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Legal Analysis of Civil Liability for the Piracy of Digital Comics on Websites

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ABSTRACT

This study aims to conduct a legal analysis of civil liability for the piracy of digital comics on websites and the mechanisms for legal protection of creators from a civil law perspective. The research problem focuses on the rampant distribution of digital comics without permission through illegal websites, which causes economic and immaterial losses to creators. The study employs a normative legal research method using a statutory approach and a conceptual approach. Research data was obtained through a literature review of primary, secondary, and tertiary legal materials, which were analyzed qualitatively through legal interpretation and legal argumentation. The results of the study indicate that the piracy of digital comics can be classified as a tort under Article 1365 of the Civil Code because it fulfills the elements of a tort: an unlawful act, fault, damage, and causation. Civil liability is not only imposed on the principal perpetrator but can also be extended to website operators and other parties contributing to the infringement through the concept of extended liability. This study concludes that civil liability serves compensatory and preventive functions in providing legal protection for digital comic copyrights, although its implementation still faces challenges regarding the burden of proof and the complexity of cross-border digital spaces.

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1. INTRODUCTION

The development of information technology has driven significant transformation in the creative industry, particularly in the distribution and consumption of digital comics through various websites. The ease of internet access allows the public to enjoy comic works widely, but on the other hand, it also opens the door to copyright infringement. The piracy of digital comics through illegal websites that upload and distribute works without the creator's permission constitutes a violation of the exclusive rights inherent to the creator. This phenomenon carries legal consequences, particularly within the framework of civil liability for losses incurred by copyright holders [1].

In fact, the practice of digital comic piracy in Indonesia has shown a significant

increase, marked by a rise in the number of illegal websites providing free access to paid comics. This situation causes economic losses for creators due to the loss of potential revenue that should have been obtained from official distribution. In the context of civil law, such losses constitute a key element that can serve as the basis for filing a claim for damages. Thus, digital comic piracy is not merely viewed as a normative violation but also as a legal event giving rise to civil consequences [2].

From a legal perspective, the piracy of digital comics via websites can be classified as an unlawful act as stipulated in Article 1365 of the Civil Code. The acts of unauthorized reproduction and distribution satisfy the elements of an unlawful act, the presence of fault, the occurrence of loss, and the existence of a causal relationship between the act and the resulting loss. Furthermore, Law No. 28 of 2014 on Copyright affirms that the economic rights of creators are legally protected, so that any infringement of these rights provides a basis for creators to seek civil liability [3].

The legal issues that arise are not limited to the primary perpetrators of piracy but also concern the potential liability of other parties involved in providing distribution channels, such as website operators. Under civil law, liability can be extended to parties who directly or indirectly contribute to the occurrence of damages. Therefore, it is important to examine the limits and scope of legal subjects that can be held liable in cases of digital comic piracy [4].

Previous research has generally addressed copyright protection in the digital context in general, focusing on criminal aspects or technological measures to protect works. Meanwhile, studies specifically examining civil liability in cases of digital comic piracy remain limited. In fact, a civil law approach plays a crucial role in providing remedies for the losses suffered by creators. Thus, a more in-depth analysis is needed regarding the construction of civil liability in the context of digital comic copyright infringement [5].

Developments in intellectual property law theory indicate that civil liability is not merely understood as an obligation to pay damages but also as a mechanism to protect creators' economic rights. This approach positions creators as legal subjects holding exclusive rights to the exploitation of their works. In this context, the piracy of digital comics constitutes a violation of these rights, giving rise to a legal obligation for the perpetrator to compensate for the resulting damages [6].

Based on the above discussion, there is a gap in the literature specifically examining the legal framework of civil liability in digital comic piracy via websites. On one hand, legal norms have provided a clear basis for protection; on the other hand, a more in-depth analysis is still needed regarding how such liability is legally constructed. This is crucial for clarifying the mechanisms of liability within the context of civil law.

This study aims to legally analyze the forms and mechanisms of civil liability for the piracy of digital comics on websites. The research focuses on identifying the elements of unlawful acts, the parties that can be held liable, and the forms of compensation that creators can claim. With this approach, it is hoped that the research can contribute to clarifying the legal construction of civil liability in the protection of digital comic copyrights.

