

Legal Liability for Uploading Movie Spoilers on Social Media Instagram and Youtube Based on Indonesian Law

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Abstract: The purpose of this writing is to know and analyze the violation of uploading spoilers for other people's copyrighted works according to Law Number 28 of 2014 concerning Copyright; forms of copyright infringement for uploading movie spoilers on social media Instagram and YouTube; and legal liability for uploading movie spoilers on social media. This type of research is normative research and descriptive in nature. The data source comes from secondary data consisting of primary, secondary, and tertiary legal materials obtained through document study data collection techniques. The results of the study concluded that the act of mutilation of creation in movie spoilers is an infringement of copyright because it eliminates part of the creation or work of the creator of a movie. Forms of copyright infringement on the act of uploading movie spoilers are mostly done without the permission of the copyright holder and are rampant on social media services such as Instagram, and YouTube. Legal liability for uploading movie spoilers on social media can be held civilly liable under Article 1365 of the Civil Code and criminal liability as in Law No. 28 of 2014 on copyright.

Keyword: Copyright Infringement, Movie Spoilers, Social Media.

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1. Introduction

Every person or company organization that exists will be the importance of a name and symbol used in running a business and marketing goods and services. Including corporate organizations that run a business in the form of film services need to be protected by copyright. Film related to the existence of technology in its use in several fields in Indonesia has been regulated in the legislation in force as positive law in Indonesia. On the sustainability of copyright has been regulated through Law Number 28 Year 2014 on Copyright. But the fact is that although the rules regarding some aspects that use and relate to technology have been enacted, there are still loopholes, even deliberate or negligent misuse of access to technology. Forms of misuse, both in

the form of intent and negligence towards the use of technology, for example in the act of uploading footage of part or all of the film when watching in the cinema on social media (Rahmi, 2015).

The action in question is someone taking pictures, recording movie scenes, recording sound and telling the plot of a film to be disseminated on social media, so that other people know the footage of movie scenes and the storyline of a film without having to watch the film in the cinema. These actions or what is often also referred to as movie spoilers.

Movie spoilers are a mainstream term used on social media websites, spoilers are leaks or reveals. Spoilers are linguistically biased from the term reflect or reflect connotatively, which if interpreted literally is the act of "reflecting" or re-uploading anything that becomes an object, be it writing, music, or movies in cyberspace. (Effani, 2022).

One of the actions of movie spoilers carried out on social media is uploading excerpts of a movie scene on the story feature (upload status of footage on videos / photos) on social media such as Instagram. The action is carried out by taking a picture of a movie snippet, recording a video of a movie, even telling the plot of a movie and then uploading it to a social media account. In addition, another movie spoiler action is the action of youtubers in reviewing movies on YouTube accounts. The youtuber is a YouTube content creator, and a review is an activity carried out by someone to provide a review of something they have tried, such as a book, journal, movie, news, product and others. In this movie spoiler action, the youtuber uploads a movie trailer and then tells the plot of the movie, then gives a rating to a movie. Youtubers take these actions when a film is still in theaters, meaning that the content is available when the movie screening period is still taking place in theaters (Mulachela, 2022).

Copyright infringement of film creations or cinematographic works may occur in the form of duplication or viewing of the work without permission. The loss suffered by the creator or copyright owner is more economic in dimension, namely the loss of opportunity to benefit from the economic benefits of creation. The form of infringement is also winged, dimensioned attribution rights and integrity rights. Violation of the right of attribution is the omission of the creator's name on the movie, or each creator of the elements of the movie. Meanwhile, the right of integrity takes the form of destruction, mutilation or modification. This set of actions is considered a violation of the law, i.e. a violation of moral rights, if done without authorization. (Mahesa et al., 2020).

2. Research Method

This type of research is normative juridical legal research and is analytically descriptive. The types and sources of data that the authors use in carrying out this research are using secondary data. Collection techniques and tools are carried out through document and literature studies. The data that has been obtained will then be compiled and analyzed qualitatively.

