

CHAPTER I

INTRODUCTION

A. Background

The rapid advancement of technology, information, and communication has enabled everyone to create and explore various literary genres and forms on diverse digital platforms.¹ One of the most extensively used platforms for digital literary is Wattpad. In 2024, Wattpad's internal data records that 90 million people each month find and share stories on the platform.² The average user spends about 60 minutes per session on Wattpad, with a total of 26 billion minutes spent on the platform each month.³ This platform offers several kinds of literary works, one of the most well-known of which is Fan Fiction, a fictional story created by fans.⁴ Fan Fiction is created by adapting a character or story set in existing works and transforming them into new narratives.⁵ In addition to adapting existing works of fiction, there is also a type of Fan Fiction that adopts the visualization and personification of the living famous figures as characters in the story. This kind of work is known as Real Person Fiction.⁶

¹ Badan Pengembangan dan Pembinaan Bahasa, "Seminar Leksikografi Indonesia (SLI) 2023" II (2024), diakses dari https://badanbahasa.kemdikbud.go.id/resource/doc/files/prosiding_SLI_volume_II_2024_.pdf, p. 5.

² Wattpad, "The Wattpad Platform in Numbers," 2024, accessed on September 5, 2024 from <https://company.wattpad.com/>.

³ *Ibid.*

⁴ Sunia Baharani, "Komersialisasi Ciptaan Fiksi Penggemar (Fan-Fiction) Dalam Undang-Undang Hak Cipta Indonesia," *JISIP (Jurnal Ilmu Sosial Dan Pendidikan)* 6, no. 2 (2022), <https://doi.org/10.58258/jisip.v6i2.3186>, p. 2568.

⁵ Arum Dias Permatasari *et al.*, "Penggunaan Nama Artis Terkenal Sebagai Tokoh Dalam Novel Fanfiksi dan Perlindungan Hukum terhadap Pihak-Pihak yang Dirugikan (Analisis Yuridis Pasal 20, 21, 22, Dan 43 Huruf D Undang-Undang Republik Indonesia Nomor 28 Tahun 2014 tentang Hak Cipta)". 2015. *Brawijaya Law Student Journal* 4 (2), p. 3.

⁶ Sunia Baharani, *Op. Cit.* p. 2569.

As part of Fan Fiction works, the use of real character imagery in Real Person Fiction becomes a special attraction for fans because it allows them to freely envisage in creating works based on visualizations of their favourite characters.⁷ Initially, Real Person Fiction works made by fans were only intended as entertainment that took place within the scope of the fan community.⁸ However, as fan interest grew, Real Person Fiction began to be published as a commercial novel book.⁹ For example, the story entitled "After" on Wattpad has engaged many readers and was successfully adapted into a movie. The author of "After" earned a profit on its story and is now a full-time writer as a result.¹⁰ In the "After" story, the writer uses the personification of a One Direction band member, namely Harry Styles.

The success of "After" shows that technological advances and changes in media consumption culture have led Real Person Fiction works to begin to be adapted into various other formats such as films. Moreover, this work has also begun to be adapted into comic illustrations and narratives on video games. For example, in the interactive game Episode there is a Real Person Fiction story involving Hollywood artist Demi Lovato. In one of the interactive stories, Demi Lovato is shown as a

⁷ Furi Nur Fulamah, "Konstruksi Identitas Kelompok Penggemar (Fandom) Fanfiction di Kalangan Remaja Urban," *Journal of Universitas Airlangga* IV (2015), p. 386, [http://journal.unair.ac.id/LN@konstruksi-identitas-kelompok-penggemar-\(fandom\)-fanfiction-di-kalangan-remaja-urban-article-9204-media-136-category-.html](http://journal.unair.ac.id/LN@konstruksi-identitas-kelompok-penggemar-(fandom)-fanfiction-di-kalangan-remaja-urban-article-9204-media-136-category-.html).

⁸ Oktaviananda, Ninis Agustini Damayani, and Encang Saepudin, "Literasi Real Person Fanfiction Sebagai Media Hiburan Bagi Penggemar Korean Pop," *Nautical: Jurnal Ilmiah Multidisiplin* 2, no. 7 (2023), p. 504.

⁹ *Ibid.*

¹⁰ Stacey M Lantagne, "When Real People Become Fictional: The Collision of Trademark, Copyright, and Publicity Rights in Online Stories About Celebrities." *Case Western Reserve. Journal of Law, Technology & the Internet* (2016), p. 45.

mentor who helps players advance their careers.¹¹ Furthermore, Real Person Fiction works are also starting to be widely found in Indonesia. As an illustration, there is an Indonesian novelist's work entitled "Bruise", which was originally published through Wattpad and now has been physically printed. The novel uses the personification of a BTS idol group member, namely Taehyung.¹² The successful adaptations of Real Person Fiction on the market prove that this work can no longer be considered a non-commercial work.¹³ This raises more questions regarding the legality of these works.¹⁴ Thus, the understanding of Real Person Fiction not only involves literary aspects but also needs to be discussed in the legal context, specifically intellectual property.

