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LEGAL CERTAINTY IN THE ENFORCEMENT OF COPYRIGHT INFRINGEMENT ON E-COMMERCE PLATFORMS IN INDONESIA

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Abstract

Although Indonesia has Law No. 28 of 2014 on Copyright, the legal problems of copyright infringement in transactions on e-commerce platforms are legal regulations regarding the enforcement of copyright infringement and the awareness of e-commerce platform users. There is a gap between the current law and the reality on the ground, and piracy is still widespread. The purpose of this study is to analyze legal certainty in the enforcement of copyright infringement on e-commerce platforms based on the current law and to identify challenges in its enforcement. The method used in this research is a normative legal research method that involves analyzing laws and regulations, legal theories, and literature related to copyright and e-commerce issues. The findings of this study recommend the reconstruction of copyright enforcement on e-commerce platforms in Indonesia through the integration of advanced technologies such as Artificial Intelligence (AI) and automated algorithms to effectively detect and monitor violations, accompanied by the simplification of administrative processes. Additionally, it emphasizes the importance of defining specific responsibilities for e-commerce platforms, strengthening sanctions for royalty payment violations, and increasing legal awareness among users through educational campaigns and transaction agreements that include copyright protection to ensure legal certainty in the digital era.

Keywords: Legal Certainty, E-commerce, Copyright Infringement

Introduction

E-commerce has experienced rapid growth worldwide, including in Indonesia. According to data from the Indonesian E-commerce Association (idea) or *Asosiasi E-Commerce Indonesia*, the value of e-commerce transactions in Indonesia reached IDR 476 trillion in 2022, marking an 18.7% increase compared to the previous year, with significant annual growth (Kemendag RI 2023). However, this rapid expansion of e-commerce has also led to emerging legal issues, one of which is copyright infringement, which frequently occurs in the e-commerce sector (Misra 2011). The ease of access and digitalization of content have influenced the tendency for copyright violations, particularly in economically valuable activities within the e-commerce sector (Misra 2011).

Unauthorized use of copyrighted works is widespread in electronic transactions (Widowati 2022a). Such violations not only harm the rights holders but also reduce consumer trust in online transactions (Adrisky, Disemadi, and Sudirman 2024; Disemadi and Kang 2021).

Data from the Directorate General of Intellectual Property (DGIP) or *Direktorat Jenderal Kekayaan Intelektual (DJKI)* of the Ministry of Law and Human Rights indicates a rise in copyright infringement complaints in Indonesia, especially related to e-commerce. In 2022, DJKI received 1,250 complaints of copyright infringement, representing a 15% increase from the previous year (Kemendag RI 2023). The economic impact of copyright infringement and counterfeit goods in Indonesia is severe. A 2020 study reported economic losses of IDR 291 trillion caused by counterfeit product circulation, with tax losses amounting to IDR 967 billion (Lestarini 2023). This phenomenon is not limited to Indonesia but is also a global issue. In 2022, the online trade of counterfeit goods was estimated to reach USD 509 billion, equivalent to 3.3% of global trade (WTO 2022).

In Indonesia, the primary regulation governing copyright in the e-commerce sector is clearly outlined in Law Number 28 of 2014 on Copyright (Copyright Law). This law provides a robust legal framework for protecting copyright as a form of Intellectual Property. However, the prevalence of copyright infringements indicates that its implementation on e-commerce platforms remains suboptimal. This observation is supported by several studies, including those by Muhammad Rifqi Nur Wachid. While legal mechanisms to protect copyrights exist, many copyright owners face significant challenges in asserting their rights due to weak law enforcement in the e-commerce sector (Misra 2011)(Rahmayanti et al. 2024). This legal challenge is further exacerbated by the rapid pace of technological advancement, which outstrips the development of relevant regulations. Consequently, despite existing regulations, copyright violations continue to thrive on e-commerce platforms (Hubanov et al. 2021).

