



JLPH:
**Journal of Law, Politic
and Humanities**

<https://dinastires.org/JLPH> dinasti.info@gmail.com [+62 811 7404 455](tel:+628117404455)

DOI: <https://doi.org/10.38035/jlph.v6i5>
<https://creativecommons.org/licenses/by/4.0/>

E-ISSN: 2962-2816
P-ISSN: 2747-1985

Legal Protection Against Copyright Infringement in Film Piracy: A Case Study of Cinema Recordings and Piracy on Digital Platforms. Constitutional Court Decision No. 84/PUU-XXI/2023

Venia Utami Keliat^{1*}, Angel Pricillia Tak²

¹ Prima Indonesia University, Medan, Indonesia, veniautamikeliat@unprimdn.ac.id

² Prima Indonesia University, Medan, Indonesia, angel.pricilliatak@gmail.com

*Corresponding Author: angel.pricilliatak@gmail.com

Abstract: This study examines legal protection against copyright infringement arising from film recording in cinemas and digital content piracy on digital platforms. The development of information technology has transformed the distribution of copyrighted works and increased the risk of infringement, both through illegal recording in public spaces and the unauthorized dissemination of exclusive subscription based content. This research aims to analyze the forms of legal protection against such infringements and to examine the juridical analysis of Constitutional Court Decision Number 84/PUU-XXI/2023 in the context of copyright violations in digital media and public spaces. The research method employed is normative and empirical legal research using statutory approaches, analysis of Constitutional Court decisions, and observation of digital piracy practices. The findings indicate that cinema camcording and unauthorized distribution of digital content constitute copyright infringement protected under Law Number 28 of 2014 on Copyright and related regulations. Constitutional Court Decision Number 84/PUU-XXI/2023 emphasizes that copyright protection must adapt to technological developments and reinforces the role of the state in regulating the protection of works in the digital environment. This study concludes that although the legal framework for copyright protection already exists, stronger supervision and more effective law enforcement are still required on an ongoing basis to address digital piracy challenges.

Keywords: Legal Protection, Copyright, Piracy

INTRODUCTION

In today's digital era, entertainment content such as films and music has become an integral part of people's lives, especially the younger generation. Technological advancements and easy internet access have significantly transformed entertainment consumption patterns, moving from conventional to digital and instant. According to Marshall McLuhan, media developments have created a "global village" where information and entertainment can be accessed quickly, without the constraints of time and space. In this context, people are no longer merely passive consumers, but active users who can distribute content widely. Unfortunately, this progress has also created serious challenges for copyright protection, particularly in the form of the increasingly widespread "piracy of audiovisual works." Illegal websites like LK21

and Telegram Channels have become platforms for the circulation of pirated content, ranging from films recently released in theaters to exclusive content from official platforms like Netflix and Weverse Membership.

The phenomenon of piracy is not new, but its intensity has increased since 2020, when the COVID-19 pandemic pushed people to shift to digital services as their primary source of entertainment. According to Lawrence Lessig, the development of digital technology has created what is known as a "free culture," where content distribution has become very easy but often ignores legality and copyright. This is reinforced by Yochai Benkler's opinion, which states that the networked information economy allows every individual to become a distributor of information, thereby increasingly complex copyright control. In practice, many illegal platforms have emerged that distribute unauthorized films, even through direct cinema recording (camrip) methods, which are then distributed via the internet. This action not only violates ethics but also violates the exclusive rights of creators as stipulated in Law Number 28 of 2014 concerning Copyright.

This situation is further complicated when paid and exclusive content, such as videos from Weverse Membership or original Netflix shows, is distributed illegally on pirated sites and social media platforms like Telegram and X (Twitter). According to William Fisher, copyright infringement in the digital age not only results in economic losses but also undermines creative incentives for creators. This creates unrest, especially for users who have legally paid to access the content, as well as for industry players who rely on legal distribution systems.

