

MEDIATION AS AN ALTERNATIVE TO RESOLVING ELECTRONIC BOOK COPYRIGHT DISPUTES FROM THE PERSPECTIVE OF USEFULNESS

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*Electronic Books; Copyright;
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ABSTRACT

The research contributes to understanding and improving the regulation, practice, and institutionalization of electronic book copyright dispute mediation, aiming for a legally certain and effective resolution process. The research will be conducted through document analysis, involving a thorough examination of legal texts, regulations, case studies, and scholarly publications related to electronic books copyright and mediation practices. The results will be analyzed in terms of normative methods, legal cultural behaviors, and dynamics in practice, the implementation of mediation as a normative juridical procedural stage in reflection on institutional improvement, and the ideal procedural order and effectiveness of mediation in the two legal systems in the world.

INTRODUCTION

One of the legal aspects that protects human rights in intellectual rights is the Intellectual Property Rights Law (IPR). IPR is an important part of a country to ensure industrial and trade advantages, this can be seen from the economic growth of a country depends a lot on the trade aspect (Kumalasari, 2021). These intellectual works can be in the form of copyrighted works in the fields of science, art and literature, as well as discoveries in the field of technology. IPR is different from material property rights, because it is intangible, so it is not easily lost, cannot be confiscated and lasts.

In practical terms, there are various types of Intellectual Property Rights (IPR), including Copyrights, Patents, Trademarks, Geographical Indications, Industrial Designs, Trade Secrets, and Integrated Circuit Layout Designs. All types of IPR are regulated in their respective laws and implementing regulations to provide legal certainty. Copyright is part of IPR regulated in the IPR Law, which includes juridical rights to works and creations resulting from human thought, related to moral and economic interests. Copyright is regulated in Law Number 28 of 2014, which is a development of the ratification of the Bern Convention (Paris Act 1971) Article 2 (1) and the Universal Convention on Copyright Article 1. Basically, the IPR law emphasizes the protection of the right to own in its entirety, so that there is no separation between the creator and his creation, as well as the right to use and prohibit the use of ideas or information from such creations.

In the Islamic perspective, there are several views of scholars on copyright. The majority of scholars from madhhab Maliki, Shafi'i, and Hambali are of the opinion that the copyright of original and useful creations is classified as valuable property, similar to objects that can be used in sharia (Islamic Law). Regarding authorship rights (*haqq al-ta'lif*), which is a form of copyright, Wahbah al-Zuhaili argues that based on the rule of *istishlah*, reprinting or reproducing a work without the permission of the creator or copyright holder is considered an infringement or crime against the author's economic rights. This act is seen as disobedience that causes sin according to sharia and is a form of theft. Therefore, the perpetrator is obliged to compensate for the economic rights of the creator or copyright holder for his or her work that is duplicated without permission, as well as bear the moral and material losses caused (Munawir, 1997).

Indonesia, which adheres to the tradition of civil law, has a philosophy of copyright protection that emphasizes moral rights for creators. This is in accordance with the principle of copyright protection in the Bern Convention, where the right is perpetual, inalienable, and can be inherited to the creator's heirs, even if the economic rights of the work are transferred to a company or other party. The copyright holder is the creator as the copyright owner, the party who received the right from the creator, or another party who obtained the rights from the previous recipient, as stated in Article 1 paragraph 4 of Law Number 28 of 2014 concerning Copyright. This law also emphasizes that every action taken by the creator must provide remuneration, so that they get economic rights. In copyright, there are two aspects, namely economic rights and moral rights. Economic rights are the right to obtain economic value from the work produced, while moral rights are the right to be recognized as the creator and not to modify the work without permission.

Changes in human lifestyles are increasingly encouraging the development of technology in various aspects, with the current generation tending to be inseparable from the use of digital media and the internet as a support for daily activities. Many digital technology-based media are now part of the lifestyle, affecting the existence of Intellectual Property Rights (IPR), electronic businesses, and e-government activities (Ramali, 2010). Literacy activities in the digital era are no longer synonymous with carrying large bags of books, shelves full of books, or the habit of carrying books. This development influenced the ideas and breakthroughs of innovators to create works that could answer these changes in values, in the hope that the works had economic value and moral values.

Electronic books are digital forms of books that require electronic devices such as laptops, PCs, mobile phones, or tablets to read. As an electronic article, electronic books (e-books) have the nature of being sophisticated digital objects. The main characteristic of e-books that support the reproduction and distribution of digital objects is the ease of reproducing and distributing them, especially with the rapid adoption of internet technology. This causes the current circulation of electronic books to far exceed physical prints (Labetubun, 2019). Initially, the creation of electronic books was never thought of by the public because of regulations that protect copyrighted works. An individual's ignorance of the applicable legal instruments or the copyright owner's ignorance of the financial value of his or her work leads to works often being created or sold without considering the legal aspect. However, over time, it is known that the ease of distribution, publication, and storage of e-books makes it easier for copyright infringement to occur. E-books are very easy to copy or duplicate with results that are almost indistinguishable from the original. This process is fast and cheap because it can be done virtually using just a computer (Jaman et al., 2021).

According to data from the Directorate General of Intellectual Property (Ditjen KI) of the Ministry of Law and Human Rights (Kemenkumham), there are many legal disputes related to the piracy of electronic book copyrights. In this dispute, digital book owners who are members of the Cipta Care Association (PPKC) usually submit a dispute to the Directorate General of Intellectual Property of the Ministry of Law and Human Rights. An example is the dispute filed by PPKC regarding alleged violations of Copyright Law Number 28 of 2014. The applicant reported that his copyrighted work was uploaded in the form of an electronic book (e-book) without the author's permission. Piracy was carried out through platforms such as Carousell, Instagram, and Google Drive, harming 23 writers whose copyrighted works were sold without permission through internet media. In addition, there are also cases at the Regional Office of the Ministry of Law and Human Rights of West Java through the Intellectual Property Services Sub-Division. Here, PPKC submitted a mediation application for alleged Copyright infringement by Nusa Putra Sukabumi University. The applicant reported that his work was uploaded in the form of an e-book without the author's permission, and the mediation was carried out in Ismail Saleh's room.

In practice, based on the provisions of Article 95 of Law Number 28 of 2014 which is the basis for resolving electronic book disputes, it is known that the regulation does not provide certainty and opens up space for interpretation at the practical level. The systematic linear implementation of Article 95 has given rise to a biased and debatable understanding, thus requiring further regulatory clarity. If Article 95 paragraphs (1), (2), and (3) are linked to the provisions of Articles 100 to 104 and Articles 106 to 109 of Law Number 28 of 2014, it turns out that the resolution of copyright disputes through the Commercial Court does not require the existence of a mediation document as a verification of the completeness of the lawsuit file. This reflects that mediation from the beginning is not a necessity, while until now there is no implementation guide if a lawsuit over a copyright dispute becomes an extension of the authority of the Commercial Court.

