


## A Business Law Review on the Unauthorized Use of Product Photos That Infringe Copyright on Digital Marketplaces

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Article Info	ABSTRACT
<p><b>Keywords:</b> copyright, product photos, digital marketplace, business law.</p>	<p>The rapid development of digital commerce has impacted the pattern of intellectual property rights violations, particularly copyright infringement of product photos on marketplace platforms. The unauthorized use of product photos by third parties often occurs and is frequently underestimated, even though such actions constitute copyright violations regulated under Law Number 28 of 2014 concerning Copyright. This study aims to review the legal business protection for copyright owners of product photos misused on digital marketplaces, as well as to analyze the responsibilities of business actors and platform providers. The method used is a normative juridical approach with legislation review and literature study. The results show that legal protection against copyright violations in the digital realm remains suboptimal, especially in terms of law enforcement and platform supervision. Strengthening regulations, socialization to business actors, and raising legal awareness among marketplace users are needed to prevent similar violations in the future.</p>
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### INTRODUCTION

The development of information technology has brought significant changes across various sectors, especially in the rapidly growing digital economy. In Indonesia, this growth is prominently seen in the electronic commerce sector or e-commerce, which has now become one of the main pillars of the national economy. Digital marketplaces such as Shopee, Tokopedia, and Lazada have emerged as major platforms connecting millions of business actors with consumers effectively and efficiently. With easy access, various innovative features, and integrated digital payment systems, marketplaces enable transactions beyond the limits of space and time. This significant growth in the digital economy offers great opportunities for business actors, particularly micro, small, and medium enterprises (MSMEs), to expand their businesses more broadly and rapidly. However, behind this advancement, various legal issues arise that require attention, especially related to the increasing infringement of intellectual property rights (Nasution, 2020).

One major legal issue emerging in the digital space is copyright infringement in the form of unauthorized use of product photos. Product photos are part of photographic works legally protected under Law Number 28 of 2014 concerning Copyright. As copyrighted works, product photos have significant economic value as they are used as promotional tools and

product identities in digital marketing. Copyright owners have exclusive rights to reproduce, announce, and authorize the use of their works. However, in reality, many small business actors and sellers in marketplaces often take and use others' product photos without approval, which ultimately causes legal and ethical problems (Copyright Law, 2014).

This phenomenon of product photo misuse is also caused by a lack of understanding and legal literacy among business actors, especially MSMEs. Many of them are unaware that using photos without permission constitutes a legal violation that can result in administrative, civil, or even criminal sanctions. Wulandari (2022) emphasizes that ignorance and limited access to legal information allow illegal photo usage to continue, negatively impacting creators' rights and a healthy business ecosystem. Furthermore, intense competition in marketplaces drives some business actors to use any means, including taking competitors' photos, to attract consumer attention.

A real case that surfaced involved the local leather shoe brand Brodo, which found its product photos used without permission by other sellers on several major marketplaces. These photos were not only used without consent but also to sell counterfeit products unrelated to the Brodo brand. Consequently, Brodo suffered economic losses and serious reputational damage as consumers became confused and lost trust in the original product. This case exemplifies the weak copyright protection mechanisms and oversight on major marketplace platforms (Kompas.com, 2021). The incident highlights the importance of strengthening legal protection and the active role of marketplaces in maintaining content integrity.

On the other hand, copyright infringement reporting mechanisms in marketplaces remain unsatisfactory. Although reporting features exist, the follow-up processes are often slow, non-transparent, and appear unresponsive. This causes frustration among copyright owners filing complaints as their reports are often not promptly addressed or even ignored. Research by Prasetyo and Dewi (2021) shows that limited resources and lack of marketplace commitment to handling violations are main factors behind these delays. This situation gives room for violators to maintain illegal content, potentially damaging user trust and platform credibility.

From a business law perspective, unauthorized use of intellectual property constitutes a violation of the good faith principle in business relations. Article 1365 of the Indonesian Civil Code (KUH Perdata) states that unlawful acts causing harm to others and contrary to legal obligations are punishable. Thus, taking and using product photos without permission is an unlawful act subject to civil claims. Copyright owners have the right to claim compensation for material and immaterial losses, including reputational damage and lost income (Salim, 2017). Civil law enforcement is a crucial instrument to deter violations and protect copyrights.

Criminally, Article 113 of the Copyright Law stipulates that unauthorized commercial copyright infringement can be punished by up to 4 years imprisonment and/or fines up to IDR 1 billion. However, criminal enforcement in the digital realm is still minimal. Data from the Directorate General of Intellectual Property (DJKI) in 2022 shows that only a small portion of copyright infringement reports proceed to court (DJKI, 2023). Major enforcement obstacles include difficulties proving ownership and commercial intent.

