

The importance of registration RIGHTS LICENSE AGREEMENT QR CODE Copyright Notice

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Abstract

Registration of copyright licenses deklaratif QR code adheres to the system means that the registration is not publishing rights will but only registration as evidence copyright holder, registration function solely to facilitate proof. Dotted decline on the formulation of the problem and the aim of the research and approach that is used is with the normative legal research method, descriptive analytical mind with nomative juridical approach.

The basic conception provides the consequences to the creator or copyright holder to exploiting it and copyright license is a license that gave birth to the covenant and in accordance with the Law Number 28 Year 2014 about Copyright, explained that if the copyright licenses not in a register to the Directorate General of Intellectual Property Rights and does not bind to the third party. This means that does not have the force of law, this contradiction with unearned freedom that is set in the book of the Law on the civil law.

The results of this research is to get the protection of the law and legal certainty according to Act No. 28 The year 2014 about Copyright and easy to prove in the court when there is a problem the law

Key Words: License, Copyright, Deklaratif Contract

A. The Background

Along with the development of human civilization, works of intellectual property has existed since the existence of human civilization, since the stone age until now, since the beginning of the independence of the nation and state of Indonesia has committed to realize the ideals espoused together that is of a

fair makmur, spiritual and effortfully. As for freedom of expression, which includes the freedom to seek, receive and ignore the information and ideas for all kinds of ignoring the border and that the truth about the respect for the freedom of personal.¹²

One of the goals of the state in the context of the protection of the law is to apply and pembudayaan hukurn in the field of intellectual property rights. The intellectual property rights of the law that is used to protect the creation of the results of the human mind. Intellectual Property Rights is an important aspect in the development of national economy. In international trade, one of consideration for investors to invest and trade in a strange country is the existence of an adequate protection of the intellectual property rights. In addition, the protection of the rights of intellectual property³⁴ is also required for the existence of the

The products of Indonesian society itself.

Indonesia has established seven act in the field of intellectual property rights the Act No. 19 The year 2002 about Copyright Law No. 14 The year 2001 about patents, Law No. 15 The year 2001 about brands, Act No. 29 The year 2000 about the protection of the varieties of plants, Act No. 30 The year

¹ Eddy Damian, *Copyright Law*, Alumni, Bandung, 2009, p. 835). 1 there are also J.A.L Sterling, *World Copyright Law*, Sweet and Maxwell, 2003 page 5

² Ahmad Ramli, *instruments of International Law about Cyber Crime & Anticipation of its implementation in National Law*, National Seminar, Jakarta. 2003 page 6

³ I Bainnridge PDavid, *Intellectual Property*, Pitman Publishing, London, 1990,). 7 See also Williams, *A Manager's Giude to patent, trade Marks & Copyright*, Kogan Page London 1986, pm.II

⁴ Ahmad M. Ramli, *HAKI 'Theory basis of the protection of secrets*, Mandar Forward, Bandung, 2000,). 2.

2000 about Secrets, Act No. 31 The year 2000 about industrial design, and Act No. 32 The year 2000 about Integrated Circuit Layout.

One of the problems faced in the implementation and the enforcement of the law as the legal protection is still low community awareness of the importance of the use of property rights moral rights and economic rights due to a lack of public understanding of the intellectual property rights. Therefore implementation and pembudayaan against the Constitution was continuously done by the government and other agencies associated with the intellectual property rights.

Various awareness on the importance of legal protection of the intellectual property rights, on the one hand yet provides adequate results remember public understanding of the intellectual property rights has not yet been fully, so that there are still many cause various violations. But on the other hand has brought new awareness for local community, especially movements which relates to the advocacy of local communities, such as non-governmental organizations to demand the same treatment to obtain legal protection of the intellectual property rights of local communities are komural and traditional both societies of developing countries such as Indonesia and the developed countries.

In line with the changes from the development from time to time that agrees with the reason the writer is⁵ in the concept of the law of the

⁵ Mochtar Kusumaatmadja, *the concepts of the Law in the development of*, Alumni, Bandung, 2002, p.30 83

development of Mochtar Kusumaatmadja is in the view of the author, the concept that the law can be a means of the renewal of the society can be run against the things that are neutral as business law. This theory is wider range and its scope of the theory of *Law is a tool of social engineering* and the theory of *Living Law*. And more sensitive to the reality of the community and reject mekanistis from the concept of the law is *a tool of social engineering*.

