator. Pada kasus.

In copyright, the concept of property rights is known, which means that rights can be protected and defended from anyone who interferes. Copyright gives the right to confiscate objects that are declared contrary to copyright. In the framework of copyrighted

works, at least some of the principles of copyright must be considered, namely:

1. Copyright protected is an idea that is tangible and original.

One of the most basic principles of copyright protection is that copyright is only related to the embodiment of creation, so it does not concern or relate to its substance. The most basic principle is the principle of tangible ideas can be derived from several other principles so that the lower principle becomes a sub principle, namely:

a. Creation must have originality to enjoy the rights granted by law. Authenticity is closely related to the embodiment of the creation.

b. A creation has the right to be creative if the creation in question is realised in writing or other material form. It means an idea, thought, or ideal is not a creation.

c. Because copyright is the exclusive right of the creator or assignee to publish or reproduce his creation, then according to Article 9 paragraph (3), "any person without the permission of the creator or copyright holder is prohibited from duplicating and/or using the work commercially".³⁶ It means no one else may use the right except with the creator's permission.

³⁶ Article 9 Paragraph (3) of Law Number 28 of 2014 Concerning Copyright

2. Copyright to a work is a right recognised by law that must be separated and distinguished from physical ownership of a work.
3. Copyright is not an absolute right but only a limited monopoly. It can happen because consensual copyright does not recognise the concept of total monopoly so that other creators can create creations like the one made before.
4. Copyright arises by itself, and copyright can exist if the creator has realised his ideas in real form. There is a tangible idea that can be born as a creation.³⁷ in which the work is embodied in a tangible medium of expression when the manufacture into reproduction or sound recording by or based on the permission of the creator,³⁸ the creation that is born can be announced and can not be disclosed. Copyright remains with the creator of an unpublished work.³⁹

5. Copyright Restrictions

Article 43 of the Copyright Law stipulates that a matter is not considered an infringement of copyright, as follows:

- a. Announcement, distribution, communication, and/or duplication of the state emblem and national anthem under their original nature.
- b. Announcement, distribution, communication, and/or duplication of everything carried out by or on behalf of the government, unless otherwise protected by laws and

³⁷ Andi Nur Oktarian, 2015, *Copyright Legal Protection for Book Photocopying Activites*, Thesis Faculty of Law, Hasanuddin University, p. 20-21

³⁸ Budi Agus Riswandi, dan M. Syamsudin, *Op.cit*, p. 198

³⁹ Andi Nur Oktarian, *Loc.it*, p. 21

- regulations, a statement on the work, or when the work is announced, distributed, communicated, and/or duplicated.
- c. The taking of actual news, in whole or in part, from news agencies, broadcasting organisations, newspapers, or other similar sources provided that the source must be mentioned in full.
 - d. Production and distribution of copyrighted content through information and communication technology media that is non-commercial and/or benefits the creator or related parties, or the creator expresses no objection to such production and distribution.
 - e. The reproduction, announcement, and/or distribution of portraits of the president, vice president, former president, former vice president, national heroes, heads of state institutions, heads of ministries/non-ministerial government agencies, and/or heads of regions with due regard to fairness towards dignity and justice based on the provisions of laws and regulations.⁴⁰

Similarly, it will not be considered an infringement of copyright by the following provisions:

1. The use, retrieval, duplication, and/or modification of a creation and/or related rights product in whole or in part, the substance of which shall not be considered an infringement of copyright if:
 - a. The source is mentioned or listed in full for education, research, writing scientific papers, preparing reports, writing criticism or studying a problem without reducing the creator's or copyright holder's reasonable interests.
 - b. Security and administration of government, legislature and judiciary

⁴⁰ Article 43 of Law Number 28 of 2014 Concerning Copyrights

- c. Lectures that are only for educational and scientific purposes or
 - d. Performances that are free of charge provided that they are not detrimental to the reasonable interests of the creator.
2. Access to employment facilities for the blind, visually impaired, or reading impaired, and/or users of braille, books, audio, or other means, is not considered an infringement of copyright if the source is mentioned or listed in full unless it is commercial.
 3. In the case of architectural work, modifications are not considered an infringement of copyright if done based on technical considerations of its implementation.⁴¹

Article 43 paragraph (d) of the Copyright Law stipulates that the creation and distribution of works through the media of information and communication technology is not considered an infringement of copyright as long as it is not used for commercial purposes or provides benefits to the creator or related parties or has received the permission from the creator.