On the other hand, if the absolute competence is applied, then the provisions for exemption from mediation in the Commercial Court as stipulated in the Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2016 concerning Mediation Procedures in Court need to be corrected and synchronized. It is not surprising that currently there are almost no lawsuits filed in the Commercial Court that stem from copyright disputes, including electronic books. In the corridor of provisions for resolving copyright disputes, especially electronic book copyright which still needs improvement, especially at the level of institutional mechanisms, the Mediation Institution is inevitable to be regulated in such a way, both in terms of improving binding norms, procedural stages, and imperative systematics.

The researchers aim to analyze the regulation of electronic book copyright in normative methods, legal cultural behaviors and dynamics in practice, the implementation of electronic book copyright dispute mediation as a normative juridical procedural stage in reflection on institutional improvement, and the ideal procedural order and effectiveness of mediation as an institutional form of electronic book copyright dispute resolution that is binding and provides legal certainty. The research contributes to understanding and improving the regulation, practice, and institutionalization of electronic book copyright dispute mediation, aiming for a legally certain and effective resolution process.

METHODS

The research method used in this study is Normative Juridical research, which is literature law research conducted by researching literature materials or secondary data. Here, legal documents and academic journals and articles serve as the primary data sources. Data will be collected through document analysis, involving a thorough examination of legal texts, regulations, case studies, and scholarly publications related to electronic book copyright and mediation practices. Normative analysis will be employed to evaluate the legal frameworks and principles governing electronic book copyright and mediation. This approach will allow for a comprehensive understanding of the current regulatory environment, the practical implementation of mediation, and the identification of potential improvements to enhance the effectiveness and usefulness of mediation as a dispute resolution method.

RESULTS

Regulation of Electronic Book Copyright in Normative Methods, Legal Cultural Behavior, and Dynamics In Practice

Copyright is defined as the right to copy, it argues that copyright restrictions are logically inconsistent with the cultural context in which they are applied (Maulani, 2015). Intellectual Property Rights (IPR) are rights to wealth derived from or created by human intelligence (IPR). The creations and products of human creativity need to be preserved, which is known as "intellectual property" (IP). One of the legal aspects that protects human rights because of their intellectuality is the Intellectual Property Rights Law (IPR). As a form of appreciation for Intellectual Property Rights, legal protection of these rights requires adequate legal tools and protection mechanisms.

Copyright and Intellectual Property Rights are the two main categories in IPR. Examples of intellectual property include trademarks, patents, industrial designs, plant varieties, and trade secrets. Copyright protects all forms of creative expression, including science, art, and literature. Based on Law Number 28 of 2014 concerning Copyright (hereinafter referred to as the Copyright Law), copyright is defined as the exclusive right for the creator to his or her work which is realized in real form without reducing restrictions. Since there is no tax levied on the income from piracy, the burden of this copyright infringement is shared by the author, publisher, and government, and this is very rampant in today's book copying market. It is important to remember that piracy, both against intellectual property and scientific works and other types of work, can weaken or even destroy the creative spirit necessary to educate the nation and accelerate growth (Amimi, 2018).

In the Copyright Law, the implementation of legal protection provided by the state for creators can be seen (Jannah, 2018). Article 1 number 1 of the Copyright Law states that: Copyright is the exclusive right of the creator that arises automatically based on the principle of declarative after a work is realized in real form without reducing restrictions in accordance with the provisions of laws and

regulations. Based on the definition of copyright as mentioned in the article mentioned above, the elements of copyright can be divided into 3 (three), namely publishing rights, the right to reproduction rights, and the right to grant permission to reproduce and/or publish (Assignment right).

Copyright is an inherent and exclusive right to the creator, which automatically arises without the need for registration. Copyright includes both published and unpublished works. Registration only serves as supporting administrative proof. Intellectual Property Rights, including copyright, are special property rights granted to the creator or rights holder (either called the creator or in full according to the interest) for a certain period of time, with the aim of providing legal protection in announcing, reproducing, distributing, and carrying out other activities related to his copyrighted works, or giving permission to other parties to do such things. This restriction aims to make the use of copyright in accordance with its purpose. Every legal action that causes legal consequences is always accompanied by certain conditions.

The provisions of the Copyright Law state that copyright is an exclusive right which means that only the creator has the right to his creation, unless there is permission from the creator. This shows that individual rights are respected, but their use is still based on the public interest. Therefore, Indonesia does not fully adhere to individualistic understanding. Individual rights are respected as long as they do not conflict with the public interest. Both individuals and legal entities can be copyright subjects, and they are referred to as Creators under the Copyright Act. Article 1 number 2 of the Copyright Law defines an author in detail as follows: "An author is a person or several people together who by inspiration give birth to a creation based on the ability of the mind, imagination, dexterity, skills or expertise expressed in a distinctive and personal form."

The definition of a copyright holder is stated in Article 1 number 4 which states that: The Creator as the owner of the Copyright, the party who legally receives the right from the Creator, or another party who receives further rights from the party who receives the right legally. Based on this description, the creator automatically becomes the copyright holder, who is the copyright owner, while the copyright holder does not have to be the creator, but it can be another party who receives the right from the creator or another party who further receives the right from the creator or the copyright holder concerned.

In the case of works whose creators are unknown or have not been published, such as musical works that have not been recorded or published, the copyright to such works is held by the State to protect the interests of its creators. If one day there is a party who can prove himself as the creator or there is a creator of the work, the State will return the copyright to the rightful owner. The purpose of this rule is to reduce the practice of fraud and plagiarism in the field of copyright, which can be very detrimental to creators because they have spent their creativity, thoughts, and time in the process of creating such artworks. Article 1 number 3 of the Copyright Law states: any copyrighted work in the fields of science, art, and literature that is produced by inspiration, ability, thought, imagination, dexterity, skill, or expertise expressed in real form. Works or copyrighted works that receive copyright protection, namely (Usman, 2003):

- a) Creation that is the result of the process of creating inspiration, ideas, or ideas based on the ability and creativity of the creator's mind, imagination, dexterity, skills or expertise;
- b) In its pouring, it must have a distinctive shape and show authenticity (originality) as a personal creation of a person. In a typical form. This means that the work must have been completed, so that it can be seen or listened to or read, including the reading of *braille letters*. Because a work must be realized in a distinctive form, copyright protection is not given to mere ideas. Basically, an idea does not yet have a form that allows it to be seen, heard, read. Then the work in question shows its originality, meaning that the work comes from the ability and creativity of the creator's own mind, imagination, dexterity, skills or expertise, or in other words does not imitate or plagiarize other people's inspirations, ideas, or ideas. In addition, the creation in question is also the result of the creator's personal reflection.

Based on this description, there are two main requirements to obtain copyright protection, namely the authenticity and creativity of a copyrighted work. A copyrighted work must be the result of the personal creativity of its creator and must not be an imitation. While it does not have to be absolutely new or unique, the work must demonstrate authenticity as a result of the creator's personal abilities and creativity. Copyright essentially grants exclusive rights to the creator, which means that the other party is not allowed to use the work for any purpose without the permission or consent of the creator, unless justified by law. However, often the permission from the creator is ignored by plagiarists and copyright infringers. These exclusive rights consist of economic rights, where the creator is entitled to benefit from the results of his work, and moral rights, which include the right to be recognized as the creator by including his real or pseudonymous name in his copyrighted work (Suryo, 2015).

