
Moral Rights of “Jargon” As Intellectual Property

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ABSTRACT

Legal protection of "Jargon" as something that can be protected is experiencing difficulties. Protection of "Jargon" as Intellectual Property is experiencing obstacles. Identifying the type of Intellectual Property is problematic because it does not have a tangible form, either Copyright or Industrial Property Rights. Therefore, it can be used by other parties even though "Jargon" is closely related to a person's characteristics and is created based on the results of someone's creative thinking. This often happens in the creative industry, which is supposed to apply creativity without injuring other people's creativity. This article analyzes and identifies "Jargon" according to Intellectual Property Law. It is supported by scientific articles related to the discussion to find efforts that can be considered in giving awards to the originators of "Jargon." Prior notification or inclusion of professional credit must be done before other parties use someone's "Jargon" as a grant of Moral Rights to the originator. Mainly if "Jargon" is used as a brand, company/agency, title of event to be broadcast, or other creative ideas.

Keywords: Jargon, Violation, Moral Rights, Intellectual Property Rights

I. Introduction

It is challenging to place “Jargon” as a type of Intellectual Property (Hsb, 2019). The Intellectual Property article written by Ali Marwan in 2019 provides an example of a polemic about a popular song sung by Siti Badriah with the title "Lagi Syantik" in which the word "Syantik" was also popularized as “Jargon” by singer Syahrini. Based on the meaning of Article 1 point (3) concerning Copyright Law (Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta) states that the "Lagi Santik" sung by Singer Siti Badriah is included in the category of creations protected by the state based on Copyright Law as a work of art because it has become an actual song. This means that there is no prohibition on singer Siti Badriah on her song which uses the word "Syantik" which, although at the same time, was also popularized as jargon by singer Syahrini. Placing “Jargon” as a form

of Intellectual Property is problematic because it needs a tangible form to be expressed in art, such as songs.

In addition, the internet is straightforward to access, making social media a famous new tool people use to carry out various activities. It is essential to understand the types and potential of Intellectual Property that can be found on social media to avoid injuring other people's Intellectual Property. There was a case that occurred in 2022 where a TikTok social media creator complained that the jargon he popularized was used by other parties, who were large companies. The author knows this because she is a follower of this content creator, and there is an article containing this news, which the author found on a website entitled "Jargon and its Legal Protection in the Intellectual Property Regime" (tfr.news, 2022). The originator of the jargon mentioned is "TBL" which was popularized by the Tiktok account @bondol_jpg. The complaint expressed was that there was no notification (professional credit) to him as the person who popularized the "TBL" jargon, which was considered to have violated his rights.

From this case, there is a fact that "Jargon", even though it is attached to a person's characteristics, is complicated to claim to avoid being used by other parties irresponsibly. As stated by Ali Marwan in an article entitled "Intellectual Property Jargon Viewed from the Intellectual Property Side", ideas and inspiration in creating a creation can come from anywhere (Hsb, 2019) does not rule out the possibility of "Jargon" being popularized by other people. However, here the author sees an imbalance, where jargon is not just anyone who can create it until it becomes popular and attached to its originator, such as the jargon "syantik" which is attached to the singer Syahrini and the jargon "TBL" which was popularized by creative activist @bondol_jpg. The difficulty is that the originator does not get the recognition and protection he should because the jargon is not translated into a concrete form, which means it cannot be categorized as Intellectual Property.

Jargon is something abstract that can be categorized as protected Intellectual Property. The author considers that the rights that jargon creators need to obtain through Intellectual Property protection are not merely economic but rather moral rights. So, there is a need to expand the forms of Intellectual Property that can be protected so that content creators remain enthusiastic in their work and cultivate a

culture of creative industries that are genuinely creative by mutually respecting the rights of content creators. Therefore, the author tries to analyze using normative juridical methods. This article will discuss the identification of "Jargon" in Intellectual Property and efforts to provide Moral Rights to the originator as an inherent right to the results of ideas and creativity contained in "Jargon".

