



Legal Liability for Copyright Infringement of Video Content Uploaded by Malaysian Individuals for Commercial Purposes on TikTok

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Article Info

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History:

Submitted: 20-11-2025

Revised: 01-12-2025

Accepted: 24-12-2025

Keyword:

Copyright; Legal Liability; Digital Content; TikTok; Cross-Border Jurisdiction.

Kata Kunci:

Hak Cipta; Pertanggungjawaban Hukum; Konten Digital; TikTok; Lintas Yurisdiksi.

Abstract

The rapid evolution of digital technology, specifically the TikTok platform, has precipitated a surge in unauthorized use and modification of video content for cross-border commercial exploitation, as exemplified by the legal dispute between dr. Leo and various Indonesian content creators. This research aims to analyze the specific legal sanctions for digital copyright infringement and to formulate a prescriptive application of Article 5 of Law Number 28 of 2014 on Copyright to ensure legal certainty for creators. Utilizing a normative juridical research method with statutory and case-based approaches, this study examines national positive laws alongside international legal instruments, including the Berne Convention and the WIPO Copyright Treaty. The findings demonstrate that unauthorized modification constitutes a breach of both moral and economic rights, punishable by criminal, civil, and administrative sanctions. Nevertheless, enforcement remains hindered by jurisdictional complexities and suboptimal Mutual Legal Assistance (MLA) frameworks between Indonesia and Malaysia. Ultimately, this research concludes that a rigorous application of Article 5, bolstered by enhanced international cooperation and digital platform accountability, is imperative to safeguard intellectual integrity and ensure justice for creators in the digital age.

Abstrak

Perkembangan teknologi digital, khususnya platform TikTok, telah memicu maraknya penggunaan serta modifikasi konten video tanpa izin untuk kepentingan komersial oleh pelaku lintas yurisdiksi, sebagaimana terlihat dalam sengketa hukum antara dr. Leo dan beberapa konten kreator Indonesia. Penelitian ini bertujuan untuk menganalisis bentuk sanksi hukum atas pelanggaran hak cipta di media sosial serta merumuskan penerapan Pasal 5 Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta dalam menjamin kepastian hukum bagi pencipta. Dengan menggunakan metode penelitian yuridis normatif melalui pendekatan perundang-undangan dan pendekatan kasus, studi ini menelaah norma hukum positif nasional serta instrumen internasional seperti Berne Convention dan WIPO Copyright Treaty. Hasil penelitian menunjukkan bahwa pengubahan konten tanpa izin merupakan pelanggaran hak moral dan ekonomi yang dapat dikenai sanksi pidana, perdata, maupun administratif. Namun, penegakan hukum saat ini masih menghadapi kendala yurisdiksi dan keterbatasan mekanisme Mutual Legal Assistance (MLA) antara Indonesia dan Malaysia. Kesimpulannya, diperlukan penerapan Pasal 5 yang lebih preskriptif disertai penguatan kerja sama internasional dan akuntabilitas platform digital untuk melindungi integritas karya serta menjamin keadilan bagi pencipta di era digital.



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doi <https://doi.org/10.65101/nusantara.v1i2.183>

A. INTRODUCTION

1. Background

The pervasive integration of electronic sophistication, particularly regarding telecommunications networks and the internet, has permeated all strata of Indonesian society. This technological advancement facilitates seamless cross-border communication, enabling instantaneous transmission of data via mobile telephony. Furthermore, the ubiquity of mobile devices has accelerated cultural diffusion within the archipelago. Mobile technology has evolved into a primary socio-economic necessity, serving as an essential conduit for pedagogy, professional employment, commerce, and financial intermediation including mobile banking services. The multifunctional nature of these devices is further evidenced by integrated features such as high-resolution cameras, digital applications, and multifaceted entertainment platforms, including TikTok.¹

The evolution of information and communication technology has fundamentally restructured the modalities of social interaction, professional labor, and creative expression. High-speed internet and digital hardware most notably mobile devices have ascended to the status of primary necessities, owing to their functional capacity to facilitate pedagogical activities, professional engagements, commercial transactions, and the consumption of digital media. Within this ecosystem, TikTok has emerged as a preeminent platform in Indonesia, characterized by its rapid proliferation and its utility in enabling users to generate and disseminate short-form audiovisual content with unprecedented velocity and reach.²

Originating from the People's Republic of China and operational since 2016, TikTok offers a sophisticated suite of features that facilitates the user-led generation of creative, instructional, and synchronized audiovisual content. Beyond its recreational utility, the platform serves as a vital instrument for commercial solicitation and revenue optimization. Furthermore, the digital architecture of the application enables high-traffic users commonly characterized by substantial follower bases to leverage their digital presence for significant economic gain through various monetization mechanisms.³

¹ Made Yunata Hendrayana, I Nyoman Putu Budiarta & Diah Gayatri Sudibya, 2021, *Perlindungan Hak Cipta Terhadap Konten Aplikasi TikTok Yang Disebarluaskan Tanpa Izin* .Jurnal Preferensi Hukum Vol. 2, No. 2, hlm. 417-418.

² Ferira, R, 2022, *Analisis Aplikasi TikTok sebagai Platform Membangun Jaringan Bisnis Generasi Millenial*, Munazzama: Journal of Islamic Management and Pilgrimage Vol. 1 No.15.

³Lulu Fadilah, 2023, *Perlindungan Hukum Hak Cipta Live TikTok Ditinjau Dari Hukum Islam dan Hukum Positif*, Skripsi Fakultas UIN Syarif Hidayatullah Jakarta, hlm. 2.

A content creator is defined as an individual who produces intellectual or creative material possessing either pedagogical or recreational value designed for dissemination to a specific audience. The production of such content is strategically curated to align with the subjective preferences, interests, and consumption patterns of the respective target demographic.⁴ The dissemination of digital assets across various social media platforms including YouTube, TikTok, Instagram, and X (formerly Twitter) invariably drives user engagement through metrics such as views, likes, and commentaries, which serve as the primary determinants for algorithmic monetization. In the Indonesian context, the fiscal yields generated by these creators can reach the magnitude of hundreds of millions to billions of rupiah. Consequently, this nascent business opportunity has precipitated a surge in market entry by individuals seeking to capitalize on the digital economy. Notwithstanding these economic prospects, the vocation is fraught with inherent legal complexities; specifically, creators frequently encounter exigencies regarding the unauthorized reproduction of protected works, which constitutes a *prima facie* infringement of copyright law.⁵

TikTok has emerged as a pivotal medium for content creators to exercise creative expression while concurrently establishing diverse revenue streams through the dissemination of pedagogical, recreational, and promotional content, as well as third-party product endorsements. A significant number of creators leverage the platform's vast reach to engage in collaborative ventures with corporate entities. However, these opportunities are shadowed by significant legal challenges, most notably the unauthorized appropriation and subsequent re-uploading of content for commercial exploitation. Such practices precipitate complex legal disputes, particularly concerning the infringement of copyright and the moral rights of the original creators rights that, at present, lack a framework for comprehensive and effective protection.⁶

Within the TikTok ecosystem, there is a prevalent practice of recirculating previously published audiovisual content to artificially augment social media insights and secure heightened user engagement. This involves the systematic repackaging of existing

⁴ Hikmatul Hidayah, dkk, 2022, *Pelatihan Conten Creator Sukses PSB (Penerima Siswa/I Baru) Menggunakan Adobe Photoshop Di Yayasan Hidayatullah Batam*, Jurnal Al-Muharrik, Vol. 2 No. 1, hlm. 13.

⁵ Risky Tara Nabita Sari, Windra Hilmi Nazhip, Ghifari Vioga Batubara, Ridha Wahyuni, 2023, *Perlindungan Konten Kreator Terhadap Konten Reupload Perspektif Hak Cipta*. *Journal Of Social Science Research* Vol. 3 No. 6 Tahun 2023, hlm. 3-4.

