

Analysis Juridical to Playback Movie Protection Drive-in by Meikarta Based on Copyright Law

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| Article | Abstract |
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| <p>How to cite: Elisabet Mariyani & Yuli Dinata Kusumaningrum, 'Analysis Juridical to Playback Movie Protection Drive-in by Meikarta Based on Copyright Law' (2022) Vol. 3 No. 3 Rechtenstudent Journal Sharia Faculty of KH Achmad Siddiq Jember State Islamic University.</p> <p>DOI: 10.35719/rch.v3i3.190</p> <p>Article History: Submitted: 15/07/2022 Reviewed: 02/09/2022 Revised: 21/12/2022 Accepted: 22/12/2022</p> <p>ISSN: 2723-0406 (printed) E-ISSN: 2775-5304 (online)</p> | <p>Intellectual Property Rights are creations or works originating from human ideas. Copyright is one of the rights protected by Intellectual Property Rights. Copyright protects several forms of work, one of which is film. Several months ago Meikarta held a <i>drive-in event</i>. <i>Drive-in</i> is the activity of watching movies via car. <i>Drive-in</i> is not strictly regulated in Law Number 28 of 2014 concerning Copyright. Therefore the author is interested in writing a paper entitled Main problems in this writing into two, namely; How is the arrangement for drive-in screening of films based on Law Number 28 of 2014 concerning Copyright, and Did Meikarta commit any violations in carrying out drive-in screening of films as regulated in Law Number 28 of 2014 concerning Copyright. This study uses normative research methods with qualitative data analysis. The results of the study illustrate that the <i>drive-in</i> method of film screening arrangements is permissible however still has to ask permission from the Copyright Holder or Creator. And must still pay attention to the provisions of Law Number 28 of 2014 concerning Copyright. Meikarta has violated Article 9 paragraph (2) and (3), as well as Article 113 of Law Number 28 of 2014 concerning Copyright.</p> <p>Keywords: <i>Film Protection, Meikarta, Copyright.</i></p> <p>Abstrak</p> <p>Hak Kekayaan Intelektual adalah suatu ciptaan atau karya yang berasal dari ide pikir manusia. Hak Cipta merupakan salah satu hak yang dilindungi oleh Hak Kekayaan Intelektual. Hak cipta melindungi beberapa bentuk karya salah satunya film. Beberapa bulan lalu Meikarta menyelenggarakan acara <i>drive-in</i>. <i>Drive-in</i> adalah kegiatan menonton bioskop melalui mobil. <i>Drive-in</i> tidak diatur secara tegas dalam Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta. Oleh karena itu Penulis tertarik untuk membuat karya tulis berjudul Pokok permasalahan pada penelitian ini menjadi dua, yaitu; Bagaimana pengaturan pemutaran film secara drive-in berdasarkan UU Nomor 28 Tahun 2014 tentang Hak Cipta, dan Apakah Meikarta melakukan pelanggaran dalam melakukan pemutaran film secara drive-in sebagaimana diatur dalam Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta. Pada Penelitian ini menggunakan metode penelitian normatif dengan analisis data kualitatif. Hasil penelitian menggambarkan pengaturan pemutaran film dengan metode <i>drive-in</i> diperbolehkan namun tetap harus meminta izin kepada pihak Pemegang Hak Cipta atau Pencipta. Serta harus tetap memperhatikan ketentuan Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta. Pihak Meikarta telah melanggar Pasal 9 ayat (2) dan (3), serta Pasal 113 Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta.</p> <p>Kata Kunci: <i>Perlindungan Film, Meikarta, Hak Cipta.</i></p> |

Introduction

In the era of globalization, things will continue to develop, such as products in the field of technology and information.¹ Where technology is a means to facilitate the field of education, entertainment, and others. Technology can also be a means of developing intellectual property rights that we usually encounter, see, and hear in everyday life, such as logos, brands, songs, films, technology, and others.² This makes everyone feel familiar with matters related to Intellectual Property Rights. Intellectual Property Rights are a direct translation of *intellectual property rights*, *intangible property*, *creative property*, and *incorporeal property*. Intellectual Property Rights refer to creations of the mind in the form of inventions, literature, works of art, symbols, names, images, and designs used in commerce.³ Intellectual property right is a right to do something on intellectual property from the thoughts of someone who is usually called the creator, and that right is regulated by the norms or rules of law that apply.⁴

Intellectual Property Rights are material rights, rights to objects originating from the results of a person's thoughts, as well as the results of rational work where the results of reasoning human reasoning work are in the form of immaterial values in the form of reason, feelings, and senses.⁵ Intellectual Property Rights (IPR) are rights that arise from the results of a human mindset that produces a product or process that is useful for humans. In Indonesia, there are 2 types of IPR protected by communal and personal, namely:

1. IPR that is communal in nature is given to a group of people who live in a certain area, including:
 - a. Community traditional knowledge (*traditional knowledge*);
 - b. Traditional cultural expressions (*folklore*);
 - c. geographic indication (*geographical indication*); and
 - d. Biodiversity (*biodiversity*).
2. Personal IPR, which is given to individuals who produce intellectual work, which includes:
 - a. Copyright (*copyright*);
 - b. Patent (*patent*);
 - c. Brand (*trademark*);
 - d. Industrial Design (*industrial design*);
 - e. Integrated circuit layout design (*layout design of integrated circuit*);
 - f. trade secret (*tradesecret*); and
 - g. Protection of new plant varieties (*new variety of plant*).⁶

Copyright is a very broad field of IPR, in which copyright is protected by exclusive rights which have two rights, namely economic rights and moral rights. Copyright consists of several types, namely:

¹ Logos Mardalena Hanifah, " Perlindungan Hukum terhadap Hak Cipta Hasil Tenun Songket Melayu Menurut Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta", *Journal of Legal Sciences* , Vol. 5, No. 2, (2015), 14.