6. Objects of Copyright

Copyright is one part of IPR with the broadest scope of protected objects because it covers science, art, and literature, including

⁴¹ Zaeni Asyhadie, 2019, *Principles of Business Law and Its Implementation in Indonesia*, Depok: PT RajaGrafindo Persada, p.274

computer programs. The object of copyright protection under the Bern Convention stipulated in Article 2 is literary and artistic works that include all the results of the field of literature, science, and art in any form, any explanation.⁴² In Article 3 of the Bern Convention, It can also be concluded that in addition to the original work of the first creator, works include translations, adaptations of musical arrangements, and other productions in the form of adaptations of a literary or artistic work, including photographic works, are protected.⁴³

In the Indonesian Big Dictionary, objects are things, objects, and so on used as objects of research, attention, and so on. Based on the KBBI above, the object of copyright is any copyrighted work in science, art, and literature produced on inspiration, ability, thought, imagination, talent, skill, or expertise expressed in real form.⁴⁴

Creation protected by the Copyright Law is regulated in Article 40 paragraph (1), which consists of:

Protected creations include creations in the fields of science, art, and literature, consisting of:

- a. books, pamphlets, embellishments of published works, and all other written works;
- b. lectures, speeches, and other similar works;
- c. teaching aids made for education and science;
- d. songs and/or music with or without text;

⁴² Oksidelfa Yanto, 2016, "*Bern Convention and Copyright Protection*", *Surya Kencana Dua Journal: Dynamics of Law and Justice Issues*, Pamulang University, Vol. 6, Number 1, March, p.121

⁴³ A. Aziz Muhammad, "*International Convention on Copyright and Copyright Regulation in Indonesia*", *Journal UMJ*, Faculty of Law Muhammadiyah Jakarta University, 2017

⁴⁴ Article 1, number 3 Law Number 28 of 2014 concerning copyright

- e. drama, musical drama, dance, choreography, puppetry, and pantomime;
- f. works of fine art in all forms, such as paintings, drawings, engravings, calligraphy, sculpture, statues, or collages;
- g. applied artworks
- h. architectural works
- i. maps
- j. photographic works;
- k. batik art or other motif art
- l. Portrait;
- m. cinematographic works;
- n. translations, interpretations, adaptations, anthologies, databases, adaptations, arrangements, modifications and other works of transformation;
- o. translation, adaptation, arrangement, transformation, or modification of traditional cultural expressions;
- p. compilation of Creation or data, either in a format that a computer program or other media can read;
- q. compilation of traditional cultural expressions as long as the compilation is an original work;
- r. video games, and
- s. Computer programme.⁴⁵

7. Copyright Subject

In the Indonesian Big Dictionary the subject is the subject of conversation, the subject matter, or the perpetrators of people, places, and objects observed. According to Mahadi, it is stated in the book of OK. Saidin, every time there is a subject, then there is an object; both can not be separated from each other, but there is a relationship between one and the other, which is hereinafter referred to as *eigendom recht* or property rights as intangible property rights, copyright arrangements are subject to a legal system associated with other legal subsystems. The subject of copyright is not only individual

⁴⁵ Article 40 Law Number 28 of 2014

but can also be a legal entity. As a result, copyright can be transferred in other ways by the rules contained in other areas of law that exist in one legal system.

Regarding copyright, the subject is the right holder, i.e., the creator, person, or legal entity that legitimately obtained the right through inheritance, grants, wills, or other parties by agreement.⁴⁶ The subject of copyright is the creator, the person whose name is as follows:⁴⁷

1. Mentioned in the creation
2. Stated as the creator on a creation
3. Mentioned in the creation registration letter as the creator
4. Listed in the general register of creations as the creator.