Books are a form of Intellectual Property that has played an important role in improving the quality of human resources. These works can be in the form of printed books or electronic books (e-books), which are available in document formats such as doc, pdf, txt, and jpg, which can be downloaded and read through electronic devices. Both print and digital books have their own advantages and disadvantages. For example, the advantage of printed books is that they have an International Standard Book Number (ISBN). The ISBN on the printed book indicates that the book is trusted and can be used as a reference by academics in compiling their scientific papers (Kusmawan, 2014). Scientific papers can be compiled in both printed book form and digital book (e-book) in formats such as pdf, doc, or txt, which allow for electronic download and reading. Printed books sold in large stores often include ISBNs, which is an international standard that confirms the book's credibility as an academic reference. However, books (both magazines, newspapers, books, books, etc.) as a repository of various science and information cannot avoid the impact of the digitization of information that is taking place.

According to Law Number 28 of 2014 concerning Copyright (hereinafter referred to as the Copyright Law), Article 40 Paragraph (1) letter a explains that books are included among protected works (Damian, 2015). Although the Copyright Law provides legal protection for copyrights, creators, and copyright holders, in practice there are still irregularities in the field of copyright that can be pursued legally. Article 40 Paragraph (1) does not specifically discuss the protection of copyrighted works such as e-books. The definition of books in the article is very broad and includes many types. The rapid development of information technology, especially in the internet and computer programs, has had a significant impact on the legal world, especially in the context of industry and copyright. However, in reality, public understanding and readiness for the law have not been fully able to offset the impacts caused by the use of information technology.

The current transfer of printed books to electronic books should also get adequate legal protection. The law plays a protective role to achieve justice for human interests, and to protect these interests, the law must be enforced and applied fairly. The implementation of the law can be carried out in a formal, good, and peaceful manner, but it can also occur in response to violations of the law. Copyright registration is important to prove the truth of the creator's identity in a dispute case in court. In other words, this registration is used to prove the actual creator, not to determine ownership of the work. In the old Copyright Law, copyright infringement was considered an "ordinary offense", which means that law enforcement against copyright infringement can be carried out by investigators or law enforcement officials without having to wait for complaints from the public or copyright creators/holders.

According to the "usual offense" system, cases of copyright infringement can be handled immediately by investigators or law enforcement officials to prevent losses to a minimum. However, with the development of the Copyright Law in 2014, the category of offenses for copyright infringement has changed to "complaint offenses". This means that the handling of copyright infringement cases can only begin if there are reports or complaints from the public or from creators or copyright holders who feel aggrieved. With the category of "complaint offense", investigators or law enforcement officials

cannot take legal action against copyright infringement without a report or complaint from the aggrieved party, namely the creator or copyright holder.

The protection provided by the law on copyright is to stimulate or stimulate the activities of creators to continue to create and be more creative. The birth of new creations or pre-existing creations must be supported and protected by law. This form of protection is confirmed in the law by placing criminal sanctions against people who violate copyright in an unlawful way. The implementation of the Copyright Law provides photographic protection. The application of the law related to its enforcement is still weak when compared to music copyright which has been established for a long time and has its own association. With good and adequate legal protection, it is hoped that good and new book works can continue to develop in the future.

Community Legal Culture as a Form of Respect for Copyright in General

Along with the pace of globalization, concern for intellectual property rights is increasing, which is encouraging. However, there is still a lack of real awareness in the form of filing intellectual property rights from the public, especially in terms of identification and patent filing, which shows that the public is still unfamiliar with this procedure. For this reason, it is very reasonable if the Ministry of Research and Technology (Ristek) is intensively campaigning for public awareness to better respect the copyright of intellectual works. In general, this movement is recognized as a response to the demands of rapid globalization, which is marked by the emergence of various negotiations that emphasize the values of these interests. One of the important events was the completion of the multilateral negotiations on the General Agreement on Tariffs and Trade (GATT) in Uruguay in 1993, which gave birth to an international trade organization, namely the World Trade Organization (WTO). In addition to establishing the WTO, the agreement also recognizes aspects related to trade and intellectual property rights, known as the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS).

Indonesia, as part of the global community, has ratified the WTO agreement through Law No. 7 of 1994, so it is bound by the rules issued by the WTO, including the TRIPS agreement. TRIPS regulates in detail the standards that are considered to be internationally applicable in terms of Intellectual Property Rights (IPR). Substantively, IPR can be explained as the right to wealth arising from human intellectual ability. This makes works born from intellectual ability as the core and object of its regulation. Therefore, understanding IPR is understanding the right to wealth arising from the intellectual ability. This IPR is included in the category of individual property rights that are intangible.

The need to develop the Intellectual Property Rights (IPR) system actually comes from the needs of the community itself, which is also part of the need for national law. The development of IPR accommodates legal protection that focuses on the recognition of intellectual property rights as well as the right to commercialize or enjoy such wealth for a certain period of time. During a certain period, others may only use or exploit those rights with the permission of the rights owner. Therefore, the protection and recognition of such rights is only given to individuals or legal entities that own such wealth, so such rights are often called exclusive. The purpose of this legal protection is so that the right owner can use or exploit his wealth safely.

IPR is conventionally distinguished into two groups, namely:

1. Copyright;
2. The right to industrial property, which consists of:
 - a. Patent;
 - b. Trademarks;
 - c. Industrial design;
 - d. Trade secrets;
 - e. Integrated circuit layout design.

This distinction is based on the World Intellectual Property Organization (WIPO) Convention, a UN body established to administer multilateral agreements on Intellectual Property Rights (IPR).

Indonesia, as a member of WIPO, had ratified the convention in 1979. Copyright is a special right for the creator or recipient of the right to publish or reproduce his work, as well as give permission for it, while still complying with the restrictions set forth in the applicable laws and regulations. The object of copyright regulation is regulated in Article 40 paragraph (1) of the Copyright Law. Intellectual property, including copyright, is a special property right, which is only given to the creator or owner/holder of the right to obtain legal protection for a certain period of time to publicize, reproduce, distribute, and perform other rights to the work of his creation, or to give permission to other parties to exercise these rights.

Copyright is a right that has a special character, is related to the public interest, can be transferred or transferred, and can be divided (divisible). These rights are special because they are only granted to the creator or owner/holder of the rights, and others are prohibited from using them without permission from the rights owner. The protection of intellectual property aims to ensure that creators can benefit economically from their work, which then motivates them to continue working and generate further innovations. In Indonesia, the challenges are more complex due to the economic and cultural conditions of the community that have not fully supported the intellectual property protection system effectively. Good implementation is generally seen only in developed countries, and there are concerns that the noble goal of intellectual property protection can be used by developed countries to remain economically dominant over developing countries and the third world.

