

IMPLEMENTATION OF FAIR USE DOCTRINE OF INDONESIAN NOVEL'S INDEPENDENT TRANSLATION ON NOVEL UPDATES WEBSITE

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ABSTRACT

Fair Use doctrine has long been utilized as a substantive principle within copyright law. This Legal Research is written to analyze the implementation of Fair Use doctrine in Indonesian Copyright Law. Additionally, this Legal Research focuses on the implementation of Fair Use doctrine on independent translations which was derived from Indonesian novels and later posted online on a website named Novel Updates.

In order to analyse the implementation of Fair Use doctrine in Indonesian Copyright Law and the aforementioned independent translations, this Legal Research is formulated using normative legal research method that relies on the written material that is publicly available. This Legal Research also uses empirical method for legal research to find existing implementation of Fair Use doctrine in the scope of Indonesian Copyright Law, where said implementation will be examined on the independent translations of Indonesian novels provided through the Novel Updates website.

Based on the result of the research, the author found out that Fair Use doctrine has been implemented within the scope of the Indonesian Copyright Law by way of regulations in Article 43 to Article 51 of Law No. 28 of 2014 concerning Copyright. The aforementioned Law has provided stipulations in line with the doctrine of Fair Use, which purpose is to protect the moral and economic rights of an author or creator of a copyrighted material. In practice, based on the author's interview and observations, the Directorate General of Intellectual Property under the directive of Ministry of Law and Human Rights has the responsibility to carry out implementation of fair use towards the general public. Moreover, it has been found that there was a high probability that Fair Use doctrine was not implemented accordingly on the Indonesian novels, entitled *Negeri Para Bedebah* and *Pasung Jiwa*, which has been provided through the website Novel Updates. As such, there were potential fair use infringements against the original authors of each respective Indonesian novels.

Keyword: Implementation, Fair Use, Indonesian Copyright Law, Independent Translation, Novel Updates

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IMPLEMENTASI DOKTRIN FAIR USE TERHADAP TERJEMAHAN BEBAS NOVEL INDONESIA DALAM SITUS WEB NOVEL UPDATES

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INTISARI

Doktrin penggunaan wajar atau doktrin Fair Use telah lama digunakan sebagai prinsip substantif dalam hukum hak cipta. Penelitian Hukum ini ditulis untuk menganalisis penerapan doktrin fair use dalam Hukum Hak Cipta Indonesia. Selain itu, Penelitian Hukum ini berfokus pada penerapan doktrin Fair Use pada terjemahan bebas yang berasal dari novel Indonesia dan kemudian diposting secara daring pada situs web bernama "Novel Updates".

Untuk menganalisis penerapan doktrin Fair Use dalam Undang-Undang Hak Cipta Indonesia dan terjemahan bebas di situs web "Novel Updates", Penelitian Hukum ini dirumuskan menggunakan metode penelitian hukum normatif yang bergantung pada materi tertulis yang tersedia untuk umum. Penelitian Hukum ini juga menggunakan metode empiris untuk penelitian hukum untuk menemukan implementasi doktrin Fair Use yang ada dalam ruang lingkup Undang-Undang Hak Cipta Indonesia, di mana implementasi tersebut akan diperiksa pada terjemahan independen novel Indonesia yang disediakan melalui situs web Novel Updates.

Berdasarkan hasil penelitian, penulis menemukan bahwa doktrin Fair Use telah diterapkan dalam lingkup Undang-Undang Hak Cipta Indonesia melalui pengaturan dalam Pasal 43 sampai dengan Pasal 51 Undang-Undang No. 28 Tahun 2014 tentang Hak Cipta. Undang-undang tersebut telah memberikan ketentuan yang sejalan dengan doktrin Fair Use, yang tujuannya adalah untuk melindungi hak moral dan ekonomi seorang penulis atau pencipta materi ber-hak cipta. Dalam praktiknya, berdasarkan wawancara dan pengamatan penulis, Direktorat Jenderal Kekayaan Intelektual di bawah arahan Kementerian Hukum dan Hak Asasi Manusia memiliki tanggung jawab untuk melakukan penerapan fair use terhadap masyarakat umum. Selain itu, telah ditemukan bahwa ada kemungkinan besar bahwa doktrin fair use tidak diterapkan dengan sesuai terhadap novel Indonesia, berjudul Negeri Para Bedebah dan Pasung Jiwa, yang telah disediakan melalui situs web Novel Updates. Oleh karena hal tersebut, ada potensi pelanggaran fair use terhadap masing-masing penulis asli novel Indonesia tersebut.

Kata kunci: Implementasi, Fair Use, Undang-Undang Hak Cipta Indonesia, Terjemahan Bebas, Novel Updates

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