

LEGAL PROTECTION AGAINST THE CASE OF
PT. MOTTOLEDO AS A VIOLATOR OF
FEN LIE PATENT RIGHTS

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Abstract

Intellectual property rights (IPR) pertain to property rights derived from human intellectual capabilities, encompassing various forms of talent displayed in technology, science, art, and literature. Adequate legal protection is essential for intellectual works to nurture societal creativity and ensure successful safeguarding of intellectual property rights. This study aims to assess the legal protection of intellectual property rights against PT Mottoledo Fen Lie Agen as a patent infringer. This study employs a normative legal study approach, focusing on the positive legal norms governing the protection of intellectual property rights against PT Mottoledo Fen Lie Agen's patent infringement. The study identifies the substantive requirements for patentability of an invention, namely: novelty, inventive steps, and industrial applicability, as specified in Articles 2-5 of the Patent Law. Concerning copyrighted books and similar works, the protection system discussed earlier adopts an automatic approach. This means that creators do not need to undergo a registration process to obtain legal protection; protection automatically exists from the moment the copyrighted work is created as a tangible expression, such as a copyrighted book, etc.

Keywords: Fen Lie Agen, Intellectual Property Rights, Legal Protection, PT Mottoledo

1. INTRODUCTION

Indonesia's development must rely on high-value industries. The country's commitment to implementing the idea of the ASEAN Free Trade Area (AFTA), along with its membership in the World Trade Organization (WTO) and the Asia-Pacific Economic Cooperation (APEC), demonstrates the government's seriousness in supporting regional business freedom and open economic systems (Manuaba & Sukihana, 2020).

The rapid flow of free trade, which demands higher quality manufactured goods, has proven to encourage the development of technology to support these needs. As a result, there is a growing awareness of the importance of intellectual property rights (IPR) in supporting technological development. This is evident from the large number of copyright, patent, and trademark applications submitted to the Directorate General of Intellectual Property Rights of the Ministry of Law and Human Rights, as well as a considerable number of industrial design applications (Sutrahitu et al., 2021).

The Indonesian government acknowledges that implementing an intellectual property rights system is a significant undertaking. Its participation in the WTO is a consequence of implementing the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) based on Law Number 7 of 1994 concerning the Ratification of Intellectual Property Rights Agreement Establishing the World Trade Organization.

Based on experiences so far, effective implementation of the intellectual property rights system requires the participation of various agencies and institutions from both the

public and private sectors, along with good coordination between all parties. A robust IPR system necessitates appropriate legislation, optimal IPR administration, law enforcement, and socialization programs.

Intellectual property rights (IPR) refer to rights relating to wealth arising from human intellectual capacity, which can be in the form of works in technology, science, art, and literature. IPR can be broadly categorized into two types: copyright and industrial rights. Industrial rights encompass patents, trademarks, industrial designs, integrated circuits, trade secrets, and plant varieties. Intellectual property rights are governed by several laws and regulations in accordance with TRIPS requirements, namely Law No. 29/2000 (protection of plant varieties), Law No. 30/2000 (trade secrets), Law No. 31/2000 (industrial design), Law No. 32/2000 (integrated circuit layout planning), Law No. 1 of 2001 (patents), Law No. 15 of 2001 (trademarks), and Law No. 19/2002 (copyright) (Isnaina, 2021).

The implementation of the Intellectual Property Rights (IPR) system in Indonesia is still facing challenges. This may be because people are not familiar with the intellectual property system, which is still relatively new in the country. Apart from benefiting industries, universities, and research and development institutions, the intellectual property rights system plays a vital role as a revenue generator.

IPR can be generally classified into two main categories: copyright and industrial rights. Copyright covers works in the fields of science, art, and literature, while industrial rights cover technical fields. The terminology of intellectual property rights often refers to creators or inventors. Copyright includes both property rights and moral rights. Property rights pertain to the rights to receive economic benefits from the creation and related products, while moral rights are attached to the creator or author and cannot be removed or eliminated without reason, even if the copyright or related rights have been transferred.

In the current era of globalization, where various technologies are increasingly advanced, everyone can easily use the current technology to do business for their needs. However, the rapid development of information technology has also negatively impacted copyright protection. It seems that competition occurs in various ways, carried out by different parties, either in accordance with the applicable regulations or not (Muchtar A H Labetubun, 2019).

The owner of the copyright is typically the creator, unless the creator transfers the rights to someone else. If a creation was designed by someone, but others carry out and work on it under the direction and control of the designer, then the designer of the creation is considered the creator.

