

CHAPTER ONE

INTRODUCTION

A. Background

In this modern era, internet technology has become an essential need for performing activities of daily human life. The rapid development of internet technology has changed many things, especially in the movie production and business. Technology has created an alternative media for people to be more flexible since they no longer need to go to the theatres to watch a movie,¹ but they can watch it through laptops, computers, or even smartphones. In this context, the development of the internet also contributes to the expanding of the distribution of movies all over the world.

In Indonesia, the presence of movie streaming sites becomes an entertainment option for viewers who want to watch movies freely. The various films of streaming sites offered to start from foreign and domestic films. In short, users who want to watch a movie through a streaming site only need to search what movies they want to watch through the movie search column or category column based on genre, year, country, and movie title.² Furthermore, the facility provided by this movie streaming website assists the user to freely download the movies. However, with all the conveniences offered by these streaming sites, the presence of these sites creates the

¹ Rombes Nicholas, 2017, *Cinema In The Digital Age*, New York, Columbia University Press, p. 132.

² Okta Wibowo Tangguh, "Fenomena Website Streaming Film di Era Media Baru: Godaan, Perselisihan, dan Kritik", *Jurnal Kajian Komunikasi*, Vol.6 No.2 (2019), p. 192.

controversy.³ The arising perception of the existence of these sites brings sensitive issues in this digital era, such as digital infringement, which is the biggest target of copyright infringement.

Nonetheless, copyright infringement that is rampant in Indonesia cannot be separated from user's high demand for illegal streaming sites. Recently, a survey conducted by global public opinion and data company YouGov showed that 63 percent of online consumers preferred to watch the movie through illegal streaming sites.⁴ The problem arises because the presence of this site provides an alternative for people to watch movies by streaming online or downloading movies illegally on movie streaming sites. The existence of this streaming site has made copyright infringement an area used by some people to gain profit.⁵

A concrete example is the case of an illegal streaming site in Jambi Sub-district, which was carried out by Aditya Fernando Phasyah, Adisty was found guilty of duplicating and distributing the film *Keluarga Cemara* belonging to the production house of Visinema Pictures, which was distributed through the Dunia Film 21 website platform. Aditya Fernando

³ Okta Wibowo Tangguh, "Understanding Movie Streaming Websites in Indonesia as Unlimited Movie Access in the Digital Era", *Malaysian Journal of Communication*, Vol.35 No.2 (2019), p. 247.

⁴ The Asean Post Team, 2019, "Do Indonesian prefer Illegal Streaming?" retrieved from: <https://theaseanpost.com/article/do-indonesians-prefer-illegal-streaming> accessed on March 29th, 2021 at 11.24 pm.

⁵ Milanese Chrissy, "Lights, Camera, Legal Action: Assessing The Question Of Acting Performance Copyrights Through The Lens Of Comparative Law", *Notre Dame Law Review*, Vol.9 No.4 (2016), p. 1641–1674.

Phasyah has done around 3,000 illegal movie streaming on local and imported film titles since 2018 to seek profit from registered advertisements.⁶

Even though it is called a free streaming site, the provider of this site also gets the benefits from their sites.⁷ The benefits of this streaming site provider come from the advertisements that website visitors see on the site page when the visitor wants to watch the movie. Since the owners of this streaming site have their own motives or purpose of getting the benefit from the streaming site, this is a form of copyright infringement for attempts to reproduce, and distribute copyrighted works illegally. As stipulated in Article 113 Paragraph 3 of Copyright Law “any person who with no rights and/or without permission of the author or copyright holders infringes the economy rights of the author or copyright holders as referred to in article 9 paragraph (1) point a, b, e, and/or the point g for commercial use shall be punished with imprisonment for up to 4 (four) years and or fine up to 1,000,000,000.00 (one billion rupiahs).”⁸

As a result of the rise of illegal streaming sites in Indonesia, Chairman of the Indonesian Film Producers Association (APROFI) Edwin Nazir said that every year, due to film piracy, the loss reaches Rp. 5 billion.⁹ Based on the data from the Creative Economy Agency with the Institute for Economic

⁶ Gresi Plasmanto, 2021, “Jejak Seorang Gamers Jadi Pembajak Film Keluarga Cemara”, retrieved from <https://www.liputan6.com/regional/read/4548779/jejak-seorang-gamers-jadi-pembajak-film-keluarga-cemara> accessed on August 27th, 2021 at 00:55 am.

⁷ Liu X. & Zha YF, “Copyright Protection of Digital Movies Using the Coalition of Technology and Law in China”, *Chinese Studies*, Vol.7 No.4 (2018), p. 259-276.