The creator is the person whose name is mentioned in the creation or announced as the creator of the creation, as well as the person whose name is registered in the general register of creations.⁴⁸ Especially for people who give lectures that do not use written materials and there is no notification of who the creator is, the person who gives the lecture is considered the creator.⁴⁹

The definition of creator is based on Article 1 number 2 of the Copyright Law, the creator is a person or several people who individually or jointly produce a unique and personal creation. If there

⁴⁶ OK. Saidin, *Op.Cit*, p. 235

⁴⁷ Article 31 Law Number 28 of 2014 concerning Copyright

⁴⁸ Hasbir Paserangi, Ibrahim Ahmad, 2011, *Intellectual Priperty Right (Legal Protection of Computer Programs Software Copyrights in Relation to the TRIPs Principles in Indonesia)*, Jakarta: Rabbani Press, p. 34

⁴⁹ Article 32 Law Number 28 of 2014 concerning Copyright

are several creators, then the conditions for making a creation must be done together. There is a cooperation between them in producing the creation. Thus, limited liability companies, cooperatives, and foundations cannot act as creators even though they have the status of legal entities and are treated as human beings. However, it is regulated in Article 37 of the Copyright Law that legal entities are still allowed to be considered creators if the legal entity announces and circulates.

8. Rights Attaching to the Creator

Creation is any creative work in science, art, and literature that results from inspiration, ability, thought, imagination, talent, skill, or expertise expressed in tangible form. In this case the work must be original, not a copy of someone else's creation; the creator must be able to prove that the work of his creation comes from his creation, especially if there is a dispute. Copyright has two characteristics, namely:⁵⁰

a. Economic rights are rights owned by the creator or copyright holder to obtain royalties or financial benefits for his creation; economic rights include:

1. the right to publish his creation,
2. reproduction of the work in all its forms,
3. translation of the work
4. adaptation, arrangement, or transformation of the work,
5. distribution of the work or copies thereof,
6. performance of the work

⁵⁰ Yustisia Vision Team, 2015, *Official Copyright Guide*, Jakarta: Visimedia, p.3

7. announcement of the work
8. communication of creation, and
9. rental of the work.

Economic rights are needed because intellectual property rights can be used or utilised by other parties in industry or trade that brings profit.⁵¹ Based on Article 8 of the Copyright Law, it is stated that economic rights are the exclusive rights of creators or copyright holders to obtain financial benefits for their creations, further regulated in Article 9 paragraph (1) letter h, which explains that the creator or copyright holder has the economic right to communicate creation.⁵² Other parties who want to use or exercise the economic right to adapt, as referred to in Article 9, paragraph (1), then the party must obtain prior permission from the creator or copyright holder. The economic rights to a work remain in the hands of the creator or copyright holder as long as all economic rights are not transferred to the transferee of the rights to the work. Economic rights transferred by the creator or copyright holder in whole or part cannot be transferred a second time by the same creator or copyright holder.⁵³

- b. Moral rights are rights that are personally attached to the creator, namely:

⁵¹ Habi Kusno, *Op.Cit*, p.491

⁵² Law number 28 of 2014 concerning Copyright

⁵³ Yustisia Vision Team, *Op.Cit*, p.4

1. keep or not put the name,
2. to use their pseudonym or assumed name,
3. to change their creation under the decency in the society,
4. to change the title and subtitle of the creation and
5. defend their rights in the event of distortion of the work, mutilation of the work, modification of the work, or other things that harm their good name.

Moral rights protect the creator's personality, maintain the relationship between the creator and the work, and especially the right to claim authorship.⁵⁴ Moral rights aim to protect the reputation and integrity of the work from misuse and abuse; moral rights are a form of non-economic copyright.⁵⁵ Moral rights are not transferable as long as the creator is alive. However, its implementation can be transferred by will or other causes according to the provisions of laws and regulations after the creator dies. There are two main principles in moral rights owned by the creator, namely:⁵⁶

1. The right to be recognised for their creation, which means the right of the creator to be announced as the creator of

⁵⁴ Jenelise Soelistyo, Tania Germond et. all, *Want a Better H-index? - All You Need to Know About Copyright and Open Access*, *Op. Cit*

⁵⁵ Hendry Soelistyo, *Op.Cit*, p.82

⁵⁶ Suyud Margono, 2003, *Copyright Law and Protection (Adapted to the Copyright Law of 2002)*, Jakarta: Novindo Pustaka Mandiri, p. 49-50

their creation, to prevent the recognition of other parties as the creator of the creation;

2. The right to integrity is the right to refuse any distortion of their work or other changes or actions that can degrade the quality of their copyright work.

