



Legal Protection against Victims on the Use of Names of Public Figures as Characteristics in Fanfiction Novels

Imron, Ameilda Savira, Hendrik Kusnianto

Faculty of Law University 17 Agustus 1945 Samarinda, Samarinda. Indonesia

Email: aliimron.untag1945@gmail.com; Ameildasavira@gmail.com; hendrik_kusnianto@untag-smd.ac.id

Corresponding Author: Imron

Abstract

Fanfiction is a work created by fans based on existing stories, characters, and settings, which can be interpreted as fans writing fanfiction because of the possibility of it not being by their wishes or expectations for the original work, therefore they adapt the original work and process it accordingly. Rewrite it in fictional form. The research aims to determine the legal protection for victims for using the names of public figures in fanfiction novels and the criminal sanctions for using the names of famous public figures as covers in fanfiction novels. The research uses normative juridical legal methods. The legal material analysis technique used is the analytical descriptive method. The results of the research show that the criminal sanction for using the name of a famous public figure as a cover in a fanfiction novel is criminal according to the Copyright Law regulated in Articles 112 to 120. The criminal provisions related to violations of works with names of public figures are subject to Article 113 Paragraph (3), namely, "Any person who without rights and/or without the permission of the Creator or Copyright holder commits a violation of the economic rights of the Creator as intended in Article 9 Paragraph (1) letters a, b, e, and/or g for Use Commercially, it is punishable by a maximum imprisonment of 4 (four) years and/or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah). As well as legal protection for victims of the use of names of public figures in fanfiction novels. In the Copyright Law, there is Chapter XIV which specifically regulates the resolution of copyright disputes. Article 95 states that "copyright dispute resolution can be done by alternative means, arbitration or court. If there is a violation of the moral rights of the creator which is one of the limitations of the copyright which has been assigned to someone other than the creator himself, then the owner of the related rights still has the right to file a claim for compensation to the Commercial Court for the violation of Copyright or Related Rights products.

Keywords:

Fanfiction Novel, Copyright, Use of Names.

How to cite: Imron, I., Savira, A., & Kusnianto, H. (2025). Legal Protection against Victims on the Use of Names of Public Figures as Characteristics in Fanfiction Novels. *GPH-International Journal of Social Science and Humanities Research*, 8(02), 19-25. <https://doi.org/10.5281/zenodo.14877667>



This work is licensed under Creative Commons Attribution 4.0 License.

1. INTRODUCTION

Digital technology is a tool that no longer uses human power, but rather an automatic operating system with a computerized system. Digital technology is a super fast calculating system that processes all information as numerical values. Gautama (2018) stated that In this digital era, the increasingly rapid development of technology with the support of the internet network makes it easier for us to obtain and disseminate information sources more quickly and widely so that we can know the existence of science and technology side by side with each other.

Apart from economic rights, Article 98 of Law Number 28 of 2014 concerning Copyright also regulates that every heir also has the right to sue anyone who intentionally and without rights, or consent, violates moral rights by modifying, distorting, or mutilating something. Creation or not including the name of a public figure or source so that the perpetrator can be categorized as having bad faith. Dispute resolution can be criminally prosecuted by the Police of the Republic of Indonesia and can be subject to imprisonment for a maximum of 2 (two) years and a fine of a maximum of IDR. 300,000,000 (three hundred million rupiah). The offense used for copyright was originally a complaint offense but was changed to an ordinary offense so that any action against copyright infringement can be carried out immediately without having to wait for complaints from people who feel aggrieved by copyright infringement.

As time goes by these works develop rapidly, no longer just in social life but also circulating in virtual life, Fanfiction for example. Fanfiction is a fictional story created by fans based on an existing story, character, or setting. Fanfiction can apply to films, comics, novels, celebrities, and other famous characters. Sometimes some fanfiction includes the author or other people's names as story characters (often called OCs or original characters), but some don't. There are also types of fanfic that use reader inserts or include the reader as one of the story characters (Wikipedia).

