

**Copyright Protection in Indonesia: Study of Amendment of Act Number 28  
of 2014 on Copyright**

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*Abstract*

*The purpose of this study is to review the regulation related to Copyright and Neighboring Rights in the new Copyright Act, and; to review the form and substance of copyright protection to the Author and the owner of the neighboring rights in Indonesia in accordance with the new Copyright Act. This study is a normative juridical which used literature as the main foundation. The legal materials used in this study are primary legal materials which include the Civil Code and related legislation. Secondary legal materials consist of literature books, journals, and articles are used to describe the primary legal materials. The study found that (1) Act Number 28 of 2014 on Copyright accommodates the interests of the Author and the Owner of the Related Rights by providing better protection in its Articles, and (2) Some crucial changes related to Economic Rights and the change of Criminal offense to Complaint offense gives more protection to the Author and Related Rights' Owner.*

*Keywords: Copyrights, Protection, Amendment, Act*

*Abstrak*

*Tujuan dari Penelitian ini adalah untuk mengkaji pengaturan terkait Hak Cipta dan Hak Terkait di dalam Undang-Undang Hak Cipta yang baru, dan; untuk mengkaji bentuk dan substansi perlindungan Hak Cipta terhadap Pencipta dan Pemilik hak terkait di Indonesia sesuai dengan Undang-Undang Hak Cipta yang baru. Kajian ini bersifat yuridis normatif yang menggunakan literatur sebagai landasan utama. Bahan hukum primer termasuk KUHPerduta dan peraturan terkait. Bahan hukum sekunder terdiri dari buku-buku literatur, jurnal, dan artikel yang digunakan untuk menjelaskan bahan hukum primer. Hasil studi menemukan bahwa (1) Undang-Undang Nomor 28 Tahun 2014 tentang hak Cipta mengakomodir kepentingan Pencipta dan Pemilik Hak Terkait dengan memberikan perlindungan yang lebih baik di dalam Pasal-pasalnya dan (2) Beberapa perubahan yang krusial terkait Hak Ekonomi dan perubahan aturan delik dari delik biasa kepada delik aduan memberikan perlindungan lebih kepada Pencipta dan Pemilik Hak terkait.*

*Kata kunci: Hak Cipta, Perlindungan, Perubahan, Undang-Undang*

## BACKGROUND

The presence of Intellectual Property right is a privilege because intellectual property existence works as the result of human's ability, needs to be protected therefore it can be recognized, appreciated, and respected due to the rights owned by the author. Thus, can encouraged competition in our society in a good way.

In our 1945 Constitution, Intellectual Property Rights is governed in the Article 28 (H) clause 4, which stated that "Every person shall have the right to own personal property, and such property may not be unjustly held possession of by any party", shows the importance of understanding the protection towards Intellectual Property Rights (IPR).

Copyright is one aspect of Intellectual Property Rights which regulate the protection towards Copyright works in the fields of science, art, and literature. The concept of Copyright basically protected Copyright works that have been fixed and has its original value. Copyrights emerge automatically when those factors are fulfilled.

Especially in Indonesia, the regulations related to Copyright has been known and owned in our law system since the era of Dutch Colonialization by the application of *Autuerswet* 1912. After that, Indonesia had its Act Number 6 of 1982 related to Copyright as amended with Act Number 7 of 1987 and it was amended with Act Number 19 of 2002 on Copyright. (Damian, 2004: 6)

As a member of *World Trade Organization* (WTO), it is a consequence for Indonesia to follow the international rule regarding WTO's rule. in the WTO there is a *General Council* under the Directorate General of WTO. This General Council then oversees three councils, one of which is TRIPs (*Trade-Related Aspects of Intellectual Property Rights*) Council. (Saidi, 1995: 6). These TRIPs can be regarded as an important issue in the international economic arena. As Mohtar Mas'oed explains that the inclusion of TRIPs within the WTO framework is more of a very effective mechanism for preventing the transfer of technology, which plays a key role in the process of economic growth and development. For Indonesia and the southern countries, this will certainly cause its own problems, which tend to put these countries in a difficult position not to say in an oppressed

position. Intellectual property rights then became an instrument of international economic politics as Christopher said. (Saidin, 2015: 8). Therefore, a special attention and individual understanding of Intellectual property rights within the framework of international trade agreed upon in the WTO and its follow up Conventions, becoming important to be observed.