The participation of Indonesia in international agreements membawa consequences that Indonesia should give protection in intellectual property rights in accordance with provisions in the *Trade related aspects of Intellectual Property Rights* (TRIPS) as a separate agreement and is part of the covenant of the *General Agreement on Tariffs and Trade* (GATT).⁶

The protection of property rights in Indonesia is actually already exists in Article 570 KUH Civil Liability provide the basis for the protection of property rights including intellectual property rights. The provision is basically can give encouragement motivation for all parties in accordance with the expertise and kind to grow and development of mankind that creative and innovative, beside that can create community productivity so that they can encourage welfare levels.⁷

⁶ Ahmad M. Ramli, H.A.K.i *basis of the protection of the trade secrets*, Mandar Forward, Bandung, 2000, p.30 6.

⁷ Ahmad M. Ramli, *Intellectual Property Rights* :Theory basis of the protection of secrets, Bandung, 2000, p. 835). 10. See also by K ornar Kantaatmadja, Guarantee Institutions belong to the Indonesian Aircraft reviewed from the law of the air, 1995, p. 835). 95

However the article does not provide in detail what and how this protection must be done by both the government and the community of the intellectual property rights of the local community.

In the Article 47 paragraph (1) of Act No. 28 Years 2014 about copyright the license agreement in the disallow loading conditions that can cause harmful effects of Indonesian economy or load conditions that resulted in the business competition is unhealthy as set in the regulation perUndang-Undangan that apply.⁸

And the explanation above shows that in the holders license agreement or licensed owner (*licensor*) can make a covenant with the license recipients (*licensee*) about what is in accordance with the will of them based on the basis of unearned freedom. *Licensor* has the right to a monopoly and can prohibit, allow or redirect intellectual property rights based on the agreement to the third party.⁹

B. The Problem

Based on the background is outlined, the main problem in this article is how the obstacles in the registration process copyright the license agreement and how the benefits of registering the license agreement for the copyright holder QR code.

⁸ The book of Act civil law, Article 1337

⁹ Law Number 28 Year 2014About Copyright, Article 47 Paragraph (1).

C. The purpose of the Writing

Based on the subject, then the purpose of this writing is to know the obstacles in the registration process copyright the license agreement and how the benefits of registering the license agreement for the copyright holder QR code.

D. The method of Writing

In this writing the author uses the method of writing the law of the normative. According To Soerjono Soekanto and Sri Mamuji, legal research normative or also called legal research literature is : "legal research is done with how to examine library materials or secondary data alone."¹⁰ This means that the library is the substance that comes from the primary sources include : the book, research report, dissertation and etc. While the ingredients from secondary sources include : abstract, index, bibliography and so on.

The approach in this paper is conceptual approach (*conceptual approach*), namely depart from the views and the doctrines developed in the law science. The¹¹ technique of data collection in this writing the Qualitative analysis that mencobamemberikan images of (description) over the findings and therefore he preferring the quality of the data and not quantity.¹²

¹⁰ Salim, HS, et.al., *implementation of the theory of the Law on the thesis research and dissertation*, an eagle Trouser, Jakarta, 2014, p.30 12

¹¹ *Ibid.*, Salim HS, et.al., *Implementation ...* p.30 19

¹² *Ibid.*, Salim HS, et.al., *Implementation ...* p.30 19

E. The discussion

1. Copyright Registration Settings

Copyright Undang-Undanghak does not require a creator register his creation. Not Pandaftaran is mandatory. Without any registration copyright remains protected. Registration provides evidence the beginning of ownership rights for the creator. That are listed is the creator/Copyright holder. Registration of creation is not an obligation, means can be listed and can also not registered. Registration of creation is not to obtain Copyright, but merely matahanya to ease the vindication of the rights in the event of the dispute concerning the Copyright. When the creation of registers with the people who apply it is regarded as the creator, until there is proof that he is not a creator. Registration of creation does not contain the meaning as the legalization of contents, meaning or form of creation that registers, because the officials on duty to register is not responsible for the contents of the meaning of the form of the creation of listed. Registration officials is Copyright Office officials from the Directorate of patents and Copyright Directorate General of the Law and the legislation Depatemen judicial authority. Conditions of registration conditions include the registration fee and the basis of juan registration request in multigrade teaching two new, then officials announce it on an additional State News.

