



Legal Protection for Copyright of Collaborative Content on Social Media: The Role and Strength of Treaty Law in Determining Ownership and Use

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Abstract: *The development of social media has given rise to a new form of digital creative work thru collaboration between influencers and brands, known as brand collaboration. This phenomenon poses new challenges to the copyright legal system, particularly regarding the determination of ownership and legal protection of collaboratively generated content. This research aims to analyze how legal protection for social media content copyright is applied within the context of digital cooperation, and to what extent agreements play a role in determining the ownership and utilization of economic rights to such works. The research method used is normative juridical with a conceptual and legislative approach, which examines the provisions in Law Number 28 of 2014 concerning Copyright, contract related regulations, and international principles in the Berne Convention and the WIPO Copyright Treaty. The research results indicate that legal protection for collaborative content on social media is not yet optimal due to weak legal awareness and minimal contractual regulation between the parties. Written agreements have proven to play a strategic role in providing legal certainty over moral and economic rights, while also serving as a tool to prevent disputes and misuse of content. Therefore, it is necessary to develop more explicit digital collaboration contract guidelines and provide legal education for creative industry players so that copyright protection in Indonesia can be effective, adaptable, and equitable in the digital economy era.*

Keywords: *Brand Collaboration; Copyright; Digital Content; Influencer; Social Media.*

1. INTRODUCTION

The development of information and communication technology in the 21st century has fundamentally changed the way humans interact, communicate, and create. The digital world, which once served only as a means of sharing information, has now evolved into a high-value economic space. One of the most prominent forms of this phenomenon is the presence of social media platforms like Instagram, TikTok, YouTube, and X (Twitter), which have become not only a medium for self-expression but also a new arena for the creative economy. In this context, a new profession emerged known as an influencer, which refers to individuals who have the ability to influence public opinion and consumer behavior thru the content they create and share on digital platforms.

The emergence of influencers has had a significant impact on conventional marketing models. Companies are now increasingly choosing to collaborate with influencers to introduce their products or services, due to the more personal and authentic communication effectiveness compared to traditional advertising. This kind of collaboration is known as a brand collaboration or an influencer marketing campaign. In practice, this collaboration results in various forms of creative content such as photos, videos, reviews, and even promotional narratives uploaded to influencer social media accounts. This is the content that has economic value and is the subject of legal protection, particularly in the field of copyright.

However, behind this rapid development, various complex legal issues have emerged. One of the main issues is who actually owns the copyright to the collaborative content. In many cases, the content creation process involves more than one party: the influencer as the main creator, the brand as the commissioner and funder, and a production team that may contribute ideas, visual concepts, or editing. When a work is created collectively, the question of ownership and copyright control becomes difficult to answer using only conventional legal approaches.

In Indonesia, the legal basis governing copyright is found in Law Number 28 of 2014 concerning Copyright (UUHC). This law stipulates that copyright is an exclusive right of the creator, which arises automatically after the work is embodied in a tangible form. Copyright consists of two main elements: moral rights and economic rights. Moral rights are inherent to the creator and cannot be transferred, while economic rights relate to the right to obtain economic benefits from the work. However, the Copyright Law still focuses on conventional creative models, such as literary, artistic, and scientific works, and therefore does not explicitly regulate new forms of creative works resulting from collaborative digital activities.

The issue becomes increasingly complex when collaboration between influencers and brands is governed by cooperation agreements that often lack specific clauses regarding copyright. Many contracts focus solely on commercial aspects, such as payment amount, campaign duration, and the form of promotional obligations, without clarifying who owns the copyright to the resulting works. As a result, various disputes arise, such as when brands reuse content without permission or without additional compensation to influencers, or conversely, when influencers modify and re-upload promotional content outside the scope of the collaboration agreement.