Indonesia is one of the States which is subject to the provisions of the Berne Convention governing Copyright. Berne Convention is the oldest international agreement in the field of copyright and is open to all countries to be ratified. As a consequence, Indonesia shall recognize and provide protection to the Copyright work to its own citizens as well as to the Copyright works of the Contracting States of the Convention.

In its development, the utilization of Copyright by both authors and holders of Copyright in practice encountered various problems. Utilization of works subjected to Copyright without the author's permission or the copyright holder is one of the few cases occurring within the scope of Copyright. For example; the practice of *copy-paste* without specifying the author's name and source and uploading or downloading Works in the form of songs, videos, photographs or images without rights. In addition, issues related to the protection of economic rights to the authors and owners of neighboring rights are limited in *sold flat* where in practice, many authors who sell their songs or music to others, such as producers, for a cheap price. Shortly thereafter, the song made a hit in the market and the producer or recording company gained a lot of economic benefits. Meanwhile, the authors themselves are prohibited from reproducing or duplicating their creations. This is considered to give disadvantageous to the author.

Therefore, the amendment to the Copyright Act Number 19 of 2002 is deemed necessary by the Government to provide better protection to the Author and the Owner of the Neighboring Rights. Based on the explanation above it can be drawn the problem formulation ie (1) How Act Number 28 of 2014 related to Copyright (New Copyright Act) regulate Copyrights and Neighboring Rights? (2) How will the Act Number 28 of 2014 related to Copyright (New Copyright Act) protect the Author and the Owner of Neighboring Rights in Indonesia? While the objective of the study ie (1) To review the regulation related to Copyright and

Neighboring Rights in the new Copyright Act, (2) To review the form and substance of copyright protection to the Author and the owner of the neighboring rights in Indonesia in accordance with the new Copyright Act.

## **LITERATURE REVIEW**

Copyright is a special right for both the Author and the recipient of the right to announce or reproduce his or her work and grant permission to it without reducing to restrictions under applicable legislation. Copyright is a special right because the right is only granted to the author or Copyright holder. Other people are prohibited from using it, except with the Author's permission or the person accepting the right from the author.

Copyright as one of the intellectual property rights is basically an exclusive right granted by law. The exclusiveness of Copyright is given in two rights, namely economic rights and moral rights. Economic rights are the rights that a creator has for the benefit of his Creation. (Djumhana and Djubaedillah, 1997: 51)

### **1. Economic Right**

In every state, economic rights are including:

- a. Reproduction or duplication rights, the right of the Author to copy his works, this is an elaboration of the economic rights of the Author. The reproduction rights are the same as multiplication, that is to increase the amount of a work by making the same, almost the same as or resembling the work using the same or different materials. This form of multiplication or propagation can be done traditionally or through modern equipment. This reproduction right also includes changing the form of the work from one to another, such as music recordings, drama performances, as well as the making of duplicates in sound or film recordings.
- b. Adaptation Rights, the right to adapt. It could be a translation from one language to another, musical arrangements, dramatization and non-dramatic, transforming into fictional

stories of non-fiction or vice versa. This right is governed by both the Bern Convention and the Universal Copyrights Convention.

- c. Distribution Rights, the right of distribution is the right of the Author to disseminate to the community any result of his works. Such dissemination may be a form of sale, leasing or other form intended for the works to be known by the public.
- d. Performing right, the right to the presentation of lectures, speeches, sermons, whether through the visual or sound presentation, also concerns the broadcasting of films, and sound recordings on television, radio and other places that present such performance. Any person or entity displaying or performing any copyrighted work shall request permission from the owner of the performing rights.
- e. Broadcasting Rights, the right to broadcast, its form is transmitted through a Work by cable equipment. These broadcasting rights include re-broadcasting and retransmission.
- f. Cable program rights, this right is almost identical to broadcasting rights, but it only transmits via cable. Television broadcasters have a certain studio which broadcast programs via cable to the customers. So the broadcast is definitely commercial.
- g. *Droit de Suite*, is the Author's right. This right governed by Article 14 bis of the revised Bern Convention of Brussels 1948 which is further supplemented with Article 14 revised by Stockholm 1967. The provision of this *droit de suite* according to the instructions of WIPO listed in the *Guide to the Berne Convention*, is an additional right. It is a right to the material.
- h. Public Lending Right, this right is owned by the Author whose work is stored in the library, this is a right that the Author is entitled to a payment from a particular party because the work that the Author creates is often borrowed by the public from the library belonging to the government.