3. Result and Discussion

3.1 Act of Uploading Movie Spoilers from the Perspective of Copyright Law

Film is a copyrighted work and one of the intellectual property protected in legislation, namely Article 40 paragraph (1) letter m of Law Number 28 of 2014 concerning Copyright. Based on Article 1 paragraph (1) of Law Number 33 of 2009 concerning Film, film is a copyrighted work of cultural art which is a social institution and mass communication media made based on cinematographic principles with or without sound and is shown. Film as a work of art is an object of copyright protected by law, so the filmmaker has the exclusive right, namely the right to monopolize his work of creation in order to protect his copyrighted work from other parties such as announcing and reproducing his copyrighted work or giving permission to others to benefit economically in accordance with his rights, namely economic rights (Ningsih & Maharani, 2019). Although the provisions regarding the protection of copyrighted works in the form of films have been regulated in legislation, but nowadays there are not a few violations of a film occurs in society, one of which is the act of movie spoilers on social media. The act of movie spoilers is recording footage of a movie scene and uploading it on social media.

When viewed from the regulatory side, namely Law No. 28 of 2014 on Copyright, does not mention that uploading movie spoilers belonging to other people's works is a form of copyright infringement, even the word movie spoiler is not found in Law No. 28 of 2014 on Copyright, but even though it is not expressly stated on this matter, uploading movie spoilers belonging to other people's works is a violation of copyright because it violates the moral rights and economic rights owned by the creator or copyright holder. Uploading movie spoilers is considered copyright infringement because it cites the copyrighted work of the creator or copyright holder without the permission of the creator or copyright holder.

The moral rights that are violated by the act of movie spoilers on social media are related to the act of mutilation of creation. According to the explanation of Article 5 paragraph (1) letter e of Law Number 28 of 2014 concerning Copyright states that mutilation of creation is the process or act of removing part of the creation. The act of movie spoilers is to record part of the movie trailer and then upload it on social media, which means that the uploader of movie spoilers only records certain parts of the movie trailer, removes part of the creation of a film, and the uploader of movie spoilers cuts the film of a copyrighted work owned by the creator through his recording and then the pieces of the recorded film are uploaded on social media such as Instagram and YouTube. The act of mutilation of the work is prohibited in the provisions of the legislation, namely Law Number 28 of 2014 concerning Copyright.

In addition to the act of movie spoilers on social media is a violation of moral rights, there is also a violation of economic rights owned by the creator or copyright holder for an act of movie spoilers. The act of movie spoilers can be categorized as a violation of economic rights in terms of unauthorized duplication and distribution of a work. The duplication and distribution carried out by the uploader of movie spoilers does not obtain permission

from the creator or copyright holder so that such actions violate the economic rights of the creator or copyright holder and constitute copyright infringement. If the act of movie spoilers aims to be disseminated for profit or commercial use, then it is an infringement of economic rights. In addition, according to the provisions of General Explanation I letter h of Law Number 28 of 2014 concerning Copyright, the creator and / or owner of related rights is rewarded with royalties for creations or related rights products made in official relations and commercial use. The definition of royalty is the reward for the utilization of the economic rights of a creation or related rights product received by the creator or owner of the related rights. This means that in the case of movie spoilers on social media, the creator or copyright holder is entitled to a royalty reward for his creation, but in that case the creator or copyright holder does not get a royalty reward from a creation, then in this case the action of movie spoilers on social media is a violation of economic rights owned by the creator or copyright holder of a creation.

Violation of a copyright of the creator or copyright holder is a violation of the exclusive right to commercialize a work, due to the potential income with the utilization of a work that is owned exclusively for exploitation in order to obtain economic benefits for the creator or copyright holder, a situation where the creator or copyright holder who has the right to exploit a work in order to obtain economic benefits is what makes frequent violations of exclusive rights owned by the creator and / or copyright holder to obtain economic benefits from the creation (Ningsih & Maharani, 2019).