² Indriani, I., " Hak Kekayaan Intelektual: Perlindungan Hukum Terhadap Hak Cipta Karya Musik ", *Journal Ilmu Hukum*, University of Pamulang , Vol. 7 No. 2, (2018), 247.

³ Muhammad Djumhana and R. Djubaedillah, *Hak Milik Intelektual* (Bandung: Citra Aditya Bakti, 2014), 17.

⁴ Adrian Sutedi, *Hak Kekayaan Intelektual* (Jakarta: Citra Aditya Bakti, 2009), 38.

⁵ H.OK. Saidin, *Aspek Hukum Hak Kekayaan Intelektual (Intellectual Property Rights)* (Jakarta: PT.Raja Grafindo Persada, 2004), 9.

⁶ Baskoro Surya Banindro, *Implementasi Hak Kekayaan Intelektual* (Yogyakarta: Quantum, 2015), 1.

- a. Artwork (Batik art, fine art in all forms such as painting, drawing, carving, calligraphy, sculpture, sculpture, collage, and applied art, etc.);
- b. Literature (Books, computer programs, pamphlets, *layouts* of published written works, and all other written works); and
- c. Creation results in the field of science (Architecture, teaching aids made for the benefit of education and science).⁷

As times progress, more and more people want to produce works such as; songs, poetry, films, photography, and more. Those things created by the creator can be protected by rights and get economic rights. Copyright is the exclusive right of the creator that arises automatically based on the declarative principle after creation is realized in a tangible form without reducing restrictions in accordance with statutory provisions.⁸ Right Create in the digital realm has characteristics typical alone in problem protection law because of matter the based technology.⁹ Special arrangements regarding Copyright in Indonesia are regulated in Law Number 28 of 2014 concerning Copyright (UUHC). This law applies as a form of proof or regulation in which the Indonesian state recognizes and carries out legal protection of Intellectual Property Rights related to copyright in Indonesia.¹⁰ Besides that matter this also applies in a manner international with ratifying *WIPO Copyright Treaty* as base law in protection.¹¹

Discussing Intellectual Property Rights, of course, each creation cannot be separated from the creator, because the creator is someone who is behind the creation of these creations. Someone will be called a creator if he has materialized his ideas or ideas into a form of real work such as; poetry, movies, songs, and more.¹² By having disclosed the real work, the creator can obtain exclusive rights regarding his creation. As regulated in Law Number 28 of 2014 concerning Copyright, regulates what things can be protected by copyright, such as works of art, literature, and creations in the field of science. Of the three fields, each has many types in everyday life as explained above and these three fields have regulations regarding copyright. There are several types of works that are not clearly and loudly stated in the Copyright Law which are already included in the meaning or interpretation of the articles regulated in the law.¹³

In this age of technological development, everyone can quickly find ideas and references easily through print media such as books or magazines and electronic media such as the internet. The more rapid the development of technology, one will continue to look for ideas without limits and find something that can be created and the results of these creations can be

⁷ Sujana Donandi, *Hukum Hak Kekayaan Intelektual di Indonesia* (Yogyakarta: Deepublish, 2019), 12.

⁸ Law Number 28 of 2014 concerning Copyright, Article 1 number 1.

⁹ Regent, "Pelanggaran Hak Cipta Sinematografi Di Indonesia: Kajian Hukum Perspektif Bern Convention Dan Undang-Undang Hak Cipta", *Indonesia Law Reform Journal*, Vol. 1, No. March 1, (2021), 112.

¹⁰ Tiara Arfiana, "Tinjauan Yuridis Pelanggar Hak Cipta Atas Film Melalui Aplikasi Media Sosial", *JOM Faculty of Law, University of Riau*, Volume VI No 2 July-December (2019), 2.

¹¹ Abdul Atsar, "Perlindungan Hukum Terhadap Pengetahuan Dan Ekspresi Budaya Tradisional Untuk Meningkatkan Kesejahteraan Masyarakat Ditinjau Dari Undang-Undang No. 5 Tahun 2017 Tentang Pemajuan Kebudayaan Dan Undang-Undang No. 28 Tahun 2014 Tentang Hak Cipta", *Journal of Law Reform Master of Law Study Program 13*, no. 2, (2017), 284.

¹² Senewe, EVT, "Efektivitas Pengaturan Hukum Hak Cipta dalam Melindungi Karya Seni Tradisional Daerah", *Jurnal LPPM Bidang EkoSosBudKum*, Vol. 2 No. 2, (2015), 12.