Beside the issue of ownership, copyright infringement has also emerged as an issue in the realm of social media. The open and easily shareable nature of social media makes digital works highly susceptible to duplication, modification, and unauthorized use. The practice of reposting, reuploading, or reediting content without citing the original source has become commonplace. Although platforms like YouTube and TikTok have provided administrative mechanisms such as copyright claims or takedown notices, this protection is still partial and does not always align with national legal mechanisms that require formal proof of copyright infringement.

Globally, this issue is also a concern for various international organizations such as the World Intellectual Property Organization (WIPO). Thru the WIPO Copyright Treaty (WCT) of 1996 and the WIPO Performances and Phonograms Treaty (WPPT), copyright

protection in the digital realm has been extended to include works distributed via the internet. Indonesia itself has been a member of WIPO and is bound by the principles of the Berne Convention for the Protection of Literary and Artistic Works, which affirms the automatic protection of copyright without the need for registration formalities. However, the implementation of these international principles at the national level still faces challenges in implementation and low legal awareness among creative industry players.

The phenomenon of brand collaboration demands a balance between copyright protection and the commercial needs of the digital industry. Influencers often view the content they create as a form of personal self expression, while brands see it as a paid marketing asset and part of their promotional strategy. This difference in perception can lead to legal conflict when the interests of both parties are not clearly defined in the contract. In this regard, the law plays an important role in ensuring legal certainty and justice for all parties involved in the process of creating and utilizing works.

Not only that, but in the context of contract law, the relationship between influencers and brands is essentially a civil legal relationship based on the principle of freedom of contract as regulated in Article 1338 of the Civil Code (KUHPerdata). This principle grants parties the freedom to determine the content, form, and terms of a contract as long as it does not conflict with laws and regulations, public order, and morality. However, this freedom is not without limits. When the contract doesn't explicitly address copyright aspects, legal gaps can arise that potentially disadvantage one party, especially the creator whose moral rights are often overlooked.

In practice, some cases in Indonesia show that copyright infringement of collaborative content is often resolved thru non litigation. For example, thru mediation, negotiation, or a public apology on social media. Although this method is efficient, it does not provide a deterrent effect and does not build strong legal certainty. Law enforcement thru criminal or civil channels as stipulated in Article 113 and Article 95 of the Copyright Law is still rarely carried out due to the complexity of proof in the digital world and the low understanding of the parties regarding copyright itself.

Beside substantive legal aspects, challenges also arise from the technological side. Digital evidence such as metadata, timestamps, and digital watermarks is often overlooked, even tho these elements can be authentic proof of ownership of a work. The lack of an effective legal mechanism to integrate digital evidence into the justice system means that copyright protection in cyberspace is not yet optimal. Therefore, legal breakthroughs are needed, both

thru regulatory updates and jurisprudential interpretation, to align copyright law with the developments in information technology.

From a social perspective, the increasing role of influencers as creative economic actors also brings consequences regarding the need for professional ethics in content creation and usage. When a work is used without proper attribution to its creator, not only are economic rights violated, but also the moral rights inherent in the creator's honor and reputation. In this context, the law should function not only as an instrument of economic protection, but also as a means of fostering morality in the digital world.

Considering these dynamics, copyright protection for social media content resulting from collaboration between influencers and brands is a highly relevant legal issue to study. This issue not only concerns the ownership of works but also legal certainty, justice, and the sustainability of the digital creative industry in Indonesia. Without adequate regulation and legal awareness, the economic potential of the digital content industry will not be able to develop sustainably, and the rights of creators may be neglected.

Therefore, this research is important to conduct in order to analyze how Indonesian copyright law protects creative works born from digital collaboration, and how cooperation agreements can be optimized as a legal instrument to maintain a balance of interests between influencers and brands. This study is expected to provide a theoretical contribution to the development of copyright law in the digital realm and offer practical recommendations for policymakers, creative industry players, and the general public to create a digital ecosystem that is fair, transparent, and legally just.

