Copyright Protection in International Trade Transactions

FIRDIA RIANI

155100033

Fakultas Komputer, 448757157

firdiariani.student@umitra.ac.id

Abstract

Globalization in commerce is an impact of advance of technology which causes global community to close and rely on another. Getting in touch in the field of economic activity requires the existence of business law harmonization across border including agreed arrangement of playing level. Applied arrangement in international commerce is GATT/WTO system. Since Indonesia ratified WTO international trade convention, this reality has placed Indonesia into point of no return position. It meant that Indonesia mandatory to follow and comply with all arrangements prevail to all WTO's member states with its consequences, including the commitment of Intellectual Property Rights.

In international trade, countries that are members of the Bern Convention or in the WTO or TRIP are trying to accommodate technological advancements so that the protection of intellectual property can be carried out maximally because this will have a major impact on the creativity of creators protected by the state. Indonesia provides such protection by harmonizing the rules of regulation relating to the protection of intellectual property rights, according to agreements and ratifications carried out by the government with other countries.

Keywords : Copyright, International trade, Transaction

A. INTRODUCTION

At present, anyone aware of the advances in technology and information has contributed greatly to the globalization of trade and made the world community closer and interdependent, as well as various creations including intellectual property. The globalization of the trade in various creations spurs the demand for quality creations such as the creation of books, music, cinematography and computer programs and scientific works, batik or other handicrafts. All of these creations are traded quickly by multinational companies globally. Each country competes to compete for the world market for its products. Indonesia has ratified international agreements in the field of trade in the WTO system (World Trade Organization) As a consequence, Indonesia must strictly comply with all the rules of the game stipulated in the WTO and GATT. The trade in intellectual property of the Indonesian people will also face various rules of the new rules that block in international trade transactions

because the WTO requires member countries to harmonize international law relating to intellectual property rights. The enactment of Law No. 19 of 2002

About Copyright is an effort to improve the protection of copyright law from previous laws and regulations, with the aim of creating a better climate for the growth and development of the spirit of creation in the fields of science, art and literature. The birth of new copyright laws is inseparable from the tendency of the world community in general and Indonesia in particular to provide legal protection of Intellectual Property Rights hereinafter referred to as IPR. The amount of economic benefits from intellectual property can lead to various tensions in international relations caused by the violation of IPR laws by other countries.

Things like this spur the need for increased legal protection for various works to prevent piracy and also reward a work as intellectual property. There are several factors that

encourage and provide a very dominant influence on the efforts of the international community, including Indonesia, to provide attention and regulation of universal Intellectual Property Rights (IPR) based on a set of laws on comprehensive and integrated intellectual property rights.

In copyright, which is part of intellectual property rights contained rights of exploitation or economic rights (moral rights) and moral rights (moral rights). Based on the economic rights possessed by a creator can exploit a work of copyright in such a way as to obtain economic benefits, so that it is necessary to obtain adequate protection. The existence of economic values of a copyrighted work which if not managed in an orderly manner based on a set of legal rules can cause a dispute between the copyright owner and the manager (holder) of the copyright or other party who violates it. Whereas with the moral rights of a creation, a person has inherent rights, which cannot be removed or deleted without any reason even if the copyright or related rights have been

transferred to another person.

The protection of IPR was initially driven by the World Intellectual Property Organization / WIPO) which was one of the special UN agencies formed in Stockholm in 1967 and began to work effectively in 1970. Basically there were three groups of basic agreements (Treaty) handled by WIPO namely : treaties that set international trade standards, treaties that facilitate (facilitate) international protection by providing guidance or assistance in registering or acquiring rights and treaties that establish a classification system to assist IPR management. As a consequence of Indonesia's participation as a member of the WTO and WIPO and the approval of TRIPs, Indonesia must harmonize the IPR system it has with the internationally applicable IPR system. Harmonizing the IPR system does not mean that the Indonesian IPR system must be fully in line with the IPR system in other countries, but equated or harmonized are the basic principles or minimum standards. the same IPR system applies to other countries and must be applied in

Indonesia. Thus, the enforcement and protection of IPR in general and copyright specifically through legislation that can accommodate various things above. For this reason, it is necessary to examine how the copyright protection of copyright works is based on applicable laws in Indonesia and also how the international IPR regulations must be applied in Indonesia as a minimal basis.

Principles Of Copyright Protection

Human intellectual works are a product of thought both in the field of science and art and literature and naturally if the state provides protection against it. This is in line with the thoughts put forward by Arpad Bogisch,: Humans genius is the source of all work, of art and inventions. These works guarantee of a life worthy of men. It is the duty of protection from the arts and inventions. Meaning: Human intelligence is the source of all thought in the field of art and inventions. The result of thought is a guarantee of human welfare. And it is

the duty of the state to ensure full protection of creation in the field of art and new discoveries.

Copyright is a part of a set of rights called Intellectual Property Rights, which can be said descriptively that intellectual property rights are rights to property which are human thought products or human intellectual abilities. In other words intellectual property rights are assets arising from human intellectual abilities. Wealth like this is personal and different from wealth that arises not from human intellectual abilities, such as the right to:

- a. Property acquired from nature, which consists of: Land: property rights, business use rights, building use rights, lease rights, and others.
- b. Property acquired from immovable and immovable property: Property rights to land, buildings, buildings and flats, ownership rights to machinery, intellectual property rights. ownership rights to cars, airplanes, securities.

Copyright according to article 1

paragraph (1) of Law No. 19/2002 concerning Copyright states that: "Copyright is an exclusive right for the creator or Copyright holder to announce or reproduce his creation, which arises automatically after a creation is born without reducing restrictions according to the applicable laws and regulations".

Therefore developed countries urge that the issue of intellectual property rights be directly linked to trade. This means that if a member country violates intellectual property rights or its national regulations do not meet the standards outlined internationally, annual sanctions can be imposed. On this insistence, the protection of intellectual property rights was included in the agenda of the GATT (General Agreement on Tariffs and Trade) negotiations in the Uruguay round, which was the 8th round of negotiations towards international trade cooperation.

TRIPs (Trad-related Aspects of Intellectual Property Rights) in their position along with other multilateral agreements contained in the WTO

Agreement are to support the smooth operation of international trade. In addition, it is also clear the legal status of TRIPs in the WTO Agreement, namely as an attachment which is an inseparable entity and there must be no reservations or objections to the WTO Agreement/TRIPs. Collaborative relations between WIPO and the WTO are outlined in the Agreement between the WIPO and the WTO, 1995. Indonesia as a developing country has become a member and legally participated in TRIPs, through ratification of the WTO Agreement with Law No.7 of 1994.

As a consequence of Indonesia's participation in ratifying the Agreement Establishing The World Trade Organization in providing protection to Indonesian copyright refers to several international conventions, including: the Bern Convention, the WIPO Copyright Treaty TRIPs of the Rome Convention.

B. CONCLUSION

In international trade, countries that are members of the Bern Convention or in the WTO or TRIP are trying to accommodate technological advancements so that the protection of intellectual property can be carried out maximally because this will have a major impact on the creativity of creators protected by the state.

Indonesia provides such protection by harmonizing the rules of regulation relating to the protection of intellectual property rights, according to agreements and ratifications carried out by the government with other countries.

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