¹³ Nur Khaliq Khussamad Noor, et al, "Perlindungan Hukum Hak Cipta Atas Film Layar Lebar Yang Di[publikasi Melalui Media Sosial Tanpa Izin", *Riau Law Journal*, Vol. 3, Number 1, May (2019), 125.

distributed or expressed using social media which will spread to the world very quickly. The increasing number of creations that have been created by many people at this time did not pay attention to the Copyright Law and did not pay attention to the rights that the creator should have, such as moral rights and economic rights. Which can be detrimental to the creator because the creation is used, displayed, and imitated without asking permission or including the name of the creator.¹⁴

According to Article 4 of the Copyright Law No. 28 of 2014, *"a creator who holds a copyright has exclusive rights which consist of moral rights and economic rights."* Moral rights as explained in Article 5 UUHC are rights that are eternally attached to the creator to include the creator's name if another party uses the creator's work. As for economic rights as stated in Article 8 UUHC *"economic rights are the exclusive right of the creator to obtain economic benefits from his creations."* Where the creator has the right to announce, reveal, show, and develop his creation, where his creations can be sold or rented to other parties who want to use, demonstrate, and develop his creations. Therefore, if someone does these things without asking permission from the creator, then that person is considered to have committed a violation of copyright, where that person can be subject to sanctions.¹⁵ Besides that could be done by blocking and closing to uploading account without permission.¹⁶

One of the works that is currently being shown, enjoyed, and loved by everyone, from young people to adults, is film. The definition of film according to Effendi is the product of culture and means of artistic expression. Film as mass communication is a combination of various technologies such as photography and sound recording, art, both visual arts and theatrical arts, literature and architecture, and music.¹⁷ The definition of film according to KBBI is a thin membrane made of celluloid to place negative images (which will be made portraits) or to place positive images (which will be played in theaters).¹⁸ Each film has a director and producer who are experts and have experience in leading and being responsible for filmmaking so that the film achieves success and is in demand by many people. The first film was made without sound and was made in 1895 entitled "Sortie de l'usine Lumiere de Lyon" which means employees return from the Lumiere factory in Lyon, and this film was shown to the people of Paris on December 28, 1895 and the film received great enthusiasm. high from society.¹⁹

As the times progressed, more and more films were created and everyone was enthusiastic in watching every new film that was released/created. The growing era of entertainment facilities requires one of them by watching films through electronic media such as; televisions, *cell phones*, laptops and computers. However, due to the increasingly sophisticated times, more and more people do not respect someone's creation by not heeding

¹⁴ Paserangi, H. "Perlindungan Hukum Hak Cipta Software Program Komputer di Indonesia", Journal Hukum, Vol. 18, no. (2011), 21.

¹⁵ Stefano, DA, "Perlindungan Hukum Pemegang Hak Cipta Film Terhadap Pelanggaran Hak Cipta yang Dilakukan Situs Penyedia Layanan Film Streaming Gratis di Internet (Menurut Undang-Undang Nomor 28 Tahun 2014 Tahun 2014 tentang Hak Cipta)", Diponegoro Law Journal, Vol. 5, No 3, (2016), 2.

¹⁶ Ayup Suran Ningsih and Balqis Hediati Maharani, "Penegakan Hukum Hak Cipta Terhadap Pembajakan Film Secara Daring", Journal of Meta-Yuridis 2, No. 1, (2019), 13-32.

¹⁷ <https://www.seputraknowledge.co.id/2017/10/pengertian-film-history-function-tipe-tipe-element.html> accessed on August 29, 2022.

¹⁸ <https://kbbi.kemdikbud.go.id/entri/film> accessed on June 29, 2022.

¹⁹ <https://www.keeindonesia.com/blogs/keelesson/History-film#:~:text=Dari%20there%20Muncul%20era%20cinematography.from%20factory%20Lumiere%20di%20Lyon> Retrieved October 4, 2022

the creator's exclusive rights. Where film copyrights are often violated by many people, for example, film piracy via the internet, *drive-in*, and cassettes.

Some time ago one of the places provided *drive-in cinema facilities* during the Covid-19 pandemic to prevent the spread of the corona virus by heeding the health protocols that had been issued by the Government. *Drive-in cinema* is watching movies like in a cinema but in a parked car in accordance with the place provided by the *drive-in facility provider*, where the film is shown on 1 big screen and the sound is heard via the radio channel provided. This *drive-in cinema* is located in District 1 Meikarta, where visitors must buy one of the food/drinks provided on the menu without having to pay for a ticket to watch the film being shown. The *drive-in cinema* in Meikarta is alleged to have violated copyright because Meikarta showed the film without asking permission from the party who created the film it was playing. Very many films were screened by Meikarta which harmed many film creators, one of which was Starvision, where several Starvision films were screened, one of the films was "Susah Sinyal". Where in this case Meikarta is said to have committed film piracy because it did not heed the rights of the creator.

As stipulated in Article 25 paragraph (3) of the Copyright Law Number 28 of 2014 concerning Copyright that "*everyone is prohibited from distributing films without a permit for commercial purposes on the content of Broadcasting Institutions' broadcast works*".²⁰ Therefore, it is clearly proven that Meikarta has committed an offense because it violated Article 25 paragraph (3) of the Copyright Law Number 28 of 2014 concerning Copyright. An act such as piracy and distributing a film without the permission of the creator is considered a violation because this right is protected by applicable regulations and has been used as a guideline for copyright protection. Therefore, these actions can be prosecuted by the creator and those who violate them can be subject to applicable sanctions.

Problem Issues

The issues raised as the subject matter are as follows:

1. How playback movie protection drive-in screening of films based on Law Number 28 of 2014 concerning Copyright?
2. How Meikarta commit a violation in conducting drive-in screening of films as stipulated in Law Number 28 of 2014 concerning Copyright?