All creation that has been registered it has the strength of the registration law since the date the recipient petition registration. The strength of the law a creation registration delete because:

- a. The elimination of the petition people, the body of law that his name was recorded as the creator or copyright holder;
- b. Past time apply Copyright;
- c. Cancel stated by the decision of the court which has acquired the force of law remains.

The results of this study and this analysis shows that the registration copyright embraced deklaratif system. Dotted decline on the formulation of the problem and the aim of the research and approach that is used is with the normative legal research method, descriptive analytical mind with normative juridical approach. That I think to get the protection of the law and legal certainty and a complete data for each applicant to register the paper The incomparable then for that system of registration all embraced deklaratif system.

2. Implementation of the License Agreement in the field of Copyright

License grant in the field of intellectual property rights has and influential and influenced by various aspects. Some of them are quite dominant issue over its monopoly technology and business competition is unhealthy and problems in the field of dispute penyelesaian license grant.¹³

After experiencing the changes during the two times at the end of the copyright law in the replace with Act No. 28 The year 2014 about Copyright. The replacement of this rule brought changes copyright dispute which was formerly judged in court land now judged in court niaga. The commercial

¹³ Gunawan Widjaja, op cit, p.30 140

court as a special court judge matters of commerce including the copyright keadaannya thing is part of the court. In the Transactional Court judges also special judges who comes and judges who has experienced and obtain education in the field of the law of commerce, so that the control of intellectual property rights issues.

In this relationship is necessary to the understanding of the principles of the following license agreement implementation in two situation. In addition, with attention to international trends today, required also oriented study on the need for thought the harmonization of both the principles of freedom of unearned, but based on the reality that harmonization is a necessity.

The theories associated with protection issues and aspects of intellectual property rights is used to know justikasi against copyright protection against intellectual work but in the implementation of the implementation of copyright especially existing license in Act No. 28 The year 2014 about Copyright is part and intellectual property rights in general there are obstacles in its implementation. Intellectual Property Rights can usually be owned by a group of people who are well known. Many also the papers copyright found by chance and developed by a group of people in a long time even generations.

By Law Number 28 Year 2014 about Copyright in set about the license agreement contained in Article 45, Article 46, Article 47. The problem here is located on Article 47 paragraph (2), says "so that can have

legal consequences against the third party license agreement required noted at the Directorate General of".¹⁴

Intellectual Property has not been implemented due to several things: because not tersosialisainya Act No. 28 The year 2014 about Copyright with good to the community has not been a Presidential Decree about further provisions namely government regulations regarding the recording of the license agreement. And the lack of sanctions or fines that given to a person or body of law that does not record the license agreement at the Directorate General of Intellectual Property Rights. Of Law Number 19 Year 2002 about Copyright provide legal protection if the parties who held the license agreement does not record to the Directorate General of Intellectual Property Rights. Act No. 28 The year 2014 about Copyright can provide legal protection when all parties to follow the rules - rules that have been established. All of an Act made in Indonesia basically want to give order, order, justice and provide legal protection for the community. The license terms should not only limited in the national scope solely, but must be in the open opportunities in the widest sense throughout all corners of the world with how to conduct the socialization activities such as seminars, workshops and training so that the paper copyright Indonesia can Go International. For the legal certainty of license to other parties should be stipulated in the letter and noted in the Directorate General of Intellectual Property Rights¹⁵

¹⁴ Law Number 28 Year 2014 Copyright, Article 47 Paragraph (2)

¹⁵ OK, Saidin. H. *Op cit*, p.30 126

In the conduct of the license grant, parties must license warner[^]. know exactly how the legal protection of intellectual property rights in the field of copyright that developed in the country where the license agreement will be given. Not only until there only, in addition to the terms of the intellectual property rights, license warner also obliged to know exactly the various rule of law underlying base licensing, protection law enforcement that allows the establishment of intellectual property which is licensed by the optimum for all parties including the terms related to the settlement of disputes.

