



## Legal Protection of Copyright in the Form of Illustrations in Decision Number 988 K/Pdt.Sus-HKI/2021

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### Abstract

This study analyzes the legal protection of copyright for illustrations under Law Number 28 of 2014 concerning Copyright and Examines the Implications of Supreme Court Decision Number 988 K/Pdt.Sus-HKI/2021 on legal certainty in Indonesia. Illustrations, as works of fine art, are protected automatically once embodied in a tangible form and include both moral and economic rights of the creator. This research employs a normative juridical method, drawing on statutory and case law. Primary legal materials consist of copyright legislation and relevant court decisions, while secondary materials include legal literature, journals, and doctrines related to intellectual property law. The analysis is conducted qualitatively by interpreting legal norms and considering judicial considerations. The results show that Indonesian Copyright Law protects the principles of automatic protection, recognition of moral and economic rights, and preventive and repressive legal mechanisms. The Supreme Court emphasized that copyright recordation is not absolute proof of ownership if conducted in bad faith. Protection is granted only to parties who are legally and factually entitled to the work. The decision strengthens legal certainty by prioritizing good faith and substantive justice in copyright disputes.

**Keywords:** Copyright, Illustration, Legal protection, Good faith, Legal certainty.

### 1. Introduction

The development of Indonesia's creative industry has transformed visual works, particularly illustrations, into highly valuable economic commodities widely used in books, product packaging, advertisements, digital platforms, social media content, and commercial merchandise.<sup>1</sup> In contemporary creative economies, illustrations are no longer viewed merely as complementary artistic expressions but as intellectual assets that contribute significantly to branding, communication

<sup>1</sup> David Throsby, "The Economics of Cultural Policy," *Cambridge Journal of Economics* Vol. 34, No. 4 (2010): 689–704.

strategies, and commercial competitiveness.<sup>2</sup> Nevertheless, the rapid expansion of digital technology and content distribution has simultaneously increased the vulnerability of illustration works to copyright infringement, including unauthorized use, unlawful reproduction, unclear ownership claims, and violations of creators' moral rights.<sup>3</sup> In practice, illustrators frequently encounter situations in which their works are commercially exploited without their consent, without attribution, or without adequate legal protection, thereby raising serious concerns about legal certainty and the effectiveness of copyright enforcement in Indonesia.<sup>4</sup>

In the era of digitalization, illustrations can rapidly circulate, be reproduced, and be reused across online platforms, thereby significantly increasing the risk of copyright infringement and unauthorized commercial exploitation.<sup>5</sup> Many disputes emerge when illustrations are used without the creator's consent, monetized without transparent contractual arrangements, or even unlawfully claimed by other parties as original works. This phenomenon highlights the growing urgency of strengthening legal protection for illustrations, particularly because creators, especially independent illustrators and freelance creative workers, often occupy vulnerable positions within the digital creative economy.<sup>6</sup> The absence of effective legal certainty and consistent copyright enforcement not only threatens the moral and economic rights of creators but may also undermine innovation, fairness, and sustainability within the national creative industry. Therefore, clearer regulatory frameworks and stronger law enforcement mechanisms are essential to ensure adequate protection for creative works in the digital era.

Law Number 28 of 2014 concerning Copyright affirms that copyright is an exclusive right of the creator that arises automatically upon a work being expressed in a tangible form. This means that illustrations receive legal protection from the moment they are created without requiring any registration formalities. Furthermore, the law distinguishes between moral rights, such as recognition of authorship and the preservation of the integrity of the work, and economic rights, namely the commercial benefits derived from the work. These provisions should serve as the primary legal foundation for all parties to respect illustrators' rights. However, in practice, these rights are often disregarded. The lack of legal awareness among users of creative works, combined with weak supervision and inadequate protection, has made illustrations highly vulnerable to misuse.

This situation demonstrates a gap between written legal norms and their practical implementation.<sup>7</sup> The Supreme Court Decision Number 988 K/Pdt.Sus-HKI/2021 (decision dated 26 July 2021, case of Dhanu Wijaya vs PT Lifere Agro Kapuas) is one of the relevant decisions for examining how the Court interprets and applies the principles of the Copyright Law to disputes involving illustrations (visual creations). A study of this decision provides an overview of judicial practices regarding proof of ownership, limitations on freedom of use, and the protection of

<sup>2</sup> Ruth Towse, "Creativity, Incentive and Reward: An Economic Analysis of Copyright and Culture in the Information Age," *Journal of Cultural Economics* Vol. 33, No. 4 (2009): 231–247.