Thomas W. Dunfee and Frank F Gibson define intellectual property as a physical manifestation of a practical, creative, or artistic idea and a particular way to acquire legal protection.¹⁵ The definition suggests that intellectual property is the outcome of human intellect, which demands effort during its creation, thereby giving rise to human rights that ensure its protection.¹⁶ In other words, intellectual property receives legal protection for property known as Intellectual Property Rights (IPR).¹⁷ In an ever-more integrated global marketplace, IPR serve as a

¹¹ Episode Wiki Fandom Community, "Demi Lovato: Path to Fame," accessed on September 7, 2024 from https://episode.fandom.com/wiki/Demi_Lovato:_Path_to_Fame.

¹² Oktaviananda, Ninis Agustini Damayani, and Encang Saepudin, *Op. Cit.* p. 497.

¹³ Stacey M Lantagne, *Loc. Cit.*

¹⁴ *Ibid.*

¹⁵ Dunfee and Gibson, *Modern Business Law: An Introduction to Government and Business* (Columbus, Ohio: Grid. Inc, 1977), 189, cited in Dwi Suryahartati and Nelli Herlina, *Hukum Kekayaan Intelektual* (Jambi: UNJA Publisher, 2022), p. 10.

¹⁶ Dwi Suryahartati and Nelli Herlina, *Hukum Kekayaan Intelektual* (Jambi: UNJA Publisher, 2022), p. 27.

¹⁷ Willa Wahyuni, "Hak Kekayaan Intelektual Serta Dasar Hukumnya," 2022, accessed on September 9, 2024 from <https://www.hukumonline.com/berita/a/hak-kekayaan-intelektual-serta-dasar-hukumnya-lt623304dc7749d/>.

pivotal mechanism for fostering international commerce, innovation, and growth.¹⁸

A range of global agreements has been formulated to ensure the protection and recognition of Intellectual Property Rights. At present, the most comprehensive international agreement governing these rights is the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, which is codified in Annex 1C of the World Trade Organization (WTO) Agreement. The classification of intellectual property rights is further detailed in international legal frameworks, including those established by the World Intellectual Property Organization (WIPO), which divides IPR into two broad categories: Copyright and Industrial Property Rights.

Copyright is a category of IPR that protects human works in the scope of art, literature, and science.¹⁹ In more detail, copyright is defined as an exclusive right that regulates the commercialization of intellectual works.²⁰ This exclusive right grant certain rights to the authors or other creators of intellectual works to authorize or prohibit the use of such works for a certain period of time.²¹ As an exclusive right, copyright includes moral rights and economic rights. In Indonesia, copyright is regulated in Republic of Indonesia Act Number 28 of 2014 concerning Copyright (hereinafter abbreviated as the Copyright Act). In addition to regulating moral rights and economic rights, the Copyright Act also includes neighbouring rights. These rights include moral rights and economic rights for performers, as well as economic

¹⁸ Ruby Bhatia, "Intellectual Property Rights and International trade: Balancing Innovation and Acces in Global Markets." *International Journal of Law Management & Humanities* 8, no. 2 (2025), p. 2700.

¹⁹ Khoirul Hidayah, *Hukum Hak Kekayaan Intelektual* (Malang: Setara Press, 2017), p. z.

²⁰ Dwi Suryahartati and Nelli Herlina, *Op. Cit.* p. 43.

²¹ Suyud Margono, *Hukum Hak Cipta Indonesia Teori & Analisis Harmonisasi Ketentuan World Trade Organization/ WTO-TRIPS Agreement* (Bogor: Ghalia Indonesia, 2010), p. 25.

rights for phonogram producers and broadcasting organizations.²² This copyright regulation provides guarantees the creator's moral rights and economic rights to the objects of their works.

In the Indonesia Copyright Act, protected works objects are regulated in Article 40 paragraph 1 which states that:

"Protected Works which include scientific, artistic, and literary Works, comprise:

- a. books, pamphlets, typographical arrangement of published written work, and all other written works;
- b. talks, lectures, speeches, and other similar works;
- c. visual aids made for educational and scientific purposes;
- d. songs and/or music with or without text;
- e. dramatic works, musical dramas, dances, choreography, puppet shows, pantomimes;
- f. fine art works in any forms such as paintings, drawings, engravings, calligraphy, carvings, sculptures, or collage;
- g. applied art works;
- h. architectural works;
- i. maps;
- j. batik art works or other patterns art;
- k. photographic works;
- l. portraits;
- m. cinematographic works;
- n. translations, interpretations, alterations, anthologies, databases, adaptation, arrangement, modification and other works resulting from transformation;
- o. translation, adaptation, arrangement, transformation, or modification of traditional cultural expressions;
- p. compilation of works or data, whether in a readable format by computer program or by other media;
- q. compilation of traditional cultural expressions as long as the compilation constitutes an original work;
- r. video games; and
- s. computer program."

