

Problematization of Artificial Intelligence (AI) as Creator of the Work: "Implications in the Context of Copyright"



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ABSTRACT: The development of Artificial Intelligence today is increasingly rapid. Artificial Intelligence is able to process and collect data to carry out a task efficiently and accurately, as well as being creative and flexible, so that AI can produce work independently. However, the use of Artificial Intelligence cannot be separated from providing data in the form of works protected by copyright. This article discusses the concept of Artificial Intelligence in Law Number 28 of 2014 concerning Copyright and the problems that exist, namely the use of works protected by copyright as data for Artificial Intelligence creations. This research is normative juridical research with a conceptual approach and a statutory approach carried out by examining existing doctrines and applicable regulations. According to the provisions of Copyright Law in Indonesia, Artificial Intelligence cannot yet be categorized as the creator of a creation because it is not a legal subject, and the use of a creation to utilize Artificial Intelligence in the creative field must still respect and respect the creative work by obtaining permission from the creator of the creation.

KEYWORDS: Artificial Intelligence, Creation, Copyright, Law, Technology

I. INTRODUCTION

The very rapid development of information technology has given rise to various innovations. In general, humans benefit from the presence of various technologies, both in the fields of economics, education, communication, and so on. Access to information that is very easy to obtain with advances in technology makes people's activities more effective and efficient if they use technology properly and correctly. The rapid development of technology cannot be avoided, of course there are also risks that may arise from the use of this technology. One technology that is still being debated is the use of Artificial Intelligence (AI) technology.

The development of AI is expected to balance the role of humans, namely the creation of robots or systems that can work and think like humans or even provide better output. However, this becomes problematic when it is related to ethics and morals in doing something to achieve a goal. The development of AI is not only used in the field of science, in fact currently the use of AI has been developed in the fields of business, law and even in the creative field. The popularity of AI in recent years has brought to light the fact that humans are no longer just competing with other humans, but with AI as well. The creative field, including art, is believed to be the final frontier for the use of AI, saying that AI cannot penetrate the same artistic creation as humans. However, with the development of increasingly sophisticated AI programs, even without human help, they are able to create innovative work so that the role of humans in the creative field can be diverted. In simple terms, AI is able to process and collect data to carry out a task efficiently and accurately as well as being creative and flexible, so AI can produce work independently (Sihombing, EL. N., & Syapultra, M.Y.A, 2020)

Based on Copyright law in Indonesia which adheres to the principle of automatic protection, that is, legal protection in copyright immediately appears when an idea or idea is transformed into a real form of work (Verheij B, 2020). Until now, Indonesian positive law itself basically does not clearly state whether a computer program can be accepted as the creator of a work that is entitled to copyright protection for its work. UUHC Indonesia currently does not recognize AI as a legal subject. UUHC only recognizes individuals or several people as creators who are given copyright protection. Copyright regulation in Indonesia is suspected is still lagging behind in responding to AI developments, and this also indicates the emergence of new potential threats for creative economy players in terms of originality and copyright for technological progress. UUHC regulations in Indonesia aim to protect creators for their creations which constitute exclusive rights including moral rights and economic rights as regulated in Article 1 paragraph (1) UUHC states that copyright arises automatically based on declarative principles after a creation is realized in real form without reducing restrictions. in accordance with the provisions of statutory regulations. (Chirstiani, Theresia, 2022). The moral rights inherent in copyright are a basic principle that every person has the right to create a creation and every person has the

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obligation to respect or respect other people's creative works by not using or changing other people's creations without permission.(Disemadi, Hari S, 2021)

One of the main questions is who should be considered the "creator" of AI-generated works. Does the AI have a creative capacity that would allow it to copyright the work? How does the role of humans in training and directing AI affect copyright and creator recognition? How do current copyright regulations face these new challenges in a world of creativity increasingly integrated with AI?

II. FORMULATION OF THE PROBLEM

Who should be considered the creator of the work produced by AI ?

III. RESEARCH METHODS

The research method used in this research is normative juridical research, namely legal research carried out by examining library materials or secondary data to understand the relationship between legal science and positive law. This research will use a conceptual approach and a statutory regulatory approach. The conceptual approach refers to the principles contained in the views or doctrines developed in legal science. Meanwhile, the statutory approach refers to statutory regulations in the form of legislation and related regulations as well as the principles that apply to these laws. The approach is taken by analyzing how the concept of AI from a Copyright perspective is then connected to the current law, namely Law Number 28 of 2014 concerning Copyright.

IV. LITERATURE REVIEW

A. Convergence law theory

Legal theory as a teaching of legal science has the aim of understanding law in the modern world, as an impact of globalization and interdependence making it necessary to have a multi-interpretation method, namely that a phenomenon that occurs needs to be viewed from a broader perspective towards humanity in general.

Haraway and Bradotti have basically conducted research with an approach to solving problems between humans and technology through a very basic understanding of life in the world. They then provide ideas regarding an understanding of the phenomenon of ICT progress. The main focus of their research is to sort out the complex relationship between culture, nature and science, as well as the power of error (here and how) as a basis for political attachment to ethical behavior. If we look at the two research variables, a common thread can be drawn, namely that an approach to law and technology is needed that will test the network (Danrivanto Budhijanto, 2014). So it can be found that technological change does not only stand alone but there is legal anticipation of technological change in society itself through a legal convergence approach.