Fanfiction is a text product in the form of a work of fiction resulting from fan creativity. These works of fiction contain various genres according to the author's tastes and desires. Farbi (2020) stated that fan fiction is the most common work of fan fiction compared to other fan works because it is an outlet for fans to express their imagination about their favorite idols. Budiarto et al (2021) stated that writing fanfiction makes fans feel close to idols even though they live far from the idol or the culture they come from. Jenkins, quoted by Widaningsih & Yuliarti (2018), stated that Fanfiction is proof that fans not only consume content from the media but can produce it. It was stated by Rebecca W. Black that fanfiction is fan-produced texts that derive from forms of media, literature, and popular culture which can be interpreted as fans writing fanfiction because of the possibility of a discrepancy with their desires or expectations for the original work, therefore they adapt the work the original and process it by rewriting it in fictional form. The plot of this fanfiction is a fan's imagination of their idol and seeing that the majority of fanfiction covers use the names of public figures from artists who are used as characters, and edit them according to the title and theme that the fan expects.

Creating a work is not an easy job to do because it requires a person's intellectual thinking and creativity. It was stated by Margono (2015) that violations of their economic

rights will cause their creativity to decrease or the birth of work that is of no quality at all. Copyright protection is automatic and arises after a work is realized in a tangible form. Copyright registration or recording is voluntary/not mandatory because registration or recording does not give rise to copyright. Furthermore, Simorangkir (1979) stated that the use of the names of public figure artists that were edited for fanfiction covers and commercialized was without the artist's consent to the name of the public figure. Where it is known that someone's creative work has an exclusive right for the creator to change, reproduce, sell, or use without restriction if they have permission from the creator.

The formulation of the problem is how to provide legal protection to victims for using the names of public figures in fanfiction novels and what the criminal sanctions are for using the names of famous public figures as covers in fanfiction novels.

The research aims to determine the legal protection for victims of using the name of a public figure in a fanfiction novel and to determine the criminal sanctions for using the name of a famous public figure as a cover in a fanfiction novel.

2. RESEARCH METHODS

The research is normative juridical legal research, namely by examining and analyzing the regulations in Law of the Republic of Indonesia Number 28 of 2014 concerning Copyright in the State Gazette of the Republic of Indonesia Number 5599 relating to the use of names of famous artists in fanfiction novels. The legal materials used are primary legal materials, secondary legal materials, and tertiary legal materials, namely by literature study of the required legal materials and research results. The legal material analysis technique used is the analytical descriptive method.

3. RESULTS AND DISCUSSION

3.1. Legal Protection for Victims of the Use of Names of Public Figures in Fanfiction Novels

When the Fanfiction Novel is commercialized by obtaining permission from a famous artist through a licensing agreement, the Fanfiction Novel no longer needs to include a disclaimer, which is a method used by the parties concerned to avoid paying royalties to famous artists whose names of public figures are used in the novel. It was stated by Sutedi (2019) that preventive legal protection by entering into a license agreement between each party can protect the economic rights of famous artists and the Collective Management Institute as the body appointed by the Copyright Law has the right to collect royalties which are economic rights the famous artist.

The Copyright Law has Chapter The procedure for filing a lawsuit for copyright infringement is explained in Article 100 and Article 101 of the Copyright Law as follows:

- (1) A lawsuit for copyright infringement is submitted to the chairman of the Commercial Court and recorded by the clerk of the Commercial Court in the court case registered on the date the lawsuit is registered.
- (2) The Registrar of the Commercial Court shall provide a signed receipt on the same date as the registration date.

- (3) The Registrar of the Commercial Court submits the lawsuit request to the chairman of the Commercial Court no later than 2 days from the date the lawsuit is registered and sets a hearing date no later than 3 days from the time the lawsuit is registered.
- (4) The bailiff shall notify and summon the parties within a maximum period of 7 days from the time the lawsuit is registered.
- (5) The decision on the lawsuit must be pronounced no later than 90 days after the lawsuit is registered in a trial open to the public. If the 90 days cannot be fulfilled, with the approval of the Chief Justice the period can be extended by 30 days.
- (6) The decision of the Commercial Court must be conveyed by the bailiff to the parties no later than 14 days from the time the decision is pronounced. When a famous artist or other parties feel they have been harmed by a commercialized Fanfiction Novel, they can file a lawsuit with the Commercial Court. The Plaintiff can sue the Defendant to obtain compensation for the loss of economic rights taken from him. The Defendant can be the author of the Fanfiction Novel or the publisher as the party who reproduces, announces, and disseminates the Fanfiction Novel in this case.