Movie spoiler content uploaded by movie spoiler uploaders will result in a reduction in the value of pleasure in watching a film work in theaters. The widespread use of social media without clear restrictions on the content that should be made makes social media the most potential land in the spread of movie spoilers. So that it is included in the form of copyright infringement with the category of duplication and piracy of a work (Roshika, 2022). Copying is the process, act, or method of duplicating one or more copies of a work and/or phonogram by any means and in any form, permanently or temporarily. Then, piracy is the unauthorized duplication of creations and/or related rights and the widespread distribution of the duplicated goods for economic gain.

3.2 Act of Uploading Movie Spoilers on Social Media Youtube and Instagram as Copyright Infringement

As for the forms of copyright infringement on the act of uploading movie spoilers on social media, the author divides it into 2 (two), namely copyright infringement on the act of uploading movie trailers without the permission of the creator or copyright holder on Instagram, and copyright infringement on the act of reviewing movies without the permission of the creator or copyright holder on YouTube.

The act of movie spoilers is certainly detrimental to the creator or copyright holder of the creation in the form of the film. Here, the content is meant to be a review of a film so that the storyline and images (scenes) can be widely publicized. So that if the public considers the content of the scene and storyline to be uninteresting then the public chooses not to watch the film in theaters.

If the elements that classify the act of reviewing movies on YouTube as a form of copyright infringement in this case is the act of movie spoilers then next need to know about the legal basis for the chronology of the event. Article 9 paragraph (1) of Law No. 28 of 2014 on Copyright regarding the economic rights of a creation when associated with the action of the movie review on two points, namely on the points of duplication and distribution. At the point of duplication is clearly in the event that the person who performs the act of reviewing the movie on youtube as not part of the creator or copyright holder. The action of movie spoilers performed on the movie review and then uploaded on the youtube account in this case directly the content is a creation of the content and / or footage of a creation of the film will be automatically published to a large audience. So in this case the uploader of movie spoilers that create and disseminate video content in the form of a movie review on youtube when it is known he is not the creator or copyright holder has committed copyright infringement in this case referred to as the act of movie spoilers. Therefore, the act of duplication performed on the act of reviewing movies on YouTube in addition to being a form of copyright infringement also causes material losses to copyright holders.

In addition to the element of duplication, there is also an element of distribution which is an economic right owned only by the creator or copyright holder. In the event that is done on the act of reviewing the movie on YouTube when it is known that the maker of the movie review content is not a creator or copyright holder, so it is clear that the act is an act of infringement of copyright. When reviewed against the youtuber's actions that contain footage or images of a film or an image of a creation in the form of a film which is then published directly on youtube social media without the permission of the creator or copyright holder, so it can be concluded that when the content has been published and aired on youtube, the uploader of movie spoilers has necessarily participated in distributing part and / or all of the work that is not the copyright holder and contrary to the provisions of Article 9 paragraph (1) of Law Number 28 of 2014 concerning Copyright.

3.3 Legal Liability of Movie Spoiler Uploaders

The act of movie spoilers on social media is an unlawful act because the act is included in the category of elements of unlawful acts. As for the elements of unlawful acts that are fulfilled by the act of movie spoilers, namely the act violates the applicable laws and regulations, namely Law Number 28 of 2014 concerning Copyright, and violates the rights of others guaranteed by law, it is known that the act of movie spoilers has violated the exclusive rights owned by the creator, namely moral rights and economic rights, as for the moral rights that are violated, namely the uploader of movie spoilers recording pieces of footage of a film or often referred to as mutilation of creation, The economic rights violated are that the uploader of movie spoilers has published the work, duplicated the work in all its forms, distributed the work or copies, and announced the work without permission from the creator or copyright holder, as for the provisions regarding moral rights have been regulated in Article 5 paragraph (1) of Law Number 28 of 2014 concerning Copyright and the provisions regarding economic rights have been regulated in Article 9 paragraph (1), (2), and (3) of Law Number 28 of 2014 concerning Copyright. In addition, the result of the act of movie spoilers on social media

is to cause harm to the creator or copyright holder, as for the harm caused is the loss of opportunity to benefit from the economic benefits of creation, meaning that initially someone is interested in watching a movie but the desire is not implemented because the person has watched movie spoilers on social media, so that the person knows the storyline of a movie and in the end the person is not interested in watching a movie. This has an impact on the reduced audience who want to watch a movie, so that the fewer who watch a movie, the less income from the movie.