2. LITERATURE REVIEW

2.1 Civil Liability in Unlawful Acts

Civil liability is a form of legal accountability arising from a violation of a person's subjective rights that causes harm. In Indonesian civil law, the concept of civil liability is closely linked to tortious acts as regulated in Article 1365 of the Civil Code. This provision states that any act that violates the law and causes harm to another person obligates the perpetrator to compensate for such harm. The elements of a tort include the existence of a tortious act, fault, harm, and a causal relationship between the act and the harm [7].

In the development of legal doctrine, an unlawful act is not merely interpreted as a violation of the law but also encompasses violations of another person's subjective rights, moral norms, and the principles of propriety in society [8]. This concept provides ample grounds for digital comic creators to seek damages for acts of piracy committed through illegal websites. The act of uploading and distributing comics without permission constitutes an unlawful use of copyright because it violates the creator's exclusive rights.

Furthermore, civil liability serves both compensatory and preventive functions. The compensatory function aims to restore the losses suffered by the creator, while the preventive function aims to prevent similar infringements from occurring in the future [9]. Thus, the application of civil liability in digital comic piracy serves as a crucial instrument in providing legal protection for creators in the digital age.

2.2 *Copyright Protection for Digital Comics*

Copyright is a component of intellectual property rights that provides legal protection for creative works in the fields of science, art, and literature. Under Law No. 28 of 2014 on Copyright, comics fall under the category of works eligible for legal protection. This protection encompasses moral rights and economic rights that are exclusively vested in the creator [10]. Moral rights pertain to the recognition of the creator's identity, while economic rights pertain to the right to derive economic benefits from the created work.

Advances in information technology have transformed the distribution patterns of creative works, including comics, which are now widely published in digital form via websites and online platforms. However, these developments have also given rise to various forms of copyright infringement, particularly digital piracy, which involves duplicating and distributing works without the creator's permission. Digital comic piracy via illegal websites causes significant economic losses by reducing the potential income of both creators and official publishers [11].

Legally, protection for digital comics is provided not only through criminal mechanisms but also through civil lawsuits seeking damages and an injunction to stop the infringement. The Copyright Act grants creators the right to file a lawsuit if their economic rights are violated. Thus, legal protection for digital comics has both repressive and preventive dimensions in safeguarding creators' exclusive rights [12].

2.3 *Digital Comic Piracy on Websites from a Digital Law Perspective*

Digital piracy is one form of cyber infringement that has grown alongside the increasing use of the internet. In the context of digital comics, piracy is generally carried out through illegal websites that provide free access to paid comics without permission from the copyright holders. This phenomenon indicates the misuse of information technology that contradicts the principles of intellectual property rights protection [13].

The borderless nature of the digital space makes law enforcement against digital comic piracy more complex. Illegal websites often use foreign servers and easily changeable domains, making it difficult to identify perpetrators and take legal action. This situation poses a challenge for national laws in providing effective protection for creators [14]. Additionally, the public's low awareness of the importance of respecting copyright further exacerbates the high rate of digital piracy.

From a civil law perspective, website operators providing platforms for illegal distribution may also be held liable if proven to have contributed to the creators' losses. This concept is known as extended liability, which entails expanding liability to parties directly or indirectly involved in digital copyright infringement [15]. Therefore, a civil law

approach is essential to provide legal certainty and more comprehensive protection for digital comic creators in the era of information technology development.

3. METHODS

This study employs a normative legal research *(doctrinal legal research)* methodology using *a statutory approach* and *a conceptual approach*. The research design focuses on analyzing legal norms governing copyright, specifically Law No. 28 of 2014 on Copyright, as well as provisions in the Civil Code related to unlawful acts. The research framework is systematically structured by examining the relationship between applicable legal norms and the practice of digital comic piracy on websites, thereby enabling the construction of a legal framework regarding relevant civil liability in the context of such violations.

The legal materials used in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include legislation, court decisions, and official documents related to copyright. Secondary legal materials consist of scholarly literature such as books, legal journals, and previous research relevant to the research topic. Tertiary legal materials include legal dictionaries and encyclopedias that support conceptual understanding. The collection of legal materials was conducted through *library research*, which was then systematically analyzed to identify legal norms, principles, and doctrines related to the research object.