2. RESEARCH METHOD

This research employs a normative legal approach (normative legal research) supported by a conceptual approach to analyze copyright protection for social media content generated thru collaboration between influencers and brands. The normative legal approach was chosen because this study focuses on examining positive legal norms in force in Indonesia, particularly Law Number 28 of 2014 concerning Copyright, Law Number 11 of 2008 concerning Electronic Information and Transactions, and provisions in the Civil Code (KUHPerdata) related to agreements. This approach also includes an analysis of implementing regulations, digital cooperation agreements, and international conventions such as the Berne Convention and the WIPO Copyright Treaty, which form the basis for copyright recognition in the digital realm. A conceptual approach is used to deeply understand legal concepts such as moral rights, economic rights, joint authorship, and the principle of freedom of contract, as well as their

application in the digital collaboration practices between influencers and brands. Thus, this research is descriptive analytical because it not only explains the applicable legal provisions but also examines their suitability and effectiveness in the context of new legal phenomena in the era of social media.

3. RESULTS AND DISCUSSION

Legal Protection for Copyright of Collaborative Content on Social Media

The rapid development of digital technology and social media in the last decade has changed the paradigm of copyright creation. Social media platforms like Instagram, TikTok, and YouTube are no longer just a means of sharing expression, but have become a high value creative economic space. Within it, a new form of economic activity was born, namely influencer marketing and brand collaboration, where an influencer works with a company or brand to create promotional content that is creative and appealing to the public. This content is essentially creative work in the form of videos, photos, writings, graphic designs, and other audiovisual elements that are protected by copyright law. However, due to its collaborative and commercial nature, new complexities arise in determining who owns the copyright and how legal protection for the work is applied.

According to Article 1 paragraph (1) of Law Number 28 of 2014 concerning Copyright (UUHC), copyright is an exclusive right for the creator that arises automatically based on the declaratory principle after a creation is realized in tangible form. This means that legal protection for copyright does not require formal registration. Any creative work that possesses elements of originality, creativity, and a tangible form whether written, drawn, or digital video is legally protected from the moment of its creation. In the context of collaboration between influencers and brands, the digital content produced falls under the category of cinematographic works, photographic works, or digital art and literary works recognized in Article 40 paragraph (1) of the Copyright Law. Therefore, copyright for such content arises automatically, without requiring explicit declaration from the parties, although in practice, proving ownership often presents its own legal issues.

The main problem that arises in collaborative content is determining the legal subject as the creator and copyright holder. UUHC distinguishes between the creator and the copyright holder. The creator is the person or group of people who produce a creation based on their abilities and creativity, while the copyright holder can be the party who receives the rights transfer from the creator, either thru a written agreement or other legal provisions. In the context of collaboration between influencers and brands, both often play an active role in creating

content: influencers provide expression, style, or personal narrative, while brands contribute thru ideas, direction, and funding. According to Article 8 of the Copyright Law, works created jointly by two or more creators are considered "joint works," and each creator has inseparable rights to the work unless otherwise agreed in writing.

However, this is where the real legal issues arise. In digital industry practice, collaboration agreements often focus solely on commercial aspects such as the amount of payment (endorsement fee), the duration of the partnership, and promotion targets – without clarifying the copyright status of the generated content. As a result, when the content is reused by brands for other promotional purposes, without the influencer's consent or additional compensation, disputes arise regarding copyright or economic rights infringement. In fact, according to Article 9 paragraph (1) letters of the Copyright Law, only the creator or copyright holder is entitled to grant permission or prohibit others from reproducing, distributing, broadcasting, or publicly communicating their work. If there is no written transfer of rights, then the brand's reuse of the content can be categorized as copyright infringement.

Legal protection for copyright in digital collaboration not only includes economic rights, but also moral rights. Moral rights, as regulated in Article 5 of the Copyright Law, provide protection for the creator's identity and reputation. This means that even tho the economic rights to the work have been transferred to another party, the creator's name (in this case, the influencer or creative team) must still be included. In the context of social media, moral rights are becoming increasingly important because an influencer's reputation is often the main value in collaborative activities. Removing name credits or using content without citing the original source not only violates moral rights but also potentially harms the commercial value and personal image of influencers as creators. Unfortunately, moral rights are often overlooked in commercially-oriented digital business practices.