<sup>3</sup> Christophe Geiger, "Challenges for the Enforcement of Copyright in the Online World: Time for a New Approach," *International Review of Intellectual Property and Competition Law* Vol. 45, No. 1 (2014): 1–5.

<sup>4</sup> Mira T. Sundara Rajan, "Moral Rights and the Protection of Authors in the Digital Environment," *International Journal of Cultural Property* Vol. 17, No. 3 (2010): 489–506.

<sup>5</sup> Christophe Geiger, "Challenges for the Enforcement of Copyright in the Online Environment," *International Review of Intellectual Property and Competition Law* Vol. 45, No. 1 (2014): 1–18.

<sup>6</sup> Martin Kretschmer and Friedemann Kawohl, "The History and Philosophy of Copyright," *Journal of Intellectual Property Law & Practice* Vol. 4, No. 1 (2009): 21–31.

<sup>7</sup> UU Nomor 28 Tahun 2014 tentang Hak Cipta

the moral and economic rights of illustrators.<sup>8</sup> Despite a legal framework, enforcing copyright protection for illustrations still faces several challenges, including proving the identity of the original creator, establishing the originality or uniqueness of an illustration, and determining the limits of fair use in the digital sphere. In addition, the dynamics of contractual relationships between illustrators and users frequently give rise to disputes concerning unclear transfers of rights or licensing arrangements. Therefore, Supreme Court decisions, such as Decision Number 988/2021, are important for assessing legal certainty and protecting creators' rights.

Based on the foregoing discussion, it is evident that copyright protection for illustrations can no longer be treated as a marginal issue within intellectual property discourse. Illustrations are not merely decorative visuals or complementary artistic elements; rather, they constitute intellectual creations derived from the originality, creativity, technical skill, and personal expression of their creators, all of which deserve comprehensive legal recognition and protection. The dispute is reflected in Supreme Court Decision Number 988 K/Pdt.Sus-HKI/2021 demonstrates that violations of copyright law represent a concrete and increasingly complex legal problem within Indonesia's creative industry, particularly in the digital era, where the reproduction, dissemination, and commercial exploitation of creative works can occur rapidly and without effective control. This situation raises fundamental concerns about the effectiveness of legal certainty and the extent to which existing copyright laws can provide fair and adequate protection for illustrators and other creative workers.

Accordingly, this research is of substantial significance because it not only examines how courts interpret and apply Law Number 28 of 2014 concerning Copyright in disputes involving illustrations, but also critically evaluates whether the current legal framework has sufficiently safeguarded the moral and economic rights of creators, or whether further legal reform remains necessary. In addition, this study seeks to strengthen public awareness regarding the importance of respecting creative works and to encourage the development of a legal culture grounded in originality, fairness, accountability, and ethical conduct within the creative ecosystem. Therefore, this research has both academic and practical importance, as it enriches intellectual property law scholarship while supporting the creation of a healthier, fairer, and more sustainable creative industry in Indonesia. Based on these considerations, the research problems in this study are formulated as follows: (1) How is legal protection for copyrights in the form of illustrations regulated under Law Number 28 of 2014 concerning Copyright? and (2) What are the implications of Supreme Court Decision Number 988 K/Pdt.Sus-HKI/2021 for legal certainty and the protection of illustration copyrights in Indonesia?

This research aims to critically examine the forms of legal protection afforded to illustration copyrights under Law Number 28 of 2014 concerning Copyright and to analyze the implications of Supreme Court Decision Number 988 K/Pdt.Sus-HKI/2021 for legal certainty and copyright enforcement in Indonesia's creative industry. Unlike previous copyright studies that predominantly focus on music, films, or literary works, this research highlights illustrations as a distinct category of copyrighted works that are increasingly vulnerable to unauthorized reproduction and commercial exploitation in the digital era. The novelty of this study lies in its specific and in-depth analysis of illustration copyright law through a judicial lens, particularly by examining how the Supreme Court interprets and applies principles of moral rights and economic rights in a contemporary copyright dispute. Furthermore, this research integrates

