

Jakarta, May 8, 2020

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COPYRIGHT INFRINGEMENT IN INDONESIA

To date, certain intellectual property related industries worldwide has shown unsatisfactory feeling towards the Government of Indonesia in relation to the progress of IP enforcement practice. One major complaint is in relation to the online enforcement. The International Intellectual Property Alliance (IIPA) has even taken the position that the United States of America should suspend the Indonesia's General System of Preference (GSP) trade benefits and recommended that Indonesia remain in the Priority Watch List status unless there is a real enforcement improvement. Eventhough Indonesia has stepped up its efforts on the site-blocking of pirate websites, but with the domain hoppings are still freely practised, many pirate sites have easily reopened their operations with new domain names.

In fact, the Indonesia Copyright Law which addresses the protection upon copyright rights are quite comprehensive and progressive. However, the main problem lies on the enforcement of rights in Indonesia, which is still problematic and challenging. In particular, legal enforcement in relation with the transformation of copyrighted work from the original form to other forms has not been conducted properly due to the lack of understandings among the legal enforcement authorities on the concept of copyrights protection and the scope it covers. This problems lead to the unsatisfactory result of legal enforcements actions brought into by the rights owners.

Another factor that contributes to this issue is the lack of knowledge on the importance of Copyright among the Indonesian community, especially youngsters, which has driven people to find ways in search for free contents through illegal platforms. Most of the youth generation perceives that digital piracy as an acceptable practice and a trending behavior. Furthermore, the weak public awareness of the regulating laws of IPRs has resulted in a situation where digital piracy, such as on music, film and softwares, have become commonplace.

The Spiraling Effect

The aggressive digital piracy practices in Indonesia have indeed brought up negative impacts to the society and the country, which could be described as follows:

a. **Innovation of the Creator.** Innovation has long been known as one of the main drive of economic growth, through the development and the exploitation of ideas for new products and processes. Without comprehensive protection of these intellectual property rights, the creative motivation to develop new ideas and products would be diminished, thereby weakening the innovation process.

b. **Huge Loss to Relevant Industries.** The Indonesian music and movie industries have suffered huge losses due to piracy practices in all forms. The film industry has lost around Rp 1.5 trillion (US\$ 107 billion) to piracy actions in only four major cities in Indonesia, according to a 2017 study by the University of Indonesia's Institute for Economic and Social Research (LPEM FEB UI).

c. **Security Risk. By using the Pirated content or by accessing illegal ISD** could increased the risk of the users's private data from being stolen or being infected by malware as means of cracking or password stealing. The security risks will be dangerously high while the users are conducting online banking transactions using the pirated or infected softwares in their laptops and cellphones.

Foreign Direct Investment (FDI). The high degrees of appreciation on the intellectual property rights issues has become one of the important factors considered by multinational companies seeking investment opportunities abroad. Some high-tech industries will highly regard the importance of the level of counterfeiting and piracy in the countries they would like to invest, whereas for others it may be just a minor consideration. Studies conducted on the Southeast Asian countries revealed that the flow of FDI from developed countries were relatively higher into economies with lower rates of counterfeiting and piracy.

What Can We Do?

In order for the anti-piracy campaign to succeed, we believe in rising the awareness of the community as well as enhancing the knowledge of the authorities related to the intellectual property rights (IPRs) protection. Another solution will be by imposing more severe penalties to the violators of the IPRs regulations. The more severe punishments and the implementation of legal certainty will certainly decrease the high rates of IPRs violations.

Furthermore, we believe that the owners of IPRs in different industrial sectors should form an alliance among themselves in order to fight the piracy actions and IPRs violations more effectively.

Several existing Indonesian IPRs protection organizations have commenced join efforts to combat piracy actions, including by reporting the websites which supported illegal audio and visual streaming practices and reporting a list of other websites which have infringed copyright to the Ministry of Law and Human Rights ("MLHR"). They have also reported the same IPRs violations to the Ministry of Communication and Informatics ("MCI"), which succeeded in blocking the access rights and contents of the targeted websites. Armed with the comprehensive list of websites and list of their IPRs violations, the MCI have instructed all of the Internet Service Providers (ISPs) in Indonesia to close down the websites and platforms which have practiced Copyright infringements and other IPRs violations.

For further inquiries on Copyright Infringement in Indonesia , please feel free to contact Mr. Justi Kusumah at justi.kusumah@kk-advocates.com and Ms. Raniya Ockvalynie at raniya.ockvalynie@kk-advocates.com

(Tulisan di atas adalah merupakan artikel dan tidak dapat dianggap sebagai advis atau opini hukum dari penulis dan/atau kantor hukum K&K Advocates)



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