⁶ Delamarisa dan Deni Murdani, 2025, *Perlindungan Hukum terhadap Hak Cipta Content Creator Vidio YouTube Yang Diunggah ulang tanpa Watermark pada Platform Tiktok dan Facebook*. *Jurnal Hukum Indonesia*, Vol. 4 No. 4, hlm. 224-233.

media to present it as contemporaneous information. UNESCO defines the repackaging of information as the dissemination of data in a format that is more accessible, reliable, acceptable, and functional for the end-user. Furthermore, as posited by Van Tassel and Lisa, foundational informational assets including musical compositions, screenplays, literary works, video recordings, and white papers constitute raw materials that require strategic repackaging to enhance their aesthetic and communicative appeal.⁷

Pursuant to Article 54 of Law Number 28 of 2014 concerning Copyright, the Government is vested with the authority to prevent copyright infringement within information technology infrastructures. This mandate includes the supervision of parties generating or disseminating infringing content, as well as inter-agency and international coordination to mitigate such violations. Furthermore, the statute provides for the oversight of unauthorized digital recording.

Despite these regulatory safeguards, a case study identified on February 25, 2025, highlights persistent enforcement challenges. The creator, Laura Siburian, suffered a legal injury when a Malaysian skincare brand, 'dr. Leo,' misappropriated her historical audiovisual content integrating it with contemporary footage for unauthorized commercial exploitation. Although the creator has since exercised her 'right to take down' the infringing material, the primary evidence was preserved by the researcher for scholarly analysis. The contested content featured fraudulent claims, asserting that the brand's products yield results within a three-day duration. Furthermore, the video utilized an unauthorized voice-over, wherein an individual falsely impersonated a Malaysian content creator, thereby raising critical issues of both copyright infringement and the misappropriation of persona.⁸

Furthermore, the account belonging to @annapulupulu identified a similar instance of unauthorized derivative dissemination by the account @my.drleo. The contested material utilized a curated sequence of images: the initial segment featured the creator, @annapulupulu, in a non-cosmetic state to highlight dermatological concerns, specifically acne. The second segment integrated footage of the creator wearing makeup, while the third segment falsely depicted her utilizing 'dr. Leo' skincare products. The creator has

⁷ Tarisa Aandrianti, Abdul Karim Batubara, Abdi Mubarak Syam, 2024, *Strategi Kemas Ulang Informasi Media Tiktok Pada Akun @gabriellagata*, Jurnal Multidisiplin Ilmu Sosial Vol. 3 No. 2, hlm. 8.

⁸ Cumi, 2024, *Viral Dr Leo Skincare Malaysia DITUDING CURI Video Konten Kreator Indonesia Termasuk Laura Siban* [Video]. YouTube. Diakses pada 2 Juni 2025. <https://www.youtube.com/watch?v=OP-7FfYTxFo>

formally refuted these representations, clarifying that she has never utilized the aforementioned products and noting the inconsistency of applying skincare over cosmetic makeup. Consequently, @annapulupulu asserts that she has suffered actionable legal injury, as her proprietary audiovisual content was misappropriated and repackaged for the purpose of unauthorized commercial exploitation and false endorsement.⁹

Furthermore, an Indonesian content creator, under the handle @dayy.ayya, alleged a legal injury resulting from the unauthorized appropriation and commercial exploitation of her copyrighted video content. The creator asserts that the account @my.drleo engaged in deceptive marketing practices by repurposing her content to create a false impression of product efficacy. Specifically, she contends that the respondent misrepresented the quality of "dr. Leo" products by using her footage as a fabricated testimonial, thereby misleading consumers as to whether the purported benefits of the product are supported by authentic user data.¹⁰ The researcher identified analogous infringements involving other Indonesian creators, specifically @desyaaa.dmh and @aintoyursb on the TikTok platform. This phenomenon highlights significant statutory ambiguities within copyright regulations, particularly Article 9, Paragraph (3) of Law Number 28 of 2014 on Copyright (the Copyright Law). The provision grants copyright holders the exclusive right to prohibit the unauthorized communication, distribution, or dissemination of their works for commercial purposes.

The ambiguity inherent in Article 9, Paragraph (3) stems from the fluid interpretation of "commercial purposes" within the digital ecosystem, where content is frequently exploited for promotional ends without the author's prior consent. This issue is exacerbated by the absence of adaptive enforcement mechanisms, such as a bilateral Mutual Legal Assistance (MLA) treaty with Malaysia. Consequently, infringers may find jurisdictional refuge under local statutes like the Copyright Act 1987, effectively insulating themselves from cross-border liability.¹¹

Furthermore, Article 5 of the Copyright Law, which governs the moral rights of authors, presents distinct normative challenges in its practical application. This provision entitles creators to preserve the integrity of their work and to oppose any distortion,

⁹ @annapulupulu, 2024, *TikTok*. Diakses dan diunduh pada 2 Juni 2025. <https://vt.tiktok.com/ZSkMm37D7/>

¹⁰ @dayy.ayya, 2024, *TikTok*. Diakses dan diunduh pada 2 Juni 2025. <https://vt.tiktok.com/ZSkMuLDLG/>

¹¹ Nasution, N, 2021, *Analisis Hukum Pelanggaran Hak Cipta Pengguna Aplikasi Tiktok Ditinjau Menurut Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta*. Jurnal Ilmiah Abdi Ilmu, Vol. 14 No. 1, hlm. 158-168.

mutilation, or modification that may prejudice their honor or professional reputation. However, the statute lacks precise criteria to distinguish between permissible transformative use and modifications that constitute a violation of moral rights. In the digital milieu, such alterations are frequently defended as "creative transformations," while in practice, they may fundamentally subvert the original meaning, context, and intent of the work particularly when exploited for unauthorized commercial gain.

The ambiguity inherent in Articles 5 and 9(3) is compounded when copyright infringement involves transnational elements, as evidenced by the dispute between "dr. Leo" and the Indonesian content creators. In this instance, video content was appropriated and modified without authorization for product promotion by an entity operating outside Indonesian jurisdiction. While such conduct normatively constitutes a breach of both moral and economic rights, enforcement is stymied by jurisdictional conflicts, the limitations of existing international cooperation frameworks, and an over-reliance on the internal policies of digital platforms.

This condition underscores a profound divergence between statutory norms and empirical reality in the digital era. The lack of clarity in these provisions not only weakens the protection of creator rights but also creates a legal vacuum where infringement is justified under the guise of modification or the public nature of digital content. Consequently, there is an exigent need for a prescriptive legal analysis on the application of Articles 5 and 9(3). Such an analysis must establish clear standards for assessing the unauthorized use and modification of video content for commercial purposes to ensure legal certainty and robust copyright protections for creators in the digital age.

2. Research Questions

Based on the issues identified in the background, the primary legal problems to be addressed in this report are formulated as follows:

- a. What is the nature of the legal sanctions imposed on copyright infringers regarding the forgery of digital content on the TikTok platform, specifically within the context of the case between dr. Leo and Indonesian content creators?
- b. How should the provisions of Article 5 of Law Number 28 of 2014 concerning Copyright be applied in assessing the unauthorized use and modification of video content by cross-jurisdictional actors to ensure legal certainty for creators?

3. Research Methods

This study employs a normative legal research methodology, also known as doctrinal research, to examine the legal frameworks governing digital copyright infringement within a cross-border context. Utilizing a dual-pronged approach consisting of statutory (*statute approach*) and case-based (*case approach*) analysis, the research evaluates the adequacy of existing Indonesian laws primarily Law No. 28 of 2014 on Copyright and Law No. 19 of 2016 regarding Electronic Information and Transactions alongside international instruments such as the Berne Convention and the WIPO Copyright Treaty. The inquiry focuses on the unauthorized commercial exploitation and modification of video content by Malaysian actors, as exemplified by the specific case involving dr. Leo and Indonesian content creators such as Laura Siburian, @annapulupulu, and @dayy.ayya. Primary, secondary, and non-legal materials were gathered through a comprehensive documentary study, which are then subjected to prescriptive analysis to assess legal liability, evaluate the enforcement of moral and economic rights, and formulate recommendations to enhance legal certainty for creators in the global digital ecosystem.

B. DISCUSSION

1. Forms of Legal Sanctions for Copyright Infringers: A Case Study of the Dispute Between Dr. Leo and Indonesian Content Creators

The researcher aims to provide a comprehensive overview of the interplay between positive legal norms, moral and economic theories, and the practical usage of digital works on the social media platform TikTok. In the present case, Dr. Leo is alleged to have utilized video content owned by Laura Siburian a commercial content creator on TikTok without authorization. The matter came to light when Laura was notified by her followers of the existence of her videos on the account @my.drleo, wherein Dr. Leo used said footage to promote a Malaysian skincare brand. It is asserted that Dr. Leo misappropriated several of Laura's videos without obtaining the requisite licensing or consent.