As a fan of the Korean entertainment industry and a consumer of official digital content, this situation has caused deep disappointment. It's not just about material losses, but also about a sense of justice and appreciation for the work produced through a long and costly process. John Locke, in his theory of property rights, asserted that every individual has a right to the fruits of their labor, and therefore unauthorized appropriation or use constitutes a violation of that right. In the context of the creative industry, piracy harms not only musicians, actors, and filmmakers but also the entire production ecosystem, including the often-unseen behind-the-scenes parties. Easy access to sites like LK21, Drakorindo, and illegal Telegram channels has led people to tend to ignore the legal and ethical aspects of consuming digital entertainment.

Furthermore, according to David Bainbridge, copyright protection is a crucial element in maintaining the sustainability of the creative industry. Without effective protection, creators have no guarantee of the economic benefits of their work. When people habitually access illegal content, the value of intellectual works will degrade, ultimately threatening the sustainability of the creative industry itself. In response to this situation, the Constitutional Court, in Decision Number 84/PUU-XXI/2023, emphasized that managers of venues, both physical and digital, must not allow copyright infringement to occur. The Court emphasized that allowing the duplication, distribution, and sale of illegal content constitutes a violation of the law and is subject to sanctions. This demonstrates the expansion of responsibility not only to the direct perpetrators but also to those who provide or facilitate the violation.

This issue is crucial for further study, particularly from a legal perspective. According to Satjipto Rahardjo, law serves not only as a normative rule but also as a means to create social justice in society. Therefore, public understanding of the importance of respecting copyright needs to be continuously improved, along with stricter and more systematic law enforcement against perpetrators of piracy and those who facilitate it.

This research will specifically discuss "Legal Protection against Copyright Infringement in Cases of Cinema Recordings and Piracy on Digital Platforms," analyzed based on Constitutional Court Decision No. 84/PUU-XXI/2023. The discussion will also highlight the phenomenon of the illegal distribution of exclusive content from Weverse and Netflix as concrete forms of violation that must be seriously addressed. This study is expected to

contribute to fostering legal awareness and fostering a culture of respect for works of art among the public.

This research specifically aims to analyze the form of legal protection against copyright infringement through the practice of recording in cinemas and the distribution of digital content on various illegal platforms, examine in depth the impact of copyright infringement on rights owners, especially in cases of exclusive content such as Weverse Membership and films broadcast through Netflix which are then distributed illegally, comprehensively examine the responsibilities of digital space providers based on Constitutional Court Decision Number 84/PUU-XXI/2023, and provide actual, contextual, and relevant legal understanding to the public so that they are increasingly aware of the importance of respecting copyright amidst the rapid development of digital technology.

METHOD

This research is a legal study that uses both normative and empirical approaches. The normative approach is conducted by examining relevant legal provisions, such as Law Number 28 of 2014 concerning Copyright, the Electronic Information and Transactions Law and its amendments, and Constitutional Court Decision Number 84/PUU-XXI/2023, which serve as the basis for examining legal protection for copyright in the digital realm. This approach aims to understand applicable legal norms and how these regulations regulate copyright infringement, both in the form of cinema recordings and digital content piracy.

On the other hand, an empirical approach is used to examine the realities of society, particularly the widespread distribution of illegal content despite legal access. This approach includes observing piracy practices, including the distribution of exclusive content like Weverse Membership and films from the Netflix platform freely found on social media platforms like X (Twitter), Telegram, and illegal websites like LK21 and Drakorindo. Furthermore, direct experience as consumers of legal services who continue to be disadvantaged by illegal distribution is also part of the study material, so that the research focuses not only on norms but also on the gap between law and practice.

The legal sources in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include relevant laws and court decisions, particularly the Copyright Law, the Electronic Information and Transactions (ITE) Law, and Constitutional Court Decision Number 84/PUU-XXI/2023. Secondary legal materials come from legal journals, scientific articles, news, and trusted digital sources such as government publications and national media that discuss copyright infringement in the context of digital entertainment content. Meanwhile, tertiary legal materials are used to clarify terms and concepts, such as legal dictionaries and encyclopedias.