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<sup>8</sup> Putusan Mahkamah Agung Nomor 988 K/Pdt.Sus-HKI/2021

doctrinal legal analysis with the practical realities faced by illustrators in digital and commercial environments, thereby offering a more contextual understanding of copyright protection in Indonesia. The significance of this research lies in both its theoretical and practical implications. Academically, it contributes to intellectual property law scholarship by enriching discussions on illustration copyrights, an area that remains underexplored in Indonesian legal studies. In practice, the findings are expected to guide illustrators, legal practitioners, policymakers, and creative industry actors in copyright enforcement, dispute resolution, and the improvement of legal regulations and law enforcement mechanisms. Ultimately, this research seeks to promote a more equitable, sustainable, and legally certain creative ecosystem that recognizes and protects the rights of illustration creators in Indonesia.

## **2. Methods**

This research employs a normative juridical method using a case approach. The study focuses on analyzing the applicable positive legal norms, particularly Law Number 28 of 2014 concerning copyright, and their application in Supreme Court Decision Number 988 K/Pdt.Sus-HKI/2021.

The normative juridical method was chosen because this research does not require field data in the form of interviews or observations; instead, it emphasizes library research and the analysis of legal documents. Through this method, the researcher can examine statutory regulations, legal principles, and relevant legal doctrines, and then relate them to the judicial practices reflected in the court decision that serves as the object of study. The case approach is used to trace how judges considered evidence and legal norms in deciding illustration copyright disputes, thereby providing a concrete understanding of the implementation of legal protection for creators in Indonesia.

To construct a comprehensive and authoritative legal framework, this research employs primary, secondary, and tertiary legal materials as the principal sources of analysis. The primary legal materials consist of the 1945 Constitution of the Republic of Indonesia, Law Number 28 of 2014 concerning Copyright, and Supreme Court Decision Number 988 K/Pdt.Sus-HKI/2021, which serves as the central normative foundation for examining copyright protection of illustrations in Indonesia. Secondary legal materials, including scholarly books, academic journal articles, legal commentaries, and expert opinions relevant to intellectual property law and copyright disputes, complement these. In addition, tertiary legal materials, such as legal dictionaries, encyclopedias, and other reference sources, are used to clarify and strengthen the conceptual understanding of the legal terminology used in this study.

The data collection process involves library research, examining statutory regulations, judicial decisions, and academic literature in both print and digital formats. This method is chosen because the research adopts a normative juridical approach, emphasizing doctrinal legal analysis through the examination of legal texts and documents rather than empirical fieldwork. Library research provides valid, systematic, and authoritative legal data, enabling the researcher to critically analyze legal norms, doctrines, and judicial reasoning within a coherent scientific framework. The collected legal materials are subsequently analyzed qualitatively using descriptive, interpretive, and analytical methods by relating legal norms to the legal facts in court decisions, thereby producing logical, systematic, and academically accountable conclusions regarding the protection of illustration copyrights in Indonesia.

### 3. Discussion

#### Legal Protection of Copyright in the Form of Illustrations Under Law Number 28 of 2014 concerning Copyright

Legal protection for copyright in the form of illustrations under Law Number 28 of 2014 concerning copyright is based on the state's recognition of illustrations as works in the field of visual arts<sup>9</sup>. Illustrations are regarded as the intellectual expressions of creators that contain elements of creativity, skill, and aesthetic value<sup>10</sup>. Therefore, illustrations obtain legal protection from the moment they are expressed in a tangible form, whether in physical or digital form. This recognition affirms that illustrations are not mere images but copyrighted works with legal and economic value.