Research Methods

Approach study this is approach normative, that is research conducted in a manner focus researching materials library related laws with application rules or norms in law positive. and further, look in a manner objective through provisions applicable laws.²¹ Inside study normative this Writer do study law about *drive-in* based on Constitution Number 28 of 2014 concerning Copyright. And will use support data with a method do interview the party concerned, that is party Directorate General Riches Intellectuals and Starvation.

²⁰ Law Number 28 of 2014 concerning Copyright, Article 25 paragraph (3)

²¹ Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif*, (Malang: Bayumedia Publishing, 2006), 295.

Result and Discussion

Arrangement Drive-in Playback by Constitution Number 28 of 2014 concerning Copyright Law

Copyright is born and arises from the results of human thinking in the fields of science, art and literature.²² Law Number 28 of 2014 concerning Copyright on 16 October 2014 which was placed in the State Gazette of the Republic of Indonesia of 2014 Number 266 in the explanation of Law Number 28 of 2014 concerning Copyright placed in the Supplement to the State Gazette of the Republic of Indonesia Number 5599 ratified by the President Dr. H. Susilo Bambang Yudhoyono and promulgated by Former Minister of Law and Human Rights Amir Syamsudin.²³

Where Law Number 28 of 2014 concerning Copyright aims to provide the maximum possible service in the field of copyright protection, where the rapid development of technology makes it easier to commit copyright infringement. Law Number 28 of 2014 also aims to encourage new creativity/innovation, transfer and spread of science and technology, provide economic benefits, and create social and economic welfare as well as a balance of rights and obligations.²⁴

Therefore, every creator is given protection by Law Number 28 of 2014 concerning Copyright for his work by registering or not registering. The matter regarding recording of works is not a requirement for obtaining copyright and related rights is regulated in Article 64 paragraph (2) of Law Number 28 of 2014 which states "*Recording of Works and Related Rights products as referred to in paragraph (1) is not a requirement for obtaining Copyrights*". *Copyright and Related Rights*".²⁵ Copyright registration occurs the first time the creation is made available and then to the public and when an announcement has taken place, the creator gets legal certainty in the form of protection for a creation for the copyright holder.

When making an announcement to the general public, the creator directly has legal protection under the auspices of Law Number 28 of 2014 concerning Copyright. For example, Ariel Noah wrote a song, then the song was sung when he held a concert in Ancol, so Ariel Noah is directly recognized as the creator of the song and Ariel Noah is the copyright holder as well as moral rights to the song. As another example, Mr. Chand Parwez Servia wrote a script, and the script was made into a film, then the film was broadcast in theaters or television²⁶, so Mr. Chand Parwez Servia directly received copyright protection for the film. In this case, it explains that a creator will be protected by his creation when he first manifests the creation. Authors can create in such a way, but this can result in the elimination of the legal power of recording creations and related products as explained in Article 74 paragraph (1) of Law Number 28 of 2014 concerning Copyright, namely:

- a. *"the request of the person or legal entity whose name is recorded as Creator, Holder Right Create , or owner Right Related ;*

²² Khwarizmi Maulana Simatupang, "Tinjauan Yuridis Perlindungan Hak Cipta Dalam Ranah Digital" Jurnal Kebijakan Hukum Balitbang HAM RI Vol. 15 No. 1 March (2021), 68.

²³ [Law 28 of 2014 concerning Copyright | Jogloabang](#)

²⁴ Elisabert Nurhaini Butarbutar, *Hukum Harta Kekayaan Menurut Sistematika KUHPerdata dan Perkembangannya* (Bandung: Refika Aditama, 2010), 53.

²⁵ Law Number 28 of 2014 concerning Copyright, Article 64 paragraph (2)

²⁶ Budi, HS, " I La Galigo: Simulasi Sebuah Kebijakan Eksploitasi Public Domain yang Diabaikan", Indonesian Journal of Performing Arts , Vol 8, (2005), 19.

- b. *past time as meant in Article 58, Article 59, Article 60 paragraph (2) and paragraph (3), and Article 61;*
- c. *decision court that has obtained strength law permanent about cancellation recording Creation or product Right Related; or*
- d. *violate religious norms, norms morality, order general, state defense and security, or regulation legislation to abolish it by the Minister.*"²⁷

A work is protected by exclusive rights in which the exclusive rights themselves consist of moral rights and economic rights. An exclusive right is an exclusive right for the creator or recipient of the right to announce or reproduce his work or give permission for it without reducing the restrictions according to the applicable laws and regulations.²⁸ What is meant by creation is a work resulting from someone's thoughts in the form of science, art, or literature. Which moral rights are rights that are eternally attached to the creator as stipulated in Article 5 of Law Number 28 of 2014 concerning Copyright where these moral rights cannot be transferred as long as the creator is still alive and transferred by will or other reasons. Moral rights are rights inherent in the creator or performer that cannot be removed or deleted without any reason, even though the copyright or related rights have been transferred. Where to protect these moral rights is regulated in Article 6 that *"To protect moral rights as referred to in Article 5 paragraph (1), the Creator can have:*

- a. *information management Right Copyright; and/ or*
- b. *information electronic Right Create ."*²⁹

Meanwhile, economic rights are rights that cover reproduction, adaptation, distribution and communication rights (broadcasting, cabling and public performances).³⁰ On this occasion the author will discuss more deeply about copyright in the field of film. Where the film is the same as other creations that have exclusive rights, namely moral rights and economic rights. Film is one of the forms of entertainment that is in great demand by many people because film is an entertainment that is quite easy to find everywhere, such as television, cinema, cellphones and other media.³¹