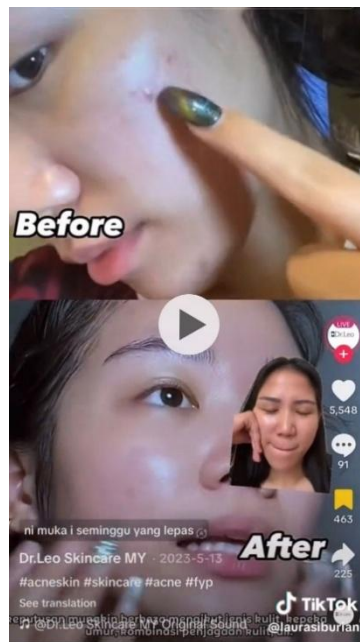


Figure 1. TikTok Video Posting by Laura Siburian

Source: TikTok.com

The aforementioned image demonstrates Laura's response to a TikTok post by Dr. Leo, which features 'before and after' footage of her likeness following the purported use of a Dr. Leo acne spot treatment. The video utilizes a dubbed voice-over in Malay, deceptively claiming to be Laura's own voice. Laura has expressly denied this, asserting her identity as an Indonesian national and disclaiming any involvement in the recording.

Furthermore, Laura contends that the brand engaged in a premeditated act of misappropriation, unauthorized editing, and redistribution. She notes that the 'before' footage depicting a skin breakout was sourced from her 2021 archives, while the 'after' footage showing clear skin was filmed in 2023. These disparate clips were edited into a collage to falsely represent a three-day transformation resulting from the product's efficacy a claim Laura asserts is scientifically impossible. Upon confronting the brand during a live-stream by labeling them 'fraudulent,' the host summarily dismissed her claims, asserting instead that she simply had yet to experience the product's benefits.¹²

Furthermore, the case garnered support from a Malaysian content creator, @izwanhs (Wan | Makeup Skincare), who corroborated Laura Siburian's claims. Through his platform, he sought to inform and clarify the chronology of Dr. Leo's unauthorized use

¹² Cumericumi, 2024, *Viral Dr Leo Skincare Malaysia DITUDING CURI Video Konten Kreator Indonesia Termasuk Laura Sibuan* [Video]. YouTube. Diakses pada 2 Juni 2025. <https://www.youtube.com/watch?v=OP-7FfYTxFo>

of content for his audience. By providing a detailed account of the events, @izwanhs served as a consumer advocate, cautioning his followers against the deceptive nature of Dr. Leo's promotional videos and advising the public to exercise heightened scrutiny regarding the brand's claims.¹³



Figure 2. TikTok Video Content Posted by @izwanhs (Wan | Makeup Skincare)

Source: TikTok.com

The allegations against Dr. Leo extend beyond the claims of Laura Siburian, as other influencers, including @annapulupulu and @dayy.ayaa, have reported similar instances of unauthorized appropriation, modification, and commercial redistribution of their content. In the specific case of @annapulupulu, her original footage which depicted a 'before and after' makeup transformation and the application of an acne treatment was repurposed without consent. Anna has formally refuted the brand's implied endorsement, clarifying that she did not use the dr. Leo product featured in the advertisement, but had instead used a product by Omniskin.¹⁴

¹³ Video TikTok @izwanhs. Diakses pada 5 Juni 2025. <https://vt.tiktok.com/ZSkhhjYKa/>

¹⁴ Video TikTok @annapulupulu. Diakses pada 5 Juni 2025. <https://vt.tiktok.com/ZSkMm37D7/>



Figure 3. TikTok Video Content Posted by @annapulupulu (Depicting 'Before and After' Comparison)

Sorce: TikTok.com



Figure 4. TikTok Video Content Posted by @annapulupulu Demonstrating Product

Application Omniskin

Source: TikTok.com

Consistent with the experience of @annapulupulu, content creator @dayy.ayya discovered that her video content had been misappropriated, edited, and redistributed for commercial purposes. The circumstances are substantially similar to the aforementioned case, with the notable exception that the original footage featured the use of products by the brand Barenbliss. @dayy.ayya further asserted that the unauthorized content was strategically curated to target an Indonesian audience and maximize viral reach. She contends that such content is inherently fraudulent, as it utilizes stolen footage to propagate unsubstantiated claims regarding the product's efficacy.¹⁵

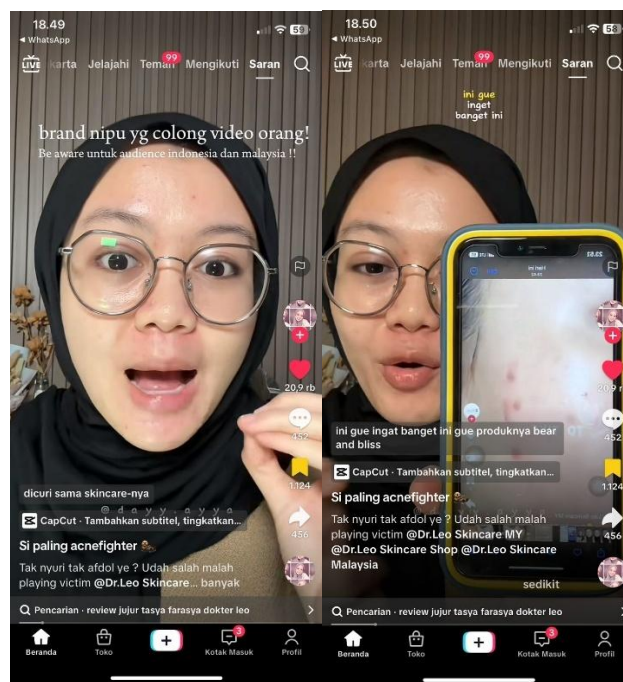


Figure 5. TikTok Video Content Posted by @dayy.ayya

Source: TikTok.com

The unauthorized exploitation of content including music, imagery, or video produced by Indonesian creators for commercial purposes constitutes a prima facie copyright infringement. Law Number 28 of 2014 concerning Copyright governs statutory protections within the Indonesian jurisdiction, providing a robust legal framework for creators to assert both their moral and economic rights over their artistic works. Article 9, paragraph (3) of said Law contains the pertinent provisions regarding such unauthorized commercial use.

¹⁵ Video TikTok @dayy.ayya. Diakses pada 5 Juni 2025. <https://vt.tiktok.com/ZSkMuLDLG/>

“Any person is prohibited from performing the reproduction and/or commercial exploitation of a Work without the express authorization of the author or the Copyright Holder.”

The aforementioned article explicitly proscribes the unauthorized appropriation, modification, and redistribution of third-party content for commercial exploitation. Furthermore, the provision mandates that the reproduction and/or dissemination of artistic works for commercial gain, absent the express consent of the author, constitutes a per se copyright infringement.¹⁶

This case involves the unauthorized modification, reproduction, and dissemination of content created by Indonesian creators for commercial purposes on the TikTok platform, falling under the category of cinematographic works (Article 40, paragraph (1), point m of the Indonesian Copyright Act). Copyright arises automatically based on the declarative principle (Article 1, point 1, and Article 4), encompassing both moral rights (Article 5) and economic rights (Articles 8-9). Such actions constitute a violation of Article 9, paragraph (2), which explicitly prohibits the reproduction and/or commercial exploitation of a work without the express authorization of the author.¹⁷

According to Immanuel Kant, humanity must be treated as an end in itself, rather than merely as a means to an end. In the present case, Dr. Leo's unauthorized use of content from Indonesian creators violates this principle and constitutes a disregard for the exclusive rights of the creator as a sovereign individual. Such actions are deemed unethical as they involve the exploitation of another's intellectual labor for personal gain without prior consent. Under Kantian philosophy, universal moral laws are governed by the Categorical Imperative; thus, Dr. Leo bears a moral obligation to respect copyright as a matter of duty. Within this framework, moral rights encompass the right to be recognized exclusively as the author and the right of integrity, which ensures the work is not subjected to unauthorized modification, distortion, or usage that would prove deleterious to the creator's reputation or professional standing.¹⁸

These exclusive moral rights endure for the lifetime of the author and remain inalienable, persisting even if the economic rights have been assigned to a third party.