What is worrisome is the filing of patents abroad for things that have become the public domain in the country. The role of the government in this case is still very lacking, sometimes even blaming the public who actually do not have enough ability to refute the foreign patent. People often consider brands, patents, and copyrights as commonplace, so they rarely question who the creator or inventor is. Works are considered common property and are used for common prosperity. Although there have been international rules and national legal foundations for Intellectual Property Rights (IPR), the reality is that it has been paid less attention to by the public. Although it is not easy to overcome this, a commitment to eradicating crimes against intellectual property rights is an important step to improve welfare and prosperity, both by governments, rights owners, and the wider community.

Law enforcement against copyright since Law Number 28 of 2014 was enacted does seem half-hearted. In practice, many violations of the law are committed by those who earn income by 'outsmarting' copyright. On the other hand, copyright infringement such as photocopies of books or printing electronic books for educational needs is still tolerated. In fact, when referring to the Copyright Law, it prohibits the reproduction of copyright without the permission of the copyright holder. Article 9 paragraph (3) states, "*Any Person without the permission of the Creator or Copyright Holder is prohibited from Reproducing and/or Commercial Use of the Work*".

The Copyright Law encompasses the values of justice, utility, and legal certainty. Scientists' evaluation of the Copyright Act is based on their opinion on all three values. The value of justice concerns the question of whether the Copyright Law provides sufficient legal justice for scientists in scientific work activities. The value of certainty is related to the question of whether the Copyright Law provides adequate legal protection certainty for scientists in scientific work. Meanwhile, the value of usefulness concerns the question of whether the Copyright Law provides real benefits for scientists in scientific work activities.

The presence of the Copyright Law provides certainty, fairness, and benefits that are quite important for copyright creators and owners. The Copyright Law 2014 stipulates that copyright is an exclusive right that is automatically owned by the creator after his work is realized in real form, with conditions in accordance with legal provisions. Copyright as a proprietary right provides protection against unauthorized or unauthorized use by the creator. Copyright is divided into moral rights and economic rights. Moral rights cannot be transferred during the creator's lifetime, but they can be transferred after death in accordance with the provisions of the law (Irawati, 2019). Economic rights

allow creators to profit from their work, although the terminology and scope of economic rights may vary within each Copyright Act.

Electronic Book Copyright Infringement in the Digital Era

To avoid any violation of the reproduction of electronic books (e-books), a license agreement can be made. This license agreement is intended as a form of appreciation or appreciation for the copyrighted works of others through the provision of royalties to the copyright holder or in this case to the creator himself as stipulated in Article 80 Paragraph (3) of the Copyright Law. In this regard, the license agreement made is subject to the provisions of Article 1320 of the Civil Code regarding the terms of a valid agreement which includes the existence of an agreement between the parties, the existence of proficiency between the parties, a specific or clear agreed object, and the agreement is based on permissible cause or cause.

Conventionally, legal protection for electronic book creators is the same as printed books as a form of Intellectual Property Rights (IPR), especially Copyright. The Copyright Law is here to provide protection for IPR, including for creators of electronic books. The creator has important moral rights, which remain valid even if his economic rights are transferred through a license to another party. Licensees must comply with the moral rights possessed by the creator or copyright holder (Wijayanti, 2020). Scientific books are the main need for the community, especially in the learning process such as students and lecturers. The process of creating a single book, from conception to the format used by the public, involves a lot of capital and human resources, including authors, publishers, distributors, and distributors. Therefore, it is important to provide adequate legal protection for human intellectual works.

Book piracy is on the rise in society, driven by several factors such as lack of law enforcement, low public awareness of copyright protection, and difficult economic conditions. In Indonesia, book piracy activities occur in big cities such as Jakarta, Surabaya, and Yogyakarta. Reference books, dictionaries, and popular textbooks are the main targets of piracy. Although some of the perpetrators have been arrested by the authorities, many are still operating freely due to the high demand for the books. Both print books and electronic books are protected by copyright, which is regulated in the Copyright Act. According to the law, copyright infringement occurs when a person uses a copyrighted work whose copyright is exclusively owned by another person without permission from the owner of the right. Forms of book copyright infringement include photocopies of books for sale, illegal printing of books at prices below the original book, and illegal sale of electronic files of books.

Book publishers and authors have an important responsibility to register their work in the Directorate of Intellectual Property Rights (IPR) of the Ministry of Law and Human Rights in order to obtain legality and prevent plagiarism. It is also important for them to avoid infringing on the copyright of others. The process of recording written works such as books is more efficient to do. If it has been recorded, then when there is a violation of IPR, they can send a direct summons. If the summons is ignored repeatedly, the next step could involve the police. Violations of IPR must be stopped immediately and must not be allowed to continue. This advancement also makes it easier for other parties to reproduce and print the work, which can be used without permission from the copyright owner concerned. The Copyright Act regulates various forms of copyright infringement in general, although it does not specifically regulate indicators of infringement for books. In addition, there is a gap between what is regulated in the law and how it is implemented in practice. For example, although the Copyright Act prohibits modification of works without the author's permission (Moral Rights), in practice there are often violations such as reproduction and piracy of books for commercial purposes.

According to the Copyright Law Article 1 number 23, piracy is the act of illegally reproducing works and/or related rights products and distributing the reproduction widely for the purpose of obtaining economic benefits. In the previous era of piracy, the methods used included retyping and printing books, or using a photocopier. Currently, the method of piracy has developed by using scanners

to scan books which are then processed with OCR (Optical Character Recognition) programs. The results can be sold in the form of e-books inserted into CDs or in the form of printed books (Mike, 2019). Copyright infringement occurs when another party exercises exclusive rights owned by the copyright holder without permission. Violations can also occur if the other party violates the provisions on restrictions or fair use (fair dealing). In this case, copyright infringement is categorized into 3 (three) things, namely direct infringement, indirect infringement, and violation on the basis of authority (Pamungkas & Djulaeka, 2019).

Mediation Efforts in Resolving Electronic Book Copyright Disputes

Based on practice in the community, the enforcement of ordinary offenses for criminal acts in the field of copyright is felt to be inappropriate on the grounds that copyright is an exclusive civil right so that only the creator or copyright holder himself knows about the violation. Therefore, ideally, copyright infringement is a complaint because the person who knows the most about the falsification of a work is the creator himself. The change in the offense from an ordinary offense to a complaint offense is related to the nature of ownership itself. This means that ownership in copyright is personal so that the ratio of individuals who feel aggrieved will complain to the authorities so that the case is investigated.

Related to this, the author argues that the placement of complaint is quite appropriate because in carrying out the legal process, law enforcement officials cannot immediately know whether a party has obtained permission to publish or reproduce a work. Law enforcement officials are not considered to be able to move on their own without a prior complaint from the creator or copyright holder who feels aggrieved by the criminal act. So in simple terms, it can be said that the creator has the right to allow and prohibit other parties who use it, so it is up to the creator to take what kind of action he wants to take against those who are considered to violate his rights.