As society's needs increase, copyright, especially portrait copyright, has received more attention recently. Many efforts are made by irresponsible parties to realize their desires, leading to cases like the one experienced by the author, where profiling results are used to describe the manager of an advertising model as a copyright owner who is free to advertise in various media without permission. The author's images are used without knowledge in advertisements for penis enlargement drugs.

This is certainly detrimental to the copyright owner of the portrait, such as artist management and artists, who should receive financial rights in the form of royalties as the subject of the portrait. But because the portrait is used illegally, the creator does not contract with the management and does not receive royalties.

Fen Life Agen, through its legal counsel DHL and Partners Law Firm, reported PT Mettoledo's alleged patent plagiarism to the Police Headquarters Criminal Investigation Unit and the Directorate General of Intellectual Property (IPR) of the Ministry of Law and Human Rights. Okto, who is an employee of Fen Lie Agen, said that his party holds a simple patent for the work/invention of the Rotary Galah Connector, which is used as a harvesting tool to cut palm kernels. It was registered by the Directorate General of Intellectual Property Rights with a simple patent certificate number: IDS 000002300, dated 29/0/2019, in accordance with Law No. IX/2019, in accordance with Law No. 13/2016.

As a patent owner, he continued, Fen Lie Agen has the right to grant licenses to other parties to use his creation as prescribed by the law. However, Fen Lie Agen discovered in late 2020 that companies were producing and selling their inventions without their knowledge.

According to him, this was discovered by the company's partner in Pekanbaru. To verify the truth of his work's claim at that time, his colleague tried to order a tool sold by PT Mettoledo located in Pontianak, West Kalimantan. Therefore, Okto said that his party has served two subpoenas to DHL and Partners through its attorney in December 2020 and January 2021, but so far there has been no response from PT Mettoledo. Moreover, this study aims to determine how the implementation of copyright protection against patent works used without prior notice to the owner or copyright holder and what efforts are made by patent copyright holders for works taken by infringers.

2. RESEARCH METHODS

The type of legal research utilized in this study is empirical or sociological legal research. This approach aims to explore the correlation between law and society, focusing on the effectiveness of the application of law within the community. The research takes a descriptive nature, aiming to precisely describe the characteristics of individuals, situations, symptoms, or groups, and determine the prevalence of specific symptoms or relationships within society. The focus of this sociological legal research is on the Legal Protection of Copyright, particularly concerning Article 12 of Law Number 28 of 2014 concerning Copyright in Indonesia.

The research was conducted at one of the Fen Lie Agen companies, where a claim related to their work was being considered through its partners attempting to place an order for a tool sold by PT Mettoledo, based in Pontianak, West Kalimantan.

The population for this study consists of the Director of PT. Mottoledo, who is the alleged perpetrator of copyright infringement in the form of the Rotary System Pole Connector, and Fen Lie Agen, the copyright holder.

Regarding data sources, primary data was obtained directly from respondents, including data from both samples and study informants. This primary data focused on the legal protection of copyright in accordance with Article 12 of Law No. 28 on Copyright. Secondary data, on the other hand, was obtained through literature study and included primary legal materials such as legislation and judicial decisions, as well as secondary legal materials, such as textbooks, books, and journal writings on law.

The data analysis and collection in this research followed a qualitative approach due to the non-numeric nature of the data. The data was difficult to quantify, and the relationships between variables were not clear. The deductive thinking method was used

for analysis, starting with general propositions whose truth is known (or believed) and leading to more specific conclusions (new knowledge).

Data collection techniques involved various methods, including observation, where researchers observed the research focus; interviews, where researchers prepared written questions and interviewed respondents to gather data relevant to the research problems; and literature review, which involved extracting quotations from books and literature related to the research problems. Through these approaches, the research aimed to gain insights into the legal protection of copyright and its application in the context of the studied entities.

3. DISCUSSION

3.1. Implementation of Patent Copyright Protection Against the Work of Fen Lie Agen Performed by PT. Mottoledo

In order to preserve the ethical fortune of the inventor, it is possible to hold a fantasy fortune management certificate that covers the systems or items that find the originality of the care and its creator, information instructions, and access instructions. While the electronic description of the fantasy fortune covers the description of an orphanage, which is born and electronically literate part in the association using the orphanage urita schedule in the color of the inventor's individuality, his alias, or pseudonym individuality, the inventor's similar magnifier of the fantasy fortune, the time and chapter of the application of the orphanage, the number, and the description instructions (Muchtar A H Labetubun, 2021).

Recognition of the birth of the end luck of Copyright is since an image was poured or realized part in a tangible composition (tangible form). Recognition of the birth of the end fortune of copyright loaded is not required a certain fatsun or fact, garib pakai fortunes ranging from the presence of the capital fortune of other artists, such as Patents, Trademarks, Industrial Designs, and Integrated Circuit Layout Designs (Muchtar Anshary Hamid Labetubun, 2019).