²² Article 20 Indonesia Copyright Act states that, "The Neighbouring Rights as referred to in Article 3 point b are exclusive rights that include: a. moral rights of Performers; b. economic rights of Performers; c. economic rights of Producers of Phonogram; d. and economic rights of Broadcasting Organizations.

If someone wants to use protected works objects in the Copyright Act, then that person must obtain a license from the creator, copyright holder, and/or the neighbouring rights owner. The granting of a license serves as a legal instrument that grants the other party the right to modify, and/or distribute the copyrighted object.²³ The approval for granting a copyright license is usually expressed in the form of a contract.²⁴ Through the contract, the interests of the parties are accommodated within the legal framework of the contract.²⁵ Further provision for granting licenses have been listed in the Copyright Act.

As previously mentioned, the creation of Real Person Fiction works that are increasingly developing and have the potential to have economic value requires protection of the work for creators, copyright holders, and neighbouring rights owners. The creation of Real Person Fiction produces tangible objects, such as books, movies, and video games. It shows that Real Person Fiction works can actually be categorized as protected works object under the Copyright Act. However, the creation of Real Person's Fiction works raises problems regarding the legal status of using the visualization and personification of famous figures.

Real Person Fiction uses a famous person's real life as the basis for its creation. The creators of Real Person Fiction usually don't have a consent from the famous person who appears as a character in their creation. Moreover, the articles in the Copyright Act are still vague in regulating legal protection for real persons who

²³ Citi Rahmati Serfiyanti et al., "Developers" Data Protection in the Open-Source Application with the Copyleft License," *Lentera Hukum* 8, no. 1 (2021): 23–48, <https://doi.org/10.19184/ejhl.v8i1.21012>, p. 30.

²⁴ Sulasno, "Lisensi Hak Kekayaan Intelektual (HKI) Dalam Perspektif Hukum Perjanjian Di Indonesia," *ADIL: Jurnal Hukum* 3, no. 2 (2019), <https://doi.org/10.33476/ajl.v3i2.815>, p. 2568.

²⁵ *Ibid.*

appear as the subject in Real Person Fiction works. For example, Article 1 paragraph 6 of the Copyright Act states that, “A performer is one or several persons who individually or jointly display and perform works”. Based on this article, famous persons who appears as the subject of Real Person Fiction works cannot be categorized as performers because they are not directly involved in creating or performing a work.

The legal loopholes in the Real Person Fiction context create uncertainty about the extent to which the Copyright Act can protect the rights of individuals in the creation of such works. This uncertainty is mainly seen in regulations related to the use of real individual names or personification in fictional works. Moreover, the legal standing to address the unauthorized depiction of real figures in Real Person Fiction is further complicated by the intersection of multiple legal domains—most notably, the right of publicity, which encompasses both privacy rights and intellectual property considerations. This matter further complicates initiatives to ascertain individuals’ legal protection against unauthorized fictional representation. As a result, famous individuals whose personifications are used in Real Person Fiction works cannot claim their economic rights to the work, even if the work brings economic benefits to others who take advantage of their identities and lives.

Therefore, this study will provide a more in-depth analysis of Real Person Fiction as an object that can be protected from the perspective of Copyright Act in Indonesia. The importance of this study is based on the urgency to provide clear boundaries related to copyright to Real Person Fiction works so that the rights of the creators are protected without prejudice to the rights of individuals used in the

work. Studies related to Real Person Fiction in Indonesia are still very limited. Thus, the focus on Real Person Fiction as a form of expansion of copyright objects in this research is an original approach.

B. Problem Formulation

Based on the background description, the problem formulation of this study can be described as follows:

1. How does the Republic of Indonesia Copyright Act overview Real Person Fiction as a protected copyright object?
2. How does copyright act provide protection for moral rights and economic rights in real person fiction?

C. Research Objectives

Referring to the formulation of the problem above, the objectives of this study are as follows:

1. To analyse the Copyright Act in Indonesia in reviewing Real Person Fiction as a protected copyright object.
2. To examine the form of protection for moral rights and economic rights in Real Person Fiction.

D. Research Benefits

This research is intended to provide the following benefits:

1. Theoretical Benefits

This research is expected to contribute to the enrichment of legal literature, especially in the scope of copyright and creative works such as Real Person Fiction. A comprehensive study of copyright in Real Person Fiction

can enhance the understanding of the application of the Copyright Act in Indonesia for works that involve real individuals as subjects. In addition, the results of this study are expected to encourage further research on copyright in the context of creative works development.