Several previous studies have examined the issue of copyright protection in the digital sphere and on e-commerce platforms. (Ali et al. 2022) highlighted that rampant copyright violations in e-commerce are not unique to Indonesia, citing Singapore's efforts to combat similar infringements despite differences in legal systems. (Ashibly and Jimmy 2023) explored the "Tiki Taka" strategy, which employs automated detection technology to prevent copyright

violations in Indonesia. Meanwhile, (Rahmayanti et al. 2024) underscored the weaknesses in Indonesia's copyright regulations in the digital context, emphasizing the importance of collaboration between the government and e-commerce platforms. (Simangunsong, Santoso, and Lumbanraja 2020) revealed the widespread sale of pirated literary works on platforms like Tokopedia without permission from copyright holders. Although a reporting mechanism is in place, responses from Tokopedia are often slow, and legal actions are inconsistent. Similarly, (Widowati 2022b) discussed the weak enforcement of copyright laws in marketplaces, attributing the problem primarily to a lack of public awareness regarding copyright. These studies collectively emphasize that addressing copyright violations in the e-commerce sector requires stronger law enforcement, technological advancements, and heightened public awareness. Regulatory improvements must also align with the pace of technological developments to ensure effective copyright protection in the digital age (Kusuma, Permatasari, and Yokotani 2024).

Unlike previous studies, the novelty of this research lies in its analysis of the challenges and legal certainty surrounding copyright enforcement on e-commerce platforms. This study offers a theoretical contribution by enriching the legal scholarship, particularly in the field of copyright protection within electronic commerce. Practically, the research aims to provide actionable recommendations for policymakers, either by reconstructing the Copyright Act or by developing more effective enforcement strategies to safeguard copyrights in e-commerce. However, this study has limitations in its scope, as it focuses solely on a normative analysis of copyright infringement enforcement in e-commerce and does not address other aspects of intellectual property protection.

Research Questions

Based on the background presented, the following research questions are formulated:

1. How is legal certainty regarding the enforcement of copyright infringement on e-commerce platforms in Indonesia ensured under the prevailing laws and regulations?
2. What challenges are encountered in enforcing laws against copyright infringement on e-commerce platforms in Indonesia?

Research Methods

The research employs a normative legal research method, chosen for its suitability in examining legal certainty in the enforcement of copyright infringement on e-commerce platforms in Indonesia. This method fundamentally focuses on document analysis and the interpretation of relevant laws and regulations. As (Disemadi 2022) explains, normative legal research emphasizes the study of law as its primary object, excluding non-legal materials from the scope of the research. The approach adopted in this study involves statutory and legal approaches, relying on secondary data derived from previous research and existing legislation pertinent to copyright infringement and electronic transactions. The key regulations analyzed include Law Number 28 of 2014 on Copyright and Law No. 1 of 2024 on Information and Electronic Transactions (ITE). By employing these statutes, the study examines the prevalence of copyright violations, which are increasingly common, particularly within the e-commerce domain (Tan 2021).

Result and Analysis

Legal Certainty Regarding Enforcement of Copyright Infringement on E-Commerce Platforms in Indonesia

The rapid advancement of information and communication technology has significantly propelled the growth of e-commerce platforms, establishing them as one of the fastest-growing sectors within the digital economy. In Indonesia, e-commerce has emerged as a critical medium for facilitating online transactions of goods and services (Rosmayati 2023). However, this expansion has also brought forth challenges, particularly concerning violations of intellectual property rights (IPR), specifically copyright. The enforcement of copyright laws on e-commerce platforms has become a pressing issue to ensure legal certainty and protect the rights of copyright owners. Philosophically, Article 28C paragraph (1) of the 1945 Constitution of Indonesia states, *“Every person shall have the right to develop themselves by fulfilling their basic needs, obtain education, and benefit from science and technology, art, and culture to enhance their quality of life and promote the welfare of humanity”* (Rokilah 2020). The phrase *“the right to benefit from science, art, and culture to enhance their quality of life and promote the welfare of humanity”* reflects the entitlement individuals possess as a result of their intellectual contributions in the fields of science, art, and

culture – commonly referred to as Intellectual Property (IP). Such rights ensure that creators receive protection and the ability to benefit from their intellectual creations. Grounded in this philosophical foundation, Indonesia has established specific regulations (*lex specialis*) regarding copyright protection, as stipulated in Copyright Law (Dharma and Mahadewi 2023). This law is designed to safeguard and provide legal certainty for works that meet the requirements of originality and are embodied in tangible forms, such as artistic works, literature, music, and software (Ernatudera, Alam, and Wijaya 2023).