Additionally, the form of legal protection for creative works in the digital realm also needs to consider digital proof mechanisms. Unlike conventional works, digital content has characteristics that make it easy to reproduce, distribute, and modify. In this case, digital evidence such as metadata, timestamps, digital watermarks, or screenshots can be used as proof to establish ownership and the time of creation of the work. Based on Article 5 paragraph (1) of Law Number 11 of 2008 concerning Electronic Information and Transactions (Law ITE), electronic information and digital documents have legal force and can be used as evidence in court. Therefore, the use of digital certification systems such as e-copyright provided by the Directorate General of Intellectual Property (DJKI) becomes a strategic step in providing legal certainty for creative economy actors.

At the international level, copyright protection for digital content is governed by the Berne Convention for the Protection of Literary and Artistic Works (1886) and the WIPO Copyright Treaty (1996). These two legal instruments affirm the principles of automatic protection and national treatment, where works created in one member country are automatically protected in all other member countries without requiring registration formalities. This principle is highly relevant for influencers who have a cross-border audience and frequently publish their work on global platforms like YouTube or TikTok. Thus, legal protection for collaborative content not only applies within national jurisdictions but also has an international dimension that demands cross border legal awareness.

Despite this, the effectiveness of legal protection for collaborative content on social media still faces several obstacles. First, low legal awareness among creative industry players leads to many influencers and brands not understanding the difference between copyright, licensing, and ownership of promotional materials. Second, weak law enforcement in the field of digital copyright results in disputes often being resolved informally, such as thru mediation or public apologies, without significant deterrent effect. Third, the absence of standard contract guidelines in digital cooperation leads to an imbalance in bargaining power, where large brands tend to have a dominant position in determining the terms of the agreement.

To overcome these challenges, institutional strengthening and legal policy in the field of digital intellectual property are needed. The government, thru the Directorate General of Intellectual Property (DGIP), needs to improve electronic copyright registration services and expand socialization to creative economy actors regarding the importance of legal protection for digital works. Additionally, efforts should be made to create specific guidelines or model contracts that regulate cooperation between influencers and brands, explicitly including copyright clauses. This will provide legal clarity for both parties, while also fostering a healthy, transparent, and equitable creative economy ecosystem.

On the academic side, the development of this phenomenon also demands conceptual updates in copyright theory. The classical theory of copyright, which emphasizes the individuality of the creator, needs to be expanded to accommodate collective and collaborative forms of creation in the digital age. Law can no longer focus solely on protecting the "single creator," but must instead recognize the dynamics of interactive, participatory, and platform based creation. In this regard, the concept of collective authorship or shared ownership becomes relevant for application in the Indonesian legal system.

Thus, legal protection for copyright of collaborative content on social media must be viewed holistically encompassing normative, contractual, and digital technology aspects.

Effective protection depends not only on written legal provisions, but also on the legal awareness of the parties, the clarity of contracts, and the readiness of legal institutions to accommodate digital evidence and resolve disputes quickly and fairly. Going forward, Indonesia's copyright legal system needs to be directed toward establishing a protection regime that is more adaptable to technological developments, without neglecting the moral rights of creators and the principle of justice in creative economic collaboration.

The Role and Strength of Treaty Law in Determining Content Ownership and Use

In the realm of intellectual property law, agreements (contracts) hold a very central position in determining the ownership and utilization of creative works, including works produced thru digital collaboration between influencers and brands. Indonesian positive law, thru Article 1313 of the Civil Code (KUHPdata), defines an agreement as an act by which one or more persons bind themselves to one or more other persons. An agreement forms the basis for the creation of a legally binding relationship between the parties. In the context of digital cooperation, a brand collaboration agreement serves as a legal instrument that governs the rights and obligations of the parties regarding the content produced. In other words, contracts serve as a legal mechanism to regulate the ownership, distribution, and use of copyright in social media collaborations.