2. Practical Benefits

For legal practitioners and policymakers, the findings of this research may serve as a basis for expanding the scope of objects covered by copyright regulations, especially in facing the challenges of the digital era. This research is also useful for creative creators, such as writers, illustrators, and video game developers, in understanding the legal limitations on the use of real people's names or images for their works. Furthermore, for individuals who appear as the subjects in Real Person Fiction works, this research can provide an overview of their lawful rights.

E. Conceptual Framework

A conceptual framework must be established to prevent misunderstandings or misinterpretations from readers of the thesis title. Therefore, the author provides some description of the concepts used. The description of these concepts will provide a clear and more focused understanding of the discussion topic. The concepts are described as follows:

1. Real Person Fiction

Real Person Fiction is a type of work with a genre fiction that includes visuals and interactions with real person, such as celebrities or political

officials in the story.²⁶ Real Person Fiction is one of the subcategories of Fan Fiction.²⁷ Similar to Fan Fiction in general, Real Person Fiction is also a type of work created by fans. However, the difference lies in the source of inspiration. Real Person Fiction is not based on published original works but rather focuses on famous figures, such as celebrities or political figures, whom the author idealizes.²⁸

The work of Real Person Fiction puts famous figures characters in new situations or adventures.²⁹ The authors of Real Person Fiction use their work as a tool to construct the identity of the characters in their story.³⁰ This approach stems from the author's desire to develop real-life characters in alignment with their specification, either to enhance the appeal of the story or to satisfy personal desire.³¹ Currently, Real Person Fiction works are widely found on various platforms on the internet. These works drew a lot of attention from internet users, attracting millions of readers, until the story began to be published physically.³² Therefore, fan works that were originally

²⁶ Khothibul Syafiq, Luthfia Rahmati, Redyanto Noor, Umam, "Bentuk Penulisan Real Person Fiction 'Close Friend' Dan 'The Unfinished' Di Twitter: Analisis Cybersastra," *Wicara* 1, no. 2 (2022), p. 104.

²⁷ Judith Fathallah,, "Reading *Real Person Fiction* as Digital Fiction: An Argument for New Perspectives," *Convergence* 24, no. 6 (2018), p. 568.

²⁸ Sunia Baharani, *Op. Cit.* p. 2569.

²⁹ Ananda Nadira, "Analisis Simulakra Dalam Fanfiction Oleh Fandom K-POP: Studi Pada Fandom MyDay Di Twitter UPN Veteran Jakarta, Fakultas Ilmu Sosial Dan Ilmu Politik," no. 2000 (2021), Skripsi Universitas Pembangunan Nasional Veteran Jakarta, diakses dari <https://repository.upnvj.ac.id/15988/>, p. 15.

³⁰ Elya Sahrul Mulyaputra *et al.*, "Kritik Sosial Dalam Serial *Real Person Fiction* Twitter Cucu Eyang Hakie Medisi Bearantem Hebat Gara-Gara Nanas Ketahuan Pergi Ke Hollywings Karya Akun @Decalcovanilla." Makalah Universitas Diponegoro 2022, p. 7.

³¹ *Ibid.*

³² Oktaviananda, Damayani, and Saepudin, *Loc. Cit.*

intended only as personal entertainment, are now starting to have commercial value that can be traded.

2. Copyright Objects

In this research, the term "copyright object" refers to all forms of protected works defined in the Republic of Indonesia Act Number 28 of 2014 concerning Copyright (Copyright Act). The definition of works in the Copyright Act is any scientific, artistic, and literary works resulting from inspiration, ability, thought, imagination, dexterity, skill, or expertise expressed in a tangible form. In other words, copyright is one of the intellectual property categories with the widest scope of protected objects, which includes science, art and literature, as well as computer programs. The broad scope of protected works in the Copyright Act reflects legal efforts to respect individual creativity and encourage work innovation.

All copyright objects regulated in the Copyright Act are tangible objects.³³ It shows that legal protection is not given to a person's idea, but is given to the form of expression of the idea.³⁴ Thus, the copyright object can be legally owned by the individual (subject) and has economic value.³⁵ Referring to the Copyright Act, there are 2 (two) legal subjects that can receive protection, namely individuals and legal entities. The legal subject in copyright is referred to as the copyright holder. Article 1 paragraph 4 of the Copyright Act explains that "A copyright holder is the creator as the

³³ Dwi Suryahartati and Nelli Herlina, *Op. Cit.* p. 27.

³⁴ Suyud Margono, *Op.Cit.* p. 26.

³⁵ Khoirul Hidayah, *Op.Cit.*, p 2.

copyright owner, the party acquiring a lawful right from the creator or other parties who acquire subsequent rights from the party such acquiring lawful rights”.

3. Copyright Act

As one of the participating countries in the Trade-Related Aspect on Intellectual Property Rights (TRIPs) agreement, Indonesia is required to establish and enforce legal provisions on Intellectual Property Rights in accordance with the provisions of the TRIPs. After the ratification of the TRIPs agreement, Indonesia has positive regulations regarding Copyright through Act Number 19 of 2002 concerning Copyright.³⁶ However, along with the development of technology and the need for legal reform, the Act was later repealed and replaced by the Republic of Indonesia Act Number 28 of 2014 concerning Copyright.