The legal protection and certainty provided by the Copyright Law encompass both *moral rights* and *economic rights*, which grant exclusivity to copyright holders regarding the use, distribution, and reproduction of their works. The Copyright Law outlines the scope of intellectual property protection, the mechanism for copyright registration, penalties for violations, and law enforcement procedures (Taopik and Yuliawan 2022). Enforcement measures include both civil and criminal sanctions. Criminal penalties may involve fines and imprisonment, while civil sanctions can require the violator to compensate the copyright holder for damages. Moreover, the Copyright Law ensures strong legal protection and certainty for copyright holders by imposing strict penalties and offering mechanisms for dispute resolution through litigation or alternative means, such as mediation and arbitration (Maslamah 2023). This regulatory framework underscores Indonesia's commitment to safeguarding intellectual property, fostering a fair digital economy, and ensuring that creators' rights are adequately protected.

In the context of copyright protection within e-commerce platforms, several additional regulations govern this domain, including the Civil Code (Burgerlijk Wetboek), Law Number 1 of 2024 amending Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law), Government Regulation Number 80 of 2019 on Trading Through Electronic Systems (PP PMSE), and Government Regulation Number 24 of 2022 on the Implementation of Law Number 24 of 2019 concerning the Creative Economy. According to the Civil Code (Burgerlijk Wetboek), as discussed by Subekti in his work on the principles of civil law, a movable object is defined as any object that is not attached to land and has been legally designated as such (Magdariza 2023). This classification aligns with the Copyright Law, particularly Article 3 Paragraph (1), which states that copyright is considered a movable object.

Therefore, copyright can be categorized as a movable object under the law, providing legal certainty for copyright owners (Darmawan and Sardjono 2023).

Furthermore, the ITE Law also regulates and protects copyright as intellectual property rights from digital crimes in the e-commerce sphere, specifically in Article 25 and Article 32 Paragraph (1). Article 25 safeguards electronic information and/or electronic documents that are compiled into intellectual works, while Article 32 Paragraph (1) governs an individual's rights to store, process, and communicate information. Government Regulation Number 80 of 2019 on Trading Through Electronic Systems serves as a specialized regulation governing electronic commerce, including e-commerce platforms. This regulation provides a clearer legal framework, focusing on transaction mechanisms within e-commerce platforms, as well as the rights and obligations of parties involved in the exchange of goods and services (Shabillia and Santoso 2023).

Additionally, Government Regulation Number 24 of 2022 on the Implementation of Law Number 24 of 2019 concerning the Creative Economy highlights the importance of a more transparent and expeditious mechanism to address copyright infringements, particularly within e-commerce platforms (Wulandari 2024). However, the implementation of this regulation faces challenges, such as a lack of synergy between platform providers and the government in addressing copyright violations. This issue arises due to the absence of effective sanctions for platforms that fail to fulfill their obligations (Hutahaean 2024).

Although several regulations governing the enforcement of copyright protection, particularly within e-commerce platforms in Indonesia, have been established, various challenges persist in practice. The ineffectiveness of these measures is evidenced by the significant number of copyright infringement reports, which have reached 40% in the past two years, as reported by the Ministry of Trade of the Republic of Indonesia (Kemendag RI 2023). This situation undermines legal certainty and fairness, consequently affecting the pace of economic growth within the digital space. Beyond regulatory frameworks for copyright protection, e-commerce platform providers also play a critical role in enhancing the effectiveness of copyright enforcement.

However, to date, the responsibilities of e-commerce platform providers in Indonesia regarding copyright protection have not been comprehensively regulated. As a result, many platforms, often unintentionally, become complicit in copyright infringements (Febriana, Siddiq, and Mandala 2023).

In a study by C. Geiger, the successful enforcement of copyright protection within e-commerce platforms in Europe was attributed to the imposition of proactive obligations on platform providers. These obligations require platforms to actively prevent and remove infringing content uploaded by users. In addition to legal enforcement, raising public awareness about the importance of respecting copyright is a crucial factor. The government and relevant stakeholders must consistently promote copyright education and awareness through various media channels and platforms, including social media and e-commerce platforms (Andrias et al. 2024). Furthermore, active public participation in reporting copyright infringements is essential to ensuring robust copyright protection.