II. Discussion

People do many things to make themselves easily recognizable, one of which is by creating "Jargon". Jargon can become a marker of a person because its appearance is consistent and reflects the characteristics of its originator, which is the idea of the originator. For example, in the background is a short phrase "TBL" coined by TikTok creative activist @bondol_jpg. As for @bondol.jpg, he often uses the phrase "TBL" in several short video uploads as his characteristic expression. Social media creators can have a vast influence through the content they create or are known as influencers. That is why social media creator can be said to be a profession that automatically has rights and obligations attached to it. Research from Reza Nur Shadrina and Yoestini Sulistyanto discusses the influence of influencers on consumer purchasing decisions, which obtained favorable results (Shadrina & Sulistyanto, 2022). This means that the influencer profession needs to be considered because it can be a direct link with the community, which positively impacts an activity that brings profit.

1. Identify "Jargon" in Intellectual Property

The existence of protection against "Jargon", which is a means of personal branding from the originator, needs to get attention. The following section explains several definitions of intellectual property and the types of Intellectual Property in Indonesia. Trade-Related Aspects of Intellectual Property Rights (TRIP's) divide Intellectual Property into 2 (two) parts, namely Copyright and Industrial Property Rights (brands, patents, industrial designs, integrated circuit layout designs, and trade secrets) (Lestari, 2019). The TRIP's Agreement adopts 2 (two) international conventions in dividing Intellectual Property, namely in the field of Industrial Property and Copyright, namely the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works (Amrikasari, 2017). Explanation before identifying the "Jargon" of

Intellectual Property needs to be explained in terms of the differences between Intellectual Property, Copyright, and Industrial Property Rights. Copyright gives the Creator Exclusive Rights, which arise automatically based on the Declarative Principle stated in Article 1 number 1 of the 2014 Copyright Law, while Industrial Property Rights give Exclusive Rights based on the Constitutive Principle (first to file) as contained in Article 3 of the Trademark Law and Geographical Indications 2016 (Undang-Undang Nomor 20 Tahun 2016 Tentang Merek Dan Indikasi Geografis, Pasal 3). Identification of "Jargon" in Intellectual Property is carried out based on understanding the various types of Intellectual Property in Indonesia.

Copyright is a part of Intellectual Property that protects works in science, art, and literature. Copyright Law, Article 1 provide limitations regarding what is protected in Copyright as contained in Article 40 of the 2014 Copyright Law, which is explained as follows (Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta, Pasal 40):

- a. books, pamphlets, published forms of written work, and all other written works;
- b. lectures, lectures, speeches, and other similar works;
- c. teaching aids made for educational and scientific purposes;
- d. songs and/or music with or without text;
- e. drama, musical drama, dance, choreography, puppetry, and pantomime;
- f. works of fine art in all forms such as paintings, drawings, carvings, calligraphy, sculpture, sculpture or collage;
- g. works of applied art;
- h. works of applied art;
- i. map
- j. works of applied art;
- k. photographic works;
- l. portrait;
- m. cinematographic works;
- n. translations, interpretations, adaptations, anthologies, databases, adaptations, arrangements, modifications, and other works resulting from transformation;
- o. translation, adaptation, arrangement, transformation, or modification of traditional cultural expressions;
- p. compilation of works or data, either in a format that computer programs or other media can read;
- q. a compilation of traditional cultural expressions as long as the compilation is an original work;
- r. video games; And
- s. computer program.

Judging from the explanation above, "Jargon" is not explicitly included in matters protected by the Copyright Law. Furthermore, Article 1 Number (5) of the Marks and Geographical Indications Law, contains the following meaning: A brand is a sign that can be displayed graphically in the form of an image, logo, name, word, letter, number, or color arrangement in the form of 2 (two) dimensions and/or 3 (three) dimensions, sound, hologram, or a combination of 2 (two) or more of these elements to differentiate goods and/or services produced by individuals or legal entities in goods and/or services trading activities (Undang-Undang Nomor 20 Tahun 2016 Tentang Merek Dan Indikasi Geografis, Pasal 1 angka 5). From the explanation of this definition, it is also not found explicitly that "Jargon" is included in what is meant by Marks. The definition of Brand also does not describe "Jargon" because it is known that jargon is just words or terms. According to the Merriam-Webster Dictionary, Jargon means the technical terminology or characteristic idiom of a special activity or group. (Merriam Webster Dictionary) This definition also explains that "Jargon" which is a vocabulary, certainly has no dimensions and is graphic in form.

