

## ANALYSIS OF IBTICAR RIGHTS AGAINST IPHONE *HANDPHONE* *DRAW COPY (HDC)*

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### Abstract

The unveiling of the iPhone in 2007 by Apple Inc. pioneer Steve Jobs sparked a technological and Handphone device revolution. Yet, the iPhone's widespread acclaim has spurred illicit activities, including the sale of unauthorized replicas like the iPhone HDC, violating Apple's industrial brand and design rights. This study explores the nexus between the distribution of HDC iPhones in the market and the implications for brand rights and intellectual property rights. This study uses a descriptive qualitative approach with literature research to support the conclusions produced. Despite efforts such as education and awareness campaigns, challenges persist in safeguarding brand and copyright rights, particularly in discerning between genuine and counterfeit items. It necessitates coordinated action among government entities, brand proprietors, businesses, and the public to curb counterfeit trade, thus preserving brand rights, copyrights, and fostering an ethical business milieu. These violations contravene Industrial Design Law No. 31 of 2000 and Trademarks and Geographical Indications Law No. 20 of 2016. Moreover, in Islamic law, such transgressions go against Quranic injunctions, including Surah Al-Baqarah verse 188, and the teachings of Prophet Muhammad in Hadist, emphasizing the protection of fellow Muslims' property and lives by avoiding arrogance.

**Keywords:** Brand Rights, Intellectual Rights, Iphone HDC

### INTRODUCTION

Ranking 3rd as the country with the largest population in the world, Indonesia is one of the potential markets for various world technology products, especially smartphones. One of the world-famous smartphone brands that sells its products in Indonesia is Iphone (Atallah et al., 2023). High grades (*value*) owned by Apple, in this case Iphone makes some individuals look for loopholes to benefit from utilizing the brand's value by creating counterfeit goods. The counterfeit goods in question are widely circulated in the market place as Iphone HDC (*Handphone Copy Draw*) which can be called *smartphone super copy* with the same specifications but at a lower price. Manufacturer *smartphone super copy* In producing counterfeit goods have a very good resemblance to the original so that consumers who are not careful can be deceived and think that the goods they buy are *smartphone* original at a lower price. It is undeniable that *smartphone supercopy* even though it is made as similar as possible to the original, it can be confirmed that it has a much lower quality than the original (Zulkarnain & Safrina, 2022).

Some of the literature that discusses research that has relevance to this article is as follows:

Study by Paulina Kasih (2016) on "Legal Protection for the Public Against the Circulation of

Counterfeit Goods" concludes that according to Law Number 20 of 2016 concerning Trademarks and Geographical Indications, trademark infringement is considered an act that requires a complaint from the trademark owner. In this case, the brand owner must be proactive in reporting any trademark infringement to take legal action.

Meanwhile, in the research conducted Anastasia Bernadin Dwi Mardiatmi et al., (2022) with the title "Literacy and socialization as an effort to avoid legal and economic effects for sellers and buyers of counterfeit or counterfeit goods in MSMEs in Cinere District, Depok, West Java," it was found that many MSME actors who sell counterfeit goods do not have a sufficient understanding of the law related to the sale of counterfeit goods. In addition, the marketing methods they use are still conventional. However, after gaining literacy and education, their understanding of the law and marketing strategies increased by about 70%. MSME actors are now more aware of the risks of acceptable legal sanctions due to selling counterfeit goods and the legal consequences that may arise.

Study on "Social and Personal Factors Influencing Consumers to Buy Counterfeit Fashion Items (*Counterfeited Fashion Goods*)" by Desyra Sukma Dewanthi (2018) shows that most Indonesians think that using expensive branded goods can improve their image in the eyes of others, even if the goods are counterfeits. Many people in Indonesia still choose to buy and use counterfeit fashion items, without considering the ethical aspects of counterfeit goods and their social impact. Although some people realize that counterfeit items are usually not as good as the real ones in terms of quality and reliability, the main reason they buy counterfeit fashion items is based more on personal desire than the need to collect various models from a particular brand.

Study by Utomo et al., (2021) entitled "Legal Protection for Trademark Owners for the Sale of Counterfeit Goods on *Platform Marketplace*" concluded that brand counterfeiting includes various forms, such as pasting registered trademarks on fake or low-quality products, using the same or similar brand with unfavorable purposes, as well as harming consumers and damaging the reputation of genuine entrepreneurs. Trademark owners get legal protection against the sale of counterfeit goods on marketplace platforms based on Article 83 paragraph (1) and paragraph (2) of the MIG Law, as well as Article 25, Article 9, and Article 28 paragraph (1) of the ITE Law. Therefore, the brand owner has the right to take legal steps against the seller or marketplace platform in question. Legal steps that can be taken include reporting to the marketplace platform, seeking alternative dispute resolution, and applying for a temporary suspension. In addition, brand owners can file civil claims for compensation in the form of both financial and non-financial losses, as well as remove infringing content by showing adverse impacts, misleading information, and

resulting losses. If a civil lawsuit is considered inadequate, the trademark owner can use criminal provisions. For business actors who fully imitate other people's brands, they can be subject to criminal sanctions based on Article 100 paragraph (1) of the MIG Law. Meanwhile, for business actors who counterfeit or imitate brands by imitating the main characteristics of trademarks, they can be subject to criminal sanctions based on Article 100 paragraph (2) of the MIG Law.