## 2. Moral Right

Moral Rights in the terminology of Bern Convention is a right attached to the Author. Attached, means that the right cannot be nullified even though the period of copyright ownership has ended. Moral rights are distinguished from economic rights. If economic rights contain an economic value, then moral rights have absolutely no economic value. The word "moral" denotes the hidden right behind the economic value. However, there are times when the value of moral rights actually affects the economic value. (Saidin, 2015: 250). Moral right is the rights that protect the personal interests of the Author. The concept of moral rights is derived from the continental legal system in France. According to the concept of continental legal system, the authors' rights (*droit d'auteur*, author rights) are divided into economic rights in which to benefit economically such as money, and moral rights, which concerning the protection of Author's reputation. (Djumhana and Djubaedillah, 1997: 58).

The ownership of Copyright can be transferred to other parties, but their moral rights remain inseparable from the Author. Moral right is a special and eternal right that the Author has as the result of his work, and is not separated from the Author. The moral right has three basic principles namely, the right of publication, the right of paternity, and the right of integrity. (Djumhana and Djubaedillah, 1997: 58). Komen and Verkade stated that moral rights of the Author are including: (Hardjowidigdo, 2005: 51).

- a. Prohibition to make changes in Work;
- b. Prohibition of changing title;
- c. Prohibition to change Author's determination;
- d. Right to make a change.

The definition of moral rights refers to the right of the authors to protect their reputation and the integrity of their works from abuse and

misappropriation of moral rights is personal and distinct from Copyright law. This moral right is guaranteed to the extent of copyright protection. A moral right is a form of non-economic copyright. Once the Author sells his/her copyright, he or she will receive two specific rights which can not be deprived or sold, those are, first, the right to be named on the Work concerned, and second, the right to the purpose of any treatment of the Work that any harmful or adverse action which may affect the artist and its reputation. Such moral rights are known as attribution and integrity rights. (Hardjowidigdo, 2005: 51).

In the Article 12 Act Number 19 of 2002 on Copyright, provide protection to the following areas:

- a. Book, Computer Program, flyer, the layout of the published paper, and all published papers;
- b. Discourses, Lectures, speeches, and any other Works similar to these;
- c. Props made for educational and scientific purposes;
- d. Song or Music with or without text;
- e. Drama or Musical drama, dance, choreography, puppetry, and pantomime;
- f. Art in all forms such as painting, drawing, carving, calligraphy, sculpture, collage and applied art;
- g. Architecture;
- h. Maps;
- i. Batik Art;
- j. Photography;
- k. Cinematography;
- l. Translations, commentaries, adaptations, anthologies, databases, and other works of the transfer results.

## RESULTS AND DISCUSSION

The copyright definition in the New Copyright Act is slightly different from the definition in Act Number 19 of 2002 on Copyright. According to Article 1 of Act Number 19 Year 2002 on Copyright, the definition of Copyright is *“Copyright shall mean an exclusive right for an Author or the recipient of the right to publish or reproduce his Work or to grant permission for said purposes, without decreasing the limits according to the prevailing laws and regulations”* While the definition of Copyright according to Act Number 28 Year 2014 on Copyright, *“Copyright is the exclusive right of the creator that arise automatically based on the principle of declarative after an invention is embodied in a tangible form without prejudice to the restrictions in accordance with the provisions of the legislation”*. In addition to the different definitions, there are also different copyright arrangements, one of which is related to Neighboring Rights. Neighboring rights or Related Rights are rights relating to Copyright, in which the Related Rights provide protection as granted by Copyright, but it can be said that the Related Rights are more limited and have shorter protection periods. Based on Act No. 19 of 2002 on Copyright, Related rights are the exclusive right for a Performer to reproduce or to broadcast his/ her performances; for a Producer of Phonograms to reproduce or to rent phonographic works; and for a Broadcasting Organization to produce, reproduce, or to broadcast its broadcasting works. Rights related to Copyright Act Number 19 of 2002 are set forth in Chapter VII Article 49. While Related rights in Article 1 of the Copyright Act of 2014 are rights relating to copyright which are exclusive rights for actors, producers of the phonogram, or broadcasting agencies. The related rights in the Copyright Act of 2014 are set forth in Chapter III of Article 20. Concerning the differences of Act no. 19 of 2002 compared with the New Copyright Act, will be discussed as follows.