Both forms of Intellectual Property, Copyright and Trademark, do not explicitly show the existence of "Jargon" as a type of Intellectual Property. Before carrying out further identification, the author conducted a study regarding the matters contained in "Jargon" as follows:

a. Jargon as a Result of Someone's Thinking

Creative activists understand that social media is a means of social interaction with society at large. Therefore, distinctive characteristics need to be identified to attract attention so that they are easily recognized. In interacting with someone, language is needed as a communication tool, quoting Rahardi's statement in the article entitled "Characteristic Patterns of Various Language Terms During the Covid 19 (Coronavirus Disease 2019) Pandemic" by Wahyu Oktavia and Nur Hayati that Language functions as a communication tool used to expressing self-expression of everything that is implied in one's thoughts and feelings, and the development of Indonesian is also closely related to creating new vocabulary and terms (Oktavia & Hayati, 2020).

According to Hartmann and Stork, quoted in the article "Student Jargon at the Faculty of Engineering, State University of Surabaya" by Ayu Rhisma Tianingsih, jargon is a set of terms and expressions used by a social group or workers, and which are often not understood by the public (Tianingsih, 2019). The formation of "Jargon," according to Santoso, quoted in the same previous article, is based on the formation process and origin of the terms (Tianingsih, 2019). Seeing this, the author tries to identify the jargon "TBL" which was coined by @bondol_jpg through its formation first. "TBL" is an abbreviation of "Takut Banget Loh" in the statement "Takut Banget Loh" is a phrase because more than one word contains meaning. Furthermore, the origin of the term "TBL" or "Takut Banget Loh" jargon comes from Indonesian.

This is an example of a simple analysis that could explain that "Jargon" can arise because of a formation process influenced by a person's thoughts and feelings. This is intended to create interaction with the audience or social media users and is a means for "Jargon" creators to express feelings, as exemplified in "TBL" or "Takut Banget Loh" which implies surprise about something.

In the Copyright Law, Creation is any creative work in science, art, and literature produced based on inspiration, ability, thought, imagination, dexterity, skill, or expertise expressed in concrete form. The author assumes that in terms of forming "Jargon" it has explained several things that are fulfilled to be categorized as works as intended in the Copyright Law because they result from works of inspiration, ability, thought, imagination, dexterity, skills, or expressed expertise.

b. Providing Economic Value

The use of "Jargon" by content creator is a means used to make them easily recognizable because they become their distinctive characteristics. People immediately understand who they are watching when they hear or watch a show on social media. Jargon can also be attractive because it is conveyed with intonation and spiced up with the creator's behavior in the broadcast. So, it is not uncommon for creators to take advantage of the attention that comes to them to convey information from themselves and other parties who need it. Most people in Indonesia love various kinds of social media, such as Facebook, Twitter, Instagram,

TikTok, and YouTube. These social media applications contain not only technology but also social interaction (Karman, 2015)

Article 8 of the Copyright Law states that economic rights are the exclusive rights the Creator or Copyright Holder obtains for their work. Economic Rights include commercial use by the Creator or Copyright Holder of their work, such as publishing, duplicating, translating, adapting, arranging or transforming, distributing, performing, communicating, and renting. From these activities, the profits obtained are the rights owned by the Creator or Copyright Holder. For example, a work in the form of a novel book is duplicated for sale and purchase to the public, and then the sales proceeds are obtained, which are the rights of the Creator or Copyright Holder.

This is also contained in "Jargon" which directly and indirectly has the same benefits as the works referred to in the Copyright Law. As previously explained, the "Jargon" owned by content creator attracts the attention of social media users. Content creator who can attract the attention of social media users are proven by the number of liked content or the number of viewers and often respond to the comments column. Then, it is used as an online marketing strategy for a product for sale or what is known as endorsement. Content creator, in this case as endorsers, have rights and obligations regarding the products marketed through their accounts. An endorser must have potential seen from the VisCap dimensions: Visibility, Credibility, Attraction, and Power (Ivone et al., 2022). An explanation of these four things indicates that a person has potential, such as how famous he is (visibility), expertise/knowledge (credibility), the attractiveness of the endorser (attractiveness), and the strength to influence the audience (power). There is a relationship that the higher the popularity of a celebrity and the better their ability to convey information, the higher the consumer's buying interest in a product (Dhaefina et al., 2021). So, the indirect relationship is intended to be a carrying capacity for the originator (content creator), which gets attention through "Jargon" to become a means of marketing products online. Through this, the originator (content creator) obtains the benefits of "Economic Rights" to the "Jargon".

