


Copyright Infringement in the Distribution of Exclusive Content on Instagram

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Abstract

Introduction: The advancement of digital technology has led to the widespread distribution of exclusive content on Instagram, including copyright-protected works such as photos and videos. The unauthorized dissemination of such content raises legal issues concerning copyright protection and dispute resolution mechanisms in Indonesia.

Purposes of the Research: The purpose of this study is to understand the protection of copyright in relation to the dissemination of exclusive content on Instagram and to identify the dispute resolution mechanisms for such unauthorized distribution.

Methods of the Research: This research employs a normative juridical method using statutory and conceptual approaches, based on primary and secondary legal materials. Data collection is conducted through library research, and analysis is carried out descriptively to interpret and systematically organize legal documents in a rational and scholarly manner.

Findings of the Research: The results of this study are paid exclusive content on Instagram is protected under Law Number 28 of 2014 on Copyright, which grants creators both moral and economic rights. Unauthorized distribution, such as by the TikTok account @joingrupexclusive, constitutes a copyright infringement. While Instagram provides reporting mechanisms, the primary responsibility to address violations lies with the rights holder. Disputes may be resolved through negotiation, mediation, conciliation, arbitration (if an agreement exists), or court proceedings. If informal methods fail, litigation in the Commercial Court may be pursued in accordance with Articles 100–101 of the Copyright Law, requiring proof of copyright ownership to impose sanctions, including damages.

Keywords: Copyright Infringement; Exclusive Content; Instagram.

Submitted: 2025-06-01

Revised: 2025-07-25

Accepted: 2025-07-28

Published: 2025-07-31

How To Cite: Nitha Halawane, Rorry Jeff Akywen, and Theresia Nolda Agnes Narwadan. "Copyright Infringement in the Distribution of Exclusive Content on Instagram." TATOHI: Jurnal Ilmu Hukum 5 no. 5 (2025): 265-270. <https://doi.org/10.47268/tatohi.v5i5.3130>

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INTRODUCTION

The evolution of information and communication technology has significantly transformed the way people communicate and disseminate information, particularly through social media platforms like Instagram. This platform has gained popularity for enabling users to upload and share photography and videography works, which fall under the scope of intellectual property rights (IPR).¹ Since the launch of the paid subscription feature in the United States in 2022 and its implementation in Indonesia in 2023, Instagram has introduced exclusive content such as stories, live broadcasts, reels, and posts that can only be accessed by subscribers. According to Article 40 Paragraph (1) of Law Number 28 of 2014 on Copyright, exclusive content in the form of photography is classified as a protected work. Furthermore, Article 9 Paragraph (3) of the Copyright Law states that any person without the permission of the creator or copyright holder is prohibited from

¹ Fetum Universitas Merdeka Malang, Perlindungan Hukum Bagi Pencipta Dan Pemegang Hak Cipta Konten Kreator Instagram. *Merdeka Law Jurnal*, 2 no. 2 (2021): p. 88. <https://jurnal.unmer.ac.id/index.php/mlj/article/view/7163>.

reproducing and/or commercially using the work. This implies that no individual may exploit the work for commercial purposes without consent or license from the creator, copyright holder, or any authorized party.² The work remains the property of the creator unless such authorization has been granted. The moral rights of a creator endure for the duration of their lifetime.³

In reality, however, unauthorized dissemination of exclusive content remains prevalent, leading to legal violations, such as the distribution of content owned by Indonesian public figures such as Fuji, Syifa Hadju, and Arhan Pratama without consent through social media accounts like @joiningrupexclusive. While previous studies have highlighted the importance of legal protection for IPR, few have specifically examined the phenomenon of unauthorized distribution of exclusive content on Instagram. Therefore, this study aims to fulfill two main objectives to understand the extent of copyright protection for exclusive content disseminated on Instagram, and to analyze the available dispute resolution mechanisms for addressing unauthorized distribution. By delving deeper into the role of legal frameworks and digital ethics, this study seeks to fill the gap in the literature concerning copyright enforcement in subscription based social media platforms.