The data analysis method used is qualitative analysis with a descriptive-analytical approach. The analysis is conducted through *legal* interpretation—grammatical, systematic, and teleological—to understand the meaning and purpose of the norms under examination. Additionally, the legal argumentation method was employed to construct a framework for civil liability regarding digital comic piracy, referencing the elements of a tort: the existence of an act, fault, damage, and a causal relationship. The results of the analysis were then organized logically and systematically to address the research questions and provide recommendations for strengthening legal protection of copyright in the digital age.

4. RESULTS AND DISCUSSION

The phenomenon of digital comic piracy via websites legally constitutes a violation of the copyright inherent to the creator. The acts of uploading and distributing without permission constitute unauthorized use of the work without a valid legal basis. Within the framework of civil law, such acts give rise to legal liability. The creator's exclusive rights over digital works serve as the primary basis for determining infringement. Therefore, digital comic piracy cannot be separated from the framework of civil liability [16]. This underscores the importance of a legal approach in examining this phenomenon.

In a normative analysis, the piracy of digital comics can be classified as an unlawful act. This classification refers to the provisions of Article 1365 of the Civil Code. The first element that must be fulfilled is the existence of an act that violates the law. In this context, the distribution of comics without permission constitutes an act contrary to copyright. Such acts not only violate the law but also infringe upon the creator's subjective rights. Thus, the element of an unlawful act is legally satisfied [17].

The second element of an unlawful act is the presence of fault. Fault in the piracy of digital comics generally takes the form of intent. The perpetrator knowingly uploads and distributes comics without the creator's permission. Such actions demonstrate an intent to profit from another person's work. Additionally, fault may also take the form of negligence in managing a digital platform. Therefore, the element of fault plays a crucial role in determining civil liability.

The third element is the existence of harm suffered by the creator. This harm is primarily economic in nature, consisting of lost potential revenue. The creator does not receive compensation for the use of their work. Additionally, there is also non-economic harm related to the reputation and

integrity of the work. This harm arises due to uncontrolled distribution. Thus, the harm in digital comic piracy is multidimensional.

The fourth element is the existence of a causal relationship between the act and the loss. This relationship demonstrates that the resulting loss is a direct consequence of the act of piracy. Without illegal distribution, such loss would not occur. Therefore, the causal relationship is a crucial element in proving civil liability. The proof of this relationship must be conducted logically and systematically. This forms the basis for determining the obligation to pay damages.

The creator's economic rights are one of the aspects most affected by digital comic piracy. These rights grant exclusive authority to reproduce and distribute the work. Violations of these rights result in the loss of potential profits. In civil law, such violations provide the basis for claims for compensation [18]. Therefore, economic rights hold a central position in the construction of civil liability.

In addition to economic rights, the creator's moral rights are also at risk of being violated. Moral rights pertain to the recognition of the creator and the integrity of the work. In piracy practices, works are often disseminated without clear attribution. This personally harms the creator. Therefore, civil liability may also include remedies for violations of moral rights. This demonstrates that legal protection is not merely economic in nature [19].

In the context of legal subjects, the primary perpetrators of piracy are the parties who directly commit the infringement. These perpetrators are typically individuals or groups who upload illegal comics. They derive profit from such activities. Therefore, the primary perpetrators bear direct liability for the resulting damages. This liability is personal and inherent to the actions taken [20].

In addition to the primary perpetrators, website administrators may also be held liable. Administrators provide the means that enable the violation to occur. In civil law, this involvement may be classified as contributing to the damages. Therefore, liability is not limited solely to the direct perpetrators. This indicates an expansion of legal subjects in civil liability.

Hosting service providers also have the potential to be held liable. This depends on their role and knowledge regarding the uploaded content. If there is an element of negligence, liability may be imposed. However, the scope of this liability requires further analysis. Therefore, careful legal interpretation is necessary. This is important to maintain a balance of interests.

Regarding the burden of proof, the creator bears the burden of proving copyright ownership. This evidence may take the form of creation documents or proof of the work's publication. Additionally, the creator must also prove the existence of an infringement. Evidence of infringement may include screenshots or digital recordings. This evidence forms the basis of the judicial process. Therefore, the evidentiary aspect plays a crucial role [21].

Proving damages is an equally important aspect. The creator must be able to demonstrate the existence of actual damages. These damages must be directly linked to the perpetrator's actions. In practice, proving damages is often complex. This is due to the digital nature of the work. Therefore, a flexible approach to evidence is required.