As stipulated in Article 1338 of the Civil Code, all agreements made legally are valid as law for those who make them. This principle is known as the principle of *pacta sunt servanda*, which means that the content of an agreement must be respected and executed in good faith by the parties. In the context of copyright protection, this provision means that any arrangement in a contract regarding copyright, economic rights, or moral rights has the same legal force as statutory regulations as long as it does not conflict with public order and morality. Therefore, although the Copyright Act provides automatic protection to creators, the position and transfer of copyright can be further regulated thru contracts. This is where contract law and intellectual property law intersect and reinforce each other.

In the collaboration between influencers and brands, there are various forms of legal relationships that affect the ownership status of content. First, a collaboration agreement where the influencer and brand jointly create promotional content. Second, a service agreement where the influencer acts as the content creator at the brand's request. Third, a license agreement where the influencer retains copyright but grants the brand permission to use their content within a specific scope. These three forms of legal relationships will determine who owns the content and the extent to which other parties can use it. Therefore, understanding the structure and substance of the agreement is crucial to ensure no copyright infringement occurs in the future.

One of the most important aspects of a digital collaboration agreement is the economic rights assignment clause. Based on Article 16 paragraph (3) of Law Number 28 of 2014 concerning Copyright, the transfer of copyright can only be done in writing. This means that if the agreement does not explicitly include a transfer clause, the economic rights remain with the creator or original copyright holder, which is the party that directly produced the work (the influencer). In practice, many companies or brands assume that paying an honorarium or endorsement fee automatically grants full rights to use, modify, or republish the content. In fact, without written permission, using content outside the initial agreement can be categorized as copyright infringement. This confirms that a contract is not merely a formality, but a legal instrument that defines the boundaries of ownership and utilization of a work.

Beside the transfer clause, another equally important aspect is the license clause. In many cases, brands do not need full transfer of copyright, but rather simply obtain a license to use the content for a specific period or for a specific purpose. According to Article 80 of the Copyright Law, a license is permission granted by the copyright holder to another party to exercise economic rights within a specific timeframe and under certain conditions. Through licensing, influencers retain copyright ownership but grant the brand the right to use the content as needed for the campaign. This form of license can be exclusive (only one party is entitled to use the work) or non-exclusive (more than one party can use the work). Thus, licensing is a more flexible and fair mechanism for both parties compared to a full transfer of rights, which could be detrimental to the creator.

Beside regulating economic rights, moral rights also need to be regulated in the agreement. Based on Article 5 of the Copyright Law, moral rights are permanently vested in the creator and cannot be transferred. However, in the practice of digital cooperation, cases are often found where the influencer's name is removed or not mentioned when their content is reused by the brand. This deletion can be considered a violation of moral rights because it harms the creator's reputation and integrity. Therefore, the cooperation agreement must include a credit clause that requires the creator's or influencer's name to be mentioned in every republication. With this clause, the contract not only serves as a tool for economic allocation but also as a form of respect for the moral rights and identity of the creator.

In the digital context, agreements also play an important role in determining the limits of content usage across various platforms. Social media is dynamic and crosses national borders, so contracts must explicitly state whether the rights to use content apply only to specific platforms (e.g., Instagram), for a specific duration (e.g., six months), and within specific regions (e.g., Indonesia only). This kind of clause is known as a territorial and duration limitation

clause. Without clear limitations, the brand can unilaterally expand the use of content, for example, by reuploading it on different platforms or displaying it in paid advertisements without additional permission. In such cases, a strong agreement becomes the primary evidence in determining whether copyright infringement has occurred or not.

From a civil law perspective, digital cooperation agreements must also meet the requirements for the validity of agreements as stated in Article 1320 of the Civil Code, namely: (1) agreement of the parties; (2) capacity to enter into an obligation; (3) a certain object; and (4) a lawful cause. The absence of any of these elements can render the agreement void. In the context of digital cooperation, the element of "something specific" refers to the object of the agreement, which is the digital creative work resulting from the collaboration. Therefore, the subject of the agreement must be specified, including the form of content (video, photo, script, design), as well as the final product delivered to the brand. This clarity is important to avoid double interpretations and prevent copyright infringement claims later on.