METHODS OF THE RESEARCH

This study employs a normative juridical legal research method, which is based on legal norms and utilizes secondary data derived from documents such as statutory regulations, legal theories, books, academic journals, scholarly opinions, and prior research findings. The research uses a statutory approach and a conceptual approach, which refer to legal theories and principles in the establishment of regulatory standards. The legal materials used consist of primary legal materials, such as the Indonesian Civil Code and Law Number 28 of 2014 on Copyright; and secondary legal materials, including books and research articles. The technique of collecting legal materials is conducted through library research, which involves reading, taking notes, and analyzing relevant legal literature. The analysis is carried out descriptively through a process of explaining, interpreting, reviewing, and organizing legal documents systematically to address the research problem in a rational, scientific, and comprehensible manner.

RESULTS AND DISCUSSION

A. Copyright Protection for the Distribution of Exclusive Content on Instagram

Copyright protection on digital platforms such as Instagram has become increasingly crucial in line with the rapid advancement of technology that enables the swift dissemination of intellectual works such as photographs, videos, music, and written content. The unauthorized distribution of exclusive content has become increasingly widespread, particularly in cases involving public figures such as Fuji, whose content is typically offered to paying subscribers through Instagram's subscription feature. The unauthorized distribution, such as that carried out by the TikTok account @joiningrupexclusive, constitutes a violation of copyright and privacy rights, as content intended exclusively for paying subscribers is circulated freely and even monetized.⁴ This

² Rory J Akyuwen, Wijaya N Panjaitan, Perlindungan Hukum Bagi Pencipta atau Pemegang Hak Cipta Yang Ciptaannya Digunakan Sebagai Ringtone, *TATOHI Jurnal Ilmu Hukum*, 3 no. 4 (2023): p. 322. <https://fhukum.unpatti.ac.id/jurnal/tatohi/article/view/1598>.

³ Theresia N A Narwadan, Hak Moral Pencipta Atas Karya Cipta yang Diunduh Dari Internet, *Jurnal Sasi*, 20 no. 2: p. 72.

⁴ https://www.tiktok.com/@joiningrupexclusive?t=ZS-8uKyrD3klWs&_R=1, accessed on February 15, 2025

not only causes economic harm but also diminishes the exclusivity value of the content for legitimate subscribers.

According to McKeough and Stewart, copyright protection grants creators such as artists, musicians, and filmmakers the exclusive right to use their works in any form and to prevent unauthorized imitation.⁵ Based on Article 1 point 1 of Law Number 28 of 2014 on Copyright, "Copyright is the exclusive right of a creator that arises automatically based on the declarative principle after a creation is realized in a tangible form, without prejudice to restrictions in accordance with applicable laws and regulations." This means that copyright arises automatically when a work is materialized in a concrete form, even without formal registration, although official documentation is recommended for legal proof. Copyright encompasses moral rights, such as naming the creator and protecting their reputation, and economic rights, which allow financial gain through licensing or authorized distribution.⁶ Moral rights are regulated under Article 5 of Law No. 28 of 2014 concerning Copyright, which states: 1) "Moral rights as referred to in Article 4 are rights that are permanently attached to the Creator, entitling them to: a) have their name included or not included on copies of the work in connection with its public use; b) use a pseudonym or alias; c) make changes to their work in accordance with societal norms; d) alter the title and subtitles of the work; and e) defend their rights in the event of distortion, mutilation, modification of the work, or other actions that may be prejudicial to their honor or reputation. 2) The moral rights referred to in paragraph (1) are non-transferable during the lifetime of the Creator; however, their exercise may be transferred through a will or other lawful means in accordance with applicable laws and regulations after the Creator's death; 3) In the event of a transfer of the exercise of moral rights as referred to in paragraph (2), the recipient may waive or decline to exercise these rights, provided that such waiver or refusal is made in writing."

According to Article 8 of the Copyright Law, "Economic rights are the rights of the Copyright Holder over their work." Economic rights are further governed by Article 9 of the Copyright Law, which states: 1) "The Creator or Copyright Holder, as referred to in Article 8, holds the economic rights to carry out the following activities: a) the publication of the work; b) the reproduction of the work in any form; c) the translation of the work; d) the adaptation, arrangement, or transformation of the work; e) the distribution of the work or its copies; f) the performance of the work; g) the communication of the work to the public; h) the transmission of the work; and i) the rental of the work. 2) Any person exercising the economic rights referred to in paragraph (1) must obtain permission from the Creator or the Copyright Holder; 3) Any person is prohibited from reproducing and/or commercially using a work without the consent of the Creator or the Copyright Holder."