In the context of legal relations, piracy creates a relationship between the infringer and the creator. This relationship gives rise to civil rights and obligations. The creator has the right to seek damages. Meanwhile, the infringer has the obligation to fulfill such claims. This relationship is direct and based on an unlawful act [22].

Therefore, its resolution falls within the realm of civil law. The forms of compensation that can be claimed include material and immaterial damages. Material damages relate to loss of income. Meanwhile, immaterial damages relate to damage to reputation. Both types of damages can be claimed simultaneously [23]. This is consistent with the principle of restitution in civil law. Therefore, damages serve a compensatory function.

In addition to damages, creators may also seek an injunction to stop the infringing acts. This remedy aims to prevent further harm. In practice, this may take the form of a court order. Such an order compels the infringer to cease the illegal activities. Thus, civil liability also serves a preventive function. This strengthens the protection afforded to creators [24].

In the development of legal doctrine, civil liability has expanded. This expansion includes parties that contribute indirectly. This approach is relevant to the complexity of digital infringement. Therefore, legal interpretation must be dynamic. This is important to maintain the relevance of the law. Thus, the law can accommodate technological developments.

This analysis demonstrates that digital comic piracy involves a complex liability structure. It involves not just a single party but various actors. This complexity demands a comprehensive approach. Consequently, legal analysis becomes crucial. It enables the precise identification of liability.

In the context of intellectual property law, protecting creators is the primary objective. Civil liability serves as an instrument to achieve this objective. This instrument enables the recovery of losses suffered by creators. Therefore, the role of civil liability is highly significant. This underscores the importance of a civil law approach in copyright protection [25].

Thus, digital comic piracy is not merely a legal violation but also a legal event giving rise to civil consequences. These consequences include the obligation to compensate for damages. Additionally, there is an obligation to cease the infringement. This demonstrates that civil liability has a broad scope. Therefore, a thorough analysis is essential.

This entire discussion demonstrates that the construction of civil liability plays a central role in addressing digital comic piracy. The elements of an unlawful act serve as the primary basis for determining liability. Furthermore, the aspects of proof and legal subjects also play a significant role. Thus, a legal approach provides a clear framework. This is crucial for ensuring legal certainty.

Finally, it can be affirmed that the piracy of digital comics via websites constitutes a form of copyright infringement that gives rise to civil liability. This liability encompasses various aspects, ranging from the perpetrators to the nature of the damages. This analysis provides a comprehensive understanding of the applicable legal framework. Thus, this study contributes to the development of intellectual property law research.

5. CONCLUSION

Based on the research findings and discussion, it can be concluded that the piracy of digital comics via websites constitutes a form of copyright infringement that can legally be classified as a tort under Article 1365 of the Civil Code. The acts of uploading and distributing comics without permission satisfy the elements of a tort, namely the existence of an unlawful act, fault, damage, and causation. Civil liability in this case is not only imposed on the primary perpetrator of the piracy but may also be extended to website operators or other parties contributing to the infringement through the concept of extended liability. The losses suffered by the creator include material damages in the form of lost potential revenue as well as immaterial damages related to the reputation and integrity of the work. Furthermore, legal protection for digital comics is fundamentally regulated under Law No. 28 of 2014 on Copyright; however, its implementation still faces various challenges, such as the complexity of digital evidence, the cross-border nature of cyberspace, low public legal awareness, and the weak effectiveness of law enforcement against illegal websites. Therefore, civil liability plays a crucial role as a legal protection instrument to provide compensation for losses while preventing the occurrence of similar violations in the future.

Based on these conclusions, it is necessary to strengthen legal protection mechanisms for digital comic copyrights by

optimizing the enforcement of civil liability against all parties involved in digital piracy. The government needs to strengthen regulations and oversight systems regarding illegal websites, including enhancing cooperation with internet service providers and digital platforms to expedite the blocking of copyright-infringing content. Additionally, the development of a more adaptive digital evidence system tailored to the nature of cyber infringements is needed so that creators can more easily prove copyright ownership and the losses they have incurred. Efforts to educate the public and raise legal awareness regarding the importance of respecting copyright must also be carried out continuously to foster a legal culture that supports the protection of intellectual property in the digital age.

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