The new Copyright legal basis contains provisions regarding the supervision and protection mechanism for products that utilize technology-based production tools.³⁷ Furthermore, the applicable Copyright Act regulates moral rights and economic rights. In addition, the Copyright Act also regulates neighbouring rights. Protection of related rights for a work is granted because the economic value of the work or production arises from the contributions of all parties involved in its realization.³⁸

³⁶ Suyud Margono, *Op. Cit.* Pp 6.

³⁷ Yulia, *Hukum Hak Kekayaan Intelektual* (Lhokseumawe: Sefa Bumi Persada, 2021), p. 24.

³⁸ Harry Randy Lalamentik, "Kajian Hukum Tentang Hak Terkait (Neighboring Right) Sebagai Hak Ekonomi Pencipta Berdasarkan Undang-Undang Hak Cipta Nomor 28 Tahun 2014." *Lex Privatum*, no. 6 (2018), p. 18.

F. Theoretical Foundations

Theoretical foundations can be interpreted as a research basis that includes various theories and research results so that research has a strong foundation to study the phenomena systematically.³⁹ In this study, several theories that can be applied to study the phenomena are:

1. Natural Rights Theory

Exclusive rights in copyright are granted to the creator to protect their intellectual work. One of the theories to preserve exclusive rights is the natural rights theory. In principle, the natural rights theory states that bodily work and handiwork are private property.⁴⁰ John Locke as the originator of this theory believes that individuals are naturally endowed with the right to life, the right to liberty, and the right to property.⁴¹ In this theory, copyright as an intellectual property right is considered a fundamental human right, specifically the right to own private property.⁴²

The natural rights theory strengthens the protection of intellectual works. This theory firmly states that even the human body is a property that obliges humans to respect freedom and determine themselves in other human beings.⁴³ It means that each individual has a natural right to get the output from their intellectual efforts. However, the efforts are limited by the rights

³⁹ Tamaulina Br. Sembiring et al., *Buku Ajar Metodologi Penelitian (Teori Dan Praktik)* (Karawang: Saba Jaya Publisher, 2024), p. 61.

⁴⁰ Santosh Kumar and Mrityunjaya Kumar, "Natural Rights Theory of Copyright Protection," *Advalorem Journal of Law* 3, no. 1 (2016), p. 85.

⁴¹ Andre Munro, "State of Nature," 2024, accessed on October 10, 2024, from <https://www.britannica.com/topic/state-of-nature-political-theory>.

⁴² Santosh Kumar and Mrityunjaya Kumar, *Op. Cit.* Pp 86.

⁴³ Dwi Suryahartati and Nelli Herlina, *Op. Cit.* p. 44. .

of others, meaning that one cannot cause harm to others.⁴⁴ This theory shows that in the creation of a work, one is obliged to respect the property rights of others. Moreover, the human body is also considered a property that must be protected. Hence, this theory serves as a strong foundation for copyright protection in the creation of Real Person Fiction.

2. Agreement Theory

The term agreement can be found in Book III of the Civil Code. Article 1313 of the Civil Code defines an agreement as an act by which one or more persons bind themselves to one or more other persons. Although the article does not provide a complete definition of the agreement, the article states that substantially in the agreement, there are one or more parties who bind themselves to the other party.⁴⁵ The parties agree because they share a common goal, which encourages them to make promises to each other in fulfilling a specific obligation. The bond between two people who make an agreement results in the emergence of rights and obligations for both parties to a performance. If one of the parties does not carry out its obligations, then that party has broken its promise (in law terms is defined as default).

The parties are obliged to carry out the rights and obligations of a performance after the agreement is valid. The agreement can be stated as valid if certain conditions have been met. The legal conditions for making an agreement are listed in Article 1320 of the Civil Code. Based on this article,

⁴⁴ Rahmi Jened, *Interface Hukum Kekayaan Intelektual* (Jakarta: Rajawali Pers, 2013), p. 23-26.

⁴⁵ Ahmadi Miru and Sakka Pati, *Hukum Perikatan (Penjelasan Makna Pasal 1233 Sampai 1456 BW)*, (Jakarta: Rajagrafindo Persada, 2011), p. 63.

there are 2 (two) main conditions in making an agreement, namely subjective conditions and objective conditions. The subjective conditions of the validity of the agreement consist of:

- a. The parties consent; and
- b. The competence of the parties to make an agreement.

Meanwhile, the objective conditions for the validity of the agreement consist of:

- a. A certain thing/subject matter; and
- b. Permitted cause.