The main concept of the birth of Copyright will allow the subsidization of the regulation of a fantasy assembly that holds a composition that characterizes and alludes to similar evidence of the upbringing of a person, the main tip of his talents and creativity that has the character of dictum. The dictum nature included in the Copyright subsumes the inventor's or his reproduced intellectual property. Dictum ethical rights are considered to be similar to the dictum luck possessed by an inventor towards preventing the birth of abnormalities at the end of his copyright assembly and towards achieving glorification or applause at the end of his copyrighted work. The right of loaded ethics embodies the incarnation starting from the association that passes through the functioning of the shreds of the inventor using the fruit of his creative assembly, even though the creator is presumed dead or presumed to collect his Copyright ahead of another genus, so that if the magnate of fortune rolls the inventor's individuality, the inventor's character or element of his inheritance succeeds ahead of protruding ahead of the Copyright magnate so that the inventor's individuality is frozen included part in his creation.

In addition, the Copyright enlarger is not allowed to discover the deformation of an upbringing except with the consent of the inventor or his heirs, and when the inventor thinks of giving his Copyright ahead of another genus, waiving the moment the creator is

still alive his consent is required before discovering the deformation, but when the creator thinks of the death of the sky is required to start permission from his heirs (Diza, 2022).

PT Mettoledo, reported to the Criminal Investigation Department of the Indonesian National Police (Bareskrim) Police Headquarters by Fen Lie Agen, similar to the magnifier of the fortune of the Simple Patent of the tip of the assembly/invention colored Rotary principal pole connector, used similar to the harvesting apparatus of the palm branch slicer traveled approximately arranged in the presence of the Director General of Intellectual Property Rights arguing simple patent certificate using the number: IDS000002300 on April 29, 2019, as stipulated in Law No. 13 of 2016.

Fen Lie revealed, his party was like an octroi magnifier holding a fortune ahead of giving up the brevet ahead of other corners of profit riding on the fruit of his work according to the rules directly regulated in the Patent Law in question. One single complainant stated that: "However, in the presence of the reply of 2020, beta was surprised that there was a company that was directly controlling and selling the fruit of its innovation without beta's knowledge, the field was found out starting from the research of a palm oil company found in Pekanbaru," said Fen Lie.

To provide information about the repulsion of the tip of his work in the presence of the time exploring his partner tolerated working on ordering loaded equipment sold by PT Mettoledo located in Pontianak, West Kalimantan. After placing an order for a number of devices, when embracing the trust of the ordered luggage, Fen Lie and his staff Okto did the check, and it was proven to be exactly the same, so that the hard work of the store did the subpoena ahead of PT Mettoledo, exploring his legal happiness starting from the DHL and Rekan Law Office. It presents two city summons present in December 2020 and January 2021, but until now no image has been found since the Mettoledo corner.

Due to the absence of loyalty determination starting from PT Mettoledo, after that Fen Lie Agen worked on a regulatory trick by filing an estimated birth of a criminal offense as stipulated in the Patent Law ahead of the Director General of Intellectual Property Rights on February 25, 2021. And organized a complaint report to the BARESKRIM Police Headquarters BARESKRIM present on March 3, 2021, exploring his Attorney Law Office DHL and Partners. Meanwhile, Fen Lie Agen, explained by Dedi Harianto Lubis, elaborated that his client thought to embrace the trust of the respondent's similar reading appeal starting from the Director General of IPR conducted on Friday, March 5, 2021.

James Lim, the sole interaction defect of PT Mettoledo when contacted at telephone number 0812 5503 XXXX regarding the complaint was reluctant to release the letter regarding the imitation estimate. "*You can call the pendapa, you're just an ordinary employee,*" but he did not deny that there was a subpoena to his company. "Documents are indeed found sent to the *pendapa*, but you don't understand that," he explained.

In Indonesia, the fantasy fortune verse is regulated in the fantasy fortune chapter, which is the current one, chapter number 28 of 2014 concerning Copyright. In the rukun, there is an understanding that fantasy luck is "the exclusive luck of the creator or participant to broadcast or reproduce his creation or to allow the test before that use does not discourage translations embracing the beliefs of the living law order (argumentation *wadukmenayang butur wadukmenayang*).

Law No. 19 of 2002 concerning Copyright has been amended by Law No. 28 of 2014. The harmonious development of Copyright is concerned with the use of enforcement which not only works nationally but also regionally and internationally.