Cases related to disputes in the field of copyright, especially electronic book copyright, can be said to never recede, even have a tendency to increase in the complexity of the problem and its quantity along with the development of information and technology which is also increasing. Various efforts to resolve land disputes through the existing litigation (judicial) process are considered incapable of resolving existing disputes, so that various alternative efforts to resolve disputes such as mediation, facilitation and others then emerged with the goal of minimizing disputes that are full of interests, both for the interests of development and the community itself.

The dispute processing process carried out through non-judicial channels can be grouped into various forms of mechanisms, namely settlement through traditional local institutions and other non-formal methods outside the court known as Alternative Dispute Resolution (ADR) that penal mediation is an alternative form of dispute resolution outside the court (commonly known as ADR or "Alternative Dispute Resolution", some also call it "Apropriate Dispute Resolution" ADR is generally used in civil cases, not for criminal cases, this can be seen in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. Based on the current legislation in Indonesia (positive law), in principle, criminal cases cannot be resolved out of court, although in certain cases, it is possible to resolve criminal cases outside the court. The commonly used forms of conflict resolution are (Pamungkas & Djulaeka, 2019):

- a) Reconciliation (peace) is a way to bring together dissenting parties in order to reach a mutual agreement to reconcile;
- b) Mediation, which is a way of resolving disputes using a mediator (mediator);
- c) Arbitration, meaning through the courts, with a judge (arbitrator) as the decision-maker; and
- d) Coercion is a way of resolving disputes using physical or psychological coercion.

One alternative form of dispute resolution in the issue of electronic book copyright infringement is by conducting mediation. Mediation gives the parties a feeling of equality and efforts to

determine the final outcome of the negotiations are reached by mutual agreement without pressure and coercion. In addition to dispute resolution through the courts/litigation, in the national legal system, dispute resolution is known through institutions outside the judiciary/non-litigation as regulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. One of the alternative dispute resolution is resolved through the mediation process which is a settlement process based on the principle of win-win solution which is expected to be resolved satisfactorily and accepted by all parties. Regulation of the Supreme Court of the Republic of Indonesia (PERMA RI) Number 1 of 2008, states that mediation has been included in the formal judicial process in Article 2 paragraph (1) which emphasizes that all civil cases submitted to the court must be resolved first through peace with the help of mediators. Supreme Court Regulation Number 1 of 2008 concerning the Mediation Process must require several stages, including the stage of filing a case registration, determining the judge of the assembly.

There are many advantages or virtues of dispute resolution through mediation, when compared to other alternative dispute resolution. The priorities of choosing mediation include (Pamungkas & Djulaeka, 2019):

- a) Economical decision: In this case, mediation requires more relatively low costs when compared to long and protracted litigation.
- b) Proper resolution: Dispute resolution through litigation takes years and can be continued to appeal, cassation, while mediation is shorter because there is no legal remedy.
- c) The result is satisfactory to the parties: In this case, the parties are generally satisfied with the mutually agreed solution.
- d) Agreements are comprehensive and customized : Dispute resolution through mediation can solve problems, both legal problems and problems beyond the scope of the law.
- e) Practice and learn creative problem-solving procedures
- f) Greater degree of control and predictable outcomes
- g) There is individual empowerment
- h) Preserve an established relationship or end a relationship on a friendlier path
- i) Actionable decisions
- j) A deal that can be better than just accepting the outcome of a compromise or a win/lose procedure.
- k) A decision that applies without knowing time.

In comparison, settlement with litigation or court techniques tends to aim to determine which party wins and loses (win-lose) based on the evidence found by the parties or the prosecutor (if criminal).

Authority of the Commercial Court in Handling Electronic Book Copyright Disputes

Problems related to compensation can be resolved through the court in accordance with Article 96 of Law Number 28 of 2014 concerning Copyright. Filing a lawsuit to the court must follow the procedures stipulated in Article 100 of the Copyright Law 2014 (UUHC), with a maximum settlement process of 90 days, which can be extended to 30 days in accordance with Article 101 of the UUHC. Dispute resolution through the court is carried out by filing a civil lawsuit with the competent court, and if the dispute is related to copyright infringement, the lawsuit is filed with the Commercial Court.

In the case of a copyright infringement lawsuit, there is an injunction regulated in Article 106 of the UUHC. This determination is issued by the Commercial Court at the request of the party who feels that his rights are violated. The purpose of this interim designation is to prevent the continued infringement and entry of goods suspected of infringing on Copyright and Related Rights into trade channels, including exports and imports. The Commercial Court may issue a provisional determination for:

- 1) Prevent the entry of goods suspected of infringing Copyright or Related Rights into trade routes;

- 2) Withdrawing from circulation, confiscating, and storing goods as evidence related to the infringement of such Copyright or Related Rights;
- 3) Securing evidence and preventing its disappearance by violators; and/or
- 4) Stopping violations to prevent greater losses.

Legal protection is regulated by the Law to prevent Copyright infringement of electronic books that are pirated, illegally circulated, or imitated. In the event of infringement, the perpetrator must be prosecuted and, if proven, will be subject to punishment in accordance with the provisions of the Copyright Act. The right to file a civil lawsuit for infringement of Copyright and/or Related Rights does not reduce the right of the creator and/or owner of related rights to sue criminally. Legal protection of copyright recognizes and protects the rights and interests of creators by law, so that they can sue anyone who infringes their rights and interests in such copyrighted works. Legal action against copyright infringers can be taken by the creator or related organization through criminal prosecution or civil lawsuits.

The provisions that are juridical issues in the request for determination in the Court are related to the requirements that must be met. Among the conditions that must be met is to attach proof of copyright ownership. This is regulated in Article 107 of the Copyright Law of 2014. It is difficult for the party who feels aggrieved to do so. This is because the party who feels aggrieved does not have a citation of the right holder, because it should not be recorded. What evidence to show is also unclear. These laws and regulations do not provide solutions related to proving ownership of electronic book copyrights that cannot be recorded.

The UUHC has undergone several updates due to legal developments and community needs, so that the old rules are no longer considered appropriate. One of the changes made by the lawmakers is regarding the classification of offenses in the UUHC. The complaint complaint applied in the UUHC affects the role of law enforcement officials. Law enforcement can no longer play an active role in reducing copyright infringement; They can only act after receiving a complaint from the aggrieved party. In contrast to when the UUHC still used ordinary offenses, where law enforcement officials were required to play an active role in reducing copyright infringement. If there are no complaints from the creator or the public, the police will only act repressively by conducting raids on places where pirated products are sold after there is chaos in the community. Prevention efforts can be made by monitoring places that are suspected of circulating or selling pirated products. In addition, copyright infringement often occurs due to low public knowledge about copyright. To prevent this, the Directorate General of Intellectual Property periodically holds socialization on the importance of intellectual property protection for consumers and book industry players so that no party is harmed.

The obstacle that arises is that even though the marketplace provides a mechanism for reporting pirated products and is willing to remove the views of the books that are complained about, the pirated books can easily reappear through other sales accounts. According to the Ministry of Communication and Informatics, it is difficult for marketplaces to take preventive measures such as automatically filtering book sales accounts because the accounts only contain catalogs of goods. Although copyright does not need to be registered because legal protection is automatically inherent from the time the work is published, a copyright certificate is still required in the complaint examination process. Few e-commerce platforms offer copyright protection or other intellectual property rights in the form of precautions, such as the listing of works. Lazada is one of the e-commerce that has a special platform for intellectual property protection called the Intellectual Property Protection Platform (IPP Platform).