In the context of copyright, an agreement is used to obtain a license that covers important aspects such as the use, distribution, and transfer of copyright. Additionally, a license in copyright governs the relationship between the creator and the party who will use the protected work. Licenses on copyright are used to protect works because licenses relate to the economic value inherent in intellectual works and inherent exclusive rights for their owners.⁴⁶ Therefore, the discussion regarding the licensing agreement is necessary to protect the work of Real Person Fiction.

3. Legal Protection Theory

Legal protection refers to efforts by law enforcement to ensure the sense of security for legal subjects. This effort is realized through a regulatory framework that serves as a legal shield for subjects who need protection from potential nuisance or threats. Legal protection realized through positive law

⁴⁶ Sulasno, *Op. Cit.* p. 360.

will assure the satisfaction of certainty, utility, and legal justice in accordance with the purpose of law formation.⁴⁷ In other words, legal protection can be interpreted as a universal concept of the state of law.

In Indonesia, intellectual property is included in the class of property protected by the state through the granting rights mechanism. This protection is based on the idea that creative ideas in intellectual property are unlimited resources that have very high economic value. Furthermore, intellectual works create a benefit. The creator cannot feel the benefits of their work without proper protection for its publication and dissemination. Therefore, the creator of an intellectual work gets the right to the ability to use their mind creatively to produce an intellectual work.⁴⁸ As a form of intellectual work, Real Person Fiction also needs to get legal protection, so the application of this theory will be highly relevant to this research.

G. Research Originality

As part of the research process, the author has examined various relevant academic works. This research process aims to ensure novelty and prevent similarities with previous studies. The following table presents the research findings of academic papers related to this research:

⁴⁷ Ayuta Puspa Citra Zuama. "Menciptakan Perlindungan Hukum Yang Efektif Bagi Hak Cipta Karya Sastra Film Nasional: Utopis Atau Logis." *Jurnal Hukum Dan Pembangunan Ekonomi* 8, no. 2 (2021), p. 101.

⁴⁸ Dina Susiani, *Hukum Hak Kekayaan Intelektual* (Jember: Pustaka Abadi, 2019), p. 5.

Table. 1 Research originality

No.	Researcher Name	Research Title and Method	Research Results	Research Differences
1.	Jingxi Xiao (Master's Thesis in European and International Trade Law, Lund University) ⁴⁹	Intellectual Property Issues of Fan Fiction This research employs normative legal research (doctrinal research), utilizing statutory, case, and comparative approaches to analyze the legal issues addressed in this study.	The results of this study show that the copyright of Fan Fiction works in the European Union Law has not been clearly regulated. Therefore, the researcher suggests clarifying the laws and regulations by providing clear definitions and boundaries between Fan Fiction works and original works. In addition, researchers suggest establishing appropriate	This research differs from the author's study in terms of its research focus and applicable legal jurisdiction. Jingxi Xiao explained the regulation of Fan Fiction works in the European Union Law, while the author's research focuses on examining the use of personification in

⁴⁹ Jingxi Xiao, "Intellectual Property Issues of Fan Fiction," Master's Thesis., Department of Business Law, Lund University 2024, accessed from <https://lup.lub.lu.se/student-papers/search/publication/9157722>.

			compensation mechanisms and industry norms so that Fan Fiction works can continue to grow and provide financial gain.	Real Person Fiction works within Indonesian copyright law framework.
2.	Sunia Baharani (<i>Jurnal Ilmu Sosial dan Pendidikan, Universitas Indonesia</i>) ⁵⁰	<i>Komersialisasi Ciptaan Fiksi Penggemar (Fan-Fiction) Dalam Undang-Undang Hak Cipta di Indonesia</i> This research employs a juridical-normative approach and utilizes qualitative	The analysis results of this research show that the Copyright Act in Indonesia has provided clear guidelines regarding the commercialization of fan fiction. However, the Copyright Law is still unclear in regulating a subcategory of Fan Fiction works, namely Real Person Fiction.	The difference between this research and the author's research is the focus of the research discussion. Sunia's research related to the Commercialization of Fan Fiction Creation focuses on discussing Fan Fiction works as a

⁵⁰ Sunia Baharani, "Komersialisasi Ciptaan Fiksi Penggemar (Fan-Fiction) Dalam Undang-Undang Hak Cipta Indonesia."

		methodology for data analysis.	The researcher further concludes that the commercialization of traditional fan fiction can be considered an infringement of the Copyright Act in Indonesia. This pertains to instances where a work incorporates characters or elements from existing works without obtaining permission.	whole. Meanwhile, the author's research is more focused on discussing specific Real Person Fiction works from the perspective of the Copyright Act.
3.	Zhafiratuz Zuhiriyyah Zanuji (Journal of Creativity Student, Universitas	Legal Protection Regarding Names and Visual Artist in the World of Writing from a Copyright Perspective	Based on the analysis of the research, the researcher concludes that the publishing of Fan Fiction, especially those involving the use of artists' and/or idols'	The difference between this research and the author's research lies in the focus of the research. This research only emphasizes the use