c. Causing Losses

There are several reports that the author tried to find through websites related to jargon used by other parties. Quoted from the Okezone.com article "Creator of Song Lagi Syantik Responds to Syahrini's Statement" (Okezone, 2018, <https://celebrity.okezone.com/read/2018/07/06/205/1918611/pencipta-lagu-i-lagi-syantik-i-tanggapi-pernyataan-syahrini>). At that time, many media reported that the jargon "Syantik" which was popularized by singer Syahrini was used as a song by singer Siti Badriah into a song entitled "Lagi Syantik". It is still fondly remembered that the song "Lagi Syantik" became popular and was listened to by many groups. This sparked a feeling of "protest" from singer Syahrini, who claimed that the word "Syantik" came from her jargon. Simultaneously, this was also responded to by the creator of the song "Lagi Syantik" that this was not related at all because she was inspired by something else. Of course, polemics like this are detrimental, considering that fellow art workers must support each other in appreciating someone's work.

In the following case, the author quotes from the tfr.news website article "Jargon and Its Legal Protection in the Intellectual Property Rights Regime" (tfr.news, 2022) "TBL TBL TBL, Takut Banget Loh" is a short phrase that has been popular recently. This phrase is being widely discussed, not because of its cuteness, but regarding permission to use it. The owner of the short phrase, @bondol_jpg, via Instagram, expressed his disappointment with the actions of large companies that use the phrase for promotional purposes without first asking permission. Not only that, in the online news, there is news with the source article entitled "The Trending Banget Loh a.k.a TBL Television Program is Very Crowded, the Original Owner of the TBL Jargon Insinuates the RCTI Creative Team" (Pikiran Rakyat Ciamis, 2022, <https://ciamis.pikiran-rakyat.com/entertainment/pr-504872701/program-televisi-trending-banget-loh-ramai-pemilik-asli-jargon-tbl-sindir-tim-kreatif-rcti?page=all>). There was disappointment expressed by @bondol_jpg regarding this matter by making a video who regrets that there is no permission to make a TV show with the jargon title he usually uses. Creative industries, especially those that use other people's creative ideas, especially if "Jargon" is already popular, should be able to contact the content creator who

created it, mainly if it is used for brands, companies, campaigns, programs, or other creative ideas.

The author compares Virtual Property and identifies "Jargon" in Intellectual Property that can be protected in this discussion. Creative work on social media has extraordinary potential. Strengthening the protection of rights and obligations regarding this matter is necessary because it can optimize economic potential. (Indra Astuti et al., 2021). An article written by Joshua A. T. Fairfield in the Boston University Law Review explains that the definition of Virtual Property is code created using computer systems and the internet in the cyber world, formed in such a way and treated the same as objects that exist in the real world (Fairfield, 2005). Virtual Property is the development of objects in cyberspace or objects that are not real (Lubis et al., 2022).

The meaning of being treated the same as objects in the real world is contained in Article 503 of the Civil Code, which explains that tangible and intangible objects exist. The existence of Virtual Property, an object in the cyber world, clearly does not have a tangible form, but its benefits can be felt; it even has rights attached to it and has a natural economic function (Nugrahaningtyas, 2017). The definition of objects in Book II of the Civil Code, Article 499, means every item and right that Property Rights can control (Kitab Undang-Undang Hukum Perdata). So, Virtual Property can be categorized as an object (intangible) by Article 503 of the Civil Code and controlled by Property Rights (Article 570 of the Civil Code). Virtual Property arises from the existence of a creation that arises from an idea or idea of human thought using the intellectual intelligence they possess (Nugrahaningtyas, 2017). This automatically means that anyone who has created Virtual Property will obtain ownership rights to the object they created and can use it freely.