Based on the description above, the author believes that victims who feel disadvantaged by the use of their names in fanfiction novels must have adequate legal protection. While fanfiction novels may serve the purpose of entertainment or artistic creation, using a public figure's name without permission can have a detrimental impact on their privacy, image, and reputation. Copyright and trademark laws in some countries may provide legal protection against unauthorized use of a public figure's name or image. In the United States, the fair use doctrine can be used as a basis for the use of copyrighted works of art without permission, but this is disputed in the case of the use of names of public figures in fanfiction novels. Legal decisions in such cases tend to depend on the facts and evidence available, as well as the laws of the country in question. Court decisions may also take into account the artistic or aesthetic value of fanfiction novels. Overall, the author believes that legal protection for victims who feel disadvantaged by the use of their names in fanfiction novels must be considered, especially in the context of privacy and reputation rights. However, this protection must be balanced with freedom of expression and works of art that are protected by law.

3.2. Application of Criminal Sanctions for Using the Name of a Famous Public Figure as a Cover in a Fanfiction Novel

Perpetrators of copyright infringement are prosecuted criminally as regulated in Chapter as stated in Article 95 Paragraph (4) of Law Number 28 of 2014 concerning Copyright, which means that resolving disputes using criminal means is the last resort (*Ultimum Remedium*) in resolving rights disputes create. This provision provides an exception for copyright violations in the form of piracy which can be directly prosecuted for criminal penalties without first going through mediation. Subagyo (2019) stated that when the case has been registered and the panel of judges handling the case has been formed, the parties to the dispute, the plaintiff and the defendant, will be summoned by the court to come before the panel of judges. At the meeting between the plaintiff and the defendant in court, the judge generally advises the parties to go through the mediation stage first before going straight to the examination process in court. The court with the authority to resolve the

dispute is the Commercial Court as stated in Article 95 Paragraph (2) and Paragraph (3) of Law Number 28 of 2014 concerning Copyright, while other courts do not have the authority to handle copyright dispute resolution.

Apart from economic rights, Article 98 of Law Number 28 of 2014 concerning Copyright also regulates that every heir also has the right to sue anyone who intentionally and without rights, or consent, violates moral rights by modifying, distorting, or mutilating something. Creation or does not include the name of a public figure or source so that the perpetrator can be categorized as having bad faith by violating Article 5 of Law Number 28 of 2014 concerning Copyright. Dispute resolution can also be prosecuted criminally to the Police of the Republic of Indonesia, this is by Article 105. The offense used for copyright was originally a complaint offense but was changed to an ordinary offense so that any action for copyright infringement can be taken immediately without waiting for a complaint from the person involved Harmed by copyright infringement.

Based on the results of the description, criminal sanctions for using the name of a well-known public figure as a cover in a fanfiction novel are very important, namely to prevent protracted suffering experienced by the creator or parties who have the rights to work and prevent increasing losses resulting from the actions of those parties. Who have committed copyright infringement. On the one hand, this provision is quite encouraging because it looks like it cares about the losses experienced by copyright holders, but in the case of copyright disputes where the actual copyright holder is not yet known, this provision may bring losses to the party burdened with obligations by the temporary injunction. Using the name of a famous public figure as a cover in a fanfiction novel can be a serious legal problem. This is especially true if the use is carried out without permission or approval from the public figure.

The use of public names of fanfiction novel figures in a legal context may be considered a copyright violation, invasion of privacy, or defamation. Public figures have the right to protect their names and reputations, and the use of their names without permission may be considered detrimental to them.

Criminal sanctions that may be imposed for using a public figure's name without permission in a fanfiction novel include fines and/or imprisonment. In addition, fanfiction writers who violate the copyright or privacy of public figures can be subject to civil sanctions such as lawsuits and demands for compensation. Criminal sanctions may be imposed on violators who intentionally and detrimentally use the names of public figures in fanfiction novels as part of an effort to gain profit or defame the public figure. However, in other cases where the use of the name is considered a form of artistic work and does not cause harm, criminal sanctions may not apply. About the criminal sanctions listed in the Copyright Law, Article 113 Paragraph (3), namely every person who without rights and/or without the permission of the Creator or Copyright holder violates the Creator's economic rights as intended in Article 9 Paragraph (1) Letter a letter b, letter e, and/or letter g for Commercial Use shall be punished with a maximum imprisonment of 4 (four) years and/or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah).