In practice, there is still a significant imbalance in bargaining power between influencers and brands. Large brands with strong legal resources often unilaterally dictate the terms of agreements (adhesion contracts), while influencers, especially those who are still beginners, are forced to agree to all provisions without understanding the legal consequences. This inequality has the potential to lead to exploitation of creators, particularly in terms of the full transfer of copyright without proportionate compensation. Therefore, the principle of contractual fairness needs to be applied in every collaboration agreement. One way to balance the parties' positions is to grant them negotiation rights over important clauses, such as ownership, license duration, compensation, and dispute resolution.

On the other hand, the resolution of digital contract disputes also needs to be explicitly regulated in the agreement. Disputes arising from copyright infringement or improper content usage can be resolved thru mediation, arbitration, or litigation in court. Based on Article 95 of the Copyright Law, copyright disputes can be resolved out of court as long as agreed upon by the parties. In international practice, many digital agreements include arbitration clauses as a faster and more efficient way to resolve disputes compared to general courts. The implementation of a digital arbitration system is also consistent with the cross-jurisdictional nature of social media, thus avoiding legal differences between countries.

Compared to practices in other countries, the Indonesian legal system actually shares fundamental principles with the "work made for hire" doctrine in the United States. In that doctrine, works created by employees within the employment relationship are considered the property of the employer, not the employee. However, the application of this doctrine in

Indonesia is not automatic. Based on Article 8 paragraph (3) of the Copyright Law, if a work is created by someone in an employment relationship or based on an order, the party placing the order is considered the copyright holder, unless otherwise agreed. This means that contractual arrangements remain a key determining factor. Therefore, the existence of a written contract is an essential requirement to clarify whether the relationship between the influencer and the brand is an employment relationship or an independent service relationship.

In the context of the national creative economy, the existence of a good agreement also has a preventive and educational function. The preventive function means that the contract can prevent disputes by clearly defining the rights and obligations of the parties. The educational function means that the contract serves as a means to raise awareness of the law among creative industry players so that they understand the importance of intellectual property protection. The government, thru the Directorate General of Intellectual Property (DJKI), can play a role by providing agreement templates or standard model agreements tailored to the needs of digital collaboration, making it easier for influencers and brands to establish partnerships that align with the principles of fairness and legal protection.

Thus, it can be concluded that agreements play a dual role in the context of copyright for collaborative content on social media: as a tool for legal legitimacy to determine ownership and as a mechanism for regulating the economic use of the work. Without a clear written agreement, the legal position of influencers and brands becomes vulnerable, as general legal provisions may not be able to cover all the dynamics of digital collaboration. Therefore, strengthening contractual awareness, increasing digital legal literacy, and establishing fair contract standards are strategic steps toward a copyright protection system that is adaptable to the era of the social media-based creative economy.

4. CONCLUSION

The conclusion that can be drawn is that copyright protection for collaborative content on social media is an important aspect in maintaining fairness and legal certainty for all parties involved, particularly between influencers and brands. Collaborative digital content has high economic and moral value, so it needs to be clearly regulated regarding ownership, use, and transfer of rights thru written agreements. Law No. 28 of 2014 concerning Copyright has provided a strong legal basis with the principle of automatic protection, but its implementation in digital collaboration practices still faces challenges, particularly in the aspects of legal awareness and digital proof. The cooperation agreement plays a strategic role as a legal instrument that defines the boundaries of the parties' rights and obligations and serves as a

means of preventing disputes. Therefore, the explicit drafting of contracts regarding copyright, economic rights, moral rights, and dispute resolution mechanisms is an urgent need in the digital creative economy era. With adaptive regulations and fair contracts, Indonesia's copyright legal system is expected to protect creative individuals while supporting a healthy and sustainable digital collaboration ecosystem.

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