Where in a film there are several roles, whose rights are protected by Law Number 28 of 2014 concerning Copyright. Where each role is protected by related rights where these related rights are economic rights and moral rights. The roles that are protected by law are film actors, phonogram producers, and broadcasting institutions. Which performers referred to in Article 1 paragraph (6) are "Performers are a person or several people who individually or jointly display and demonstrate a work".³² Film actors or so-called performers are protected by economic rights and moral rights. Phonogram Producer as explained in Article 1 paragraph (7) is "Phonogram Producer is a person or legal entity who first records and has the responsibility to carry out sound recording or sound recording, both performance recording and sound recording or other sounds".³³ Meanwhile, broadcasting institutions as regulated in

²⁷ Constitution Number 28 of 2014 concerning Right Copyright, Article 74 paragraph (1)

²⁸ Agus Sardjono, *Hak Cipta Dalam Desain Grafis* (Jakarta: FDGI, 2008), 7.

²⁹ Law Number 28 of 2014 concerning Copyright, Article 6

³⁰ Hendra Tanu Atmadja, Thesis: "Konsep Hak Ekonomi dan Hak Moral Pencipta Menurut Sistem *Civil Law* dan *Common Law*". Law Journal. Vol. 10 No. 23, May (2003), 154.

³¹ Robert P. Merges, "Locke for The Masses: Property Rights and The Products of Collective Creativity" *Hofstra Law Review*, (2008), 234.

³² Law Number 28 of 2014 concerning Copyright, Article 1 paragraph (6)

³³ Article 1 paragraph (7)

Article 1 paragraph (8) namely "Broadcasting Institutions are broadcasting operators, both public broadcasting institutions, private broadcasting institutions, community broadcasting institutions and subscription broadcasting institutions which carry out their duties, functions, and responsibilities in accordance with the provisions of the regulations the legislation".³⁴ Phonogram producers and broadcasters are protected by economic rights. Broadcasting Institutions are protected by Law Number 28 of 2014 regulated in Article 25 paragraph 3 which explains that "Everyone is prohibited from distributing without permission for commercial purposes the content of Broadcasting Institutions' broadcast works".³⁵ Which every drive-in organizer must ask permission from the Copyright Holder or the Creator to show the film.

In the case of a film, the exclusive rights regulated by Law Number 28 are held by the broadcasting institution which lasts for 20 years since the first time the film was shown. As explained in Article 1 paragraph (8) of the Copyright Law Number 28 of 2014 regarding Broadcasting Institutions, they are broadcasting operators, which in carrying out their duties, functions and responsibilities are in accordance with the provisions of laws and regulations. Which in a film there are related rights granted to several actors as explained in Article 20 of Law Number 28 of 2014 concerning Copyright, namely; the moral rights of the Performers; the economic rights of Performers; the Phonogram Producer's economic rights; and economic rights of Broadcasting Institutions. As stated in Article 21 to Article 25 of Law Number 28 of 2014 concerning Copyright that the moral rights of performers are attached to performers and cannot be removed and performers, phonogram producers and broadcasting institutions have economic rights that can exercise their own, provide permission, or prohibiting other parties from performing. Therefore, each party in a film is protected by Law Number 28 of 2014 concerning Copyright.

The development of technology, technology abuse is often carried out in the field of film. In the field of film, there are several copyright infringements, namely violations such as duplication, announcements, piracy, plagiarism, and so on. As stated in the Big Indonesian Dictionary, duplication is the process, method, act of duplicating.³⁶ Whereas in Article 1 paragraph (12) of Law number 28 of 2014 concerning Copyright explains the meaning of duplication, namely "Reproduction is the process, act, or method of duplicating one or more copies of Works and/or phonograms in any way and in any form, permanent or temporary".³⁷ Announcement according to Finoza is "a letter whose contents inform the intended person and which needs to be known by anyone who has an interest in the contents of the announcement".³⁸ While the announcement as stipulated in Article 1 paragraph (11) of Law Number 28 of 2014 concerning Copyright, namely "Announcement is the reading, broadcasting, exhibition of a creation using any means, whether electronic or non-electronic, or doing it in any way so that a creation others can read, hear, or see".³⁹ Piracy as explained in the Big Indonesian Dictionary is the unauthorized copying, distribution or use of software.⁴⁰

³⁴ Article 1 paragraph (8)

³⁵ *Ibid*, Article 25 paragraph (3)

³⁶ Search [Results - KBBI Online \(kemdikbud.go.id\)](https://kbbi.kemdikbud.go.id/)

³⁷ Law Number 28 of 2014 concerning Copyright, Article 1 paragraph (12)

³⁸ [Definition of Announcement: Characteristics, Elements, Methods, Types & Examples \(materi.co.id\)](https://materi.co.id/) accessed on June 13, 2022.