The problems faced by the license agreement for the recording of the Directorate General of Intellectual Property Rights so that attempted to found the way out with the repair perUndang-Undangan are considered to have a lot of weakness or does not meet the community sense of justice and not aspiring, by creating a new Act to be able to change the law which was considered to have a lot of weakness or does not meet the community sense of justice, perform an in-depth study by scientists and academics against the laws in the value of the problem, the discovery of the law by law enforcement agencies (Customs, Civil Servant Investigators, police, prosecutors, Judges) as law enforcement agencies.

The old Copyright act did not regulate about Information Technology and Computer (ICT) , then in this new Copyright Act regulating that copyright can be made the object of fiducia warrant, collective management institutions and the content copyright and related rights in the

information and communication technology (ICT). A special chapter about the content copyright and related rights in ICT (Article 54-56) in Act No. 28 The year 2014 answer delirium owners of copyright and related rights on the various activities in the internet that potentially violate their rights.

3. The awareness of the Law of Indonesian society about the License Agreement and Copyright Registration QR Code

As known that created something copyright work is not something easily done someone. Therefore, others are required to honor for example with how to :

- a. Not upgrading the copy-paste paper that is the logo(©/copyright)
- b. Do not use the paper for sale or personal interests
- c. Do not use the brand without the permission of the owner
- d. Buy cassette/CD original or mp3 original, or only see the clips on DVD or on YouTube.
- e. Do not enter the cheat in games or tamper with an application
- f. Do not take videos You Tubes without permission

This is a necessity that should not be overlooked so only. Other People certainly know a copyright work there must be a creator so that could not be conveniently said that as his works heads up imitating the creation bukan works. When will multiply there polite santunnya namely requested permission first to the owner with the license agreement. Should be for the creator has rights that arise over the creation and monitor against the paper copyright that uses his creation circulate in the community. The Creator

reserves the right to prohibit others who use his creation without permission with him, and reserves also indicates that the existence of a creator needed a recognition both by the public and the law.

Now the background is related to the field of the economy, because of something the creation is reproduced without permission his Creator and then sold to the community will benefit others who increases the creation is like getting royalty to wealth themselves, while the creator will feel wronged over that action because morally the name of the creator who sold and effortfully creator does not benefit and the creation of that copied other people.

The views of our society pada generally until now is different from the view of the Copyright Act, the community still look copyright as owned, while Act respect copyright as belonging to an individual. The difference this view which is one of the reasons for the breach of copyright in the community of Indonesian Society actually have long been know copyright, already and the age of our fathers before the coming of the colonialists. Copyright which applies according to customary law because our society that time including the community of customary law.

In the creation of required interference with the purpose of invoked to menyeimbangkan between the interests of the creator with the interests of the people and also the interests of the country itself. As it is known that the creator has the right to control the society in announced and increases his creation, on the other hand the society can use the creation of officially and

avoid the circulation of pirated goods, while the significance of the country can maintain the smooth and the safety of the public in the field of creation.

4. Obstacles to the protection of the Law for the holders of the license and Copyright Registration in Indonesia

With the introduction of Law Number 28 Year 2014 about Copyright, Indonesia device has a national invitation legislation in accordance with its international obligations and stronger legal basis for the protection of the law enforcement of intellectual property rights in Indonesia. However, it is undeniable that until today the enforcement of copyright law still facing obstacles that enough weight. There are several causes that happens, namely:

- a. Still the lack of culture or the ethics of the people of Indonesia to want to appreciate the creation of man.
- b. Less public understanding and law enforcement agencies about the meaning and function of copyright;
- c. The lack of the function of the prevention and the old Copyright Act.