The legal materials were collected through library research, namely by searching for official documents, scientific literature, and relevant digital sources. Furthermore, observations were made of real-world phenomena, such as the practice of illegal recording in cinemas and the unauthorized distribution of digital content on various platforms. The experience of a legal service user who encountered freely distributed paid content also serves as a reflection to strengthen the analysis of the weakness of legal protection in practice.

The legal material analysis was conducted descriptively and analytically by outlining applicable legal provisions and then linking them to empirical conditions in society. This analysis includes a review of legal norms related to copyright infringement, an examination of Constitutional Court decisions as a form of actualization of legal protection, and a comparison between legal regulations and existing piracy practices, including their impact on legal consumers. Through this approach, the research aims to produce a comprehensive understanding of the effectiveness of copyright protection in Indonesia and demonstrate the

urgency of strengthening law enforcement amidst the rapid growth of digital content distribution.

RESULTS AND DISCUSSION

Forms of Copyright Violation in the Digital Era

The development of digital technology has brought significant changes to people's entertainment consumption patterns. While previously filmgoers could only access works through cinemas or official DVDs, now films, series, and exclusive content are widely available through digital platforms like Netflix, Weverse, and Disney+. This ease of access is directly proportional to the increased risk of copyright infringement, particularly in the form of digital piracy and illegal recording in public spaces like cinemas.

The first and most common violation is illegal camcording in cinemas. This action involves recording the screen using a mobile phone or small camera, then distributing it through social media, Telegram groups, illegal streaming sites like LK21, or cloud storage like Google Drive. Although often considered trivial, this act constitutes "reproduction" under the context of the Copyright Law because it transfers part or all of a film's elements to a new medium without permission.

The second violation is digital piracy, which involves distributing exclusive content from paid platforms. This includes concert videos, Weverse membership content, new drama episodes, Netflix original films, and behind-the-scenes footage that should only be available to authorized subscribers. Many violations occur through illegal Twitter accounts, TikTok, Telegram channels, and streaming sites. This phenomenon has become dominant since 2020, when people spent more time at home due to the pandemic. Based on current trends, digital forms of violation are far more prevalent.

This data aligns with increasing internet penetration and the ease of content dissemination within seconds.

These cases not only cause financial losses for creators, film producers, and licensees, but also impact users of legitimate services. Many subscribers to legitimate platforms feel disadvantaged when paid content circulates freely illegally, leading to a decline in public interest in legitimate subscriptions.

In addition to the forms of violations described previously, a pattern has emerged with the growth of social media. Many perpetrators of piracy are exploiting features like live streaming, duets, green screen reactions, or screen recording to distribute film clips and exclusive content to a wider audience. Pirated content is no longer distributed solely anonymously, but is also carried out by large accounts seeking engagement, followers, and monetization. Another increasingly prevalent phenomenon is cross-platform piracy (Tahrizi, 2019). For example, someone records a movie scene in a cinema, uploads it to TikTok, and then distributes the clip on Telegram as a full movie. This pattern demonstrates that copyright infringement is no longer linear but has become a complex distribution network that is difficult to trace.

In addition to piracy through cinema camcorders and the distribution of exclusive digital content on file-sharing platforms, another pattern on social media is occurring frequently and deserves attention in the context of copyright protection.

This phenomenon involves some Instagram and Twitter users intentionally illegally livestreaming paid concerts or subscription-based digital content, then changing their accounts to private (locked) during the broadcast.

This action is intended to prevent the illegal streaming activity from being easily detected by the platform's automated systems, from being publicly reported, and making it more difficult for copyright owners and organizers to track.

By locking accounts, perpetrators can limit viewers to pre-selected followers, thus allowing the distribution of illegal content to continue undetected by the general public or from platform oversight.