Many business actors do not register copyright for their product photos, considering the process unnecessary or complicated. However, registration at DJKI is crucial as strong proof of ownership in litigation. Sihombing (2019) stresses that registration not only facilitates evidence but also raises awareness among business actors about infringement risks. Therefore, low copyright registration awareness weakens creators' positions in disputes.

Marketplaces, as digital platform providers, also have legal responsibilities to ensure content does not infringe third-party copyrights. Article 26A of the Electronic Information and Transactions Law (UU ITE) mandates electronic system providers to remove infringing content upon decision or report. Yet, in practice, this obligation is weakly enforced. Many marketplaces remain passive, deleting content only after formal complaints, without proactive efforts to prevent or monitor violations (Fauzan, 2020).

To address these weaknesses, some countries apply “notice and takedown” systems requiring digital service providers to remove infringing content within a set period after notification, or face legal sanctions. This approach effectively reduces violations and better protects copyright owners. Indonesia can adopt this model via implementing regulations for the Copyright Law and UU ITE to clarify marketplace responsibilities in managing digital content (Yusuf & Harmoni, 2021). Moreover, technologies like digital watermarking and reverse image search can aid in verifying photo originality and automatically detecting violations.

Besides legal and technological aspects, education and awareness-raising among business actors are key factors in long-term protection efforts. The government, through DJKI and the Ministry of Trade, should collaborate with major marketplaces to conduct digital legal literacy programs targeting MSMEs and other business actors. These programs should cover intellectual property rights understanding, the importance of copyright registration, and effective infringement reporting procedures (Nugroho, 2022). Easy, affordable, and transparent legal access is also vital so creators receive proper protection without bureaucratic hurdles.

Public awareness also plays a crucial role in fostering a culture that respects intellectual property rights. Awareness and appreciation of copyrighted works strengthen a healthy digital economy ecosystem where business actors feel safe and motivated to innovate without fear of misuse. Through synergy between clear regulations, effective law enforcement, advanced technology support, and widespread education, copyright protection—especially for product photos in marketplaces—can be significantly improved. Ultimately, this will encourage fair business competition and strengthen Indonesia's digital economy foundation.

### **Literature Review of Business Law**

According to Munir Fuady (2014), business law is the entire set of legal rules regulating commercial activities including production, distribution, and consumption of goods and services. Business law functions not only as regulation governing commercial relations but also as a legal umbrella ensuring order in economic activities and legal certainty. Thus,

business law becomes the binding foundation for all trade activities, from contract making and dispute resolution to protecting rights of business actors and consumers.

In the context of information technology and digital economy development, business law gains special attention due to the increasingly complex and dynamic nature of trade. Rapidly growing digital marketplaces serve as main venues for online transactions involving diverse parties. Therefore, business law must accommodate new aspects such as intellectual property protection, digital transaction security, and electronic dispute resolution mechanisms. Business law's role is vital in creating a healthy, sustainable digital trade ecosystem where rights and obligations are clearly and fairly regulated.

### **Copyright in Indonesian Law**

Copyright, according to Article 1 point 1 of Law No. 28 Year 2014, is the exclusive right attached to creators over their creations manifested in tangible form. This right arises automatically under the declarative principle, so creators do not need to register their works first to obtain legal protection. Copyright grants full authority to creators to regulate use of their works, including reproduction, distribution, and public announcement. However, registration is encouraged as it provides stronger evidentiary power if disputes arise.

Siregar (2019) emphasizes that photographic works, including product photos used in digital commerce, are protected automatically under this law. This means every created product photo has copyright even if not officially registered. Copyright protection is essential to prevent misuse and piracy that cause economic and moral harm to creators. Copyright registration is a preventive strategy that strengthens creators' legal position and raises awareness of intellectual property protection in the digital era.

### **Copyright Infringement in the Digital World**

Copyright infringement in the digital realm is increasingly complex due to easy access and content distribution over the internet. Kadir (2020) explains that a major cause is the widespread misconception that online content can be freely used without restrictions. This leads many to ignore copyrights and use others' works without permission, causing legal conflicts and losses for creators. The issue is exacerbated by low digital legal literacy among business actors and the public.