Based on Article 1 of New Copyright Act (Act Number 28 Year 2014 on Copyright) provides more definitions, such as the definition of "fixation", phonogram, procurement, royalties, Collective Management Agencies, piracy, commercial use, compensation, and others. The new Copyright Act regulates



more details about what Copyright and Related Rights are. The important parts that are changed in the new Act are:

1. Terms of protection

Protection towards Copyright in Act Number 28 of 2014 on Copyright is given a longer time of protection in accordance with the application of the regulations in other countries so that the terms of Copyright Protection in particular field is different in time. Especially for the Work which is mentioned in Article 58 paragraph (1) which is owned by 1 (one) Author is valid for the life of the Creator and continued for 70 (seventy) years after his death, starting from January 1 next year and for Works which owned by 2 (two) persons or more the protection of the Copyrights is valid for life Creator who died most recently and lasts for 70 (seventy) years thereafter, commencing 1 January next year, as for the Works which held by a legal entity shall be valid for 50 (fifty) years from the first time its announcement is made. Works in form of applied art, the copyright protection shall be valid for 25 (twenty-five) years from the first announcement. Whereas in Act Number 19 of 2002 the term of copyright protection is simply regulated for the life of the Author plus 50 years after the Author dies.

2. Protection towards Economic Rights

A better protection towards economic Rights for the Authors or Related Rights owner are including the limitation of transfer of economic rights in form of *sold flat*. For example, a book which being transferred its copyright in sold flat and/or transfer without time limitation, its copyright will be returned to the Author when the transfer agreement already reach 25 (twenty-five) years. The regulation of protection towards economic rights in Article 58 and Article 59 of Act Number 28 of 2014 on Copyright explain more detail related to this economic right in a specific Chapter and Articles. While in Act Number 19 of 2002 does not regulate in detail concerned to economic rights.

3. Dispute Resolution

In Act Number 19 of 2002 on Copyright, the dispute resolution on Copyright can only be settled through Commercial Court, even so, the regulation of this dispute settlement in the previous Act is not clearly ruled. Where in the Act Number 28 of 2014, dispute settlement can be done through an alternative process such as mediation, negotiation, arbitration or Commercial Court with a detail on its process that governed in the Act.

4. Responsibilities of Business Trader

Business trade places are forbidden to let the sales and/or duplication of infringing goods Copyright and/or related rights in a trade under its management. For Example, a seller who sells pirated VCD or DVD must be liable for his/her goods.

5. Fiduciary on Copyright, Copyright as an intangible moving property can be subjected to fiduciary

Copyright Work as a fiduciary is a new thing that regulated since the publication of Act No. 28 of 2014 on Copyright. With the publication of this new Act, an Author of Copyright Holder can obtain a loan from the bank by pledging his Copyright Work. This is stated in Article 16 Clause (3) of Act Number 28 of 2014 on Copyright. Further, The provisions of the Copyright as an object of fiduciary as regulated in this Act shall be implemented in accordance with the provisions of the legislation related to Fiduciary.

6. Removal of Product Creation

A Minister as mandated in Article 64 of Act Number 28 of 2014 on Copyright, has the authority to remove a recorded Copyright Work and Related Rights product, if such Works stood in violation of religious norms, norms of morality, public order, defense and state security, and the legislation. Act Number 19 of 2002 on Copyright has no such regulation concerning the Removal of Works. While in the new Act of Copyright, this is governed by Article 74. Further, in the Article 74 of new Copyright Act mentioned that a more detail explanation for this provision related to the Removal of Copyright

Works and Related Rights product is regulated by Government Regulation but until this writing is made no such regulation is not exist yet.

7. Collective Management Institute

Collective Management Institute is a nonprofit legal entity authorized by the Authors, Copyright Holders, and or Related Rights Owner to manage its economic rights in the form of collecting and distributing royalties. The Author, the Copyright holder, the owner of the related rights becomes a member of the Collective Management Institution in order to be able to withdraw the rewards or royalties. Collective Management Institution which functions to collect and manage the economic rights of the creator and the owner of the related rights shall apply for the operational permission of the Minister. This collective management institute is set forth in Chapter XII Article 87 to Article 93 of Act Number 28 of 2014 on Copyright.