¹⁶ Entjarau, V. G. 2021. *“Tinjauan Yuridis Pengalihan Hak Moral dan Hak Ekonomi Berdasarkan Undang-undang Nomor 28 Tahun 2014 tentang Hak Cipta”*. Lex Privatum, Vol. 9 No. 6.

¹⁷ Undang Undang Nomor 28 Tahun 2014 tentang Hak Cipta.

¹⁸ Dr. Dwi Atmoko, S.H., M.H, Rara Amalia Cendhayanie, S.H., M.H, Marissa Kemala Dirgantini, S.H., M.H, Lindri Purbowati, S.H., M.H. *“Hukum Hak Kekayaan Intelektual”*. Malang: PT. Literasi Nusantara Abadi Grup, 2003. Hlm. 25.

Conversely, economic rights vest in the author or copyright holder the exclusive authority to derive financial gain from their works, encompassing the rights of reproduction, distribution, and commercial exploitation. These economic interests are transferable and may be assigned or licensed to other entities. Such rights are subject to a statutory duration typically the life of the author plus an additional seventy years. In the digital sphere, specifically regarding platforms like TikTok, video content produced by Indonesian creators constitutes a protected work, provided it embodies creative expression, promotional messaging, or testimonials that reflect the creator's labor and identity. Under the declarative principle, copyright protection for these works arises automatically upon fixation, without a formal requirement for registration. Furthermore, Article 5 of the Copyright Act guarantees the author's moral rights, which include the right of attribution and the right of integrity, empowering creators to oppose any distortion or modification of their work that may prove prejudicial to their reputation.¹⁹

The unauthorized appropriation, reproduction, and subsequent re-editing of these works result in a material alteration of their original essence. Consequently, such actions directly prejudice the creator's moral rights, particularly when they result in the defamation or disparagement of the creator's professional reputation (Article 5, paragraph 1 of the Copyright Act).

However, these statutory protections often prove ineffective in practice, particularly within the context of cross-jurisdictional infringements. The experiences of Indonesian content creators such as @laurasiburian, @annapulupulu, and @dayy.ayya serve as illustrative case studies. Upon being redistributed by the Malaysian TikTok account @my.drleo, their original footage was manipulated to construct a fabricated narrative, falsely suggesting that the creators utilized Dr. Leo skincare products and provided corroborating testimonials. Given that the content was exploited for commercial gain, these acts constitute a clear violation of both economic rights and moral rights, as the underlying narrative was fundamentally altered without the creators' informed consent.²⁰

The researcher herein analyzes the forms of liability arising from dr. Leo's conduct

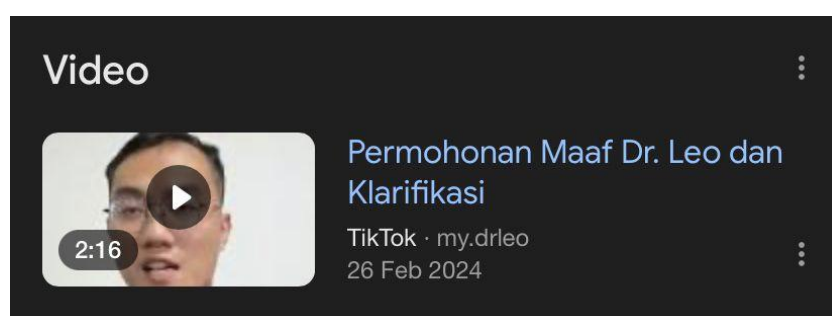
¹⁹ Natanael, L. 2023. *"Perlindungan Hukum dan Kepemilikan Hak Atas Kekayaan Intelektual Konten di Platform Media Sosial Indonesia: Law Protection and Intellectual Property Rights Ownership on Contents on Social Media in Indonesia"*. Reformasi Hukum Vol. 27 No. 2 hlm. 97-107.

²⁰ *"Viral Dr Leo Skincare Malaysia Dituding Curi Video Konten Kreator Indonesia Termasuk Laura Sibuan,"* YouTube, 26 Februari 2024, Diakses pada 4 Juni 2025. <https://www.youtube.com/watch?v=OP-7FfYTxFo>.

toward the Indonesian content creators. First, regarding criminal liability, the Indonesian Copyright Act prescribes criminal sanctions for infringements characterized by willful intent and commercial exploitation. In this context, Article 113, paragraph (3) stipulates that any person who willfully and unlawfully engages in the reproduction and/or commercial use of a work may be subject to a maximum term of imprisonment of four (4) years and/or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah).

Furthermore, Dr. Leo committed violations involving modifications prejudicial to the honor or reputation of the creators. Specifically, the introduction of a fabricated narrative utilizing a voice-over falsely claiming that @laurasiburian, @annapulupulu, and @dayy.aya utilized Dr. Leo's products when they had in fact used local Indonesian brands undermines the integrity of the works. Consequently, under Article 113, paragraph (4), Dr. Leo may face a term of imprisonment of up to seven (7) years and a fine of up to IDR 5,000,000,000.00 (five billion rupiah) for violations of moral rights that result in commercial harm.²¹

The unauthorized use of video content belonging to Indonesian creators namely Laura Siburian, @annapulupulu (whose makeup-free footage was collated with makeup footage to promote a fraudulent product), and @dayy.ayya (whose video was manipulated for promotional ends) clearly satisfies the material elements of a criminal offense. These actions encompass unauthorized reproduction (the editing and collation of footage from disparate years), unauthorized modification (the addition of a deceptive Malay voice-over asserting, 'I achieved results in three days'), and commercial dissemination via the @my.drleo account to market an acne treatment. The element of intent is established by Dr. Leo's own admission in his clarification video, wherein he conceded that the content was sourced from a third party without any verification of authenticity. In criminal law, such an admission can be qualified as willful blindness or reckless disregard, satisfying the mens rea requirement for criminal culpability.



²¹ Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta, Pasal 113 ayat (4) *jo*.

Figure 6. Public Apology and Formal Clarification Posted by Dr. Leo

Source: Google.

This infringement results not only in the impairment of economic rights manifested as the loss of potential royalties from endorsements or the monetization of the original content but also in the violation of moral rights. The unauthorized distortion of these works undermines the integrity of the content and severely prejudices the creators' professional reputations, particularly their standing as providers of 'honest reviews' and authentic digital content.²²

The criminal process commences with the filing of a formal report to the National Police or the Directorate General of Intellectual Property (DGIP), followed by a criminal investigation, prosecution by the state attorney, and adjudication in a district court. However, given that the perpetrator is located in Malaysia, enforcement necessitates international cooperation under the framework of the Berne Convention (Article 5, providing for the automatic protection of foreign works) and the WIPO Copyright Treaty (Article 8, concerning the 'making available' right in the digital environment).

Since 1997, Indonesia has been a signatory to the Berne Convention for the Protection of Literary and Artistic Works. Under the principle of National Treatment established in Article 5 of the Convention, works originating in a member state must be afforded automatic copyright protection in all other member states without the need for formal registration. Consequently, as Malaysia is also a signatory to the Berne Convention, it is legally obligated to extend protection to video content produced by Indonesian creators circulated globally via TikTok.²³

The copyright infringement case involving Dr. Leo and Indonesian content creators is subject to international legal protection. The copyright protections afforded to Indonesian creators extend beyond domestic borders, applying equally within jurisdictions such as Malaysia, where Dr. Leo operates. These findings support international legal efforts to adjudicate unauthorized digital copyright infringements, particularly those occurring within commercial transactions and on social media platforms like TikTok.

Furthermore, while both Indonesia and Malaysia have established robust statutory

²² *Ibid*, Pasal 5 ayat (1) huruf b dan d.

²³ Oro, S. T. P. 2024. "Tinjauan Yuridis Terhadap Tindak Pidana Peredaran Kaset Bajakan Video Game Berdasarkan Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta". Dedikasi: Jurnal Ilmiah Sosial, Hukum, Budaya, Vol. 25 No. (1), hlm. 49-64.

frameworks, the implementation of enforcement mechanisms for cross-jurisdictional violations remains significantly constrained. Indonesian creators currently lack direct standing to pursue claims against foreign infringers absent intergovernmental cooperation. Moreover, the absence of an effective Mutual Legal Assistance (MLA) framework between Indonesia and Malaysia specifically for intellectual property rights often results in a lack of concrete judicial recourse for such violations.²⁴

International instruments, such as the Berne Convention (Article 9) and the WIPO Copyright Treaty (Article 8), emphasize the automatic protection of copyright without the requirement of formal registration a principle binding upon Indonesia as a contracting state. This analysis reveals that Dr. Leo's liability is objective in nature, whereby specific intent is not strictly required to establish an infringement.