Next is the identification of Virtual Property as Intellectual Property. Just like objects in the real world, objects that are various types of Virtual Property commonly known are items found in online games. For some people who play the Mobile Legends game, you may be familiar with the term skin in the game. Players use Skin as an accessory item to make the hero look different from other players,

providing additional instrumental effects and supporting the game to make it better (Detikinet, 2023). Skins in the Mobile Legends game have the same position as objects in the real world because they can be owned with ownership rights. Moonton created the Mobile Legends game and is the owner (Article 570 of the Civil Code) and copyright holder for the Mobile Legends game. Ownership of the Mobile Legends game and everything in it, including Virtual Property, is confirmed in the End User License Agreement (EULA), which also functions as Terms of Service (ToS) (Sitorus et al., n.d.). Skins in the Mobile Legend game can be transferred to control rights (bezit) in Article 529 of the Civil Code through a rental mechanism between Moonton (license owner) and players through a EULA agreement. A clause in the EULA agreement also states that all content available in the Mobile Legends game is protected under the Copyright Law.

Even though Virtual Property does not have a juridical definition, its existence is protected as one of the Copyright in Article 40 of the Copyright Law because it is created using computer technology (Sitorus et al., n.d.). In this way, Virtual Property, defined as objects in legal settings, is also included in things that can be protected by Copyright Law.

The author does not try to insert "Jargon" into the Virtual Property but compares that something that is not natural can be defined as an object as long as it meets the criteria regulated in the law. Therefore, to identify "Jargon" like Virtual Property, it must be categorized as an object first. Previously, it was explained that there are 2 (two) categories, namely tangible and intangible objects. Then, we will discuss the identification of Virtual Property in the Mobile Legend game skin as an example of intangible objects because they cannot be touched even though they can be seen. However, it differs from "Jargon" where its existence is difficult to prove, depending on who first popularized it or who coined it. It is not easy to prove this, in contrast to Virtual Property, which can be protected under Copyright Law because it can be traced based on when it was created and who made it, which can be detected because it was created using a computer device.

Article 40 Paragraph (3) of the Copyright Law guarantees that protection for works (Article 40 Paragraph (1)) that have not been or have not been announced (the nature of Copyright is Declarative) but has been realized in a concrete form

that allows the reproduction of the work. It can be concluded that the importance of realizing a creation, in this case, "Jargon", so that it can be protected is that realizing it in a concrete form makes it easier to prove. What can be done to give existence to "Jargon" is to make it into something that can be protected by Copyright (Article 40 of the Copyright Law), such as giving a tone to the "Jargon" so that it can become a song like the word "Syantik" in the song "Lagi Syantik" mentioned in the background above. In line with this, Industrial Property rights such as Trademarks also have regulations that are more or less the same as Copyrights in identifying "Jargon" within the scope of protected Intellectual Property. Jargon can be protected through the Trademark Law as an inseparable part of a company's trademarks and services. One of the taglines that may receive brand rights protection (if registered) is that of Chitato snacks, which reads "life is never flat" or Silverqueen, "ada Silverqueen ada santai" (tfr.news, 2022). Important things must be fulfilled to obtain protection under the Trademark Law if it is part of a particular brand, whether goods or services that trade in something that can be valued in money, has a logo, and has been registered.

The elements that can be implemented to protect "Jargon" have not been fulfilled because they are not identified as Intellectual Property, making them vulnerable to violations such as plagiarism. The results of ideas expressed in "Jargon" created by social content creator (influencers), apart from having a positive impact, can also make them vulnerable to plagiarism.

2. Inclusion of Professional Credits as a Form of Granting "Jargon" Moral Rights to Originators

The international legal perspective regarding Moral Rights is regulated in Article 6 of the Bern Convention, which states that: *...the author shall have the right to claim the authorship of the work and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honor or reputation*" (Lestari, 2019). Then, according to Article 1 of the Copyright Law, the definition of creator is a person or several people who individually or together produce a unique and personal creation. The creation in question is any creative work in science, art, and literature produced based on inspiration, ability, thought, imagination, dexterity,

skill, or expertise expressed in concrete form. Based on this, it can be concluded that Moral Rights are obtained by the creator who owns the creation in tangible form. It has been explained in the previous discussion that the reality faced by "Jargon" in order to be identified as Intellectual Property faces obstacles because it is not a creation that is realized in tangible form. Of course, this will affect the Moral Rights desired by creative activists regarding "Jargon".