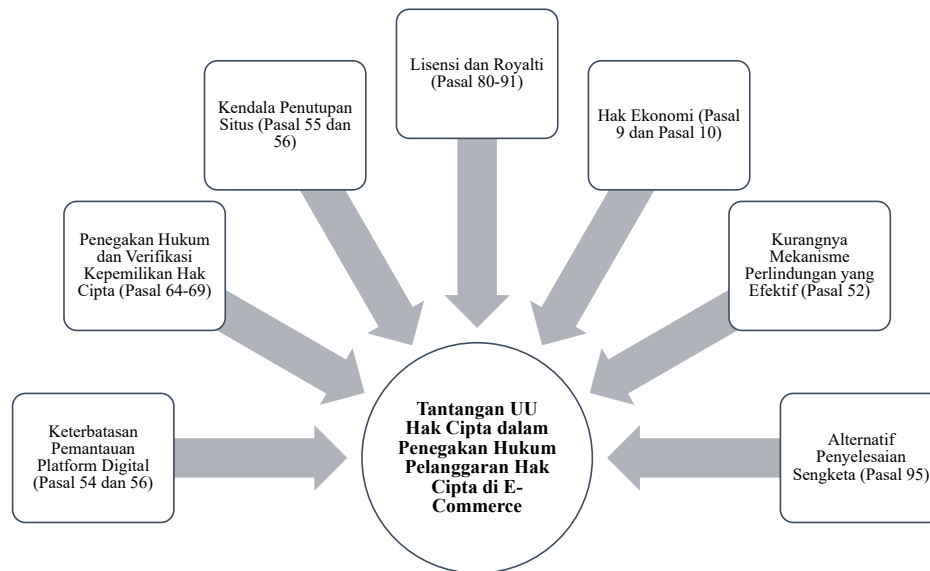
Challenges in Law Enforcement against Copyright Infringement on E-Commerce Platforms in Indonesia

The enforcement of copyright law against infringements on e-commerce platforms faces various challenges and regulatory weaknesses. These challenges stem not only from the limitations of existing legal frameworks but also from the dynamic nature of the e-commerce ecosystem itself (Putri, Asikin, and BF 2024). Although the Copyright Act provides general protection for intellectual property, it is widely regarded as insufficient in accommodating the rapid growth of digital technology and transactions occurring on e-commerce platforms. A critical weakness in the Copyright Act lies in the limited monitoring of digital platforms as stipulated in Articles 54 and 56. Article 54 grants the government authority to oversee copyright violations on technology-based platforms. However, its implementation is often hindered by a lack of resources and effective technological tools, such as automated detection systems for copyright infringements. Similarly, Article 56 empowers the government to restrict access to infringing content; however, lengthy administrative processes create opportunities for offenders to evade enforcement by shifting to alternative platforms (Zuhir 2017).

The enforcement and verification of copyright ownership present additional challenges for e-commerce transactions in Indonesia. Articles 64 to 69 of the Copyright Act specify that copyright registration is optional, leading to many works remaining unregistered. This creates significant difficulty in verifying ownership when infringements occur on e-commerce platforms (Weley 2023). Furthermore, Article 68 provides for ministerial examinations of copyright issues but fails to outline a clear mechanism for monitoring unregistered copyrights' unauthorized use. The closure of infringing websites, as regulated under Articles 55 and 56, also faces administrative hurdles that delay enforcement. The procedures, which require recommendations from the minister and court approval, are often time-consuming. Moreover, with respect to licensing and royalties, Articles 80 to 91 highlight that many e-commerce operators either lack understanding or intentionally neglect their obligations to pay royalties (Yuswar et al. 2023). The Collective Management Organizations (CMOs), established under Articles 87 and 88, lack effective sanction mechanisms to ensure compliance by e-commerce businesses with royalty payment obligations.

Article 9 of the Copyright Law, which prohibits duplication or commercial use without permission, faces significant challenges in enforcement on e-commerce platforms that allow the anonymous use of copyrighted materials. Furthermore, Article 10 of the Copyright Law mandates marketplace operators to prevent copyright infringements; however, the specific responsibilities of e-commerce platforms remain undefined. This ambiguity creates a legal loophole that can be exploited by irresponsible parties (M. Citra Ramadhan et al. 2023). Another notable weakness lies in the lack of effective protection mechanisms as stipulated in Article 52 of the Copyright Law. The prohibition against tampering with technological protection measures is difficult to enforce because such violations often go undetected. Finally, the alternative dispute resolution mechanisms outlined in Article 95 of the Copyright Law are also criticized for their high costs, which pose significant barriers for small creators and individual copyright holders seeking to pursue claims of infringement on e-commerce platforms (Achmad 2023).