Because not all humans can use their brains to the fullest, intellectual property rights are exclusive because they provide economic and moral enjoyment to holders of intellectual property rights. Rights that originate from the results of human intellectual activities have economic and moral value because it is considered that intellectual work produced by humans requires sacrifice of costs, energy and time. However, the benefits can be enjoyed. Appreciating the work produced in the form of legal protection of intellectual property rights is necessary. The exclusive rights that can be transferred or assigned are only economic rights, while moral rights remain attached to the creator. Copyright transfer must be done in writing, either by using a notarial deed or not.

9. Copyright Term

Copyright terms vary by jurisdiction and type of work. The validity period may also depend on whether or not the work is published.⁵⁷ Before publishing the work, it would be nice to make a written agreement with the relevant parties to protect the creator's rights.

⁵⁷ Zainal Asikin, *Op.Cit*, p.136

Article 57 to Article 61 regulates copyright validity based on moral and economic rights. The creator's moral rights relate to keeping or not putting his name on the copy in connection with the use of his work for the public, using a pseudonym or pseudonym, and defending his rights in the event of distortion of the creation, mutilation of the creation, modification of the creation, or things that are distorted. In the event of a distortion, modification of the work, or matters prejudicial to his dignity or reputation, the term is indefinite.⁵⁸

Each work in the public register of works has a validity period of copyright protection. The validity period for economic rights is as follows:

1. Copyright protection for works in the form of:

- a. Books, pamphlets, and all other written works;
- b. Lectures, lectures, speeches and other similar creations;
- c. Visual aids made for the benefit of education and science;
- d. Songs or music with or without subtitles;
- e. Drama, musical drama, dance, choreography, puppetry, and pantomime;
- f. Fine art lines in all forms, such as paintings, drawings, carvings, calligraphy, sculpture, sculpture, or collages;
- g. architectural works;
- h. Maps; and
- i. Batik artwork or other motif art.

Valid as long as the creator is alive and continues for 70 years after the creator dies, and starts from January 1 of the following year. If two or more persons own a work, it is valid for the lifetime of the last creator, who dies and lasts for 70

⁵⁸ Zaeni Arsyadie, *Op.Cit*, p.275

years. If a legal entity owns a work, it is valid for up to 50 years from the first announcement of its creation.

2. Copyright protection of creations: photographic works, portraits, cinematographic works, video games, computer programs, facial expressions, translations, interpretations, adaptations, anthologies, databases, adaptations, arrangements, modifications and other works resulting from the transformation and modification of traditional cultural expressions, compilations of works or data in formats that can be read by computer programmes or other media and compilations of traditional cultural expressions as long as the compilation is an original work. The validity period of the above creations is 50 years from the time they are first announced, and copyright protection for creations in the form of applied art is only valid for 25 years from the time they are first announced.
3. On the other hand, copyrights on creations whose creators are unknown and held by the state are valid for 50 years from the first announcement of the creation. Copyright on creations implemented by the party who announced them is valid for 50 years from the creation's first announcement.⁵⁹

⁵⁹ *Ibid*

C. Voice Over

Voice Over (VO) is a voice over for behind-the-scenes audio or visuals, such as adverts, promotions, events, live broadcasts, company profiles, etc.⁶⁰ A voice over artist dedicates their voice to a programme or to provide an informational notice.

Voice over is often used to voice the dialogue in a film or animated series, but not for the voices of the actors or animated characters. In addition, voice over is usually used to explain a news programme or provide information. A voice over talent can speak with clear pronunciation, understand tempo, use correct intonation and emphasis, and speak confidently.⁶¹ It takes a particular skill to be a voice over, as only a few can be a voice over.

Therefore, protection is needed for the owner of the voice over for the results of making the voice over. Voice over is protected under the Copyright Law, which is regulated in Article 40, paragraph 1 (b).

⁶⁰ Nova Shafira Sunarto Putri, "The Meaning of Voice Over in Feature Reporting on Television", Journalistic Research Journal and Digital Media, Faculty of Communication Sciences, Bandung Islamic University, Vol. 2, Number 1 July 2022, p.14

⁶¹ Amien Nurhakim, 2020, "Know Your Voice Through Voice Over", Syarif Hidayatullah State Islamic University, p.7