Fantasy rights are not magfirah similar pieces starting from the capital fortune of artists formed starting from art subsidies, vocal neighborhood opinions, and fortunes related to Trademarks, Patents, Industrial designs, Integrated Circuit Layout system designs, and Trade Secrets. As well as plant subsidies and likenesses. There is an extension of Rights that is not included in the section on Copyright, namely, genetic resource traditional knowledge and for chlor (GRTKF). For subsidies molecules reside under Copyright pillar 12 (Jayakar & Park, 2014).

The reason for the cover of the fantasy fortune subsidy is that we hold a very high etiquette and a wide variety so that it is expected to realize the rotation of the bodies of fantasy fortune so that it is necessary to subsidize the end of the loaded fantasy fortune. In addition, it is also because Indonesia is similar to the single defect of the people starting from the WTO, TRIPS, and WTC. The protection of fantasy luck above is based on the rules of the Bern Convention. However, the separation of fantasy luck using stuck luck, stuck luck does not hold subsidies internationally because Indonesia has not worked since the Reom convention and the WIPO performance phonograms treaty (WPPS) so that Indonesian broadcasting is copied by Malaysia, Singapore, and other countries of the Roem convention and WPPT, we do not claim.

3.2. Efforts Made by Copyright Holder Fen Lie Agen to Infringer PT. Mottoledo

It is believed that addressing moral rights violations, no matter how small, will bring results and benefits to those involved, both creators and copyright holders. The frequent occurrence of infringements indicates that they are numerous and difficult to eliminate. Along with the problems that arise, appreciating the creativity of the author and respecting and protecting the results and rights of his work by enforcing the law through non-judicial channels, namely dispute resolution abroad (Valentine, 2018).

This type of dispute resolution is because copyright owners who experience infringement of their copyrighted creations do not want to take too long to resolve the problem. In the case of infringement, Fen Lie agen and the infringer agreed that they prefer to settle out of court because it does not cost a lot of money for just one type of creation. granting royalties as reasonable compensation to the parties whose rights are infringed.

Fen Lie Agen, as the copyright owner of his work, would seek to settle the matter out of court or amicably and obtain financial compensation or rights from the infringer's actions. The property rights contained in 9 UUHC include the rights of publication and reproduction. Publication includes reading, displaying, selling, distributing or disseminating the work by any means, including online media, or by any means by which the work may be read, heard or seen by others.

Duplication, on the other hand, includes an increase in the volume of work either wholly or largely, by using the same or different materials, including permanent or temporary removal. High penalties for copyright infringement encourage creativity. To combat piracy, the Ministry of Justice has cooperated with approximately 18 organizations in the field of copyright, aiming to encourage the works of others while respecting creativity and improving the economic system of the copyright field (Ramli et al., 2019).

The purpose of copyright protection is legal certainty for the creator community to attract investors to invest in Indonesia. Obstacles in the field of copyright are automatic in copyright protection. The author does not have to register, registration can support the

legal certainty of the author. Copyright protection of works other than works of art, literature, and science including folk poetry. Folklore belongs to the state. Internationally, folklore is debated whether it is subject to intellectual property rights (IPR). As Indonesian anthropologists claim that folklore is part of traditional knowledge, such as Javanese, Balinese, etc. dance However, according to international regulations, folklore should be regulated under copyright law, whereas folklore refers to literary and cultural works, hence the huge debate between folklore experts and anthropologists.

According to Satjipto Rahardjo, the emergence of legal certainty does not necessarily occur when a legal product is created. It turns out that regulation is not the only factor causing the emergence of legal certainty, but the behavior of the community itself is a sufficient factor. It cannot be denied that the initial weak purchasing power of the community was indeed an obstacle to eradicating various IPR violations in Indonesia³. In addition to these problems, according to Ansori Sinungan as director of HAKI, there are problems in the implementation of IPR law in Indonesia which can be seen from several aspects. First, the cultural aspect, where people generally do not feel guilty about using pirated products. Second, the social aspect, where law enforcement must be carried out indiscriminately. And third, the legal aspect, where there are still differences of opinion regarding intellectual property rights. Both law enforcement and society.

According to R. Abdussalam, various violations of norms or rules that often occur in society are caused by:(Ramli et al., 2020)

1. A lenient attitude towards offenders who are minors
2. Police behavior that reduces copyright. law enforcement officers
3. Violations of the law that are ignored and followed by many people in a short time and not prosecuted.