8. Royalties for Works made in Official Relations

The Author and/or owner of the related rights are entitled to a royalty fee for the Works or related rights product made in an official relationship and is commercially used. Royalties shall be the remuneration for the utilization of an Economic Right of a Work or Related Rights Items received by the author or owner of Related rights. The regulation of the royalty fee for the Works or related product in an official relationship which used commercially is provided in Article 35 Clause (2) of the New Copyright Act of 2014. In the above paragraph mentioned further explanation concerning it is regulated in government regulation.

9. Use of Copyright And Related Rights in the Information And Communication Technology

In Article 54 of Act Number 28 of 2014 on Copyright, Content is the content of Copyright Work which available in any media. The form of dissemination of content includes uploading content through the internet. Commercial Use through the media of information and

communications technology includes direct commercial use (paid) as well as the provision of free content services that derive economic benefits from other parties benefiting from the use of Copyright and/or the Related Rights.

#### 10. Amendment of Criminal Offense to Complaint Offense

In New Copyright of 2014 is no longer using Criminal Offense concerned to Copyright. Complaint Offense used in Act No 28 of 2014 on Copyright limit the movement of legal apparatus in following up the Copyright infringement. The amendment of this offense aims to further clarify and affirm that copyright is a personal right. And It is appropriate that the rights of a private nature, in case of violation there must be a complaint from the aggrieved party. The reason of the Directorate General of Intellectual Property Rights which proposes the change of offense relates to the nature of the ownership itself. Ownership of copyright is personal, so it is natural that the disadvantaged person himself complains to the legal apparatus in order his case can be executed.

#### 11. Transfer of Copyright

In Article 16 Clause (2) of Act Number 28 of 2014 on Copyright, referred to as "may be transferred or transferred" is only economic rights, while moral rights remain attached to the Author. Transfer of Copyright must be done clearly and in writing with or without notary deed. Article 19 stipulates that the transfer of copyright of the whole works to another party shall not decrease the right of the Author or his heirs to sue any Person who deliberately and without rights and without the Author's consent in violation of the Author's moral rights as referred to in Article 5 Clause (1). In the Article 16 of Act Number 28 of 2014 on Copyright, there is an addition to the transfer of copyright in which transition can be made because of endowments. Whereas in the preceding rule which in the Act no. 19 In 2002 on Copyright, the manner of transfer can only be done by way of

inheritance, grant, wills, written agreement or other reasons in accordance with the laws and regulations.

Both Act Number 19 of 2002 on Copyright and Act Number 28 of 2014 on Copyright is giving legal protection to the Copyright Holder. Given that the existence of law in society is a means to create peace and order in society, so that in the relationship between members of each community, its interests can be maintained. The law is nothing but the protection of human interests in the form of norms or rules. Law as a set of regulations or rule contains a general and normative content, general as it applies to everyone, and is normative for determining what is and is not allowed, and determining how to implement compliance with rules. (Mertokusumo, 2003: 39).

In Copyright, there are several instruments governing Copyright, one of which is the TRIPS Agreement (Trade Related Intellectual Property Rights Agreement) in which it regulates on such matters as:

1. Minimum standards for effective intellectual property enforcement procedures;
2. Administration of civil and criminal cases (orders, damages, evidence, information rights, and interim measures);
3. Restriction, and;
4. Criminal procedure.

The provision of the TRIPS Agreement has two basic purposes:

1. To ensure that there are effective means for law enforcement to the rights holders;
2. To ensure that enforcement procedures are applied in such a way as to enable a legitimate and secure trade.

Indonesia as a country and part of the international community that has ratified the WTO Agreement is itself subject to the trade rules contained in it. For that reason, Indonesia even reluctantly have to adapt its legislation with the WTO framework, especially in relation with Intellectual Property Rights ruled in the TRIPs Agreement and its follow-up conventions. Currently, Indonesia already has a set of legislation that has largely been referring to TRIPs approval. Even the

Indonesian Intellectual Property Law legislation exceeds what is required by the WTO (Mertokusumo, 2015: 56).

TRIPS Agreement is the result achieved from and had already adopted two major international conventions, those are an industrial property right and copyright namely *Paris Convention for the Protection of Industrial Property* and *Berne Convention for the Protection of Literary and Artistic Works*. The consequence of these regulations towards Intellectual Property Right was brought the concept of Intellectual Property Rights in developing countries including Indonesia. TRIPS Agreement is not a specific rule of Intellectual property protection. TRIPS Agreement is an agreement which is one part of WTO Agreement signed by the contracting parties to make rules concerning intellectual property rights in each country.