Unlawful acts in the above provisions refer to violations of Law Number 28 of 2014 concerning Copyright with respect to the act of uploading spoilers of films by others on social media as referred to in the provisions of Article 5 paragraph (1) and Article 9 paragraph (1), (2), and (3) of Law Number 28 of 2014 concerning Copyright. Referring to the event, the creator or copyright holder can file a civil compensation claim against the uploader of movie spoilers based on the provisions of Article 1365 of the Civil Code for violating Article 9 paragraph (1) of Law Number 28 of 2014 concerning Copyright.

If there are humans or legal entities that spread spoilers of other people's copyrighted works without the permission of the creator or copyright holder, the creator or copyright holder can file a lawsuit for compensation to the commercial court for copyright infringement in the form of spreading movie spoilers on social media. This provision is based on Article 99 paragraph (1) of Law Number 28 of 2014 concerning Copyright which reads that creators, copyright holders, or owners of related rights have the right to file a lawsuit for compensation with the Commercial Court for copyright infringement or related rights products.

The act of movie spoilers on social media causes a legal liability in the civil field. The uploader of movie spoilers on social media for his actions that do publishing work, duplication of work in all its forms, distribution of work or copies and publish or reproduce a work without the permission of the owner or copyright holder. If it is concluded that the copyright owner or holder has the right to file a lawsuit for damages against the perpetrator of copyright infringement, especially the act of movie spoilers, and the uploader of the movie spoiler action is required to pay compensation to the owner or copyright holder. In this case, Article 1365 of the Civil Code is *lex generalis* (general law), and Article 99 paragraph (1) of Law Number 28 Year 2014 on Copyright is *lex specialis* (special law). The lawsuit for compensation under Law Number 28 of 2014 concerning Copyright is a special provision, so that the provision of compensation for acts of movie spoilers committed by uploaders of movie spoilers on social media based on the provisions of the special legislation is in accordance with the principle of *lex specialis derogat legi generali*. The definition of *Lex specialis derogat legi generali* is the principle of legal interpretation which states that a special law (*lex specialis*) overrides the general law (*lex generalis*) (Agustina, 2015).

The act of movie spoilers committed by the uploader of movie spoilers on social media can be held liable for his actions. However, in terms of filing a lawsuit as a result of movie spoiler actions that fall into the realm of civil law, the movie spoiler action can be carried out by the creator or his heirs on the basis of the losses he has suffered.

Regarding legal responsibility related to copyright infringement, especially the act of movie spoilers on social media committed by uploaders of movie spoilers against copyright owners or holders have been regulated in legislation. Copyright owners or holders who feel aggrieved can file a lawsuit against movie spoiler uploaders based on applicable laws and regulations.

On the lawsuit for damages against copyright infringers that occur in cyberspace has been regulated in legislation. In addition to the Civil Code that has regulated compensation to others, there are several laws and regulations that also regulate compensation such as the Copyright Act and the ITE Act. Based on Article 38 paragraph (1) of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions, the article states that "any person may file a lawsuit against a party that organizes an electronic system and/or uses information technology that causes harm." The content of Article 38 paragraph (2) is that the public can file a lawsuit on a representative basis against parties that organize electronic systems and / or use information technology that results in harm to the public, in accordance with the provisions of laws and regulations. This means that the owner or copyright holder who feels harmed by a creation has the right to file a lawsuit for compensation to the perpetrator of copyright infringement.

If it is studied on the event of movie spoilers on social media, then the creator of a movie that has a copyright can apply for compensation. This relates to the infringement of economic rights, because the person who committed the act of movie spoilers is not a part of the owner or copyright holder of the work uploaded on each personal social media.