Furthermore, the WIPO Copyright Treaty (WCT), ratified by Indonesia, strengthens copyright protections within the digital environment. A pivotal provision of the WCT is the recognition of the 'making available' right, which grants creators the exclusive prerogative to authorize or prohibit public access to their works via digital networks. Consequently, when content published by a creator is accessed and modified by a third party without authorization, it constitutes a fundamental violation of the principles guaranteed under the WCT.²⁵

Furthermore, regarding the infringing account (@my.drleo), Malaysia maintains a stringent copyright regime under the Copyright Act 1987. This legislation has undergone successive amendments to address advancements in information technology and serves as a primary statutory instrument for the protection of creators' rights and original works within the Malaysian jurisdiction. Specifically, the Copyright Act 1987 governs the following matters:²⁶

- a. Section 13 stipulates that the author is vested with the exclusive prerogative over the exploitation of their work, including the right to authorize or prohibit the reproduction, publication, distribution, and communication to the public thereof.

²⁴ Vina Nurmalasari, "Kajian Hukum Bantuan Kerjasama Timbal Balik (Mutual Legal Assistance) dalam Penyelesaian Tindak Pidana Internasional," *Lex et Societatis* 9, no. 1 (2021): 1-9, <https://ejournal.unsrat.ac.id/v3/index.php/lexetsocietatis/article/download/27371/26927>.

²⁵ Purba, A. Z. U., & SH, L. M. 2022. "Perjanjian TRIP's dan beberapa isu strategis". Penerbit Alumni.

²⁶ Malaysia. *Copyright Act 1987, Act 332. Laws of Malaysia. As consolidated through Act A1567/2020. Published by the Commissioner of Law Revision, Malaysia. Accessed via WIPO Lex. Diakses pada 3 Juni 2025.* <https://www.wipo.int/wipolex/en/text/142440>

- b. Section 36 establishes that any party engaging in an unauthorized act concerning a copyrighted work without the consent of the owner, including for commercial purposes, is deemed to have committed an actionable act of copyright infringement.
- c. Section 41 sets forth the penal provisions for copyright infringement, stipulating that violators may be subject to a custodial sentence of up to five years, a statutory fine not exceeding RM 25,000, or a combination of both.
- d. Furthermore, as a signatory to the Berne Convention, Malaysia recognizes and extends protection to foreign works originating from other member states including Indonesia pursuant to the principle of automatic protection, which precludes the requirement for any additional legal formalities or registration.

The unauthorized reuse of video content belonging to Indonesian creators by the Malaysian TikTok account @my.drleo which involved the modification and redistribution of said content through a fabricated narrative to facilitate the commercial promotion of Dr. Leo products constitutes an actionable copyright infringement under Malaysian law.²⁷

Consequently, from a legal standpoint, such conduct may be subject to both penal and civil sanctions pursuant to the provisions of the Copyright Act 1987. Conversely, Government Regulation Number 71 of 2019 on the Provision of Electronic Systems and Transactions (PP PSTE) provides the legal basis for asserting the liability of digital platform providers, such as TikTok. Articles 14 and 15 mandate that electronic system providers must ensure the reliability and security of their systems, as well as the protection of user-generated content. Furthermore, Article 36 affirms that electronic system providers bear responsibility for the protection of user rights, encompassing both data privacy and the integrity of digital content.²⁸

Government Regulation (PP) No. 71 of 2019 serves as a legal umbrella balancing technological advancement with the protection of copyright and electronic transactions. It is highly relevant in cases involving the unauthorized misappropriation and redistribution of commercial content.

Thus, from both national and international perspectives, the legal foundation for protecting content creators is well-established. However, absent robust cross-border

²⁷ Putri, M. A., Rahayu, K., & Pratama, E. A. 2024. *"Pelanggaran Hak Cipta terhadap Plagiasi Video Konten Tekotok pada Aplikasi TikTok"*. Penerbit NEM.

²⁸ Sahib, N. S. M., Idayanti, S., & Rahayu, K. 2023. *"Problematisasi Aturan Penyelenggara Sistem Elektronik (PSE) Di Indonesia"*. Pancasakti Law Journal (PLJ), Vol. 1 No.(1). Hlm. 61-74.

cooperation and proactive engagement from digital platforms, creators such as @laurasiburian, @annapulupulu, and @dayy.ayya remain vulnerable. Future strategies must prioritize the harmonisation of international law, the imposition of stricter obligations on digital platforms, and the establishment of cross-jurisdictional legal aid mechanisms that favor the creator.

Furthermore, the legal framework is fortified by Law No. 19 of 2016 (the ITE Law). Within this context, the unauthorized use of video content constitutes copyright infringement exacerbated by aggravating fraudulent elements specifically the deceptive voice-over impersonating the creator and false efficacy claims. Article 28 of the ITE Law supports the argument that Dr. Leo is liable for content manipulation that disparages the creator's reputation.

Regarding civil liability, the focus shifts toward restorative justice, which is often more expedited than criminal proceedings. Article 95 of the Copyright Act empowers creators to file civil lawsuits in the Commercial Court for:

a. Pecuniary (material) and non-pecuniary (immaterial) damages; b. Injunctive relief to cease the infringement; c. Seizure of infringing materials; or d. Disgorgement of profits derived from the infringement.

Additionally, Article 96(1) grants the right to petition the court for the destruction of infringing digital assets or the mandatory publication of the court's judgment. Articles 106–109 provide for interlocutory injunctions to prevent further irreparable harm, such as the emergency suspension of content distribution. Final damages must be settled within six months of a binding judgment (Article 96(2)) and may include hypothetical royalties, lost profits, and moral damages for reputational harm.²⁹

Indonesian content creators, such as Laura Siburian, @annapulupulu, and @dayy.ayya, are entitled to seek compensatory damages for economic losses. These include the lost royalty value that would have been accrued had authorization for the endorsement been granted, calculated based on the original video's engagement metrics (e.g., views, likes, and shares). Additionally, they may seek non-pecuniary damages for the reputational injury caused by fraudulent claims that misled the audience, resulting in negative public sentiment or a decline in follower retention.

The Court possesses the authority to mandate the permanent removal of the

²⁹ Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta

infringing videos from TikTok, the destruction of digital copies, and the public issuance of an apology via social media similar to the clarification video voluntarily released by Dr. Leo (which may serve as mitigating evidence).

In this context, the evidentiary threshold for a civil suit includes screenshots of the infringing content, timestamped records of the original posts on the creators' accounts, and a forensic calculation of damages. Such calculations often utilize industry-standard royalty formulas, typically ranging from 5% to 10% of the promotion's gross value, supported by expert testimony to establish the extent of the work's distortion. These claims fall under the jurisdiction of the Commercial Court³⁰ enforcement may be achieved through the execution of assets held by Dr. Leo within the Indonesian jurisdiction, should any exist, or via the recognition and enforcement of international judgments predicated on the principle of reciprocity.³¹ Similarly, the joinder of @annapulupulu and @dayy.ayy would serve to fortify the class certification requirements and the overall merits of the class action suit.

While the Copyright Act primarily emphasizes criminal and civil remedies, administrative liability serves a preventative function through government oversight and preliminary enforcement. These non-judicial measures offer a more expedited alternative to traditional litigation. Under Article 54, Paragraph (1) of the Copyright Act, the Minister of Law and Human Rights acting through the Directorate General of Intellectual Property (DGIP) is empowered to monitor the creation and dissemination of infringing content via information technology platforms, including international cooperation and recording surveillance. Furthermore, Article 55 provides that any party aware of commercial-scale digital infringement may report such activity to the Minister, who may then recommend the takedown of content, suspension of business services, or blocking of access. Finally, Article 56, Paragraph (1) mandates the blocking of infringing content by Internet Service Providers (ISPs) or digital platforms.³² Furthermore, integration with Government Regulation No. 71 of 2019 regarding the Provision of Electronic Systems and Transactions (PP PSTE), specifically Article 36, mandates that platforms such as TikTok be held liable for copyright-infringing content. Non-compliance may trigger administrative sanctions, including the revocation of business license.