Additionally, the unlimited geographical reach and difficult control of digital space complicate copyright enforcement. Unauthorized use of product photos on digital marketplaces exemplifies this problem, where copyrighted photos are used commercially without owners' consent. This creates serious challenges for effective intellectual property protection in cyberspace and demands responsive legal approaches and tighter supervision mechanisms.

### **Marketplace Responsibility in Copyright Protection**

Marketplaces as digital platform providers not only facilitate transactions but also bear significant legal responsibilities regarding user-uploaded content. Article 26A of UU ITE No. 19 Year 2016 requires electronic system providers to offer removal mechanisms for intellectual property rights violations. This means marketplaces cannot disclaim responsibility for copyright infringement on their platforms, even if content is uploaded by third parties.

Marketplace obligations to remove infringing content aim to balance creative freedom and intellectual property protection. They must provide effective and responsive mechanisms to handle violation reports and monitor to prevent illegal content circulation. Implementing these responsibilities helps create a fair, trustworthy digital ecosystem for business actors and consumers and supports legal compliance in online trade.

### **Strict Liability Theory in Business Law**

The strict liability theory in business law holds that a party can be held responsible for damages even without direct fault. Harahap (2018) explains this places the burden on service providers, here marketplaces, to maintain adequate oversight systems preventing violations. In other words, marketplaces must actively control and supervise platform content to avoid infringing others' rights.

This strict liability approach increases legal pressure on marketplaces to actively prevent copyright violations and manage digital content. Marketplaces cannot simply react to reports but must have proactive internal mechanisms to minimize risks. Thus, strict liability theory is a critical foundation for digital law enforcement and encourages improved supervision and transparency from platform providers in their roles

## **METHODS**

This study uses a qualitative approach with a case study method. The qualitative approach was chosen to obtain an in-depth understanding of the phenomenon of copyright infringement of product photos in digital marketplaces and the legal responsibilities of marketplaces in addressing this issue. Case studies were conducted to examine in detail cases of copyright infringement as well as the handling mechanisms on popular marketplace platforms such as Shopee, Tokopedia, and Lazada.

The data used in this study come from two types: primary and secondary data. Primary data were obtained through in-depth interviews with several relevant informants, such as MSME business actors, marketplace administrators, and intellectual property law experts. Meanwhile, secondary data were obtained from documentation studies including laws, regulations, scientific journals, annual reports from the Directorate General of Intellectual Property (DJKI), and news related to copyright infringement cases in marketplaces.

The collected data were analyzed using content analysis and descriptive qualitative analysis techniques. The analysis process included data categorization, identification of infringement patterns, and evaluation of the policies and mechanisms implemented by marketplaces in handling copyright violations. Furthermore, the analysis results were compared with the framework of business law theory and intellectual property protection to draw relevant conclusions.

## **RESULTS AND DISCUSSION**

### **Findings on Copyright Infringement of Product Photos in Marketplaces**

This study reveals that copyright infringement involving product photos on digital marketplace platforms is a critical and widespread issue, especially among micro, small, and medium enterprises (MSMEs). Based on in-depth interviews with several business actors, it

was found that unauthorized use of product photos by others is a common occurrence and often goes unnoticed by the original photo owners. Product photos, created through creative processes and with certain production costs, are suddenly taken and used by other sellers to market their products, sometimes even counterfeit or different products. This condition not only causes economic losses for the original business actors but also damages the reputation and consumer trust in the actual brand.

Data collected from complaint reports on popular marketplaces such as Shopee, Tokopedia, and Lazada show a significant increase in the number of copyright infringement cases involving product photos year after year. This phenomenon reflects the massive misuse of digital content in the increasingly vast online trade space. This situation is exacerbated by technological advances that make it easy to duplicate and disseminate product photos without adequate supervision. One highly publicized case is the 2021 incident involving the local leather shoe brand Brodo, whose product photos were used without permission by several sellers on major marketplaces to sell counterfeit products. Besides losing potential profits, Brodo also suffered negative impacts on its brand image as consumers who purchased the counterfeit products felt cheated. This case attracted media attention and highlighted the weak copyright oversight in the digital realm.

The primary causes of the widespread infringement, based on interviews and literature studies, are low legal awareness and a lack of understanding among business actors about the importance of intellectual property rights, particularly copyright over photographic works. Many business actors consider product photos on the internet as freely usable content without permission, leading them to take photos from other sellers as a quick way to promote their products without bearing their own production costs. This condition is worsened by the fact that not all business actors have sufficient resources or knowledge to officially register copyrights for their works, making it difficult to prove ownership in case of disputes.