The theory of convergence law talks about various changes and convergence of technology based on 4C (communication, computing, content, and community) which is basically the availability of various different types of technology, which have almost the same function, where these four technologies are the result of a combination. Synergy between voice, data and video services is then processed and produced using one network, namely the internet (Danrivanto Budhijanto, 2014). The method applied through legal convergence theory still aims at one goal, namely so that legal and regulatory functions can run well to prevent and take action against the phenomenon of ICT development in the future. This is in line with the opinion of Danrivantho Budhijanto who proposed the need for good regulations and harmonization to be able to formulate various policies that regulate the development of ICT so that they can be utilized well by the Indonesian people.

B. Artificial Intelligence

Understanding Artificial Intelligence (AI) is a field of computer science that aims to develop computer systems that can imitate human intellectual abilities. The concept of artificial intelligence refers to the ability of machines to learn, understand, think and make decisions as humans normally do. Basically, artificial intelligence involves the use of algorithms and complex mathematical models to process data, recognize patterns, and make decisions based on the insights gained from that data. The ultimate goal is to create systems that can solve problems, recognize patterns, and learn from experience to improve performance over time (Dahria, Muhammad, 2014).

C. Development of artificial intelligence (AI)

The concept of artificial intelligence was first discovered after World War II by a young mathematician and philosopher named Alan Turing in 1947. Alan Turing believed that if humans could process information and solve problems and make decisions from that information, then machines could do it too. From this logical framework Alan Turing wrote a paper in 1950 about how to build intelligent machines and how to test their intelligence. Since then, artificial intelligence has developed rapidly until now. Currently, computers use artificial intelligence based on logic programming. Where computers can process stimulation given by humans into decisions based on experts (Chirstiani, Theresia A, 2022).

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D. How artificial intelligence works

Artificial intelligence works according to the programming algorithm on the computer system provided in the manufacturing process. Artificial intelligent framework programming algorithm in processing various types of data (Abott, Ryan, 2020). Reporting from Brookings, artificial intelligent programming algorithms require a lot of strong data so that computers can distinguish useful patterns. With lots of data and complex algorithms, machines can think for themselves, make decisions, learn and adapt.

E. Intellectual Property Protection in Indonesia -

Artificial Intelligence, which is a technological breakthrough that can perform actions like humans, certainly deserves to have special rules to regulate AI. In Indonesia, statutory regulations covering information technology issues are contained in Law Number 19 of 2016 concerning Amendments to Law Number 2008 concerning Information and Electronic Transactions (hereinafter the ITE Law). The promulgation of the ITE Law aims to resolve problems. Laws arising from information and communication system technology to create legal certainty for Indonesian citizens. Regarding AI itself, the ITE Law does not clearly define artificial intelligence technology, but if you look at the characteristics of AI, it can be categorized as an electronic system and electronic agent. Based on Article 1 Number 5 of the ITE Law, what is meant by Electronic System is a series of electronic devices and procedures that function to prepare, collect, process, analyze, store, display, announce, transmit and/or disseminate electronic information. In chapter 1 Number 8 defines an Electronic Agent as a device from an Electronic System which is created to carry out an action on certain Electronic Information automatically which is maintained by a Person (Raden S, Widya N, 2019). Based on these articles which define Electronic Systems and Electronic Agents as having characteristics that are in accordance with AI, namely a series of electronic devices that collect, process, analyze and store data to carry out actions on electronic information automatically (Haryono dan Agus S, 2017). However, the regulation of AI according to the ITE Law only applies AI as a legal object and not as a legal subject.

The rapid development of AI, especially now covering the creative field of law, must also be able to balance it so that legal certainty and justice are established. Connected with AI from a Copyright perspective, as a technological creation AI is a Creation protected by Intellectual Property Rights. However, it is known that currently AI is capable of creating paintings. According to the UUHC, a creation is "any creative work in the fields of science, art and literature which is produced based on inspiration, ability, thought, imagination, dexterity, skill or expertise expressed in concrete form" (Febri Goh, Wilton, 2021). Basically, a work can be granted copyright if the work is a work in the fields of science, art and literature which is produced by inspiration, ability, thought, imagination, dexterity, creativity or expertise, and is expressed in a real or concrete form where there are no requirements regarding originality, there are significant differences between humans and AI, if you look at the definition of Creation mentioned previously, a creation is produced from inspiration, ability, thoughts, imagination, dexterity, skills and expertise expressed in real forms, images What is produced by AI is real, but it is questionable whether AI also goes through a process of imagination or inspiration like humans as creators. Based on the UUHC, AI cannot be considered the creator of a creation because it is not a person and does not have special and personal characteristics that can be associated with the creation. AI itself can be categorized as a computer program as regulated in Article 1 number 9 UUHC, namely a set of instructions expressed in the form of language, code, schemes, or in any form intended for the computer to work to carry out certain functions or to achieve results.

CONCLUSIONS

Very rapid technological developments cannot be avoided, in this case the use of AI technology to create works of art. Basically, AI can act and think like humans by being trained and given data to carry out tasks for certain purposes. However, in the case of AI as the creator of a creation or work of art, it still raises various problems because it deviates from the concepts contained in Law no. 28 of 2014 concerning Copyright. A creator is a person or several people who go through a process of thinking, inspiration, imagination and creativity to make an idea into a real or concrete work

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