The Copyright Law adopts the principle of automatic protection, meaning that copyright in illustrations arises automatically upon creation, without requiring registration or any specific administrative formalities. Under this principle, illustrators automatically obtain exclusive rights even if their works have not been registered with the Directorate General of Intellectual Property. Copyright registration is merely declaratory in nature and functions as evidence in the event of a dispute. This principle provides legal certainty for creators, particularly illustrators who may not yet have sufficient access to or knowledge of copyright registration procedures.<sup>11</sup>

Legal protection for illustrations encompasses both the moral rights and the economic rights of the creator. Moral rights are inherently attached to the creator permanently and are intended to protect the personal relationship between the creator and the work. In the context of illustrations, moral rights protect the creator's identity and the integrity of the work, meaning that an illustration may not be altered, cropped, or otherwise modified in a manner that harms the creator's honor or reputation. These moral rights remain attached to the creator even when the economic rights to the illustration have been transferred to another party.<sup>12</sup>

In addition to moral rights, illustration creators also possess economic rights that grant them exclusive authority to exploit their illustrations commercially. Economic rights include the rights to reproduce, distribute, publish, and communicate illustrations to the public. Any use of an illustration by another party, particularly for commercial purposes, must be based on the permission of the creator or the copyright holder. The unauthorized use of illustrations constitutes copyright infringement and may result in legal consequences.<sup>13</sup>

The Copyright Law also provides both preventive and repressive legal protection. Preventive protection is realized through clear normative regulations concerning the rights and obligations of creators, as well as the recognition of exclusive rights over illustrations. Meanwhile, repressive protection against copyright infringement involving illustrations is provided through civil and criminal law enforcement mechanisms. Creators or copyright holders may file claims for compensation and request the cessation of infringing acts, while the state may impose criminal sanctions on infringers to deter further infringement.<sup>14</sup>

With the development of technology and digital media, legal protection for illustrations has become increasingly important, as they can be easily copied, modified, and distributed without

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<sup>9</sup> Undang-Undang Republik Indonesia Nomor 28 Tahun 2014 tentang Hak Cipta

<sup>10</sup> Ibid., Pasal 40 ayat (1) huruf f

<sup>11</sup> Ibid., Pasal 1 angka 1 dan Pasal 64 ayat (2)

<sup>12</sup> Pasal 5 ayat (1) dan ayat (2) Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta.

<sup>13</sup> Pasal 8 dan Pasal 9 ayat (1) Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta.

<sup>14</sup> Pasal 95, Pasal 96, dan Pasal 113 Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta.

permission. Law Number 28 of 2014 has accommodated the protection of works in digital form and the communication of works through electronic media, thereby ensuring that copyright protection for illustrations remains relevant and effective in addressing the challenges of the digital era.<sup>15</sup>

Therefore, Law Number 28 of 2014 concerning Copyright provides a comprehensive legal framework for the protection of illustration copyrights, including automatic recognition of copyrighted works, protection of moral and economic rights, and law enforcement mechanisms. This framework is intended to ensure legal certainty, protect the rights of creators, and encourage the development of creativity in the fields of visual arts and the creative industry in Indonesia.

Copyright is an exclusive right granted to creators over their works in the fields of science, art, and literature. Under the Indonesian copyright legal regime, illustrations are classified as part of visual artworks that are expressly protected under Law Number 28 of 2014 concerning copyright. Article 40 paragraph (1) of the Copyright Law states that visual artworks, including drawings, sketches, and other illustrative works, constitute creations protected by law.<sup>16</sup>

The status of illustrations as objects of copyright protection demonstrates that the law recognizes the values of creativity, aesthetics, and personal expression they embody. This protection is important given that illustrations are widely used across sectors such as advertising, the creative industry, brand design, and digital media. Visual works are highly vulnerable to copyright infringement because they can be easily reproduced and distributed without authorization, particularly through digital platforms.

Legal protection for illustrations is also consistent with the objective of copyright law to encourage the creation of new forms of creativity. With legal guarantees in place, illustrators feel secure enough to express their ideas and concepts. They are encouraged to continue innovating without fear that others will misuse their work.

One of the main characteristics of copyright is its automatic protection. The Copyright Law adopts the principle that copyright arises automatically once a work has been expressed in a tangible form. Therefore, the registration or recording of a work is not a requirement for the existence of copyright, but merely serves as an administrative evidentiary tool.<sup>17</sup>

This declarative characteristic provides advantages for illustration creators because legal protection does not depend on the creator's administrative or economic ability to register the work. Keliat and Simanjuntak emphasize that the principle of automatic protection reflects substantive justice in copyright law, as the focus of protection lies in the creation of the work itself rather than in mere legal formalities.