Digital marketplaces, as the main venues for online transactions, face technical and human resource challenges in supervising the millions of user-uploaded contents simultaneously. Platform administrators often struggle to take swift and effective action against violations, especially when the reporting system still depends on the initiative of rights holders or other users. This opens opportunities for violators to continue exploiting content without permission with minimal risk of immediate sanctions. Therefore, these findings confirm that copyright infringement of product photos in marketplaces is not only a legal issue but also involves education, supervision, and technology challenges that must be addressed integratively to optimize intellectual property protection in the digital sphere.

### **Analysis of Marketplace Responsibility in Copyright Protection**

Digital marketplaces, as platform providers that serve as the main bridge between sellers and buyers, bear significant legal responsibility to ensure that all content circulating on their platforms does not violate intellectual property rights, including copyright over product photos. This is explicitly stated in Article 26A of Law No. 19 of 2016 on Electronic Information and Transactions (UU ITE), which obligates electronic system providers to provide facilities for removing electronic information that infringes intellectual property rights. Thus,

marketplaces not only function as transaction venues but also have a duty to maintain a legal and fair digital trade ecosystem for all parties.

However, interviews with managers from several major marketplaces such as Tokopedia and Shopee indicate that in practice, the implementation of these responsibilities is still reactive and limited to actions taken after receiving official reports from copyright owners or related parties. Marketplaces tend to wait for formal complaints before removing allegedly infringing content. Although this approach complies with legal procedures and avoids wrongful deletion risks, it is ineffective in addressing massive and repetitive violations in a short time. Many infringement cases recur due to slow reporting processes and conventional handling mechanisms.

One case illustrating this issue is the 2022 incident involving the local leather bag brand “Eiger.” In this case, Eiger’s product photos were used without permission by several sellers on major marketplaces to sell low-quality counterfeit products. Despite repeated reports by the brand owner, content removal was slow and incomplete, allowing counterfeit products to remain available and causing economic losses as well as damage to Eiger’s reputation in the digital market. This case exemplifies the challenges marketplaces face in balancing legal compliance and managing huge volumes of content.

Moreover, marketplaces’ limited technology and human resources for content moderation are major obstacles to optimal supervision and enforcement. Marketplace operators acknowledge that moderation processes still rely on a combination of automated systems and manual oversight, where automated systems have yet to accurately detect copyright infringements, especially when product photos are slightly modified to evade detection. Manual moderation teams cannot cover all millions of daily contents, resulting in many violations going undetected.

This situation shows that marketplaces need to increase investment in advanced illegal content detection technologies, such as artificial intelligence (AI) for copyright-protected image recognition, digital watermarking, and more effective reverse image search. Additionally, strengthening cooperation with copyright holders and business associations is important to create more responsive and proactive reporting mechanisms. Thus, marketplaces should not only serve as transaction platforms but also actively protect intellectual property rights by promptly preventing and addressing infringements.

### **Business Actors’ Perceptions of Copyright Protection**

From the business actors’ side, particularly MSMEs who are the backbone of Indonesia’s digital economy, there is considerable variation in their understanding and awareness of the importance of copyright and intellectual property protection. Based on interview results, most business actors recognize that copyright is an important aspect that can protect their work and business from misuse by others. However, this awareness has not been followed by concrete actions such as officially registering copyrights for the product photos they produce. Many view the copyright registration process as complicated and time-consuming, compounded by limited information and access to available registration services. This makes them vulnerable to infringement and complicates proof of ownership during disputes.

Furthermore, interviews reveal that many business actors do not fully understand the copyright infringement reporting mechanisms provided by both marketplaces and related legal institutions. Most tend to be passive and choose not to pursue legal action when infringements occur, citing high costs, lengthy processes, and lack of adequate legal support. For example, one fashion business owner admitted reluctance to report illegal use of their product photos due to fears of complicated and expensive legal proceedings. This condition poses a major obstacle to copyright protection in the digital realm and causes an imbalance in protection between business actors and violators.

To address this issue, intensive and comprehensive legal education efforts involving various stakeholders such as the government, marketplaces, and business communities are needed. Educational programs should not only focus on information delivery but also provide practical assistance in copyright registration and infringement reporting processes. Moreover, governments and marketplaces can collaborate to provide easier, more affordable, and faster copyright registration services to help business actors protect their works. Empowerment through outreach, training, and digital-based legal aid platforms will enhance awareness and capability of business actors in safeguarding their intellectual property rights.