³⁹ Law Number 28 of 2014 concerning Copyright, Article 1 paragraph (11)

⁴⁰ Search [Results - KBBI Online \(kemdikbud.go.id\)](https://kbbi.kemdikbud.go.id/)

Piracy, or what is called Piracy, is the illegal copying or distribution of or violating the law on copyrighted objects that are protected by law.⁴¹ According to Soelistyo, plagiarism or plagiarism can be classified into several types, forms, and types, namely:

1. Plagiarism of Ideas. Type plagiarism this relatively difficult proven for ideas or idea characteristic abstract and possibly have equality with other people's ideas. Or, there is a possibility occur exists the same two ideas on two different creators.
2. Word for word plagiarism (Word for word plagiarism). Type this similar with slavish copy, i.e. quote the work of others word for word without mention the source. Plagiarism considered occur because scale the citation is very substantial so that whole idea or idea writing truly taken. Plagiarism like this many done on works write.
3. Plagiarism Source (Plagiarism of Source). Plagiarism type this have fatal mistake because no mention in a manner completes completely referred reference in quote. If source quote that refer somebody as related authors with quote, then name writer they must participate as well as called. This of course fair and not harm interest writer the as well as contributors other.
4. Plagiarism Authorship (Plagiarism of Authorship). Write a creation written by someone else. this action occurs on base conscious and intentional motives for lie public. For example, replace cover book or cover creation wrote others with the cover on his name without permission.⁴²

In this case, reproduction, announcement, piracy, plagiarism, and so on are prohibited in Law Number 28 of 2014 concerning Copyright. There are several limitations on copyright as regulated in Article 43 to Article 51 of the Copyright Law Number 28 of 2014 concerning Copyright. Where in the article it is explained explicitly and clearly regarding the limitations that are not considered copyright infringement. If there is a copyright infringement, the party who commits the violation is subject to sanctions that apply based on what has been adjusted in Law Number 28 of 2014 concerning Copyright.⁴³ In this case copyright infringement occurs when someone gets economic results in selling someone's goods or works of art. Copyright does not need to be registered because the copyright itself was born at the time the creation was realized which led to widespread copyright infringement, if copyright infringement occurs, the creator can report to the Directorate General of Intellectual Property by bringing and explaining evidence that the work it is his creation. In this way, the moral rights listed in a work are replaced by the name of the fake creator with the original creator. Those who make confessions can be complained about and sued based on applicable laws, while the rights to the creations are directly transferred to the original creators, and the original creators can directly enjoy and have exclusive rights consisting of moral rights and economic rights to their creations.

There are several methods for broadcasting films, such as television, the internet, cellphones, cinemas, and so on. On this occasion, the author will explore film broadcasting using the drive-in method. Drive-in is an activity to watch a step-by-step screen like a cinema but the audience is in the car, and the car will be parked regularly so that all art connoisseurs can watch the film which will be shown in a liquid crystal display with the reflection from the

⁴¹ Nahrowi; Plagiarism and Piracy of Copyright in Intellectual Property Rights , 230.

⁴² Definition, Types and Identification of Plagiarism - KajianPustaka.com accessed on June 13, 2022.

⁴³ Kusno, H., "Perlindungan Hukum Hak Cipta Terhadap Pencipta Lagu Yang Diunduh Melalui Internet", Journal of Fiat Justisia, University of Lampung ., Vol. 10 No. 3, 491-492.

projector. Where the drive-in was first introduced in Uncle Sam's country where it was invented around the 1910s which was first patented in 1933 by Richard Hollingshead in the state of New Jersey. Richard's idea came when he saw his mother struggling to sit comfortably in a conventional cinema chair, then tried using a projector mounted on the hood of his car and spreading a screen between two trees, and placing a radio behind the screen to produce sound. He also conducted trials showing films when it rained or other weather conditions and set the ideal number of cars that could be accommodated so that viewers could watch films without interruption.⁴⁴

Where is the opportunity this time the author will discuss about arrangements regarding movie screenings using the drive-in method? Drive-in is not strictly regulated in Law Number 28 of 2014 concerning Copyright. Which after I conducted an interview with one of the parties in the Directorate General of Intellectual Property, namely Mr. Agung Damarsasongko as the Head of the Sub Directorate of Legal Services, Directorate of Copyright and Industrial Design, Directorate General of Intellectual Property, stated that a drive-in is just a medium for screening films. Which we do not focus entirely on drive-in media, but instead focus on the economic rights that exist in implementing this method. Mr. Agung Damarsasongko asked to review Article 8 of Law Number 28 of 2014 concerning Copyright, namely "Economic rights are the exclusive right of the Author or Copyright Holder to obtain economic benefits from Works".⁴⁵ And he also asked to review Article 9 paragraphs (2) and (3) of Law Number 28 of 2014 concerning Copyright, namely "Every person who exercises economic rights as referred to in paragraph (1) must obtain permission from the Author or Copyright Holder"⁴⁶ and "Every person without the permission of the Author or Copyright Holder is prohibited from Reproduction and/or Commercial Use of Works".⁴⁷ Article 9 paragraph (2) contains the words economic and commercial utilization, which can be commercialized directly or indirectly.

In this case, drive-in screening of films still requires permission from the party holding the copyright to the film. Copyright infringement is always associated with commercial action. What is said to be of economic value in this case is buying tickets to enjoy movies with the drive-in method or buying food, drinks, or goods traded around the drive-in, where the organizers get economic benefits from the sales of food, drinks, or goods around the screening area with drive-in media. In this case there is also what is called a commercial scale, in which the commercial scale is the benefits that the organizers get from the results of holding the event. For example, someone creates content with Instagram media that generates quite a lot of viewers and then some sellers carry out promotions by sending their selling items to people who broadcast live via Instagram and pay that person for promoting their sales, this is considered a commercial scale that gets indirect economic rights. In this case what is meant by content in the Big Indonesian Dictionary is information available through electronic media or products.⁴⁸

If the screening of films carried out using the drive-in method is a film that was produced or announced for the first time in 30 or 50, where the film has become a public domain or the protection period has expired, then the drive-in organizer does not need to ask

⁴⁴ <https://internasional.kompas.com/read/2018/06/06/13474291/hari-ini-dalam-history-bioskop-drive-in-pertama-dibuka?page=all> accessed June 30 2022.