Image 1. Weaknesses of Copyright Law in Enforcing Copyright Infringement on *E-commerce* Platforms



Source: Researcher's Analysis of Copyright Law

The aforementioned weaknesses in the Copyright Law create opportunities for violators to exploit loopholes, such as switching domains or platforms. The Copyright Law's limited adaptability to the dynamics of e-commerce highlights its failure to fully address the needs of an increasingly digital society. Within the framework of progressive legal theory, these shortcomings reflect the Copyright Law's inability to meet the demands of a dynamic society, particularly in the digital ecosystem (Martinelli et al. 2024). Progressive law emphasizes the need for adaptive and responsive legislation that keeps pace with social changes, including practical solutions to ensure effective law enforcement.

The optional provisions for copyright registration (Articles 64 to 69 of the Copyright Law) and the ambiguous supervisory mechanisms outlined in Article 68 further reinforce the law's inability to address the complexities of violations within e-commerce platforms. Consequently, these legal loopholes not only harm copyright holders but also create legal uncertainty that hinders the protection of creators' rights. In this context, responsive law requires a reconstruction of the Copyright Law that goes beyond normative frameworks. It must proactively incorporate technology-based solutions and more efficient

legal processes to address the challenges posed by the digital era (Astuti, Sulisman, and Tarigan 2023).

Table 1. Recommendations for Improving the Copyright Law

Weaknesses	Recommendations for Improvement
Limited Monitoring of Digital Platforms (Articles 54 and 56)	Utilize advanced technologies such as Artificial Intelligence (AI) and Machine Learning for digital platform monitoring; simplify administrative processes for removing illegal content.
Optional Copyright Registration (Articles 64-69)	Make copyright registration mandatory for e-commerce transactions; integrate the registration system with blockchain technology to ensure secure and efficient verification.
Unspecified Responsibilities of E-commerce Platforms (Article 10)	Assign specific responsibilities to e-commerce platforms to prevent copyright infringements; mandate the implementation of efficient reporting mechanisms.
Lack of Effective Sanctions for Royalty Compliance (Articles 87 and 88)	Strengthen sanction mechanisms against businesses that neglect royalty payment obligations; introduce transparent monitoring systems managed by Collective Management Organizations (CMOs).
High Costs for Alternative Dispute Resolution (Article 95)	Provide affordable, fast, and inclusive online dispute resolution mechanisms; offer subsidies for small-scale creators to ensure accessibility and fairness.

Source: Researcher's Analysis of the Copyright Law

The proposed recommendations align with the principles of progressive law as articulated by Satjipto Rahardjo, which emphasize that law must function as a tool to promote justice and address the evolving needs of society. The necessity to adopt advanced technologies, such as artificial intelligence (AI) and blockchain, to enhance copyright monitoring and verification is increasingly urgent (Juwita and Kansil 2024). These technologies offer practical solutions that are responsive to social and technological changes, thereby strengthening the role of law as a means of societal protection. By simplifying administrative processes and mandating copyright registration, the law can proactively safeguard creators' interests and provide legal certainty in the digital domain (Anwar 2024).

Progressive law further emphasizes that the law must not be confined to strict textualism but should instead transcend rigid norms to create a fairer legal system. The recommendation to impose specific responsibilities on e-commerce platforms and to strengthen sanctions against businesses neglecting royalty obligations is a progressive step toward establishing laws that prioritize the broader public interest (Mulyani et al. 2024). By introducing accessible, cost-effective, and inclusive online dispute resolution mechanisms, this recommendation reflects the essence of progressive law, which seeks to protect vulnerable groups – such as small creators – who are often hindered by financial and procedural barriers in defending their rights. This approach redefines law not merely as a normative regulation but as a tool for adaptive and humanistic social reform (Yitmen, Almusaed, and Alizadehsalehi 2023).