4. CONCLUSIONS AND RECOMMENDATIONS

4.1. Conclusion

Based on the discussion, it can be concluded as follows:

1. Forms of legal protection for victims of the use of names of public figures in fanfiction novels must be given strong protection for copyright holders including copyright holders for works named after public figures. Legal protection for works named after public figures can be carried out through preventive approaches, such as entering into licensing agreements between authors and publishers with famous artists whose names of public figures are used in Fanfiction Novels. This preventive approach aims to minimize the occurrence of copyright violations in the future. Criminal sanctions also need to be seriously considered in protecting copyright, especially in cases of infringement of works by public figures.
2. Determination of criminal sanctions can be carried out by the criminal provisions relating to violations of the work of a public figure, which is subject to Article 113 Paragraph (3) of the Copyright Law, namely, every person who without the rights and/or without permission of the Creator or Copyright holder violates the economic rights of the Creator as intended in Article 9 Paragraph (1) Letter a, letter b, letter e, and/or letter g for Commercial Use shall be punished with a maximum imprisonment of 4 (four) years and/or a maximum fine Lots IDR 1,000,000,000.00 (one billion rupiah).

4.2. Suggestion

Based on the analysis that has been prepared and for the sake of legal progress in Indonesia, the author makes the following suggestions:

1. It would be best if legal protection for victims of the use of names of public figures in fanfiction novels should be provided with strong protection for copyright holders, including copyright holders for works with names of public figures. Approaches such as entering into licensing agreements between authors and publishers with famous artists whose names of public figures are used in Fanfiction Novels can help minimize copyright violations in the future. Apart from that, criminal sanctions also need to be seriously considered as an effort to protect copyright, with the threat of a maximum prison sentence of 4 (four) years. Therefore, it is important for relevant parties, including well-known authors, publishers, and artists, to work together to implement appropriate protective measures to safeguard existing intellectual property and copyrights.
2. Law enforcement against copyright infringement should be carried out firmly and consistently to protect the rights of creators and copyright owners. There needs to be better socialization and education regarding copyright and the use of other people's work, especially in the criminal action that can be carried out with the criminal provisions related to violations of the works of public figures, which are subject to Article 113 Paragraph (3). This aims to speed up the law enforcement process and provide legal certainty for the parties involved in the case.

BIBLIOGRAPHY

1. Reading Books and Journals

- Budiarto, A., Chairunissa, R., & Fitriani, A. 2021. The Motivation Behind Writing Fanfictions for Digital Authors on Wattpad and Twitter. *Alphabet* 4(1): 48–53. <https://doi.org/10.21776/ub.alphabet.2021.04.01.06>.
- Farabi, Q. N. S. El. 2020. Motivation of K-Pop Fans as Citizen Authors for Writing Fan Fiction Motivation of K-Pop Fans as Citizen Authors for Writing Fan Fiction. *Ultimakom Communication Science Journal* 12 (1): 34–52.
- Gautama, S. 2018. *New Trademark Law*. Aditya Bakti, Bandung.
- Margono, S. 2015. *Intellectual Property Law*. Pustaka Reka Cipta, Bandung.
- Sutedi, A. 2019. *Intellectual Property Rights*. Sinar Graphics, Jakarta.
- Widaningsih, A., & Yuliarti, M. S. (2018). Descriptive Analysis of Consumption and Production of Cultural Texts in ARMY Fandom. *Journal of Mass Communication*, 1. [https://www.jurnalkommas.com/index.php?target=isi&jurnal=Descriptive Analysis of Consumption and Production of Cultural Texts in ARMY Fandom](https://www.jurnalkommas.com/index.php?target=isi&jurnal=Descriptive%20Analysis%20of%20Consumption%20and%20Production%20of%20Cultural%20Texts%20in%20ARMY%20Fandom).
- Wikipedia. https://id.wikipedia.org/wiki/Fiksi_penggemar accessed, 23 December 2024.

2. LEGAL REGULATIONS

The 1945 Constitution of the Republic of Indonesia

Law of the Republic of Indonesia Number 28 of 2014 concerning Copyright

Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code (KUHP) regarding amendments to Law of the Republic of Indonesia Number 1 of 1946 concerning the Criminal Code.