Referring to Article 22 paragraph (1) of Government Regulation Number 80 of 2019 concerning Trade Through Electronic Systems, basically E-Commerce is responsible for the content of information in its system. If there is illegal electronic information content in the PMSE, then the PPMSE, both domestic and foreign, as well as the operator of intermediary facilities, must be responsible for the impact or legal consequences due to the existence of the illegal electronic information content. In Article

22 paragraph (2), it is clearly stipulated that the provisions in paragraph (1) above do not apply if the domestic PPMSE and/or the relevant foreign PPMSE acts quickly to remove the electronic link and/or illegal electronic information content after obtaining knowledge or awareness.

The problem that may arise related to the authority of the marketplace over its stalls is the enactment of the Circular Letter of the Minister of Communication and Information of the Republic of Indonesia Number 5 of 2016 concerning Limitations and Responsibilities of Platform Providers and Merchants, known as the Safe Harbour Policy. Under this policy, the platform provider is not responsible if it can be proven that the error and/or omission originated from the trader or user of the platform. With the Safe Harbour Policy, platform owners can focus more on developing their services without worrying about prohibited content uploaded by merchants. In the event of such a problem, the live trader is responsible, not the platform provider. However, this is contrary to Article 10 and Article 114 of the UUHC. Although copyright is an individual right, there are certain limitations related to the public's authority to provide broad access to information for the public.

Termination of infringement is the main goal of litigation in the field of Intellectual Property Rights (IPR), including copyright. Civil procedures are distinguished between pre-trial procedures and provisional measures. The procedure before a civil lawsuit can be started by sending a warning letter to the party who is suspected of committing a violation. This step is taken to prevent the infringer from requesting a refund of litigation costs if the court procedure is carried out without providing a preliminary opportunity for the infringer to know of the lawsuit. The party that can file a lawsuit for IPR infringement is the IPR holder, and in the case of joint ownership, one of the rights holders. Exclusive licensees also have the right to file a lawsuit, while ordinary licensees require a power of attorney from the rights holder. The defendant can be an individual or a company responsible for copyright infringement, as copyright infringement can occur in any marketing channel, so a manufacturer, importer, or anyone who offers or advertises goods in trade can be declared a defendant.

Creators and holders of copyright or related rights can still file criminal lawsuits even though they have filed a civil lawsuit. However, if a civil lawsuit and a criminal lawsuit take place at the same time, a civil lawsuit will take precedence. Copyright is a complaint, so prosecution can only be carried out if the creator, copyright holder, or heirs report a criminal act related to their work. Currently, criminal complaints can be made through the pengaduan.dgip.go.id website by filling out a criminal complaint form that asks for the reporter's personal data. After the report is submitted, the complainant can check the status of the complaint on the complaint status menu. Before filing a criminal prosecution, the creator or holder of copyright or related rights usually reprimands the party who committed the infringement first (summons). In addition, Article 95 paragraph (4) of the Copyright Law stipulates that mediation between the parties to the dispute must be carried out first. This is why criminal efforts are referred to as the last step in resolving copyright disputes. If mediation is unsuccessful, the creator or holder of copyright or related rights can report the criminal act to the investigator of the Police official, the Civil Servant Investigating Officer (PPNS) KI at the Regional Office of the Ministry of Law and Human Rights, or the PPNS KI at the Directorate of Investigation and Dispute Resolution.

Proof of copyright infringement on the announcement and propagation of digital copyright works on the internet network must go through a technical proof process, namely by the use of technological means. As contained in Article 111 of the Copyright Law, evidence carried out in the examination process at the level of investigation, prosecution, and examination in court can be carried out by utilizing information and communication technology in accordance with the provisions of laws and regulations. Electronic information and/or electronic documents are recognized as evidence in accordance with the provisions of laws and regulations.

Implementation of the Structure and Procedural Order of Mediation Institutions in the Two Legal Systems in the World

The legal system is a unity of various elements, such as regulations and determinations, which are influenced by cultural, social, economic, historical, and other factors. On the other hand, the legal system also affects factors outside of itself. Legal regulations are open to various interpretations, so there are always developments (Mertokusumo, 2016). In other literature, it is stated that "the legal system is a unit consisting of various components of the legal system that are integrated with each other, each has its own function, and is bound in a single relationship that is interrelated, dependent, influencing, and moving in the process of the legal system to achieve legal goals."

Basically, the legal system in this world is very diverse, each with its own characteristics and adherents, such as the customary law system, the religious law system, the civil law system, and the common law legal system. However, on this occasion, only two legal systems that are widely embraced by countries in the world will be briefly discussed, namely the civil law and common law legal systems. First, civil law is a legal system that is widely embraced by Continental European countries and is based on Roman law. It is so called because Roman law was originally sourced from the great work of Emperor Iustinian, namely *Corpus Iuris Civilis*. Because it is widely embraced by Continental European countries, civil law is often referred to as a continental system.

Legal sources in the formal sense in the Civil Law system include statutes, customs, and jurisprudence. In this system, the laws and regulations are the main reference. Countries that follow Civil Law place the written constitution as the highest law in the hierarchy of laws and regulations, followed by other laws and regulations. In Civil Law countries, jurisprudence does not have strong binding force. When a judge refers to a previous court decision to decide a future case, it is not because the previous decision is automatically binding, but because the judge considers that the decision is appropriate and should be used as a guideline. Nonetheless, jurisprudence plays an important role in the development of law, and this is recognized in the Civil Law system.

Although jurisprudence is not the primary source of law, judges in the Civil Law system have a responsibility to develop the law. This is necessary in dispute resolution when the terms used in the law do not cover the problem at hand or when the existing law does not correspond to the actual situation. In the Civil Law legal system as explained by Lawrence Friedman, there is the use of the Inquisitorial system in the judiciary. In this system, judges have a big role in directing and deciding cases. They are active in seeking facts and meticulous in assessing evidence. Friedman noted that judges in the Civil Law system seek to obtain a comprehensive picture of the events they face from the outset (Mertokusumo, 2016).

This legal system has both positive and negative aspects that need to be considered. Positively, almost all aspects of people's lives and disputes that arise have a written legal basis, so that cases can be resolved easily. The presence of various types of written laws also ensures legal certainty in the settlement process. On the downside, many cases have emerged as a result of the progress of the times and human civilization do not have a clear legal basis. As a result, these cases cannot be settled in court because there is no law regulating them. Written laws can at some point become obsolete due to their static nature. Therefore, this legal system tends to be less dynamic and its application is sometimes rigid, because judges only play the role of law enforcers. Judges are considered servants of the law who do not have the authority to interpret the law in order to achieve true justice (Mertokusumo, 2016).