The regulations governing the lawsuit for damages against copyright infringers are contained in Article 99 paragraph (1) of Law No. 28 of 2014 on Copyright has regulated the lawsuit for damages against copyright infringers. A lawsuit for damages can be filed by the creator or copyright holder to the Commercial Court for copyright infringement or related products. In addition to the lawsuit for damages, the creator or copyright holder may apply to the Commercial Court to request the confiscation of the work done on the announcement or duplication and / or duplication tools used to produce the work of copyright infringement, and stop the activities of the announcement, distribution, and / or duplication of the work which is the result of copyright infringement, this provision has been regulated in Article 99 paragraph (4) of Law No. 28 of 2014 on Copyright.

The act of movie spoilers on social media is a tort because the act is included in the category of tort elements. The elements of unlawful acts that are fulfilled for movie spoilers are actions prohibited by law and contrary to the rights of others. Actions prohibited by law, namely the act of movie spoilers is an act prohibited by Law Number 28 of 2014 concerning Copyright, besides that the act of movie spoilers is contrary to the rights of others, namely contrary to the exclusive rights owned by the creator, namely moral rights and economic rights. As for the moral rights that are violated, namely the uploader of movie spoilers recording pieces of movie footage or often referred to as mutilation of creation, the economic rights that are violated are the

uploader of movie spoilers has published the work, duplicated the work in all its forms, distributed the work or a copy of it, The provisions regarding moral rights have been regulated in Article 5 paragraph (1) of Law Number 28 of 2014 concerning Copyright and provisions regarding economic rights have been regulated in Article 9 paragraph (1), (2), and (3) of Law Number 28 of 2014 concerning Copyright.

The act of movie spoilers on social media causes a legal responsibility in the criminal field. In the criminal context there are sanctions against humans or legal entities that commit copyright infringement on a movie. As for the uploader of movie spoilers on social media for his actions that perform the publishing of work, duplication of work in all its forms, distribution of work or copies and publish or reproduce a work without the permission of the owner or copyright holder.

Regulations regarding criminal sanctions against copyright infringement for acts of movie spoilers on social media are not specifically regulated in Law Number 28 of 2014 concerning Copyright. However, the act of uploading movie spoilers has violated the provisions of Article 9 paragraph (1), (2), and (3) of Law Number 28 of 2014 concerning Copyright. The contents of the article are Article 9 paragraph (1) states that the creator or copyright holder has the economic right to publish the work, duplicate the work in all forms, translate the work, adapt, arrange or transform the work, distribute, perform, announce, communicate, and rent the work. Then Article 9 paragraph (2) states that any person exercising economic rights as referred to in paragraph (1) shall obtain the permission of the creator or copyright holder. Furthermore, Article 9 paragraph (3) states that any person who without the authorization of the creator or copyright holder is prohibited from copying and/or commercial use of the work.

Sanctions that can be applied to uploaders of movie spoilers are referring to Article 113 paragraph (3) of Law Number 28 of 2014 concerning Copyright, namely every person who without rights and / or without the permission of the creator or copyright holder infringes the economic rights of the creator as referred to in Article 9 paragraph (1) letter a, letter b, letter e, and / or letter g for commercial use shall be punished with a maximum imprisonment of 4 (four) years and / or a maximum fine of Rp.1000,000,000 (one billion rupiah).

As for the elements of criminal acts (offense) in Article 113 paragraph (3) is that there are economic rights owned by the creator or copyright holder for the act of movie spoilers on social media, if the movie spoilers are disseminated without the permission of the creator or copyright holder then the action is a violation of copyright, so that the creator or copyright holder can sue criminally to the uploader of movie spoilers on social media based on applicable laws and regulations.

4. Conclusion

Based on the above discussion, it is concluded that the act of movie spoilers is an infringement of copyright because it eliminates part of the creation or work of the creator of a movie. Forms of copyright infringement on the act of uploading movie spoilers are widely done without the permission of copyright holders and are rampant

on social media services such as Instagram, and YouTube. Legal liability for uploading movie spoilers on social media can be held civilly liable under Article 1365 of the Civil Code and criminal liability as in Law Number 28 of 2014 concerning Copyright. Based on the above conclusions, it is suggested that regulations and law enforcement be formed and more proactive supervision in cyber space that can oversee actions that can harm movie copyright owners. As well as the need for community development in order to play an active role in giving a warning to the perpetrators of movie spoilers on social media.

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