Although copyright registration is declaratory in nature, it still plays an important role in practice. Registration may provide certainty of proof in the event of a dispute, particularly in the context of the commercialization of illustrations. Therefore, copyright registration must be carried out in good faith and must not be used as a means to claim rights over works that are not the result of one's own creation.<sup>18</sup>

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<sup>15</sup> Pasal 1 angka 4, Pasal 40 ayat (1), dan Pasal 54 Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta.

<sup>16</sup> Pasal 40 ayat (1) Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta.

<sup>17</sup> Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta.

<sup>18</sup> Keliat, V. U., Simanjuntak, I. ., & Tarigan Sibero, C. L. P. . (2022). Aspek Perlindungan Hukum Hak Kekayaan Intelektual (Hki) : Fungsi Sentra Hki Dalam Pengembangan Hki Di Perguruan Tinggi. *Ilmu Hukum Prima (IHP)*, 5(2), 118-123. <https://doi.org/10.34012/jihp.v5i2.2924>

Legal protection for illustration copyrights encompasses two main types of rights, namely moral rights and economic rights. Moral rights are rights that are inherently and perpetually attached to the creator and cannot be transferred as long as the creator is still alive. Moral rights include the right to have the creator's name acknowledged on the work, as well as the right to preserve the integrity of the work from any form of modification that may harm the creator's honor or reputation.

In the context of illustrations, moral rights are important because they are often modified or adapted in use. The protection of moral rights ensures that every use of an illustration continues to respect the integrity of the work and the identity of the creator. Marbun, Purba, and Agustina emphasize that the neglect of moral rights may result in significant non-economic losses for creators, particularly in relation to reputation and professional recognition.<sup>19</sup>

In addition to moral rights, illustrators also possess economic rights that grant them the exclusive authority to obtain economic benefits from their works. Economic rights include the right to reproduce, distribute, publish, and communicate illustrations to the public. These rights serve as the legal basis for creators to lawfully license or transfer their rights to other parties. Economic rights constitute a primary instrument in supporting the sustainability of the illustrator profession and the creative industry.<sup>20</sup>

Legal protection for illustration copyrights can be distinguished into preventive protection and repressive protection. Preventive protection aims to prevent copyright infringement through clear normative regulations, recognition of creators' rights, and enhanced public legal awareness.<sup>21</sup>

Repressive protection, on the other hand, operates as a law-enforcement mechanism when an infringement has occurred. Copyright Law provides both civil and criminal enforcement instruments. In the civil sphere, creators may file compensation claims and seek the cessation of unlawful acts. Criminal sanctions in copyright law serve as an *ultimum remedium*, intended to deter and uphold the authority of the law. Given the existence of these repressive mechanisms, it is expected that a balance will be achieved between the interests of creators and the public.<sup>22</sup>

### **The Implications of Supreme Court Decision Number 988 K/Pdt.Sus-HKI/2021 on Legal Certainty and the Protection of Illustration Copyrights in Indonesia**

Supreme Court Decision Number 988 K/Pdt.Sus-HKI/2021 constitutes one of the most significant developments in Indonesia's contemporary copyright law jurisprudence, particularly in relation to disputes involving illustration copyrights and the misuse of copyright registration mechanisms. The case arose from a dispute over the registration of illustration copyrights, which were alleged to have been filed in bad faith. In its ruling, the Supreme Court rejected the cassation petition and affirmed the Commercial Court's decision to annul the disputed copyright registration. This decision is highly important because it does not merely resolve a private legal conflict between parties but also establishes a broader judicial precedent regarding the interpretation and enforcement of copyright law in Indonesia. In this ruling, the Supreme Court reaffirmed that copyright protection must always

<sup>19</sup> Marbun, K. B., Purba, J. E., & Agustina, Y. (2023). Perlindungan Hukum Bagi Pencipta Lagu Atas Lagu Ciptaannya Yang Dipakai Orang Lain Tanpa Izin. *Collegium Studiosum Journal*, 6(2), 492-496. <https://doi.org/10.56301/cs.j.v6i2.1083>

<sup>20</sup> Noor, T., & Zulkifli, S. (2023). Pembiayaan Berbasis Kekayaan Intelektual Dengan Jaminan Fidusia Bagi Pelaku Ekonomi Kreatif.