The Common Law legal system, also known as Anglo-Saxon or Anglo-American, is a legal system that originated in England and spread to its former colonial countries, including the United States. Although it comes from the same base, the United States developed a different system of Common Law than the one that applies in the United Kingdom. Common Law is recognized for its origins in the Anglo-

Saxon and Saksia tribes that inhabited England, and the term "Anglo-Saxon" refers to the Anglo-Saxon people who played a role in English history before being conquered by William, Duke of Normandy.

The Common Law system has three main characteristics: 1) jurisprudence is seen as the main source of law; 2) the adherence to the doctrine of *stare decisis* or legal precedent; and 3) the use of the adversary system in the judicial process. In contrast to the Civil Law system, in Common Law, the judicial process prioritizes the adversary system. Although an inquisitorial system such as the one in Civil Law also exists in Common Law, an adversary system takes precedence. In the adversary system, both parties to the dispute present their lawyers and face off in front of a judge. Each party develops their own strategy and presents their evidence before the court. The judge acts like a referee in a football match, only ensuring that the rules of the game are followed, sometimes giving warnings or sanctions to those who violate the rules. If there is a jury, the judge does not give a verdict on who wins or loses, or whether the defendant is guilty or innocent.

In its development, this legal system recognizes the division of public law and private law. Private law in this legal system is more aimed at legal rules about property rights, law about people, law of agreements and against unlawful acts. Public law includes legal regulations that regulate the power and authority of the ruler/state as well as the relations between society and the state.

Ius Constitutum Institutional Mediation of Electronic Book Copyright Disputes in Indonesia

Dispute resolution can be done in two main ways: through court or out of court. The dispute resolution process through the court results in an adversarial decision that tends to produce a win-lose solution. This can lead to satisfaction on one side but dissatisfaction on the other, even triggering further conflicts between the disputing parties. Additionally, this process is often slow, time-consuming, and relatively expensive. On the other hand, dispute resolution outside the court, through methods such as Alternative Dispute Resolution (ADR), results in a "win-win solution" agreement. This procedure involves negotiation and deliberation between the parties to reach an agreement that is acceptable to both parties. The resulting decision can also be kept confidential because there is no obligation to undergo a trial process that is open to the public or made public (Usman, 2003).

In Indonesia, dispute resolution through ADR is not new in the context of the nation's cultural values, because Indonesian people are known for their familial and cooperative nature in solving problems. Various ethnic groups in Indonesia often use deliberation and consensus to reach decisions. For example, in Batak culture, the customary *runggun* forum is used to resolve disputes in a deliberative and familial manner, while in Minangkabau, there is an institution of peace judges who act as mediators and conciliators in resolving the problems of the local community. Therefore, the concept of ADR has been easily accepted by the Indonesian people because of its conformity with existing cultural values, which prioritize collaboration and harmony in resolving conflicts (Margono, 2004).

Mediation is one of the methods of dispute resolution through AADR. In mediation, the parties involved in the dispute appoint a neutral third party, namely a mediator, to assist them in discussing solutions and encourage them to negotiate to reach a mutually acceptable settlement (Margono, 2004). The mediation process is personal, confidential, and cooperative in resolving problems. Mediators, who are impartial, help the parties to the dispute—both individuals and institutions—to resolve their conflicts and resolve or at least bring their differences closer.

The mediator does not impose a settlement or draw a binding conclusion but rather empowers the parties to determine what solution they want. Mediators encourage and facilitate dialogue, help the parties clarify their needs and desires, prepare guidelines, assist the parties in straightening out differences of view and work for a binding settlement acceptable to the parties. If there is a match between the parties to the dispute, then a memorandum is made containing the agreements that have been reached by the parties to the dispute.

Although dispute resolution through mediation is informal, this process is still regulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. Article 6 paragraph (3)

of the law explains that mediation is a further stage after negotiations between the parties to the dispute have failed, as stipulated in Article 6 paragraph (2). In addition, in Supreme Court Regulation Number 1 of 2008 concerning Mediation Procedures in Court, mediation is described as a negotiation process involving mediators to help the parties reach an agreement. John W. Head describes mediation as a mediation procedure in which the mediator acts as an intermediary to facilitate communication between the parties to the dispute (Head, 1997).

Mediation can be considered as a continuation of the negotiation process. In mediation, values respected by the parties such as law, religion, morals, ethics, and justice, are used as the basis for reaching an agreement. The mediator, as a mediator, acts as an assistant to help the parties reach an agreement, but the final decision is still determined by the parties themselves, not by the mediator. The existence of mediation in court can help the parties in resolving disputes in a fair way according to their wishes, without winners or losers. In addition, if mediation in court is successful, the agreement reached has executory force, which means that the parties are obliged to maintain and implement what they have agreed on as stated in the peace deed.

The implementation of mediation is not only limited to the courts but is also known as out-of-court mediation or voluntary mediation. This mediation procedure is not entirely dependent on the state or regulatory body, but rather on the desire of the parties to resolve their disputes non-litigation through mediation. The out-of-court mediation system is essentially equivalent to in-court mediation in terms of its purpose and process. The juridical reasons for conducting out-of-court mediation can be found in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, which regulates the steps in the mediation process in general. Therefore, deliberate mediation carried out voluntarily is an alternative form of dispute resolution in the field of Intellectual Property Rights (IPR).

In situations where mediation is unsuccessful or cannot be carried out, the mediator has the obligation to declare that the mediation does not reach an agreement and notify it in writing to the Examining Judge. This occurs if: a) the parties do not reach an agreement within the maximum time limit of 30 days or its extension; or b) the parties are judged not to have acted in good faith. Article 2 paragraph (4) of Law Number 48 of 2009 concerning Judicial Power affirms the principles of simple, fast, and low-cost justice. "Light costs" in this context refer to the costs of cases that can be reached by the wider community. However, these principles do not rule out the importance of thoroughness and meticulousness in seeking truth and justice in the examination and settlement of cases in court.

Mediation referred to in the UUHC as a dispute resolution for copyright infringement is penal mediation and voluntary mediation. Penal mediation is carried out if the dispute over copyright infringement is a criminal act, namely in addition to piracy by involving the victim and the perpetrator of the crime assisted by the police with discretionary authority. "Voluntary mediation is carried out by parties outside the court in the settlement of copyright infringement disputes in the realm of civil law" (Wibawa & Krisnawati, 2019).

Electronic books (e-books) have brought significant changes especially in learning methods and academic research. E-books have advantages that make them one of the main sources of knowledge for academics. The UUHC, especially Article 9 paragraph 3, stipulates that everyone is prohibited from reproducing and/or commercial use of a work without permission from the creator or copyright holder. Copyright infringement, including making copies of e-books without permission, can be categorized as a criminal offense in accordance with Article 113 paragraphs (1), (2), (3), and (4) of UUHC Number 24 of 2014. Perpetrators of this copyright infringement can face serious legal consequences in accordance with the applicable legal provisions.