Copyright holders are entitled to a range of exclusive rights, including the right to reproduce or make copies of a work and to sell such copies (including, in general, electronic copies); to import and export the work; to create derivative works based on the original (adapt the work); to publicly display or perform the work; and to sell or transfer these exclusive rights to other individuals or entities.⁷ The scope of copyright protection on Instagram includes various types of works as regulated in Article 40 Paragraph (1) of the

⁵ Moody Rizqy Syailendra, Vivienne Olivia Siswanto, Kartika Pangestu, Pelanggaran Hukum Terhadap Hak Cipta Lagu Dan musik Di Indonesia, *Jurnal Ilmiah Mahasiswa Pendidikan Sejarah*, 8 no. 4 (2023): p. 3376. <https://jim.usk.ac.id/sejarah/article/view/25887>.

⁶ Suyud Margono, *Aspek Hukum Komersialisasi Aset Intelektual*, (Bandung: Nuansa Aulia, 2010), p. 14

⁷ Haris Munandar dan Sally Sitanggun, *Mengenal HAKI Hak Kekayaan Intelektual Hak Cipta, Paten, Merek dan Seluk beluknya*, (Jakarta: Esensi Erlangga Group, 2008), p. 15.

Copyright Law. Exclusive Instagram content may consist of images, photos, videos, music, written works, or other forms of expression published on the platform. Any content uploaded through Instagram's exclusive features that meets the criteria of a copyrighted work such as photography, fine art, or video is protected under the law, even if it has not been officially published, as long as it exists in a reproducible form. This protection gives creators the exclusive right to control the use and distribution of their works and safeguards against unauthorized exploitation by third parties.

Instagram provides tools to assist copyright holders, such as privacy settings, content removal for copyright violations, and a reporting system.⁸ However, the platform cannot fully prevent infringement; hence, users remain primarily responsible for protecting their work and understanding available legal remedies. Common violations include unauthorized reuploads, modifications, or commercial use of others works such as using music without a license or reposting exclusive content intended only for subscribers.

According to the legal theory of Philipus M Hadjon, legal protection for individuals consists of preventive and repressive measures. Preventive protection refers to government actions aimed at preventing violations before they occur, while repressive protection involves sanctions such as fines, imprisonment, or additional penalties after a violation has been committed.⁹ Legal protection efforts include preventive steps such as copyright registration and monitoring digital content use, and repressive actions like lawsuits and formal complaints. Instagram also prohibits conduct that harms copyright holders, including unauthorized use of content, identity fraud, account monetization, and license violations.¹⁰ When exclusive content is illegally distributed, such actions violate both Instagram's policies and Indonesian copyright law.

Parties harmed by copyright infringement may petition the Commercial Court for measures outlined in Article 99 Paragraph (3) of the Copyright Law, such as: "In addition to the lawsuit referred to in paragraph (1), creators, copyright holders, or related rights holders may request a provisional decision or interlocutory ruling from the Commercial Court to: a) confiscate works that have been published or reproduced, and/or duplication tools used to produce infringing works; and/or; b) cease publication, distribution, communication, and/or reproduction of infringing works and related products."

B. Penyelesaian Sengketa Terhadap Penyebaran Konten Eksklusif Tanpa Izin

The unauthorized distribution of exclusive content has emerged as a pressing legal issue in the digital era, where the ease of content dissemination via social media opens pathways for violations of copyright and privacy rights. A notable example is the TikTok account @joingrupexclusive, which sold access to groups containing exclusive content from public figures without permission constituting a violation of both the economic and moral rights of the creators, as regulated in Article 8 (exclusive rights), Article 5 (moral rights), Article 9 (economic rights), and Article 40 (scope of protection) of the Copyright Law. Such actions cause financial and reputational harm to content owners and undermine the value of exclusivity for users who have lawfully paid for access. Although public figures whose content is distributed without consent often prefer informal resolutions to avoid prolonged

⁸ ICE, *Memahami Copyright Instagram Serta Cara Melindungi Hak Cipta Konten*, <https://www.ice.id/article/social-media/apa-itu-copyright-instagram>, accessed on February 15, 2025

⁹ Philipus M Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia*, (Bandung: Alumni, 1983), p. 38.