The account locking strategy demonstrates that perpetrators of piracy are becoming increasingly adaptive and understand the oversight gaps in social media.

This phenomenon demonstrates that copyright infringement no longer occurs solely through piracy websites or file-sharing platforms, but has shifted to the more personal and dynamic nature of social media. Perpetrators exploit privacy features that should be used for user security, but instead use them as a means to disseminate illegal content to pre-selected audiences.

In the context of copyright protection, this phenomenon reinforces the urgency of expanding oversight and establishing more responsive mechanisms for digital platforms. This practice also demonstrates that copyright infringement is not always committed for substantial commercial purposes; even streaming by a personal account constitutes a violation because it communicates publicly without the copyright owner's permission.

Overall, technological advancements have expanded the variety of violations, making oversight models increasingly difficult, and necessitating more technical and adaptive regulations and enforcement.

Legal Protection against Copyright Infringements under the Law

Copyright protection in Indonesia is essentially regulated by Law Number 28 of 2014 concerning Copyright and Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE) and its amendments. These two laws are closely related and mutually reinforcing, particularly in addressing violations occurring in the increasingly evolving digital space.

The Copyright Law explicitly provides protection to creators or copyright holders to control the use of their works. Article 9 paragraph (1) letters b and c affirm that creators have the exclusive right to reproduce and distribute their works. This means that any unauthorized reproduction or distribution of works is a violation of the law. This provision applies to both physical works, such as films recorded in cinemas, and digital works distributed via the internet. Violations of these rights are subject to criminal sanctions as stipulated in Article 113 paragraph (4), which carries a maximum prison sentence of 10 years and/or a maximum fine of Rp4,000,000,000.

Meanwhile, the ITE Law strengthens protection in the digital context by stipulating that any act that disseminates, transmits, or makes accessible electronic information belonging to another party without permission is a criminal offense. This provision is stated in Article 32 paragraphs (1) and (2). Therefore, someone who distributes a film recording from a cinema to a platform like Telegram or shares paid content from Weverse to other media outlets can still be subject to sanctions under the ITE Law, even if the initial violation was related to copyright. This demonstrates that the two laws complement each other in providing comprehensive protection for both physical and digital works.

In addition to criminal protection, both laws also provide space for civil remedies. Copyright holders have the right to file a lawsuit for damages if they suffer economic losses due to the distribution of illegal content. These losses can be calculated based on various factors, such as the value of lost digital platform subscriptions, the commercial value of the affected work, potential future losses due to decreased subscription interest, and immaterial losses such as the loss of a work's exclusivity.

In practice, protection efforts are also implemented through administrative mechanisms, one of which is terminating access to pirated sites or content. This action is generally carried out by the Ministry of Communication and Information Technology after receiving a report

from the copyright holder. This authority is based on regulations governing digital content oversight and the obligation of electronic system providers to maintain a secure digital ecosystem in accordance with applicable laws. Thus, copyright protection in Indonesia is not only repressive through criminal and civil sanctions, but also preventive through monitoring and restricting access to illegal content.

Legal Analysis of Constitutional Court Decision Number 84/PUU-XXI/2023

Constitutional Court Decision Number 84/PUU-XXI/2023 is a landmark decision in the development of copyright protection in Indonesia, particularly in the context of infringements occurring through digital means. This decision emphasizes that technological developments and the shift in societal activities to the digital space must be accompanied by expanded legal responsibilities, particularly for parties providing and managing platforms that have the potential to become vehicles for the distribution of copyright-infringing content.

From the perspective of Law Number 28 of 2014 concerning Copyright, although the Constitutional Court did not specifically reformulate the definition of duplication in the ruling, the concept of duplication remains highly relevant. Duplication is understood as the process of reproducing a work in any form, either in whole or in substantial part. Therefore, the act of recording a portion of a film scene in a cinema, even if only briefly, can still be categorized as a prohibited form of duplication because it reproduces an essential part of a work without the creator's permission. The practice of recording using a device such as a mobile phone and then disseminating it through social media or digital platforms is a clear example of copyright infringement that meets the elements of duplication under the law, although it is not explicitly addressed in the ruling.