³⁰ *Ibid*, Pasal 95.

³¹ I Made Asmarajaya, 2019, *Prospek Asas Resiprositas Dalam Hukum Ekstradisi*, Jurnal Advokasi, Vol. 9 No. 1, hlm. 92.

³² Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta

Drawing from the aforementioned framework, the Author further analyzes this dispute through the lens of Kantian moral theory, which centers on the principles of autonomy and individual rights. In this instance, the unauthorized exploitation of Laura Siburian's video constitutes a moral breach, as it disregards the creator's inherent right to exercise control over her intellectual labor, thereby undermining her dignity as a creative agent. The injury is not merely pecuniary but intrinsic; the dissemination of altered and falsified content obscures the creator's identity as a transparent reviewer, ultimately eroding her reputation and the trust of both her audience and the digital platform. This practice contravenes the Kantian Categorical Imperative, which dictates that individuals must be treated as ends in themselves, rather than as mere means to an end. From this ethical standpoint, copyright is not simply a legal instrument but a moral obligation to respect intellectual effort, the violation of which creates systemic injustice within the creative ecosystem.

Consequently, the DGIP is empowered to impose administrative sanctions, such as written warnings, the regional geoblocking of the @my.drleo account, or recommendations for the suspension of skincare promotional services within the Indonesian market. Dr. Leo bears liability for utilizing third-party content without authenticating its provenance an act constituting administrative negligence within the digital commerce context. Under Article 40, Paragraph (2)b of the Electronic Information and Transactions (EIT) Law, creators may file reports with the DGIP, which then coordinates with the Ministry of Communication and Informatics to block infringing content. In this case, administrative remedies may be summarily applied to mitigate further harm, specifically the proliferation of deceptive content that misleads Indonesian consumers.³³

This form of administrative liability serves as an effective mechanism for preliminary prevention on digital platforms, as evidenced by the prompt remedial action taken through the removal of content by Dr. Leo. However, a broader implication suggests the necessity for more stringent administrative regulations governing foreign entities. Such measures including the mandatory registration of foreign brands with the DGIP prior to promotional activities in Indonesia are essential to prevent jurisdictional evasion.

³³ Undang-Undang Nomor 19 Tahun 2016 tentang Informasi dan Transaksi Elektronik (UU ITE) Pasal 40 ayat (2)b

Concurrently, the Economic Theory of Law advanced by Richard A. Posner posits that copyright law functions as an instrument for maximizing economic efficiency. Posner argues that robust intellectual property protections incentivize innovation and the production of new content by securing economic returns for creators, thereby reducing transaction costs and enhancing social welfare. In the present case, the unauthorized use of content creates market inefficiencies; Dr. Leo extracted commercial value through 'free-riding' on Laura's creative investment without internalizing the fair costs of production. Such conduct diminishes the incentives for content creators to maintain output, ultimately detrimental to the creative economy at large. From a Posnerian perspective, legal sanctions ought to be designed to internalize externalities utilizing damages that reflect true economic loss to restore market efficiency.

2. Applying Article 5 of Law Number 28 of 2014 concerning Copyright to Assess the Unauthorized Use and Modification of Video Content by Cross-Jurisdictional Actors to Ensure Legal Certainty for Creators

This research is predicated on the understanding that legal certainty encompasses not only the clarity of statutory provisions but also the efficacy of their enforcement within a digital landscape characterized by cross-jurisdictional complexities. To deepen the analysis, this study examines the interplay between state regulations and platform policies, where the dissonance between formal legal norms and empirical practices frequently serves as a primary source of legal ambiguity.

The findings indicate that while the Copyright Act No. 28 of 2014 establishes a foundation for certainty through the declarative principle whereby copyright arises automatically upon creation its implementation remains largely reactive and contingent upon multi-stakeholder cooperation. Consequently, achieving sustainable and optimal protection necessitates a synergy with international frameworks, specifically the Berne Convention and the WIPO Copyright Treaty (WCT). Furthermore, the role of digital intermediaries is paramount; specifically, TikTok's Community Guidelines³⁴ explicitly prohibit non-original content and violations of intellectual property (IP) rights. These prohibitions encompass the unauthorized reposting of copyrighted material, deceptive practices through inauthentic engagement, and the promotion of misleading or high-risk products.

³⁴ Hak Atas Kekayaan Intelektual pada Ketentuan Layanan di TikTok, diakses pada 24 November 2025.

The application of legal certainty in cases involving the unauthorized use and modification of video content for commercial purposes on TikTok necessitates a rigorous interpretation of Article 5 of Law Number 28 of 2014 concerning Copyright. This provision governs the creator's moral rights, which are inherently inalienable and endure throughout the creator's lifetime. These moral rights encompass the right of integrity, granting creators the authority to oppose any distortion, mutilation, or modification of their work that would be prejudicial to their honor or professional reputation.³⁵

In the digital context specifically on content-driven platforms such as TikTok the act of altering or editing content is frequently characterized as a form of modification. From a normative perspective, however, not all modifications are legally permissible. A modification is categorized as lawful only when executed with the creator's express authorization and in compliance with moral rights, particularly the right of integrity. Absent such consent, any alteration of the work potentially constitutes a moral rights infringement, especially where the modification distorts the original context, meaning, or intent of the work.³⁶

In the dispute between dr. Leo and the Indonesian content creators, the unauthorized utilization and modification of video content occurred without the creators' consent and was directed toward the promotion of commercial products. From a normative standpoint, such actions cannot be classified as lawful modifications; rather, they constitute distortion and falsification of the original work. This classification arises because the alterations were not executed for creative purposes or protected transformative use, but were instead leveraged for the economic gain of a third party. Consequently, these actions constitute a direct infringement of the creator's moral rights as codified under Article 5 of the Copyright Act.³⁷

The infringement of moral rights in this instance inextricably impacts the creator's economic rights; however, the mandate of Article 5 reinforces that while economic interests are transferable, moral rights remain inalienable and must be upheld. Consequently, legal certainty dictates that Article 5 be interpreted not merely as a declarative norm, but as a normative litmus test to determine whether an act of content

³⁵ Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta, pasal 5.

³⁶ Rachmadi Usman, 2013, *Hukum Hak Kekayaan Intelektual*. Bandung: Alumni. hlm. 78.

³⁷ Agus Sardjono, *Hak Cipta dan Perlindungan Karya Digital*, (Jakarta: RajaGrafindo Persada, 2019), hlm. 112.

alteration constitutes a permissible modification or a definitive violation of moral rights.³⁸

The issue of legal certainty attains a heightened degree of complexity when infringing parties operate outside Indonesian territory, thereby introducing cross-jurisdictional elements specifically within the legal nexus between Indonesia and Malaysia. Although Indonesia has ratified various international instruments, such as the Berne Convention for the Protection of Literary and Artistic Works and the WIPO Copyright Treaty (WCT), the implementation of cross-border enforcement continues to encounter significant structural and juridical impediments.³⁹ These impediments include, *inter alia*, the divergence between legal systems, the inherent limitations of national jurisdiction, and the suboptimal utilization of Mutual Legal Assistance (MLA) mechanisms in matters concerning digital copyright infringement.

From a normative perspective, MLA mechanisms are primarily reserved for transnational crimes of a high-priority nature such as corruption, narcotics trafficking, and terrorism whereas copyright infringement is frequently relegated to the status of a private civil dispute. Consequently, the cross-border enforcement of intellectual property rights is rarely prioritized, leaving creators in a state of legal precarity where the promise of legal certainty remains unfulfilled.⁴⁰ This condition underscores a significant dissonance between clearly articulated legal norms and the state's enforcement capacity to execute those norms effectively.

The application of Article 5 must be both prescriptive and adaptive to the nuances of cross-jurisdictional digital environments, particularly in cases such as Dr. Leo's, where the video content of Indonesian creators specifically Laura Siburian, @annapulupulu, and @dayy.ayya was modified without authorization for commercial exploitation. These modifications involved the unauthorized editing of original footage, including the overlay of fraudulent voice-overs in Malay, misleading 'before-and-after' collages (juxtaposing bare-faced appearances with makeup applications to falsely claim skincare efficacy within three days), and the redistribution of this content on TikTok to promote Malaysian skincare products. Such actions constitute a distortion of the work that harms the creators' reputations by subverting authentic reviews into falsified testimonials. This

³⁸ Budi Santoso, 2018, *Hak Moral Pencipta dalam Era Digital*, Jurnal Hukum IUS QUIA IUSTUM, Vol. 25 No. 2, hlm. 245.