Inspiration can come from anywhere, but what is important is how to implement mutual respect between fellow creative activists, especially on social media. There is a familiar term, ATM (observe, imitate, and modify). It is feared that creative activists who imitate without modification will reduce the enthusiasm of other creative activists to work. As in the case of the jargon "TBL" which was popularized by the Tiktok account @bondol_jpg, it was explained that in the inclusion of "TBL" which was claimed to be used as the program name of one of the TV stations, basically, they only wanted good faith for the show or included a notification (professional credit) to this short phrase (tfr.news, 2022). A statement in the digital culture module issued by Kominfo teaches us to respect other people's work and know about access rights, freedom of expression, protection of privacy, and Intellectual Property Rights that must be considered in social life (Indra Astuti et al., 2021). Even though in the explanation of the previous discussion, it is difficult to identify "Jargon" as a form of Intellectual Property to obtain protection, there is an urgency to protect Moral Rights that needs attention. The case of the Tiktok account @bondol_jpg can be a reminder that there is a chance that not all creative ideas born from human thought can be accommodated to obtain legal protection to avoid irresponsible things.

Several studies have been carried out on the things contained in "Jargon" that results from someone's thoughts that can provide economic benefits and cause harm to the originator, so if it meets the elements to be protected as part of Intellectual Property, namely Moral Rights. Based on this, it is necessary to have regulations to recognize the originator's existence and respect the Moral Rights that can be owned, such as through the obligation to include professional credits for "Jargon" popularized by someone if they want to use it.

The purpose of considering the awareness of including professional credits for "Jargon" is as a form of appreciation for the creative ideas of the originator. The author finds this imbalance as an example that has occurred in the case of the "TBL" jargon used by large companies and one TV program. Intellectual Property Law cannot reach "Jargon" which is only an idea but has not yet become a reality. However, it can provide broadcast copyright protection if the TV program carries out its activities using the jargon "TBL" as the program's title. It is known that broadcasting institutions are regulated by Copyright and are related to the Economic Rights obtained through these activities, which are contained in Article 25 of the Copyright Law. The information obtained was that the two parties had discussions, and the TV program titled "TBL" was not broadcast. However, things like this do not rule out the possibility that they could happen again. Further thought needs to be done regarding recognizing the existence of "Jargon" originators, mainly if their creative ideas are used for activities that gain economic benefits from this.

The provisions in the Copyright Law are indeed a reference in knowing the limits of one's work so that it can be protected from infringement of one's creation. However, there needs to be an expansion of thinking that as long as it is the result of an idea, someone needs to have awareness and ethics in using it as long as it is known who the originator of the idea is. Even though the jargon is an example of "TBL", which, although not yet tangible, was popularized through the social media TikTok, it can still be traced to when it first appeared and who the originator was, especially when it was popularized through media that everyone can access easily. Again, the author gives the example of the jargon "TBL", which, from the composition of the letters, is not an official word issued by the Large Dictionary Indonesian (KBBI). It would be impossible if we assumed that many people claimed they found the idea to create this jargon without any inspiration. Therefore, there needs to be awareness of respect for each other's thoughts as a culture of creativity.

III. Closing

1. Conclusions

Jargon is born from human ideas and thoughts, which gives its originator a distinctive characteristic that cannot yet be categorized as Intellectual Property because it does not have a tangible form. The consequence needs to be more intellectual property protection and inherent exclusive rights. This causes actions by other parties who use popular jargon to occur frequently. On the one hand, the other party's actions do not violate Intellectual Property. However, there is a loss for the originator of the "Jargon" who has worked hard to build a personal brand with that "Jargon". It could be considered in terms of including professional credit in terms of the use of jargon that someone popularizes, let alone used in matters that involve gaining economic benefits from these activities.

2. Suggestions

However, the existence of ethics in respecting other people's thoughts expressed in the form of "Jargon" must become a culture in using digital media by not using it, let alone using it to gain economic profit or at least include notification (professional credits) to the originator. Apart from the terms observe, imitate, and modify, the author adds professional credits as a form of appreciation for the originator to obtain moral rights.

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