Furthermore, this ruling also emphasizes the importance of protecting digital creations in the era of streaming and user-generated content (UGC)-based platforms. The Constitutional Court emphasized that the law must adapt to technological developments, so that copyright protection is not limited to physical works such as films shown in cinemas, but also encompasses digital works distributed through platforms like Netflix and Weverse. Therefore, various actions such as the distribution of exclusive video clips from Weverse, re-uploading films from Netflix, and distributing premium content through Telegram or illegal websites remain forms of copyright infringement that are subject to legal sanctions.

Furthermore, this Constitutional Court ruling strongly affirms the responsibilities of digital platforms. Platform providers that enable users to upload content are legally responsible for the activities that occur within the systems they manage. The principle emphasized is that platforms must not be passive in the face of copyright infringement. In this regard, mechanisms such as notice and takedown are crucial, requiring platforms to immediately remove or disable access to illegal content upon receiving a report from the copyright owner. Therefore, this ruling provides a constitutional basis for the state to regulate and establish legal responsibilities for digital platforms, without violating constitutional principles.

The Impact of Piracy on Industry, Consumers, and Society

Copyright infringement has broad and complex impacts, felt not only by creators but also by all parties involved in the entertainment industry. From an economic perspective, piracy directly reduces legitimate revenues that should be earned from cinema ticket sales, digital platform subscriptions, and merchandise sales. This decline in revenue has a cascading effect, ranging from declining film production quality due to budget constraints, reduced investment in the creative industry, to decreased income for artists, agencies, and all involved parties. Furthermore, the state also experiences losses from taxation due to a reduction in officially recorded legal transactions.

From a social and moral-legal perspective, the public's habit of accessing illegal content gradually weakens legal awareness. The perception arises that watching or accessing content for free is normal, even though such actions actually harm many parties. This habit creates a culture of permissiveness towards legal violations, which ultimately can hinder law enforcement efforts.

The impact is also felt by users of legitimate services who have paid to enjoy content legally. When exclusive content that should only be accessible through membership or subscriptions is freely circulated on other platforms, a sense of injustice arises among users. For example, Weverse Membership users felt disadvantaged when paid content they legally accessed was widely distributed on social media platforms like TikTok and Telegram. This demonstrates that piracy not only harms creators but also consumers who have complied with the rules.

Furthermore, digital piracy also impacts the international reputation of Indonesia's creative industry. When local content is easily leaked and distributed illegally in a short time, it can undermine the confidence of foreign investors in investing in Indonesian film or series projects. This situation certainly hinders the development of the national creative industry, which is trying to compete in the global market. Furthermore, the sustainability of legal digital platforms is also threatened, given that these platforms have made significant investments to provide exclusive content. If piracy continues to increase, subscriber numbers could potentially decline, disrupting the stability of their businesses.

Equally important, piracy also poses a risk to users' digital security. Illegal sites often serve as a means of distributing malware, phishing, and spyware that can compromise users' personal data, including sensitive information like passwords and banking details. Furthermore, the impact of piracy is also felt by behind-the-scenes workers in the film industry, such as editors, cameramen, scriptwriters, and other technical crew whose income depends on the commercial success of a work. Thus, piracy is not merely an individual violation, but a serious threat to the sustainability of the creative industry ecosystem as a whole.

To address this issue, efforts to combat piracy need to be comprehensive, using an integrated approach to law, technology, and education. From a legal perspective, strict enforcement of the Copyright Law and the Electronic Information and Transactions (ITE) Law is required, including the confiscation of devices used in the recording and distribution of illegal content. The government, through the Ministry of Communication and Informatics, also needs to actively block pirated sites and strengthen synergy with law enforcement officials and copyright holders to ensure effective handling of violations.