³⁹ World Intellectual Property Organization, *Berne Convention for the Protection of Literary and Artistic Works, Paris Act 1971*.

⁴⁰ Hikmahanto Juwana, 2010, *Penegakan Hukum Hak Cipta dalam Konteks Globalisasi*, Jurnal Hukum Internasional, Vol. 7 No. 3, hlm. 412.

results in significant moral injury, including the erosion of audience trust, diminished engagement metrics, and the risk of retaliatory litigation from deceived consumers. Consistent with Satjipto Rahardjo's Theory of Legal Protection, enforcement must be proactive in safeguarding fundamental human rights, with the State serving as a facilitator through preventive mechanisms such as DGIP oversight and repressive remedies, including civil litigation for the restoration of reputation.

In evaluating unauthorized use and modification, the application of Article 5 should adhere to a three-tier framework: First, the verification of modification through technical evidence, utilizing digital forensics (e.g., metadata analysis, frame-matching, or editing algorithm comparisons) to establish a violation of Article 5, Paragraph (1)(e), where a modification is deemed derogatory if it alters the essence of the work (e.g., transforming educational content into deceptive advertising). Second, an assessment of moral impact, measuring reputational damage qualitatively through audience surveys or TikTok engagement data, and quantitatively through the loss of potential endorsement revenue. This serves to define the threshold for 'harm to honor,' a standard that currently remains ambiguous and necessitates clarification through jurisprudence. Third, the integration of the *Lex Specialis* principle, whereby Article 5 supersedes general regulations such as Article 27 of the EIT Law regarding misleading content to focus specifically on the protection of moral rights.

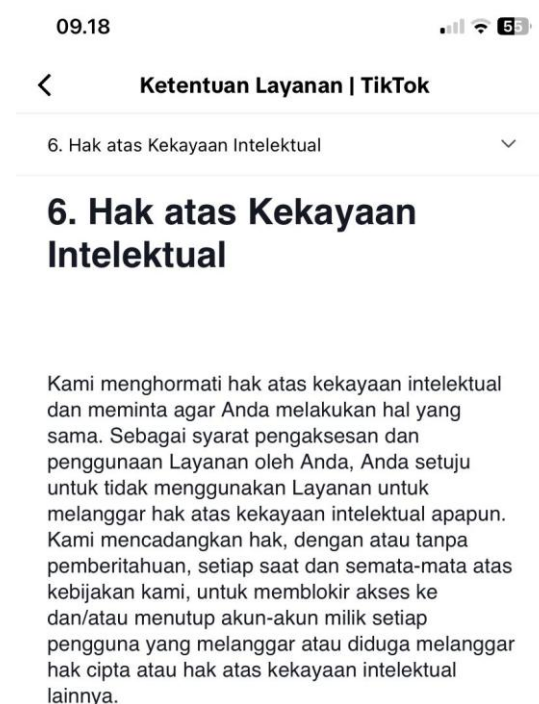


Figure 7. TikTok Terms of Service (ToS)

Source: TikTok

These Guidelines reinforce that TikTok prohibits content that endangers users or exploits sensitive social issues; furthermore, they mandate business account verification to prevent platform manipulation a requirement that aligns with the preventive measures advocated in legal protection theory. Specifically, the Guidelines stipulate:

- a. 'Unoriginal Content and Intellectual Property Rights: We do not allow content that infringes upon the intellectual property (IP) rights of others. Content found to be in violation of these rules will be removed.'
- b. 'Fraud and Scams: We prohibit content that promotes or facilitates scams, fraud, or deceptive schemes.'
- c. 'Deceptive Behavior and Inauthentic Engagement: We do not allow accounts that mislead users, attempt to manipulate the platform, or sell services intended to artificially inflate engagement or deceive the recommendation system.'
- d. 'Regulated Goods, Services, and Commercial Activities: We do not permit the sale, marketing, or promotion of products and services that are legally regulated, prohibited, or classified as high-risk. Only registered business accounts and verified sales within TikTok Shop are authorized.'

These provisions establish a mechanism for the takedown of infringing content and the restriction of recommendations within the 'For You Feed' (FYF) for content that fails to meet these standards. These Guidelines function not merely as internal corporate policy but as instruments that can be integrated with state regulation to enhance platform accountability, though their efficacy remains contingent upon algorithmic transparency and the expediency of response to user reports.⁴¹

According to Dr. Muthia Sakti, S.H., M.H., in her treatise *E-Commerce: Regulation and Consumer Protection*, "Legal protection for consumers against breach of contract within the e-commerce sphere must encompass regulations that are adaptive to electronic transactions, including the management of deceptive content that infringes upon intellectual property rights and undermines consumer trust." This citation is particularly pertinent as it underscores the necessity of e-commerce regulation in safeguarding

⁴¹ Panduan Komunitas TikTok. Diakses pada 26 November 2026.

consumers against digital fraud. This mirrors the copyright infringements observed on TikTok, which manifest as deceptive promotions detrimental to both creators and consumers. Consequently, this strengthens the argument that platforms like TikTok must adopt a proactive role in preventing digital breach of contract.⁴² She emphasizes the criticality of legal certainty within digital transactions, asserting that legal frameworks must be transparent and accessible to all stakeholders. Such clarity is essential to preemptively address copyright infringement and to guarantee robust protections for both content creators and consumers.⁴³ She further highlights that digital copyright infringement is frequently exacerbated by regulatory ambiguity and deficient enforcement mechanisms. Consequently, a systematic effort is required to fortify legal protection frameworks and ensure that digital rights are upheld by all participants within the digital ecosystem.⁴⁴

The theory of legal certainty constitutes a fundamental principle within the legal system, ensuring that legal norms are predictable, stable, and consistently applied, thereby allowing legal subjects to act with a sense of security. According to Sudikno Mertokusumo, legal certainty serves as a guarantee that the law is upheld, that every rightful claimant receives their due, and that judicial decisions are effectively executed. This underscores the criticality of enforcement and the execution of law, free from arbitrary action, to foster a reliable legal environment. To ensure that individuals can reasonably anticipate the legal consequences of their conduct, statutes must be clear, logical, and unambiguous in their interpretation.⁴⁵ Utrecht expands upon this definition by identifying two distinct components: first, the existence of general rules that enable individuals to discern permissible from impermissible conduct, thereby preventing ambiguity in social behavior; and second, the provision of legal security for individuals against arbitrary actions by both the state and private entities. These general rules afford

⁴² Dr. Muthia Sakti., S.H., M.H, 2025, "*E-Commerce: Peraturan dan Perlindungan Konsumen*", Jambi: PT Nawala Gama Education. Hlm. 56-57.

⁴³ Dr. Muthia Sakti., S.H., M.H, 2023, "Konsumen dan Perlindungan Konsumen". Video YouTube. Diakses pada 6 Desember 2025. <https://hukum.upnvj.ac.id/videoplayback/dr-muthia-sakti-s-h-m-h-konsumen-perlindungan-konsumen/>

⁴⁴ Dr. Muthia Sakti., S.H., M.H, 2023, "Pelaku Usaha dan Perbuatan Yang Dilarang". Video Youtube. Diakses pada 6 Desember 2025. <https://hukum.upnvj.ac.id/videoplayback/dr-muthia-sakti-s-h-m-h-pelaku-usaha-perbuatan-yang-dilarang/>

⁴⁵ Reviana Mutiara Indah dan Irwan Triadi, 2025, "Penemuan Hukum Sebagai Implementasi Teori Hukum Dalam Menjawab Kekosongan Norma". Media Hukum Indonesia, Yayasan Daarul Huda Krueng Mane, Vol. 3 No. 4. Hlm. 109.

a degree of predictability that is essential for maintaining social and economic stability.⁴⁶

Jan Michiel Otto defines legal certainty as:⁴⁷

- a. The availability of rules that are clear, consistent, and accessible;
- b. Consistent application by the administration (or the authorities);
- c. The adjustment of social behavior (in accordance with the law);
- d. Judicial independence and
- e. The effective execution of judicial decisions, where the failure of any single element may erode public trust in the legal system.