<sup>21</sup> Keliat, V. U., Simanjuntak, I. ., & Tarigan Sibero, C. L. P. . (2022). Aspek Perlindungan Hukum Hak Kekayaan Intelektual (Hki) : Fungsi Sentra Hki Dalam Pengembangan Hki Di Perguruan Tinggi.

<sup>22</sup> Muhammad Ali Adnan, "Sanksi Hukum Terhadap Tindak Pidana Menjual Kepada Umum Ciptaan Hasil Pelanggaran Hak Cipta," *Jurnal Hukum Kaidah* 21, no. 3 (2022).

be grounded in the principles of legality, honesty, good faith, and substantive justice, rather than relying solely on procedural or administrative formalities.<sup>23</sup>

The ruling provides a progressive interpretation of Article 65 of Law Number 28 of 2014 concerning Copyright, particularly concerning the prohibition against registering copyrighted works that conflict with statutory regulations or are obtained through unlawful conduct.<sup>24</sup> The Court emphasized that copyright registration cannot be used as a legal instrument to legitimize actions carried out in bad faith or to appropriate the creative works of other parties. This interpretation reflects the Supreme Court's effort to place ethical principles and substantive justice at the center of intellectual property protection. As a result, the decision significantly strengthens legal certainty in Indonesia's copyright system by clarifying that the validity of copyright ownership depends not only on registration documents but also on the legitimacy of the underlying legal relationship and the originality of the creative process.

From the perspective of legal certainty, the decision fundamentally redefines the evidentiary value of copyright registration in Indonesia. The Supreme Court explicitly stated that copyright registration does not constitute absolute or conclusive proof of ownership, but rather serves as an administrative mechanism subject to judicial scrutiny.<sup>25</sup> In determining legal protection, the Court prioritized factual creation, substantive ownership, and the authenticity of the legal relationship between the parties over mere procedural registration. This approach is particularly relevant in the digital era, where illustrations and other creative works can easily be reproduced, distributed, modified, and commercially exploited across digital platforms without the creator's authorization. Consequently, disputes involving overlapping claims of ownership, plagiarism, and unauthorized commercial use have become increasingly complex. By adopting a substantive approach to copyright adjudication, the Supreme Court introduced a more balanced and equitable framework capable of preventing opportunistic misuse of the copyright registration system.

Furthermore, this decision demonstrates an important integration between copyright and trademark protection regimes. The Supreme Court identified substantial similarity between the disputed illustration and a registered trademark owned by another party, thereby recognizing the potential overlap between different forms of intellectual property rights.<sup>26</sup> This judicial approach is highly significant because it demonstrates that intellectual property regimes cannot operate independently or in isolation. Instead, copyright, trademark, and other intellectual property systems must function coherently and harmoniously to avoid overlapping protection, conflicting rights, and legal uncertainty. Such integration is particularly important in Indonesia's rapidly growing creative economy, where illustrations frequently serve not only as artistic expressions but also as commercial identities, branding elements, and strategic business assets.

Ultimately, Supreme Court Decision Number 988 K/Pdt.Sus-HKI/2021 strengthens the protection of illustration copyrights in Indonesia by emphasizing the principles of good faith, substantive

<sup>23</sup> Christophe Geiger, "The Social Function of Intellectual Property Rights, or How Ethics Can Influence the Shape and Use of IP Law," *Research Handbook on Human Rights and Intellectual Property* (2015): 153–176.

<sup>24</sup> Graeme B. Dinwoodie and Mark D. Janis, "Confusion over Use: Contextualism in Trademark Law," *Iowa Law Review* 92, no. 5 (2007): 1597–1665.

<sup>25</sup> Mira T. Sundara Rajan, "Copyright and Creative Freedom: A Study of Postcolonial Copyright Law," *International Journal of Cultural Property* 20, no. 4 (2013): 411–432.

<sup>26</sup> Martin Senftleben, "Trademark Protection and Freedom of Expression: An Inquiry into the Conflict between Trademark Rights and Freedom of Expression under European Law," *International Review of Intellectual Property and Competition Law* 41, no. 3 (2010): 267–302.

justice, and legal integration as the primary foundations of intellectual property law enforcement. The decision also contributes to the development of a fairer, more accountable, and more sustainable intellectual property protection system capable of responding to the challenges of the digital era while supporting innovation, legal certainty, and the long-term growth of Indonesia's creative industry.