	Negeri Semarang) ⁵¹	The researcher applies normative legal research that focuses on principles derived from laws and court decisions.	names and visuals, poses significant legal challenges related to copyright infringement. The research emphasizes that Fan Fiction publishers and authors should understand their legal responsibilities towards their works, including the obligation to obtain permission before using someone else's work for commercial purposes.	of artists' names and visuals in Fan Fiction works. Meanwhile, the author's research elaborates on the specific use of real-life personifications of famous people in Real Person Fiction works as part of the expansion of Copyright objects.
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The table above shows that previous studies have not specifically examined the copyright protection of Real Person Fiction works. Previous research has generally focused on the issue of visual use, names, and commercialization aspects

⁵¹ Zhafiratzuhriyyah Zarnuji. "Legal Protection Regarding Names and Visual Artists in the World of Writing from a Copyright Perspective." *Journal of Creativity Student* 5, no. 1 (2020): 43-64.

in Fan Fiction works in general. Some studies also only mention the legal implications related to the use of real characters or characters without an in-depth study of the application of copyright regulations to Real Person Fiction works.

Meanwhile, this study emphasizes on the analysis of forms of copyright protection that can be applied to Real Person Fiction works by considering the relevant legal mechanisms to provide protection for the work. Thus, this study aims to clarify the legal status of Real Person Fiction within the framework of Indonesian copyright law. Based on this description, it can be stated that this research is original.

H. Research Methods

Research methods are essential tools that help researchers systematically collect, compile, and analyse the data and information required for their studies.⁵²

In the context of this study, the author used the following research methods:

1. Type of Research

This research uses a juridical-normative type. It examines the rules or principles conceptualized as norms or rules sourced from legislation, agreements, legal theories, and doctrines from legal experts.⁵³ This type of research analyses written regulations using secondary legal materials, such as literature studies or document studies. In reviewing legislation and secondary legal materials, researchers can use the doctrine of interpretation. Accordingly, this type of legal research is identified as dogmatic legal

⁵² Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020), p. 30.

⁵³ Bachtiar, *Modul Penelitian Hukum* (Tangerang Selatan: Unpam Press, 2018), p. 57.

research, characterized by the examination, preservation, and development of positive legal constructs through systematic logical reasoning.⁵⁴

2. Research Approach

a. Statute Approach

The statute approach is an approach that uses legislation and regulations to examine legal issues.⁵⁵ In this approach, the researcher not only examines a form of legislation but also examines the content of the legislation.⁵⁶ Therefore, researchers need to interpret the legislation.⁵⁷ In the context of this research, the author will examine the Real Person Fiction work using the perspective of the Republic of Indonesia Act Number 28 of 2014 concerning Copyright. This approach aims to obtain the meaning and concept of Copyright protection in Indonesia for creative works in the digital era.

b. Case Approach

The case approach is a type of approach in normative legal research that the author uses to build legal arguments based on the perspective of the concrete case that occurred. This type of approach aims to find the value of truth and the best solution to legal events that occur following the principles of justice. This approach is carried out by examining cases

⁵⁴ E.Saefullah Wiradipradja, *Penuntun Praktis Metode Penelitian dan Penulisan Karya Ilmiah Hukum*, (Bandung: Keni Media, 2015), p. 5.

⁵⁵ Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Kencana Prenada Media Group, 2024), p. 137.

⁵⁶ *Ibid*, p. 142.

⁵⁷ *Ibid*, p. 145.

related to legal issues.⁵⁸ The study analyses Real Person Fiction cases from both domestic and international contexts.

c. Conceptual Approach

A conceptual approach is used in research to build a concept that serves as a reference in resolving research issues. The concept is formed by using various perspectives and doctrines in legal science.⁵⁹ By examining existing perspectives and doctrines, researchers can gain a deeper understanding of the meanings embedded in legal terms. This process is conducted to explore and expand the meaning of the terms being researched. In other words, the concepts that already exist in the legal framework are used as a foundation to assess the compatibility between the legislation and the legal concepts or principles. In this study, a conceptual approach is used to deepen the understanding of the concept of copyright for fictional works in Indonesia.

d. Comparative Approach

In essence, the comparative approach is an approach taken by researchers to compare the legal system of a country with the legal system of another country.⁶⁰ This approach aims to identify the similarities and differences of each legal system studied. In addition, this approach can also be used as a method in legal research.⁶¹ In the scope of this research, a

⁵⁸ Irwansyah, *Penelitian Hukum: Pilihan Metode dan Praktik Penulisan Artikel* (Yogyakarta: Mitra Buana Media, 2020), p. 138.

⁵⁹ *Ibid*, p. 177.

⁶⁰ Muhammad Siddiq Armia, *Penentuan Metode Dan Pendekatan Penelitian Hukum (Banda Aceh: Lembaga Kajian Konstitusi Indonesia (LKKI), 2022)*, p. 30.