In the field of education, raising public awareness is key. Digital campaigns such as "Stop Piracy" can be a strategic step in building public understanding of the negative impacts of piracy, especially if they involve public figures who wield significant influence over the younger generation. This education also needs to be expanded through increased digital literacy, for example by incorporating copyright material into the formal education curriculum to instill legal awareness from an early age.

Technological approaches also play a crucial role in reducing piracy rates, through the implementation of Digital Rights Management (DRM), the use of watermarking, and the development of monitoring systems to detect the distribution of illegal content. Digital platforms also need to enhance their security systems to prevent content leaks. In the context of collaboration, mechanisms such as notice and takedown and the use of content ID systems must be optimized to quickly detect and remove copyright-infringing content. Blocking the servers or IP addresses of infringing sites can also be a decisive step in curbing illegal distribution.

These countermeasures also need to be strengthened through internal policies within cinemas, such as installing CCTV cameras directed at the audience area to prevent secret

recording, and communicating information about criminal consequences through cinema screens. Furthermore, the control of illegal social media accounts and streaming channels must be carried out proactively through monitoring by the government and copyright holders, and supported by public participation through user-based reporting mechanisms.

To support a healthy digital ecosystem, the government can also provide incentives for legal platforms, such as easier licensing or tax breaks for service providers committed to improving digital security. Through these integrated measures, it is hoped that piracy can be significantly reduced, while strengthening legal protection for creators, copyright holders, and all parties involved in the creative industry.

CONCLUSION

Law enforcement against illegal recordings in cinemas and the distribution of paid content on digital platforms demonstrates that copyright infringement remains rampant, particularly through recording, digital piracy, and the distribution of paid streaming content. Under Law No. 28 of 2014 concerning Copyright, recording constitutes a violation because it records and distributes a work without the permission of the copyright holder. Constitutional Court Decision No. 84/PUU-XXI/2023 reinforces legal certainty regarding copyright infringement occurring in the digital space, thus extending the obligation to protect online platforms and social media.

Government efforts include website blocking and content removal mechanisms based on the 2015 Joint Regulation of the Minister of Law and Human Rights and the Ministry of Communication and Information Technology, which provides a basis for copyright holders to request access to infringing content is blocked. Despite this, piracy persists due to the high accessibility of digital storage and distribution technology. This requires collaboration between the government, copyright owners, digital platforms, and users to raise legal awareness and strengthen oversight.

REFERENCE

- Bainbridge, D. (2012). *Intellectual property* (9th ed.). Pearson.
- Benkler, Y. (2006). *The wealth of networks: How social production transforms markets and freedom*. Yale University Press.
- Fisher, W. W. (2004). *Promises to keep: Technology, law, and the future of entertainment*. Stanford University Press.
- Lessig, L. (2004). *Free culture: How big media uses technology and the law to lock down culture and control creativity*. Penguin Press.
- Locke, J. (1690/1980). *Second treatise of government*. Hackett Publishing.
- McLuhan, M. (1964). *Understanding media: The extensions of man*. McGraw-Hill.
- Peraturan Bersama Menteri Hukum dan HAM dan Menteri Komunikasi dan Informatika Republik Indonesia Tahun 2015 tentang Penutupan Konten dan/atau Hak Akses Pengguna Pelanggaran Hak Cipta.
- Putusan Mahkamah Konstitusi Nomor 84/PUU-XXI/2023.
- Rahardjo, S. (2006). *Ilmu hukum*. Citra Aditya Bakti.
- Tahrizi, H. (2019). Cross-platform piracy and digital content distribution. *Journal of Digital Media Studies*, 5(2), 45–60.
- Undang-Undang Republik Indonesia Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik.
- Undang-Undang Republik Indonesia Nomor 19 Tahun 2016 tentang Perubahan atas Undang-Undang Nomor 11 Tahun 2008.
- Undang-Undang Republik Indonesia Nomor 28 Tahun 2014 tentang Hak Cipta.