⁸ Article 113 Paragraph 3 of Law No. 28 of 2014 concerning Copyright

⁹ Fathurrozak, 2020, “Pelaku Industri Film Nyatakan Perang Melawan Pembajakan” retrieved from: <https://mediaindonesia.com/weekend/359133/pelaku-industri-film-nyatakan-perang-melawan-pembajakan> accessed on July 30th, 2021 at 23:45 pm.

and Community Research, this streaming site has slashed the country's tax revenue by around Rp 31 billion to Rp 636 billion per year.¹⁰ The government realizes these streaming sites have a big impact on the Indonesian economy since the film industry is one of the biggest industries in Indonesia. Therefore, the government makes this issue a priority.¹¹

To eradicate the infringement, the government has blocked 1,130 illegal streaming sites, including one of the largest sites, such as IndoXXI.¹² The government closes the streaming site by redirecting access to positive internet pages, which indicated that the site visited was banned or blocked.¹³ Unfortunately, the hard work of the Ministry of Communication and Information Technology to eradicate illegal film sites in Indonesia does not run effectively.

The main obstacle in eradicating these streaming sites is changeable address of the web. Recently, after the closure of InadoXXI, similar sites have re-emerged. Some of them can be accessed freely without having to access a VPN.¹⁴ One of them is Juragan film. A streaming site that is very similar to

¹⁰ Arie Lukihardianti, 2019, "Kerugian Pembajakan Per Tahunnya Capai Puluhan triliun", retrieved from: <https://republika.co.id/berita/pxmj57349/kerugian-pembajakan-per-tahunnya-capai-puluhan-triliun> accessed on July 30th, 2021 at 19.11 pm.

¹¹ FJP Law Offices, 2020, "Legal Consequences for Illegal Streaming Sites", retrieved from: <https://fjp-law.com/legal-consequences-for-illegal-streaming-sites/> accessed on March 29th, 2021 at 11.35 pm.

¹² Herman, 2019, "Indonesia Closes Down Over 1,000 Illegal Streaming Sites", retrieved from: <https://jakartaglobe.id/news/indonesia-closes-down-over-1000-illegal-streaming-sites> accessed on February 20th, 2021 at 10.00 pm.

¹³ Zuhra WUN, 2016, "Situs Pembajak Film: Patah Tumbuh Hilang Berganti [The Hijacking Movie Sites: Blocked, Growing, Shutting Down, And Changing.]", retrieved from: <https://tirto.id/situs-pembajak-film-patah-tumbuh-hilang-berganti-GsS> accessed on February 20th, 2021 at 10.35 pm.

¹⁴ Editorial Team, 2020, "IndoXXI is Closed, the replacement site is growing fertile", retrieved from: <https://voi.id/en/technology/2275/indoxxi-is-closed-the-replacement-site-is-growing-fertile> accessed on February 25th, 2021 at 23:34 pm.

IndoXXI, where users can still stream movies and download them freely. This proves that the government's blocking efforts have not been effective enough to eradicate the streaming sites. This makes Indonesia a haven for owners of illegal streaming sites so that many creators and copyright holders are harmed even though supervision has been carried out on this matter.

Furthermore, the disputes between governments against movie streaming sites are increasingly complex with the presence of several alternatives to legal and paid streaming media with monthly subscription systems such as Netflix, Iflix, Genflix, Viu, Disney+ Hotstar, and others. The facilities provided by these streaming media are almost the same as those offered by the movie streaming sites. Still, the difference is the user has to pay a monthly subscription to watch movies online through the application that has been provided. The advantage of these legal platforms is free from advertisements because this streaming media is provided by the parties which certainly have the right to show the movie.

Unfortunately, the presence of these legal platforms doesn't make people want to watch through these legal platforms because, in reality, people still prefer to watch movies through illegal streaming sites. Some factors that make people choose to watch movies illegally are the high ticket prices, limited cinema access in each province, and lack of knowledge and public awareness of copyright. Besides that, people still consider copyright infringement in watching movies illegally as not a serious matter. There are still many people who don't realize that other people's rights have been

violated from free movie streaming sites on the internet, namely creator and copyright holders.

Responding to the issue of streaming site services that provide access to watch movies illegally, but on the other hand, there are rights of creators that should be protected by copyright law then the author is interested in analysing more deeply this issue. Therefore, the author chooses the title of this thesis as “LEGAL PROTECTION FOR CREATORS AND COPYRIGHT HOLDERS AGAINST COPYRIGHT INFRINGEMENT THROUGH ILLEGAL MOVIE STREAMING SITES IN INDONESIA”.

B. Problem of Research

In regard to the topic of this research, the author would like to discuss the following issues:

1. How is the legal protection for creators and copyright holders against copyright infringement through illegal movie streaming sites in Indonesia?
2. Is the copyright law effective in handling the issue of copyright infringement through illegal movie streaming sites in Indonesia?

C. Objectives of Research

Based on the previous subsection, the purpose of this research is to answer the problem of research, namely:

1. To know the legal protection for creators and copyright holders against copyright infringement through illegal movie streaming sites in Indonesia.
2. To analyse whether the Copyright Law is effective in handling the issue of copyright infringement through illegal movie streaming sites in Indonesia.

D. Benefits of Research

Based on the problem of research and objective above, the benefit of this research can be divided into two categories, namely:

1. Theoretical Benefits

This research is expected to provide benefits and become a reference in the development of legal science, especially in the field of copyright

2. Practical Benefits

This research provides a better understanding to the society related to the copyright infringement on illegal movie streaming sites