⁴⁵ Law Number 28 of 2014 concerning Copyright, Article 8

⁴⁶ Article 9 paragraph (2)

⁴⁷ Article 9 paragraph (3)

⁴⁸ Search Results - KBBI Online (kemdikbud.go.id) accessed on June 13, 2022.

permission from the creator of the film because copyright protection for a work is the lifetime of the creator plus 70 years. And because the screening of the film has become a public domain, the organizers are not considered to have violated the copyright of a creation. If there is a copyright infringement committed by the drive-in organizer, sanctions will be given by the organizer based on what has been stipulated in Law Number 28 of 2014 concerning Copyright, where the violation is imposed because it is used for commercial purposes as stipulated in Article 113 Law Number 28 of 2014 concerning Copyright which can be imposed on parties distributing and communicating films using the drive-in method to the public. There are several economic rights, namely:

- a. Announce;
- b. Doubling;
- c. Communicating to the public; and
- d. Distributing.

In this case the drive-in is included in the category of announcing to the public, which shows films to the public with commercial value. If this drive-in does not take economic elements from the film, it is deemed not to have committed a violation. For example, the screening of films during the August 17 celebration, which does not take economic elements into the screening. Another example, screening of struggle films for school children for the sake of education. There are several limitations in copyright infringement, namely when using rights without permission or without notification to the actual creator. Where the meaning without rights is broader than falsification, if a person is given the right by a creator to distribute a film in cassette form as many as 1000 copies, and it turns out that the distributor distributed the film as many as 1500 copies, then 500 copies are considered to be used without rights, and for acts mentioned, the distributor of the cassette is deemed to have committed a violation and may be subject to sanctions for said violation as stipulated in Law Number 28 of 2014 concerning Copyright.

Meikarta Commit a Violation in Conducting Drive-In Screening of Films as Stipulated in Law Number 28 of 2014 Concerning Copyright

On March 2, 2020, for the first time, the government announced two positive cases of Covid-19 in Indonesia.⁴⁹ 2019-nCoV (novel *coronavirus*) is a new type of virus that has never been previously identified in humans, a virus that is a *zoonotic* disease, aka a disease that is transmitted from animals.⁵⁰ The Covid-19 virus, which is quite dangerous, is starting to enter every country. Where this virus can cause death if not treated as quickly as possible and can spread quickly. Indonesia reached a fairly fast level of spread of the Covid-19 virus, so the government issued regulations regarding Large-Scale Social Restrictions (PSBB). Where these large-scale social restrictions everyone must quarantine and carry out daily activities such as working and studying at home for several months to reduce the spread of the Covid-19 virus. And as a result of large-scale social restrictions, many offices, restaurants and entertainment venues are temporarily closed in accordance with a regulation letter issued by the government. Large-Scale Social Restrictions (PSBB) have been implemented in several areas for several weeks but the spread of Covid-19 has not improved.

⁴⁹ Announced Early March, Expert: Corona Virus Enters Indonesia from January (kompas.com) accessed on June 13, 2022.

⁵⁰ F.G Winarno, *Covid-19; Pelajaran Berharga Dari Sebuah Pandemi* (Jakarta: PT Gramedia Pustaka Utama, 2020), 15.

After several months of implementing Large-Scale Social Restrictions (PSBB), various entertainment venues were closed, one of which was the cinema, where cinema is a medium for enjoying films that are popular with young people to adults. Due to the issuance of regulations regarding Large-Scale Social Restrictions (PSBB) throughout Indonesia for entertainment venues, the public cannot enjoy several public facilities together. Which is because people have to do quarantine, causing people to get bored doing quarantine at home and have not enjoyed public facilities for entertainment for a long time. One of the parties has the idea to revive *drive-in* cinemas, where everyone is allowed to watch movies such as step-by-step screens or cinemas but the audience can only watch through cars, where the film will be screened in a *liquid crystal display* with reflections from the projector and the heard voice will come from the radio channel directed by the organizer.

After several weeks, one of the parties spoke out against Meikarta for screening the film using the *drive-in method* without permission from the copyright holder. The author has conducted interviews with PT Kharisma Starvision Plus, namely Mr. Chand Parwez Servia. Where he said that Meikarta was screening films using the Netflix application but it was being shown by the public. Starvision felt disadvantaged because Meikarta announced the film without giving royalty rights to Starvision and did not grant permission to Starvision. Where Meikarta has violated exclusive rights, namely economic and moral rights because they did not ask permission in advance from the party holding the copyright to the film. One of the parties who felt aggrieved by the holding of this event was Starvision, because one of the films whose copyright was held by PT Kharisma Starvision Plus was screened without permission.