Under Article 2 of the WIPO Copyright Treaty concerning the scope of copyright protection, it extends to the results of expression and not to ideas, procedures and methods and mathematical concepts.

Article 1 WIPO Copyright Treaty stated as follows:

- 1) This WIPO Copyright Treaty is a special agreement within the meaning of article 20 of the Berne Convention for the Protection of Literary and Artistic Works, as regards Contracting Parties that are countries of the Union established by that Convention. This WIPO Copyright Treaty shall not have any connection with treaties other than the Berne Convention, nor shall it prejudice any rights and obligations under any other treaties.
- 2) Nothing in this WIPO Copyright Treaty shall derogate from existing obligations that Contracting Parties have to each other under the Berne Convention for the protection of literary and Artistic Work.
- 3) Hereinafter, "Berne Convention" shall refer to the Paris Act of July 24, 1971, of Literary and Artistic Works.
- 4) Contracting Parties shall comply with Articles 1 to 21 and the Appendix of the Berne Convention.

Indonesia was also one of the States which subject to the provisions of Berne Convention The Berne Convention is the oldest International treaty, governing copyright and open to all countries for ratification. Berne Convention for the Protection of Literary and Artistic Works defined moral rights as the right of the Author to include his name and the right to maintain the integrity of his Works. Economic rights are the rights of authors which more likely to the right which is more material such as rights of reproduction, adaptation rights, rights of announcement and performance rights.

Act Number 28 of 2014 on Copyright Article 5 Letter a, b, c, d, e mentioned that moral rights are the inherent privileges of the Author. The rights attached are including the right to:

1. Keeping or not mentioning his or her name on the copy in regards to the use of his work for the public;
2. Using his real name or pseudonym;
3. Changing his Works in accordance with the propriety in society;
4. Changing title and subtitle of Works, and;
5. Defend his rights in the distortion, mutilation, modification of Works, or things that disadvantage his honor or reputation.

Based on the rights attached to the moral right, the period of protection granted is provided in Act Number 28 Year 2014 on Copyright Article 57 Clause (1) and (2) stating: (1) The moral rights of the Creator as referred to in Article 5 paragraph (1) letter a, b, and e valid indefinitely (2) The moral rights of the Creator as referred to in Article 5 paragraph (1) letter c and d applicable during the period of copyright to a work is concerned. Therefore, moral rights can not be transferred as long as the Author remains alive, but the implementation of such rights can be transferred by Wills or other reason in accordance with the law and legislation after the Author is dies.

Act Number 28 of 2014 on Copyright Article 6 letter a, b strengthen the basis of protection by using:

1. Copyright Management Information, and/or;
2. Copyright Electronic Information.

In Article 7 Clause (1) of Copyright Management Information as referred to in Article 6 are including the information as follows:

1. Method or system that can identify the substance originality of Works and the Author, and;
2. Code information and access codes.

In Article 7 Clause (2) Electronic Information Copyright referred to in Article 6 letter b includes information about:

1. a work, which appeared and attached electronically in connection with activities Announcement of Works;
2. creator name, or pseudonym;
3. The author of the Copyright Holder;
4. period and conditions of use of a work;
5. Number, and;
6. Information Code.

In the Article 7 Clause (3) Act Number 28 of 2014 on Copyright stated that Copyright Management Information as referred to in Clause (1) and Copyright electronic information as referred to in paragraph (2) which is owned by the Author are prohibited to be removed, altered, or destroyed.

In civil rights, there are values that can be measured economically, namely material rights. Act Number 28 of 2014 on Copyright, this kind of right is referred to as economic rights that are distinguished from moral rights which have no economic value. Economic right is an exclusive right of the Author or Copyright Holder to obtain the economic benefits of the Work. The Creator or Copyright Holder has the economic right to:

1. Publication of Works;
2. Multiplication of Works in all its forms;
3. Translation of Works;
4. Adaptation, arrangement, or transformation of Works;
5. Distribution of Works;
6. Performance of Works;
7. The announcement of Works;
8. Communication of Works, and;



9. Rental of Works.

Any person implementing such economic rights shall obtain the author's or copyright holder's consent. Any person without the permission of the Author or copyright holder is prohibited from duplicating and/or commercially using the work. In Act Number 28 of 2014 on Copyright Article 58 paragraph (1) governed specifically for the Works as follows:

1. Books, pamphlets, and all other written works;
2. Discourses, Lectures, speeches, and any other Works similar to these;
3. Props made for educational and scientific purposes;
4. Song or music with or without text;
5. Drama, musical drama, dance, choreography, puppetry, and pantomime;
6. Works of art in all forms such as painting, drawing, carving, calligraphy, sculpture, or collage;
7. Architectural works;
8. Map; and
9. Batik art or any other motif art,

Applicable throughout the life of the Author and continues for 70 (seventy) years after the Author dies, starting from 1 January of the following year. Article 58 Clause (2) provides that in the case of a Work being owned by 2 (two) persons or more, the copyright protection is valid for the life of the last deceased Author and lasts for 70 (seventy) years thereafter, starting January 1 of the following year. Similarly, in Article 58 Clause (3) for a work owned or held by a legal entity shall be valid for 50 (fifty) years from the first announcement.

The Copyright Act of 2002 was deemed ineffective in protecting the rights of Authors. One of the reasons put forward by various parties is the weakness of the law enforcement and substantively the criminal provisions contained in the Copyright Act 2002 against the offender of criminal violation of copyright is still too light. Besides, there is a demand for Indonesian regulations should be adjusted with the TRIPs Agreement and its follow-up conventions. Finally, in 2014, Copyright Act 2002 amended with Copyright Act 2014. In Copyright Act 2014 the capitalist ideology can be seen clearly from various articles in the Act which

contains the phrase “economic rights” which in the previous Act of 2002 was unknown. Likewise, all rental rights must obtain permission from the Author or Copyright Holder, whereas this is very contrary to the principle of the law of materials set forth in the civil code of Indonesia.

## **CONCLUSION**

Act No. 28 of 2014 on Copyright accommodates the interests of the Author and Owner of Related Rights by providing better protection in its Articles. Where Protection of economic rights is regulated in more detail so as to protect the Author and Owner of the Related Rights in order to maximize the economic Right attached to the Works. Likewise, with the longer copyright protection period, the use of Copyright may be used by the Author's heirs. The change of criminal offense becomes complaint offense in the case of copyright infringement further reinforces that Copyright is a personal right so it is more appropriate in the event of a loss, the aggrieved individual will be the one who filed a report for an offense that occurred. However, up to the time of this study, there are still unclear arrangements regarding the Removal of Copyrighted Works and Works created in the Official Relationship which should be regulated in Government Regulations but until today, such Government Regulations have not yet existed.

## **BIBLIOGRAPHY**

Act Number 19 of 2002 on Copyright

Act Number 28 of 2014 on Copyright

Damian, Eddy, *Hukum Hak Cipta: Undang-Undang Hak Cipta Nomor 19 Tahun 2002*, PT Alumni, Bandung.

Djumhana, Muhammad dan R Djubaedillah, *Hak Milik Intelektual (Sejarah, Teori dan Prakteknya di Indonesia*, Citra Aditya Bakti, Bandung.

Hardjowidigdo, Rooseno, *Perjanjian Lisensi Hak Cipta Musik dalam Pembuatan Rekaman*, Percetakan Negara, Jakarta.

<http://m.hukumonline.com/berita/baca/lt538f4cd49ab2b/hindari-polisi-nakal-ruu-hak-cipta-gunakan-delik-aduan> accessed on 26 April 2018.

<http://m.hukuonline.com/klinik/detail/li592407520f6f7/peran-tripis-iagreenebt-i-dalam-perlindungan-hak-kekayaan-intelektual>, accessed on 26 April 2018.

<http://www.hukumonline.com/berita/baca/lt537f158b829ef/ruu-hak-Cipta-perpanjang-masa-perlindungan-pencipta> accessed on 26 April 2018.

<http://www.hukumonline.com/klinik/detail/cl4479/pengaturan-hukum-hak-Cipta-di-internet> accessed on 26 April 2018.

<http://www.hukumonline.com/klinik/detail/lt54192d63ee29a/ini-hal-baru-yang-diatur-di-uu-hak-Cipta-pengganti-uu-no-19-tahun-2002> accessed on 26 April 2018.

Mertokusumo, Sudikno, 2003, *Mengenal Hukum Suatu Pengantar*, Liberty, Yogyakarta.

Saidi, Zaim, 1995, *Selamat Datang WTO*, Republika, Jakarta.

Saidin, Ok., 2015, *Aspek Hukum Hak Kekayaan Intelektual*, PT Raja Grafindo Persada, Jakarta.