With increased awareness and support, it is expected that business actors, especially MSMEs, will become more active and confident in protecting their works and digital assets. This will not only strengthen their position in business competition but also positively contribute to creating a healthy, fair, and sustainable digital trade ecosystem. Such collective awareness forms a crucial foundation for developing a digital economy that respects intellectual property rights as a national strategic asset.

### **Reporting Mechanisms and Handling of Violations**

Digital marketplaces have provided copyright infringement reporting features as an important effort to combat content misuse on their platforms. This feature allows copyright owners or aggrieved parties to report allegedly infringing content so that marketplaces can verify and remove proven violations. However, field observations and interviews with several reporters and platform administrators reveal that reporting and handling mechanisms still face serious challenges. Response times to reports vary widely, with some reports taking days to weeks before receiving responses or actions from marketplaces. This is due to the high volume of daily reports far exceeding the moderation team's capacity, which must conduct careful manual verification to avoid wrongful removals.

As a result of delays and inefficiencies, many copyright infringements are not promptly addressed, allowing violators to continue illegally exploiting product photos without immediate sanctions. Some reporters express dissatisfaction and frustration with the lack of transparency from marketplaces regarding the status of their reports and reasons when reports are not acted upon. This reduces trust and participation in maintaining content security on the platform. For instance, in a case involving a handicraft business owner in East Java, reporting the unauthorized use of their product photos on a marketplace took more than two weeks without adequate confirmation, allowing violations to persist without real protection.

To overcome these challenges, developing and implementing advanced technologies is essential. Technologies such as digital watermarking, which tags product photos with unique identifiers, and reverse image search, enabling automatic detection of unauthorized photo use, are potential solutions that can accelerate illegal content identification. With such technologies, moderation teams can more quickly and accurately trace violations and take timely removal actions. These technologies also reduce the manual workload of moderation teams, significantly improving content management efficiency on marketplaces.

Furthermore, improving transparency and communication between marketplaces and reporters is crucial to strengthen trust and encourage active user participation in safeguarding content. Marketplaces can develop reporting systems that provide real-time status updates and explanations for decisions made on submitted reports. Successful implementation of similar systems can be seen on international platforms like Amazon and eBay, which have responsive “notice and takedown” mechanisms and interactive reporting systems. If properly applied in local marketplaces, this would help create a more transparent and trustworthy digital trade ecosystem for all users.

### **Legal Implications and Policy Recommendations**

This study reveals that although regulations governing copyright protection and marketplace responsibilities exist, enforcement still faces significant challenges. Legally, proving copyright ownership remains a major obstacle, especially since many business actors have not officially registered their rights. Furthermore, monitoring and enforcement mechanisms at the marketplace level remain weak and reactive, resulting in suboptimal law enforcement.

As recommendations, the government should strengthen regulations by implementing stricter “notice and takedown” systems and imposing firm sanctions on marketplaces that neglect supervisory duties. Marketplaces should be encouraged to develop supportive technologies to detect violations proactively and promptly. Additionally, legal education targeting business actors, especially MSMEs, should be prioritized to increase awareness and their ability to protect intellectual property rights. Synergy among government, marketplaces, business actors, and society is key to creating a fair, safe, and sustainable digital trade ecosystem.

### **CONCLUSION**

This study reveals that copyright infringement of product photos on digital marketplaces is a serious and growing issue, especially affecting micro, small, and medium enterprises (MSMEs). The unauthorized use of product photos by third parties causes not only economic losses but also negatively impacts the reputation and consumer trust in the original brand. Low legal awareness and limited understanding of intellectual property rights among business actors are the main causes of the widespread violations. Additionally, technical constraints and limited resources on the part of marketplaces result in ineffective handling of violations, as enforcement remains reactive and reliant on user reports. As platform providers, marketplaces have a legal responsibility to monitor and act against copyright infringements, as stipulated in Article 26A of the Electronic Information and Transactions Law (UU ITE).

However, the current mechanisms are not yet optimal because the moderation process, which combines automated and manual systems, is unable to fully cover the massive and rapid infringements occurring. From the perspective of business actors, although there is awareness of the importance of copyright protection, many have not officially registered their works and lack understanding of the violation reporting procedures. This makes it difficult for them to prove ownership and rarely pursue legal action when their rights are violated. The reporting mechanism for violations on marketplaces still faces various challenges, such as slow response times, lack of transparency in handling reports, and limited technology for detecting illegal content. However, there is great potential in developing digital watermarking and reverse image search technologies to improve monitoring effectiveness. Comprehensive legal education and easier access to copyright registration services are also crucial to increasing awareness and protecting the rights of digital business actors.

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