⁶¹ *Ibid*, p. 32.

comparative approach is relevant for analysing Real Person Fiction legal cases in Indonesia by reviewing cases from other countries. Legal arrangements for cases that occur in other countries can be used as a reference for Indonesia to improve regulations on similar issues. This approach strengthens the argument for the urgency of improving the regulation since the problem of Real Person Fiction also occurs in other countries.

3. Legal Materials

In normative legal research, legal research materials are used as sources to analyse the legal issues sought through literature studies and/or document studies.⁶² The legal materials utilized in this study are classified as follows:

a. Primary Legal Material

Primary legal materials are authoritative sources of legal analysis⁶³, consisting of laws and regulations, legislation treatise, judges' decisions, and official state documents.⁶⁴ Some of the primary legal materials used in this study include:

- 1) Berne Convention for the Protection of Literary and Artistic;
- 2) Trade Related Aspect on Intellectual Property Rights Agreement;
- 3) Civil Code;
- 4) Act Number 28 of 2014 on Copyright;

⁶² Muhaimin, *Op. Cit*, p. 59.

⁶³ Peter Mahmud Marzuki explained that, "Authoritative legal materials means legal materials that have authority and permanent legal force, such as; legislation, official records or legislation making treatise and judges' decisions."

⁶⁴ Peter Mahmud Marzuki, *Op. Cit* p. 181.

5) Other laws and regulations related to this research.

b. Secondary Legal Material

Secondary legal materials are legal materials in the form of publications or documents that help provide explanations for primary legal materials.⁶⁵ This research relies on books and legal journals as secondary legal materials. The selected books provide in-depth and systematic discussions on copyright law and its associated legal dimensions. Meanwhile, legal journals are utilized as essential references, offering well-founded scholarly analyses of legal issues directly relevant to the core topic of this study.

c. Tertiary Legal Material

Tertiary legal materials are sources of legal analysis that provide explanations related to primary and secondary legal materials, including online newspapers, legal dictionaries, and other non-legal publications related to this research. These tertiary legal materials can sharpen the researcher's analysis of the object being studied.

4. Legal Material Analysis

Legal issues in this study will be analysed using legal materials. The process of analysing legal materials is carried out systematically through the following stages:

- a. Legal materials are collected through the study of documents and literature, which include sources from online and offline media;

⁶⁵ Zainuddin Ali, *Metode Penelitian Hukum* (Jakarta: Sinar Grafika, 2016), p. 54.

- b. Legal materials are comprehended, examined and interpreted using relevant research approaches;
- c. The results of the study and interpretation of the legal material are used as a basis for formulating the author's argument to discuss legal issues in the research, with the aim of providing comprehensive solutions to the legal issue.

I. Thesis Systematics Structure

The systematics structure is arranged to outline the content of this thesis. The author designed the writing structure by dividing the thesis into systematically organized chapters. This thesis will be divided into 4 (four) chapters, which further describe it as follows:

CHAPTER I INTRODUCTION, This chapter will outline the research background, problem formulation, objectives, and benefits of research that focuses on the protection of moral and economic rights from the creation of Real Person Fiction. Furthermore, this chapter will discuss the conceptual framework and theoretical foundation that is the basis of research studies. In this chapter, the originality of the research will also be presented as an important element that highlights the differences between this research and previous research. In addition, this chapter describes the research methods used in the preparation of the thesis. As a conclusion to this chapter, writing systematics will also be presented to provide a comprehensive overview of the flow and structure of the research.

CHAPTER II LITERATURE REVIEW, In this chapter the author will explain the basic meaning and concepts of Copyright. This explanation includes the

definition, scope, history of protection and relevance of copyright in protecting intellectual works. This chapter will also explain the agreement to obtain the license of Intellectual Property Rights, especially Copyright. In addition, the author will outline the definition and characteristics of Real Person Fiction as a form of literary work. Furthermore, this chapter will also discuss the potential commercialization of Real Person Fiction works that raise the need for legal protection.

CHAPTER III RESULTS AND DISCUSSION, This chapter will present an in-depth analysis of the views of Act Number 28 of 2014 concerning Copyright (Copyright Act) on Real Person Fiction works, with a focus on the protection of moral and economic rights for creators and neighbouring rights for real individuals who are the subject of the work. The analysis will include a discussion of the extent to which the Copyright Act can protect creators and related parties. In addition, this chapter will also explore legal uncertainty in Copyright regulations in Indonesia, especially in terms of Real Person Fiction works protection. The analysis in this chapter will refer to the provisions of related articles in the Copyright Act as well as relevant real case studies.

CHAPTER IV CONCLUSION, The last chapter of this thesis will present the conclusion of the research results in the previous chapter. In this chapter, the author will also provide relevant suggestions for improving regulations and mechanisms that can be used for the protection of Real Person Fiction works. This recommendation is proposed to support the continued development of creative works, particularly Real Person Fiction, in the digital era.