PT Kharisma Starvision Plus does not receive royalty rights for screening films conducted by Meikarta using the *drive-in method*. As stipulated in Article 8 of Law Number 28 of 2014 concerning Copyright states that "*Economic rights are the exclusive right of the Author or Copyright Holder to obtain economic benefits from Works.*"⁵¹ And PT Kharisma Starvision Plus has the right to economic rights to the film because Meikarta organizes the event and gets economic value even though Meikarta does not collect fees in the form of ticket purchases. Meikarta is considered to have obtained economic value for the purchase of food or drinks provided by Meikarta. Because Meikarta gets economies of scale as explained by Mr. Agung Damarsasongko as Head of the Sub-Directorate of Legal Services, Directorate of Copyright and Industrial Design, Directorate General of Intellectual Property, that it is not only buying tickets, but can also be obtained from the proceeds from selling food or drinks in the area around the *drive-in*. Where the economy of scale in question is the level or economic value of one event. And the setting for *drive-in* is not focused on *drive-in*, because *drive-in* is just a method of playing the film, just like step-in screens. Therefore, Meikarta is considered to have violated Article 9 paragraph (3) of Law Number 28 of 2014 concerning Copyright which states "*Every person without the permission of the Creator or Copyright Holder is prohibited from Reproduction and/or Commercial Use of Works*".⁵² Where Meikarta makes an announcement or communicates a film to the general public without the permission of the Creator or Copyright Holder.

Meikarta is also considered to have exceeded the limit against the occurrence of copyright infringement which has been regulated in Articles 43 to Article 51 of Law Number 28 of 2014 concerning Copyright, especially in Article 43 letter (d) which explains that "*the*

⁵¹ Law Number 28 of 2014 concerning Copyright, Article 8

⁵² Article 9 paragraph (3)

creation and dissemination of Copyright content through information and communication technology media that are non-commercial and/or beneficial to the Author or related parties, or the Creator states that he has no objection to such production and distribution".⁵³ Because PT Kharisma Starvision Plus has been harmed by organizing this event, PT Kharisma Starvision Plus can prosecute Meikarta by bringing evidence and explaining that violations have been committed by Meikarta to the Directorate General of Intellectual Property. Because PT Kharisma Starvision Plus is the copyright holder who has announced or broadcast the film on television and cinema for the first time, and the film has not yet become a *public domain*, but the economic rights and moral rights are still held by PT Kharisma Starvision Plus.

PT Kharisma Starvision Plus has the right to receive compensation for losses suffered as a result of the screening of the film. Which compensation as referred to in Article 1 paragraph (25) of Law Number 28 of 2014 concerning Copyright which explains that "*Compensation is payment of an amount of money charged to perpetrators of violating the economic rights of Authors, Copyright Holders and/or Rights owners Related based on a civil or criminal case court decision that has permanent legal force for losses suffered by the Author, Copyright Holder and/or Related Rights owner*".⁵⁴ As explained by Mr. Agung Damarsasongko, Meikarta is considered to have committed a copyright infringement as stipulated in Article 9 paragraph (3) and Article 113 of Law Number 28 of 2014 concerning Copyright, and the sanctions given to Meikarta are still based on the applicable law. namely Law Number 28 of 2014 concerning Copyright.

Conclusion

Based on Article 1 paragraph (1) of Law Number 28 of 2014 concerning Copyright, where the exclusive rights of the creator will arise automatically from the moment the creation is put into a work. These exclusive rights consist of moral rights and economic rights, economic rights as regulated in Article 8 of Law Number 28 of 2014 concerning Copyright and Moral rights as regulated in Article 5 of Law Number 28 of 2014 concerning Copyright. Based on Article 64 paragraph (2) of Law Number 28 of 2014 concerning Copyright, that it does not require registration of creation to the Directorate General of Intellectual Property for claiming a work of creation. Drive-in organizers must also pay attention to Article 25 paragraph (3) of Law Number 28 of 2014 concerning Copyright which explains that organizers must first ask permission from the Copyright Holder or the Creator to show their films using the drive-in method. Protection for the creation will appear automatically the first time it is manifested in the form of a work, then the creation is announced to the general public. Regulations regarding the screening of films using the drive-in method are not explicitly explained by Law Number 28 of 2014 concerning Copyright, but regarding copyright arrangements for films shown are still based on this Law. Drive-in is just an intermediary or a method to show movies like a cinema. Drive-in is not something that causes copyright infringement on the screening of a film, but the organizers who get economic results from the event are considered to have committed an infringement and if they do not get permission from the copyright holder for the film to be shown.

Meikarta is considered to have violated Article 43 letter (d) of Law Number 28 of 2014 concerning Copyright which contains restrictions on copyright infringement for actions that are not considered as Copyright infringement on the production and distribution of films

⁵³ Article 43 letter (d)

⁵⁴ Article 1 paragraph (25)

through technological media that are commercial but not profitable for the creator. Meikarta has also violated Article 25 paragraph (3) which has distributed films without a permit for commercial purposes. Where Meikarta has disseminated a film whose copyright is held by PT Kharisma Starvision Plus through information technology media (drive-in) which is commercial from the sale of food and beverages provided by Meikarta. PT Kharisma Starvision Plus is the copyright holder of the film because it has announced and communicated it for the first time to the general public without registering or recording it with the Directorate General of Intellectual Property. PT Kharisma Starvision Plus can sue Meikarta for copyright infringement because it shows a film whose copyright is held by PT Kharisma Starvision Plus without permission or notification from Starvision. PT Kharisma Starvision Plus can sue by visiting the office of the Directorate General of Intellectual Property and bringing evidence of violations and explaining evidence of violations committed by Meikarta. PT Kharisma Starvision Plus can claim compensation for the losses it has suffered based on Law Number 28 of 2014 concerning Copyright.

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