Police behavior that damages the image of the force, such as foreign accusations, harsh treatment, not providing good service, thus creating skepticism in the community towards the welfare of law enforcement officers or police. International attention to copyright issues has resulted in several international treaties in the field of copyright. Since the Berne Convention of 1886, which first agreed on the protection of literary and artistic works, it has inspired a number of successor treaties, i.e. international treaties governing more precisely copyright issues, including drawing attention to technologically produced copyrighted works promoting, for example, copyrighted works in the audio industry, broadcast programs transmitting signals sent by Satellite (Sartika, 2018).

The basic philosophy of copyright enforcement follows the concept of intellectual property rights, which is a tangible right so that the owner can take legal action against his rights Copyright ownership has a lifetime limit plus 50 years, hopefully copyright is not long in the hands of the creator as the owner. So that after the creator dies and after 50 years of addition, the public can freely use the right as public property, meaning that people can report or reproduce it without having to ask permission from the creator or the right holder and is not considered an offense. Copyright restrictions, such as UUHC no. 28 of 2014, are also known as Dutch law, namely Auterswet 1912.

This auterswet provision is a transposition of the international provisions of the Berne Convention. Restriction of copyright means that the rights of the creator as the owner of the creation is always respected as a real individual right, in a relatively long period of time created a balance between the interests of individuals and society, we

know. as the concept of property with social functions. But in practice it turns out that copyright restrictions are often favorable to other parties, namely the parties who sue if the song and other works of art, and publishers if the copyrighted works in the form of books. This is inseparable from the commercial nature of copyright, ie. has an economic element to seek profit (Pricillia & Subawa, 2018).

Some provisions relating to offenses where copyright infringement is punishable can be found in the following articles: (Disemadi & Mustamin, 2020)

1. Infringement of commercial rights under Article 9(1) No. 1 for commercial use is punishable under Article 113(1).
2. Infringement of economic rights for commercial exploitation under Article 9(1)(c), (d), (f) and/or (g) is punishable under Article 113(2).
3. Article 113(3) penalizes infringement of the commercial exploitation of economic rights under Article 9(1) a, b, e and/or g.
4. Categorical offenses of copyright infringement of Section 9 Part 1 a, b, e and/or g are punishable under Section 113 Part 4
5. Section 116(1) threats include infringement of commercial rights for commercial use under Section 23(2)(e).
6. Infringement of economic rights for commercial exploitation under Section 23(2)(a), (b) and/or (f) is punishable under Section 116(2).
7. Infringement of economic rights under Section 23(2)c and/or d shall be punishable under Section 116(3).
8. Infringement of the copyright infringement category of Section 23(2)c and/or d for commercial use is subject to the penalty of Section 116(4).
9. Infringement for commercial exploitation of economic rights under Article (2)(a), (b) and/or (d) is punishable under Article 117(2).
10. Violations of the copyright infringement category of section (2)(a), (b) and/or (d) for commercial purposes will be subject to the increased penalty of section 117(3).
11. Infringement of economic rights for commercial use by 25 paragraph 2.
12. Infringement of economic rights under Section 25(2)(d) which is intended as copyright infringement is provided for in Section 118(2).

In addition to protecting the types of copyrights in Sections 23, 24, and 2 above, there are threats to those engaged in any form of commerce. Infringement and/or intellectual property rights related to commercial premises operating in accordance with Section 10, with the consent of the person photographed or his/her heirs, will be subject to a fine under Section 11. Any use of the meaning of Section 12 for the purpose of displaying posters or advertisements for commercial purposes in electronic and non-electronic media will be subject to a fine under Section 115. The threat of criminal penalties also applies to collecting entities that do not have a Ministerial license to operate under Section 88(3), collect royalties and are subject to criminal sanctions and/or fines under Section 119 (Wibawa & Krisnawati, 2019).

4. CONCLUSION

The implementation of Copyright protection arises automatically based on the declarative principle after a work is realized in real form without reducing restrictions in accordance with the provisions of laws and regulations. According to Law Number 28 of

2014 concerning Copyright, Copyright protection of works can be done in 2 (two) ways: preventively, by registering Copyright with the Directorate General of Intellectual Property Rights, and repressive, by filing a lawsuit to the Commercial Court in the event of a violation of Copyright on the work.

Efforts made by Copyright holders to address cases of copyright infringement can be pursued through non-litigation methods, such as negotiations and reaching written agreements with infringers, with appropriate stamp duty. In such cases, infringers may be required to pay compensation, remove advertising banners installed without permission, or refrain from distributing pamphlets to their buyers.

It is evident that enforcing copyright protection against infringement can be challenging. Therefore, it is advisable for artists to have an organization that advocates for and protects the intellectual property rights of creators. Additionally, there should be considerations for amendments to the Criminal Procedure Code to include electronic media as admissible evidence, as it directly relates to the types of evidence relevant in copyright infringement cases.

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