#### **4. Conclusion**

Legal protection for copyright in the Indonesian legal system is fundamentally declaratory, meaning that copyright arises automatically upon a work's embodiment in a tangible form, without requiring registration. Such rights include moral rights and economic rights, which grant the creator exclusive control over the use, reproduction, distribution, publication, and licensing of the work. Nevertheless, copyright registration still serves an important function as an administrative evidentiary instrument in the event of a dispute.

Decision Number 988 K/Pdt.Sus-HKI/2021, rendered by the Supreme Court of the Republic of Indonesia, affirms that copyright registration does not constitute absolute proof of ownership. The Supreme Court placed the principle of good faith as a fundamental basis in determining the validity of copyright registration. Registration carried out in bad faith may be annulled, even if it has been administratively registered. This approach demonstrates that legal protection in copyright law does not merely rely on formalities, but rather on the substance of the legal relationship and the origin of the work.

The decision also has significant implications for legal certainty and the protection of illustration copyrights in Indonesia. By affirming that protection is granted only to parties who are factually and juridically entitled, the Supreme Court strengthened the principle of substantive justice. In addition, this decision demonstrates the synergy between the copyright and trademark regimes within the intellectual property rights system to prevent overlapping protection and the misuse of intellectual property registration mechanisms. Overall, this decision underscores the importance of integrity, good faith, and the balance of interests in the enforcement of illustration copyright law.

#### **Suggestions**

Based on the foregoing conclusions, strengthening legal norms and supervisory mechanisms within the copyright registration system is essential to prevent bad-faith registrations and the unlawful appropriation of others' creative works. The Directorate General of Intellectual Property should improve its administrative verification and examination procedures to ensure greater legal certainty and stronger protection for original creators. For illustrators and creative industry actors, copyright registration should be consistently pursued as a preventive legal measure, accompanied by proper documentation of the creative process to reinforce evidentiary standing in potential disputes. In addition, law enforcement agencies and judicial institutions are expected to apply the principle of good faith consistently and adopt an integrative approach in resolving copyright disputes involving illustrations. Through these measures, Indonesia's copyright protection system can evolve into a more effective, fair, and adaptable legal framework that addresses digital-era challenges while ensuring balanced legal protection for creators, rights holders, and the broader creative industry ecosystem.