¹⁰ https://help.instagram.com/581066165581870/?locale=id_ID, Pusat Bantuan Meta, Ketentuan Penggunaan, accessed on February 15, 2025.

or costly legal disputes, formal legal remedies are available under Article 95 Paragraph (1) of the Copyright Law, which states “Copyright disputes may be resolved through alternative dispute resolution, arbitration, or court proceedings.”

Arbitration and Alternative Dispute Resolution (ADR) offer non-litigation avenues to settle intellectual property disputes. ADR encompasses mechanisms agreed upon by the involved parties—such as consultation, negotiation, mediation, conciliation, or expert judgment. According to Paragraphs (2) and (3) of Article 95 of the Copyright Law: 1) “Copyright disputes may be settled through alternative dispute resolution, arbitration, or courts; 2) The competent court as referred to in Paragraph (1) is the Commercial Court; 3) Other courts besides the Commercial Court are not authorized to resolve copyright disputes.”

Arbitration is a form of out-of-court resolution typically used in disputes arising from clearly defined contracts. In the case of unauthorized content distribution by the TikTok account @joingrupexclusive, arbitration is not feasible due to the absence of a formal agreement between the public figures and the party distributing their content. The lack of a contractual relationship renders arbitration inapplicable. Nonetheless, other forms of alternative dispute resolution remain viable. Legally, the unauthorized sharing and monetization of personal content without the owner's consent constitutes a breach of copyright and personal rights protected by law. Accordingly, disputes of this nature may be resolved through mechanisms such as mediation, negotiation, or other ADR methods—depending on the preferences and mutual agreement of the parties involved. Conversely, litigation in the Commercial Court may be pursued when informal efforts fail. Articles 100 and 101 of the Copyright Law provide a detailed legal procedure, including case registration, hearing schedules, and the deadline for rulings within a maximum of 90 days after the case is filed.

Article 100: 1) “Lawsuits for copyright infringement shall be submitted to the chairperson of the Commercial Court; 2) The registrar shall record the case in the court register on the same date the lawsuit is filed; 3) A receipt signed on the date of registration shall be issued; 4) The registrar must forward the claim to the chairperson of the Commercial Court within two days; 5) The court must schedule a hearing within three days of registration; 6) The bailiff must notify and summon the parties within seven days of registration.” Article 101: 1) “A decision must be issued within 90 days from the filing date; 2) If this period cannot be met, the Supreme Court may approve a 30 day extension; 3) The ruling must be delivered in a public hearing; 4) The bailiff must serve the ruling to the parties within 14 days of the verdict.” The plaintiff must prove ownership of the copyright in question. If the court finds that an infringement has occurred, the defendant may be ordered to cease further distribution, remove the shared content, and pay compensation corresponding to the losses suffered by the copyright holder.

CONCLUSION

Copyright infringement in the distribution of exclusive content on Instagram constitutes a serious violation that causes both moral and economic harm to creators, particularly in cases involving unauthorized dissemination by third parties such as the TikTok account @joingrupexclusive. The copyright protection of exclusive content published via Instagram's subscription feature is guaranteed under Law Number 28 of 2014 on Copyright, which grants creators exclusive rights from the moment a work is materialized in tangible

form. Although Instagram offers reporting features and content removal mechanisms, the primary responsibility for protecting such content remains with the rights holder. In cases of infringement, dispute resolution can be pursued through alternative dispute resolution methods, arbitration, or litigation where the Commercial Court serves as the legally competent authority. In formal litigation, the copyright holder is required to prove ownership of the copyrighted content. If infringement is confirmed, the violator may be subjected to legal sanctions such as cessation of distribution, deletion of the infringing content, and compensation for damages suffered by the creator.

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