The causes are still supplemented with other causes of the lack of coordination between the law enforcers Police, Attorney, judges, customs agencies and other related agencies that worked on the question of strategy and implementation of copyright law enforcement. The causes are still supplemented with other causes of the lack of coordination between the law enforcers Police, Attorney, judges, customs agencies and other related

agencies that worked on the question of strategy and implementation of copyright law enforcement.

As happened in other countries, all participants in the countries of the *World Trade Organization* would refer to important questions about the enforcement of intellectual property rights in general and copyright in particular on the approval of the *Trade Related Aspects of Intellectual Property Rights* (TRIPs). About the law enforcement *Trade Related Aspects of Intellectual Property Rights* (TRIPS) set on the part (part) HI, Article 41 until with Article 61. A brief discussion will be done specifically about law enforcement in the field of copyright, which refers to some of the terms and the *Trade Related Aspects of Intellectual Property Rights* (TRIPs) that its application has been found in the Act No. 28 The year 2014 about Copyright.

In fact, the institutions of law enforcement in Indonesia, such as the Directorate General of Intellectual Property Rights, judgment, Police, Attorney and Customs in Indonesia have their own jurisdictions itself and the authority that is needed in the case of intellectual property rights protection. But on the other side is a fact that each jurisdiction owned and the authority given to these institutions is limited by the scope and the purpose of the authority that is given on the institutions so that the effectiveness of the existing regulations less than optimal because of the lack of coordination between government agencies one with the other agencies. In other words, for example the case of the complex copyright

infringement or the entry of goods pirated or counterfeit require assistance and cooperation that fast and precise and related institutions.

QR Code (*Quick Response Code*) or QR code is a matrix code type or two-dimensional barcode that developed on a division Denso Corporation, Denso Wave. Denso Corporation is one of the companies in Japan in publish in 1994, and QR code itself is often used in Japan.

Initially the QR code is used for vehicle tracking *manufacture*. But now generally QR code is used to instill information site address or URL of a company. In Indonesia itself QR code was first introduced by Kompas.¹⁶

QR code itself has got international standardization organization and also the standardization of Japan in the form of ISO/IEC 18004 and JIS-X-0510 and has already been used on a large scale through the blackberry. Specifically, QR code is able to save the data type of numeric until with 7.089 , character alphanumeric data to 4.296 characters, binary code to 2.844 bytes, and kanji until with 1.817 characters.

QR code can be translated in brief and quickly with only using the camera handphone that has been available in the smart phone is now. Code QR QR code or function as hipertaut that can save the site address or URL, phone number, SMS and also the text that can be used in magazines and newspapers, books, cards and also other media. In other words as quickly pengubung online content and content luring.

¹⁶ <https://www.prepressure.com/library/technology/qr-code>, Accessed 04 December 2017

F. The cover

a. Conclusion

- a. In the intellectual property rights in the License Agreement contained therein is prohibited from loading conditions that cause adverse the Indonesian economy and cause unhealthy competition in the competition license. It provides a basic conception of the consequences to the creator or copyright holder to exploiting it and copyright license is a license that gave birth to the covenant and according to Act No. 28 The year 2014 About Copyright, explained that copyright licenses not in a register to the copyright office of the directorate general of intellectual property rights and does not bind to the third party, means does not have the force of law. This kontrakdiksi with freedom of contract that is regulated in the Act on civil law.
- b. This agreement as well as function as evidence of the giving of the permissions and license grant to the recipient of license using QR code in order to get the legal protection and legal certainty must register with the results of copyright of the directorate general of intellectual property rights and the state have a complete data each petitioner copyright who have registered paper incomparable.

b. Suggestions

- a. Should the creator register paper incomparable to the Directorate General of Intellectual Property Rights in order to get the legal protection and legal certainty according to Act No. 28 The year 2014

about Copyright and easy to prove in the court when there is a problem of the law. When the breach of the holders of the creation, then immediately reported to law enforcement agencies.

- b. Unearned freedom should be applied in the Act No. 28 The year 2014 About Copyright especially in the license agreement copyright QR code, so that the party who held the license agreement copyright given freedom. In the covenant/contract between the creator and the copyright holder needs to be listed the rights of the elect of the law and the solutions that will be taken if later on the day of the problem occurs.

G. A list of the Library

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