## References

- Adnan, Muhammad Ali. "Sanksi Hukum terhadap Tindak Pidana Menjual kepada Umum Ciptaan Hasil Pelanggaran Hak Cipta." *Jurnal Hukum Kaidah: Media Komunikasi dan Informasi Hukum dan Masyarakat* 21, no. 3 (2022).
- Agustina, Y., S. Zulkifli, M. Pakpahan, A. Sunarto, M. Adnan, I. Setyawan, and T. Noor. "Pemanfaatan Teknologi dalam Membangun Generasi yang Sadar Hukum." *PKM Maju UDA* 4, no. 2 (2023): 36–41.
- Dinwoodie, Graeme B., and Mark D. Janis. "Confusion over Use: Contextualism in Trademark Law." *Iowa Law Review* 92, no. 5 (2007): 1597–1665.
- Fernando Gaho, L., and V. Utami Keliat. "Perlindungan Hukum dan Dampak Pelanggaran Hak Cipta Cover Lagu di YouTube." *Kertha Semaya: Journal Ilmu Hukum* 13, no. 8 (2025): 1730–1739.
- Geiger, Christophe. "Challenges for the Enforcement of Copyright in the Online World: Time for a New Approach." In *Research Handbook on the Cross-Border Enforcement of Intellectual Property*, edited by Paul Torremans, 704–726. Cheltenham, UK: Edward Elgar, 2014.
- Geiger, Christophe. "The Social Function of Intellectual Property Rights, or How Ethics Can Influence the Shape and Use of IP Law." In *Research Handbook on Human Rights and Intellectual Property*, 153–176, 2015.
- Indonesia. *Putusan Mahkamah Agung Nomor 988 K/Pdt.Sus-HKI/2021*.
- Indonesia. *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*.
- Indonesia. *Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta*.
- Keliat, V. U., I. Simanjuntak, and C. L. P. Tarigan Sibero. "Aspek Perlindungan Hukum Hak Kekayaan Intelektual (HKI): Fungsi Sentra HKI dalam Pengembangan HKI di Perguruan Tinggi." *Ilmu Hukum Prima (IHP)* 5, no. 2 (2022): 118–123.
- Keliat, V. U., A. P. Siregar, S. Zulkifli, and I. Purba. "Analisis Upaya dan Peran Perlindungan Hukum terhadap Kasus Peretasan Data Bank Syariah Indonesia." *Ilmu Hukum Prima (IHP)* 6, no. 2 (2023): 182–190. <https://doi.org/10.34012/jihp.v6i2.4251>.
- Keliat, Venia Utami, and Ahmad Feri Tanjung. "Aspek Perlindungan Hukum Hak Kekayaan Intelektual (HKI): Fungsi Sentra HKI dalam Pengembangan HKI di Perguruan Tinggi." *Ilmu Hukum Prima (IHP)* 5, no. 2 (2022): 118–123. <https://doi.org/10.34012/jihp.v5i2.2924>.
- Kretschmer, Martin, and Friedemann Kawohl. "The History and Philosophy of Copyright." *Journal of Intellectual Property Law & Practice* 4, no. 1 (2009): 21–31.
- Marbun, K. B., J. E. Purba, and Y. Agustina. "Perlindungan Hukum bagi Pencipta Lagu atas Lagu Ciptaannya yang Dipakai Orang Lain Tanpa Izin." *Collegium Studiosum Journal* 6, no. 2 (2023): 492–496. <https://doi.org/10.56301/csj.v6i2.1083>.
- Noor, T., and S. Zulkifli. "Pembiayaan Berbasis Kekayaan Intelektual dengan Jaminan Fidusia bagi Pelaku Ekonomi Kreatif." *Jurnal Rectum: Tinjauan Yuridis Penanganan Tindak Pidana* 5, no. 1 (2023): 665–682.
- Noor, T., S. Zulkifli, and V. U. Keliat. "Analisis Itikad Tidak Baik dalam Pendaftaran Merek: Tinjauan Hukum dan Implikasinya." *Verdict: Journal of Law Science* 4, no. 2 (2025): 87–101. <https://doi.org/10.59011/vjlaws.4.2.2025.87-101>.
- Noor, Zulkifli, and V. U. Keliat. "Analisis Itikad Tidak Baik dalam Pendaftaran Merek." *Verdict: Journal of Law Science* 4, no. 2 (2025): 87–101.

- Rajan, Mira T. Sundara. "Copyright and Creative Freedom: A Study of Postcolonial Copyright Law." *International Journal of Cultural Property* 20, no. 4 (2013): 411–432.
- Rajan, Mira T. Sundara. "Moral Rights and the Protection of Authors in the Digital Environment." *International Journal of Cultural Property* 17, no. 3 (2010): 489–506.
- Senftleben, Martin. "Trademark Protection and Freedom of Expression: An Inquiry into the Conflict between Trademark Rights and Freedom of Expression under European Law." *International Review of Intellectual Property and Competition Law* 41, no. 3 (2010): 267–302.
- Sunarto, Atika, Muhammad Ali Adnan, Christina Karo Karo, and Azizan Khair. "Implementasi Hukum terhadap Merek sebagai Konsep Hak Kekayaan Intelektual." *Jurnal Preferensi Hukum* 4, no. 3 (2023): 389–395.
- Sunarto, Atika, et al. "Implementasi Hukum terhadap Merek sebagai Konsep Hak Kekayaan Intelektual." *Jurnal Preferensi Hukum* 4, no. 3 (2023): 389–395.
- Sunarto, Atika, Keren Trifena Ompusunggu, and Muhammad Ali Adnan. "Implementation of the Use of Trademark Rights in the Development of UMKM in Medan City." *Journal of Law, Politic and Humanities* 5, no. 3 (2025): 1504–1510. <https://doi.org/10.38035/jlph.v5i3.1187>.
- Throsby, David. "The Economics of Cultural Policy." *Cambridge Journal of Economics* 34, no. 4 (2010): 689–704.
- Towse, Ruth. "Creativity, Incentive and Reward: An Economic Analysis of Copyright and Culture in the Information Age." *Journal of Cultural Economics* 33, no. 4 (2009): 231–247.