Another crucial challenge lies in the rapid technological advancements, which complicate efforts to address the dynamics and complexity of e-commerce platforms. Effective enforcement of copyright law necessitates advanced technologies capable of automatically detecting and tracking infringements. Research by (Agung et al. 2024) highlights that technologies such as AI and algorithms can more effectively protect digital content; however, e-commerce platforms in Indonesia have yet to fully leverage such innovations (Agung et al., 2024). Copyright enforcement in the digital sphere remains challenging due to the vast and rapid dissemination of content. Copyright holders often struggle to pursue offenders through existing legal channels. Thus, the integration of law and technology must be implemented in Indonesia to reinforce copyright protection in e-commerce. In Europe, AI-

based upload filters have already been introduced to address copyright infringements more swiftly (Romero Moreno 2020). In Indonesia, similar challenges persist due to the lack of well-integrated technology policies within existing regulations.

Another significant challenge lies in the legal awareness of e-commerce users and platform providers. Many e-commerce users do not fully understand the legal implications of using or selling copyrighted products without authorization. Studies indicate that a majority of users are unaware of violating copyright laws, often due to insufficient dissemination of information regarding intellectual property rights on e-commerce platforms (Nanda Pramudya Pangestu et al. 2022). Furthermore, sales agreements on e-commerce platforms frequently lack explicit clauses addressing copyright protection, leaving buyers and sellers inadequately informed about the risks of copyright infringement. Research conducted by Nanda Pramudya Pangestu emphasizes that e-commerce platform providers in Indonesia remain reluctant to assume full responsibility for copyright violations occurring on their platforms, despite existing regulations requiring them to implement reporting and monitoring systems.

Another pressing issue impacting the enforcement of copyright laws in e-commerce is the complexity of jurisdiction, particularly when copyright violations are committed by entities operating outside Indonesia. The global nature of e-commerce complicates copyright enforcement, especially in determining jurisdiction over infringements (Ujang Badru Jaman, Galuh Ratna Putri, and Tiara Azzahra Anzani 2021). For instance, a comparison with countries like Singapore reveals that Indonesia lags in cross-border copyright enforcement within e-commerce. In Singapore, mechanisms for resolving cross-jurisdictional disputes are more integrated, while in Indonesia, such processes are still limited to regional cooperation and have not yet developed on a global scale. Therefore, improvements in copyright enforcement within e-commerce platforms in Indonesia are essential, including the following:

Table 2. Recommendations for Addressing Copyright Enforcement Challenges in E-commerce

Challenges	Recommendations for Improvement
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Rapid Technological Development	Integrate AI technology and advanced algorithms, such as AI-based upload filters, to detect violations; establish national policies to support technology in copyright enforcement.
Legal Awareness of E-commerce Users and Platform Providers	Conduct extensive awareness campaigns about copyright laws through e-commerce platforms; mandate platforms to include copyright clauses in purchase agreements.
Jurisdictional Complexity in Copyright Enforcement	Foster international cooperation to address cross-border violations; establish extradition agreements and dedicated dispute resolution mechanisms for global copyright enforcement.

Source: Researcher Analysis

The challenges in enforcing copyright law on e-commerce platforms highlight the urgent need for legal reforms that are adaptive to technological advancements. The rapid development of technology demands innovative solutions, such as algorithms and artificial intelligence (AI), which can automatically detect and monitor copyright infringements. Comprehensive public awareness campaigns emphasizing the importance of respecting copyright, combined with sales agreements that include legal obligations related to intellectual property rights, can serve as initial steps toward addressing copyright protection issues on e-commerce platforms in Indonesia. These measures will enable Indonesia's Copyright Law to become more responsive to the demands of the digital and global society (Simatupang 2021).

Conclusion

Although Indonesia has established a legal framework for protecting copyright in e-commerce platforms, such as the Copyright Law and related regulations, the implementation and enforcement of these laws still face significant challenges. The primary obstacles, particularly in the digital sector, are driven by several factors, including limited understanding among law enforcement officials regarding complex digital technologies, weak enforcement mechanisms, and regulations that have yet to fully anticipate technological advancements. This study highlights a gap between existing

legal provisions and on-the-ground realities, underscoring the need for enhanced collaboration among the government, platform providers, and copyright holders to develop a more robust and proactive legal framework. Additionally, educating the public and industry players about the importance of copyright protection serves as a strategic step toward strengthening legal certainty. Regulatory reforms that address platform responsibilities in monitoring content and the integration of modern technology into enforcement processes must be urgently implemented to tackle copyright infringements in e-commerce more effectively and efficiently. This research provides a significant contribution to the development of copyright policy in Indonesia and serves as a crucial reference for stakeholders in addressing the challenges of copyright protection in the e-commerce sector within the digital era.

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