Paul Scholten further asserts that legal certainty encompasses a tendency toward a stable and positive understanding of the law.⁴⁸ Article 28D, Paragraph (1) of the 1945 Constitution guarantees the right to fair legal certainty as a fundamental human right. In cases involving the unauthorized commercial utilization of content, this theory is pivotal in critiquing the dissonance between the established legal norms (*das Sollen*) which are clearly codified in the Copyright Act and the empirical reality (*das Sein*), which is fraught with uncertainty. This disparity is exacerbated by jurisdictional complexities and an over-reliance on digital platforms, leaving creators in a state of ambiguity and hindering their access to expedient justice.⁴⁹

Article 9, Paragraph (3) of the Copyright Act explicitly prohibits the unauthorized reproduction and distribution of creative works for commercial purposes, establishing formal legal certainty through a predictable and stable norm. Creators, such as Laura Siburian, should ideally be able to rely on this provision to safeguard their moral and economic rights against exploitative practices, such as the unauthorized modification of video content featuring fraudulent narratives. However, in the case of dr. Leo where Siburian's content was edited with false claims (promising results within three days) for skincare promotion this certainty is undermined by the fragility of cross-jurisdictional enforcement mechanisms. In this vacuum, infringers may exploit the lack of coordination between Indonesian and Malaysian regulations to evade liability. While Malaysia, as the base of operations for @my.drleo, is a signatory to the Berne Convention (Article 5,

⁴⁶ Amalia, M., Andrias, M.Y., Reumi, F. and Saleh, I.N.S., 2024. *Pengantar Ilmu Hukum*. PT. Sonpedia Publishing Indonesia. Hlm. 105

⁴⁷ Fahrozi, M.H., 2025. *Kemandirian Penyelenggara Pemilu: Rekonstruksi Pembentukan Peraturan Komisi Pemilihan Umum Berkepastian Hukum dan Partisipatif*, (Doctoral dissertation, Universitas Islam Indonesia), Hlm. 29-30.

⁴⁸ Hazmi, R.M. and SH, M., 2024. *Teori dan konsep*. Pengantar Hukum Progresif. Hlm. 40.

⁴⁹ Andika, G., Azhari, A.F. and SH, M., 2025. *Analisis Perlindungan Hukum Terhadap Kebebasan Berpendapat Pada Media Sosial di Indonesia*. (Doctoral dissertation, Universitas Muhammadiyah Surakarta). Hlm 70.

ensuring automatic protection without registration) and the WIPO Copyright Treaty (Article 8, establishing exclusive rights over digital access and distribution), the principle of reciprocal protection is hindered by a lack of institutional coordination, resulting in significant procedural delays.

Nonetheless, the inefficacy of Mutual Legal Assistance (MLA) protocols between Indonesia and Malaysia creates a state of practical uncertainty⁵⁰, wherein creators are compelled to rely on TikTok's internal reporting mechanisms, which are frequently characterized by opacity and procedural delays. In the instances of @annapulupulu (where bare-faced footage was manipulated into a 'before-and-after' sequence) and @dayy.ayya (where fraudulent efficacy claims targeted the Indonesian market), such response delays exacerbate both reputational and economic injury, thereby undermining overall legal predictability.

TikTok's Community Guidelines reinforce this certainty by stipulating that the platform does 'not allow content that violates intellectual property rights, including the unauthorized reposting of copyrighted or trademarked material,' and will remove such content upon detection. Furthermore, unoriginal material is rendered ineligible for the 'For You Feed' (FYF). This provides a degree of predictability for users, as these policies are applied consistently via the platform's algorithms, albeit contingent upon active reporting by creators. Additionally, the guidelines emphasize that TikTok does 'not allow accounts that mislead users, attempt to manipulate the platform, or sell services intended to artificially inflate engagement or deceive recommendation systems.' This framework provides a measure of stability in content distribution; infringing content, such as Dr. Leo's videos, is suppressed from recommendations, thereby mitigating viral impact and fostering a sense of security for creators within the digital ecosystem.⁵¹

The objective of legal certainty to foster social order through predictability remains unfulfilled due to a reliance on reactive enforcement. In such instances, the protection of rights depends largely on individual initiative rather than a proactive institutional system, thereby creating significant barriers to access to justice for smaller creators like @annapulupulu. While formal certainty is established through severe criminal sanctions (including imprisonment of up to seven years and fines of up to IDR 5 billion under Articles 72-74), material certainty remains fragile due to inadequate platform oversight

⁵⁰ Rizal, J., 2024. *Tinjauan & Konsep Mutual Legal Assistance in Criminal Matters*. Jusyahriz. Hlm. 76.

⁵¹ Panduan Komunitas Tiktok. Diakses pada 26 November 2025.

as mandated by Article 54. This deficiency leads to uncertainty in the execution of judgments, particularly when the infringing party operates from a foreign jurisdiction.⁵² The international dimension of this theory necessitates the harmonization of regulations, ensuring that legal certainty transcends national borders to achieve a global standard. Such a framework is essential to prevent 'free-riding' exemplified by Dr. Leo's acquisition of commercial gain without direct accountability and to ensure that creators can accurately predict the legal consequences of infringement. By aligning international standards, the legal system can eliminate the jurisdictional gaps that currently allow foreign actors to exploit creative works with impunity.

In this instance, the theory demonstrates that a synergy between national and international regulations is imperative to prevent both economic damages specifically the loss of potential endorsement royalties, which may reach millions of rupiah per video based on engagement metrics and moral injury, such as the degradation of a creator's reputation as an authentic reviewer. This reputational harm directly diminishes follower growth and future collaborative opportunities for creators like Laura, @annapulupulu, and @dayy.ayya.

TikTok's Guidelines introduce a supplementary layer of protection by mandating IP reporting through in-app features, effectively positioning the platform as a preventive gatekeeper. Specifically, the Guidelines stipulate: 'If we find content that violates these rules, we will remove it,' and further state that 'content is ineligible for the FYF if it contains unoriginal or repurposed material without significant creative changes.' Moreover, the restriction on Regulated Goods and Commercial Activities prohibiting the unauthorized marketing of legally regulated or high-risk products provides creators with a preemptive tool to report and block infringing promotional material. Nevertheless, in practice, the reliance on manual reporting introduces a degree of uncertainty, particularly when faced with high report volumes or inconsistent platform response times.

Consequently, the application of Article 5 of the Copyright Act in cross-jurisdictional cases should be directed toward affirming that any unauthorized alteration of content that compromises the integrity of the work constitutes a moral rights violation, irrespective of national borders. Furthermore, there must be a robust strengthening of

⁵² Nabhila Nasution., 2021 *Analisis Hukum Pelanggaran Hak Cipta Pengguna Aplikasi Tiktok Ditinjau Menurut Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta*. Jurnal Ilmiah Abdi Ilmu, Vol. 14 No.1, hlm. 158-168.

international cooperation alongside an active role for digital platforms in the early detection and remediation of infringements. Through such an approach, legal certainty can transcend mere normative theory and be realized as a substantive reality in the protection of creators' rights within the digital age.

C. CONCLUSIONS

The research concludes that the unauthorized commercial exploitation and modification of digital video content by cross-border actors on TikTok, exemplified by the dispute between dr. Leo and Indonesian content creators such as Laura Siburian, @annapulupulu, and @dayy.ayya, establishes a comprehensive legal liability encompassing criminal, civil, and administrative dimensions under Law Number 28 of 2014 on Copyright. From a criminal perspective, such infringements constitute a violation of Article 113, potentially incurring custodial sentences of up to four years and substantial fines, particularly when the act involves the distortion of a creator's reputation through deceptive modifications like fraudulent voice-overs or misleading "before-and-after" sequences. Furthermore, the study identifies that unauthorized alterations which change the work's original context, meaning, or purpose for commercial gain categorically violate the creator's inalienable moral rights under Article 5, specifically the right to maintain the integrity of the work against distortion. While the Indonesian legal system provides a robust normative framework aligned with international standards such as the Berne Convention and the WIPO Copyright Treaty, practical enforcement remains significantly impeded by jurisdictional complexities, differences in national legal systems, and the absence of effective Mutual Legal Assistance (MLA) mechanisms between Indonesia and Malaysia. Consequently, achieving genuine legal certainty in the digital era necessitates a synergistic approach that harmonizes international regulations, strengthens platform-based preventive measures, and establishes more prescriptive cross-border enforcement strategies to protect both the economic and moral interests of creators.

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