To prevent infringement of the reproduction of e-books, a license agreement can be made. This license agreement aims to be a form of appreciation for the copyrighted works of others by providing royalties to the copyright holder or the creator himself, as stipulated in Article 80 Paragraph (3) of the UUHC. This license agreement is subject to the provisions of Article 1320 of the Civil Code which

regulates the terms of a valid agreement, including the existence of an agreement between the parties, the competence of the parties, a clear object, and permissible cause or cause. The licensing agreement must comply with the rules prohibiting the reproduction and commercial marketing of electronic books without permission from the copyright holder, as such actions may harm the interests of the state, violate public order, and be contrary to decency.

Ius Constituendum Institutional Mediation of Electronic Book Copyright Disputes in Indonesia

Based on Article 95 Paragraph (1) of the UUHC, if there is a copyright infringement in the reproduction of a book without permission from the creator or copyright holder, the parties have the option to resolve the dispute either through the court or without going through the court. Dispute resolution without going through court can be done through arbitration, mediation, negotiation, and conciliation. However, for settlement through the courts, only the Commercial Court has the authority to handle copyright cases. Regulations regarding dispute resolution in the field of copyright, especially non-litigation channels such as mediation, are not specifically regulated in the UUHC. This can be seen from Article 95 Paragraph (4) which states that criminal charges can only be filed after the parties to the dispute try mediation. Therefore, mediation is considered a legal step that must be taken because it is mandated by law. All criminal acts regulated in the UUHC are classified as complaint offenses, which means that the complainant must file a complaint to start his legal process.

If it is connected with Pancasila as the basis of the state ideology, then penal mediation in the form of consensus deliberation is in line with the 4th precept of Pancasila, namely "Democracy led by wisdom in deliberation/representation" which in language explains that Indonesia is a democratic country. Pancasila democracy which calls for decision-making through deliberation reaches consensus. Pancasila democracy means democracy based on the power of the people that is inspired and integrated with other Pancasila principles. Mediation is a process of resolving disputes between two or more parties through negotiation or consensus with the help of a neutral party who does not have the authority to decide.

In Indonesia's positive law, in principle, criminal cases must be resolved in court. However, in some specific cases, there is a possibility of out-of-court settlement through the discretion of law enforcement officials, peace mechanisms, or customary institutions. Although this practice is frequent, there is no formal legal basis governing the settlement of criminal cases outside of court. In informal cases that have been resolved peacefully through customary law mechanisms, they must still be processed in court in accordance with the applicable positive law.

Criminal case settlement through the ADR/DR route, with a win-win solution approach, has been adopted in America to handle criminal cases involving corporations. This approach considers that corporations have strong resources and organizations, so granting dispensation to victims becomes possible in a rational way. The principle of a win-win solution, as explained by Covey, shows that a deal that benefits all parties can satisfy the needs and interests of the common. In its philosophical context, this concept emphasizes the importance of cooperation and interdependence in achieving success in various aspects of life. By understanding these interdependencies, we can work together with others to achieve mutual success, create seamless interactions, and find solutions that satisfy all parties involved.

The principle of Win-Win solution is considered suitable to be adopted as one of the alternative solutions to criminal cases involving corporations or individuals. This is in accordance with the concept in the draft of the new Criminal Code which stipulates that one of the purposes of penal is to resolve conflicts arising from criminal acts, restore balance, and bring peace in society, while releasing guilt to convicts. This concept is regulated in Article 50 paragraph 1 sub c and d of the draft Criminal Code of 1999-2000. In the case of copyright disputes related to electronic books, both in the civil and criminal realms, mediation can be the first step taken both inside and outside the court. Out-of-court mediation can be led by private mediators, individuals, or independent institutions such as the National Mediation Center (PMN). In court, mediation is regulated by Supreme Court Regulation (PERMA) No. 1 of 2016

which requires mediation before the examination of the subject matter of civil cases, with mediators consisting of District Court judges who are not involved in the case. Mediation proceedings in the courtroom of first instance are free of charge and are usually not open to the public unless the parties request otherwise. If mediation results in an agreement, both parties must formulate an agreement in writing and signed. The judge can confirm this agreement as a peace deed if it is considered valid and in accordance with the law.

Copyright infringement occurs when the copyrighted material is used without permission and there must be similarities between the two existing works. The prosecutor must prove that his work is imitated or violated or plagiarized, or that other works are derived from his work. Copyright is also infringed either in whole or substantially part of the copyrighted work that has been copied. It is the duty of the court to assess and examine whether any of the parts used are important, have distinguishing elements or parts that are easily recognizable. Substance is meant to be an important part, not a part in large quantities. Similarly, it is worth considering the balance of rights or interests between the owner and the community/society (Purwaningsih, 2005).

Copyright dispute resolution can be done through several channels, namely through alternative dispute resolution such as mediation or arbitration, as well as through the court route. The court authorized to handle copyright disputes is the Commercial Court. Courts other than the Commercial Court do not have the authority to handle copyright cases. Copyright infringement, including piracy, can be prosecuted both criminally and civilly. Before filing criminal charges, parties involved in copyright disputes in Indonesia are required to go through the mediation process first. If there is a copyright infringement that leads to a criminal verdict proven guilty, the proceeds of the criminal process can be used as evidence in civil proceedings. A verdict from a criminal court can be strong written evidence to show that copyright infringement has occurred. Thus, the copyright dispute resolution process in Indonesia combines elements of alternative settlement (ADR), arbitration, and court, with mediation as the first step required before entering the litigation path.

Alternative non-litigation dispute resolution, especially through mediation, in the context of resolving copyright disputes related to electronic books, is the right step as an ideal form of resolution. Although the UUHC provides legal protection to creators and copyright holders, there are still frequent copyright infringements in the field that require appropriate legal settlements. Mediation provides an approach that supports the parties to reach an agreement on their own, without direct intervention from the court. However, the success of mediation institutions in the courts of first instance is often hampered by several factors. One of them is the difficulty in reaching an agreement between the parties because the disputes they face are often filled with emotions, which results in low enthusiasm and enthusiasm in forming a productive communication forum.

In addition, the success of mediation also depends on the mediator's ability to master conflict resolution techniques that can encourage the parties to conduct effective negotiations. Another problem that can arise is the lack of understanding of the mediator, especially if the mediator is from the judges. This is due to the code of ethics that prohibits judges who are mediators from engaging in communication that is too close to the parties to the dispute. On the other hand, mediators from outside the court have the flexibility to study the case in depth and conduct intensive meetings with the parties through caucuses or private meetings.

CONCLUSION

The regulation of electronic book copyright is based on Article 40 paragraph (1) letter N of Law Number 28 of 2014 concerning Copyright, which ensures the safety and originality of digital books. However, numerous violations of copyright, such as piracy and illegal sales, still occur. To address these issues, mediation procedures are implemented, as regulated by Article 95 paragraph (1) of Law Number 28 of 2014 concerning Copyright. This allows parties to resolve disputes related to copyright

infringement without the creator's consent. The Supreme Court Regulation (Perma) Number 1 of 2016 also requires mediation before civil cases are examined. Mediation is the most effective alternative dispute resolution for copyright disputes, as it offers faster, lighter, and more affordable resolutions.

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