Study by Hidayat (2020) entitled "The Concept of Intellectual Property in Islamic Law and Its Implementation for the Protection of Trademark Rights in Indonesia" states that copyright is basically the exclusive right to a work which is a manifestation of the creator's ideas in the fields of art, literature, and science. When someone buys a book, they only acquire the right to own and lend the book as they wish. The book becomes personal property in physical form or as a physical object of the book. However, the purchase of a book does not give the copyright rights of the written work in it which remains the property of the author or creator of the written work published as a book. The right to *ibtikar* functions as a protection mechanism for the creations of creators, including authors, artists, batik painters, musicians, dramatists, sculptors, computer programmers, and others. This right is designed to prevent others from publishing or reproducing the work without the permission of the creator. Essentially, copyright is an exclusive right granted to the creator to publish or reproduce his work, as well as to give permission to other parties to do the same in accordance with the provisions of the applicable law. The importance of this right lies in its ability to protect creators from the practice of unauthorized reproduction. In the traditional context, the main function of the *Ibtikar* Rights (IPR) by traditional leaders is to ensure the authenticity of local products or brands, prevent the infringement of *ibtikar* rights, and thus support the sustainable growth and development of traditional batik.

Based on the problems and research gaps that have been described earlier, a more in-depth study will be carried out on how the IPR analysis focuses on the trademark rights to the circulation of Iphone Handphone Copy Draw (HDC) which is sold freely and is widely found in market places easily and openly based on the provisions of the Fatwa of the Indonesian Ulema Council in July 2005 number: 1/MUNAS VII/MUI/5/2005 concerning the Security of Intellectual Property Rights (IPR) contained in the Copyright. The existence of the HDC Iphone, which is a knockoff product of the Iphone, uses the same brand for its sale, there is only an additional HDC in the sales description in the market place. The counterfeit products are traded freely in the market place. Regarding the trademark which is part of copyright which later in Sharia is called *Haq al-Ibtikar* whose regulations are based on the Quran and Hadith, I want to see further how the sale of Iphone HDC in terms of Brand Rights when viewed from the perspective of *Haq Al-Ibtikar*.

## METHODS

This research is a normative research with a descriptive qualitative approach. Qualitative research is a research method that aims to present a systematic, factual, and accurate picture of the object of research through descriptions based on words and language (Moeleong, 2011). Literature research is carried out to explore relevant research results and theories to support the making of appropriate conclusions. The methods used in this study are *library research* or literature research. Data was obtained from two types of sources, namely primary sources and secondary sources. Data analysis is carried out by organizing information from various journals, official websites, and regulations related to the topic being studied.

## RESULTS

The first iPhone series released on January 9, 2007 was first introduced by Steve Jobs, the founder of Apple Inc, during the Macworld keynote event in San Francisco. The launch of the iPhone is a revolutionary moment in the technology and Handphone device industry. The existence of the Iphone cannot be underestimated until now. The Iphone is considered one of the pioneers of electronics that has an extraordinary influence and has become something prestigious to be owned by the community which even among certain people is considered to improve the standard of living they have (Esa Widhiarta & Wardana, 2015). Along with the popularity of Iphone brand products, then irresponsible individuals emerged who made duplicates of Iphone, which later became known as Iphone HDC (Handphone Copy Draw), which is a Handphone phone product that is traded with a visual design imitating the Iphone product developed by Apple Inc. The trade of products that without the right to use the visual design of the Iphone whose Industrial Design rights are owned by Apple Inc. ini continues to develop due to its far price cheaper than the original Iphone product with the exact same visual design appearance. The needs of people's lifestyle and alternative choices in buying cheaper products with the same visual design make the HDC Iphone trade develop in tandem with the development of original Iphone products from Apple Inc. In addition, its sales on behalf of the Iphone brand also violate the provisions on Brand Rights. The trade of Iphone HDC products that without the right to use the visual design of the Iphone whose Industrial Design rights are owned by Apple Inc. ini violates the protection provisions in Law Number 31 of 2000 concerning Industrial Design. A brand is an identity that is placed or associated with a product, but not the product itself (Ok. Saidin, 2003). As part of Intellectual Property Rights, trademarks have significant economic value. A brand serves as a name or sign used by consumers to identify a particular good or service among other products, while providing assurance of its quality.

The existence of a brand is very strategic and essential for producers and consumers. For manufacturers, brands are not only a tool to differentiate products from similar competitors, but also as an instrument to strengthen the company's image, especially in marketing strategies. Meanwhile, for consumers, brands help in product recognition and also serve as a symbol of prestige. Consumers who are familiar with a brand tend to choose products with that brand, because they have confidence that the product has good quality (Krisnamurti, 2021). In the context of modern Islamic intellectual property, copyright is known as haq al-ibtikar. In the terminology of haq al-ibtikar (copyright), the word "haq" refers to the authority or ownership of a newly created copyrighted work (al-ibtikar). In the fatwa issued by the Indonesian Ulema Council, copyright is explained as the exclusive right owned by the creator or the holder of the right to publish or reproduce his work.

Over time, the iPhone has undergone various innovations in design and technology. The high interest in the iPhone has attracted some individuals to seek business opportunities, even though the action violates the provisions of Intellectual Property Rights. A brand becomes an important component for a company, with more advantages when it is widely known by the public. Brand owners who have registered their trademarks get exclusive rights granted by the government. Brands that are already registered get legal protection for the products they represent. Brands with a good reputation and popularity usually get stronger legal protection, this aims to maintain the integrity and reputation of the established brand in the eyes of consumers. Trademarks are part of Intellectual Property Rights which in essence serve as a sign to recognize the origin of goods or services (*indication of origin*) of a company compared to products or services of another company. Through brands, entrepreneurs can maintain and provide assurance of quality (*guarantee of quality*) from the goods and services they offer, as well as preventing unfair competition attempts from other companies that want to damage their reputation. Here are pictures of several market places where we can easily find sellers of Iphone HDC that are sold freely and openly.

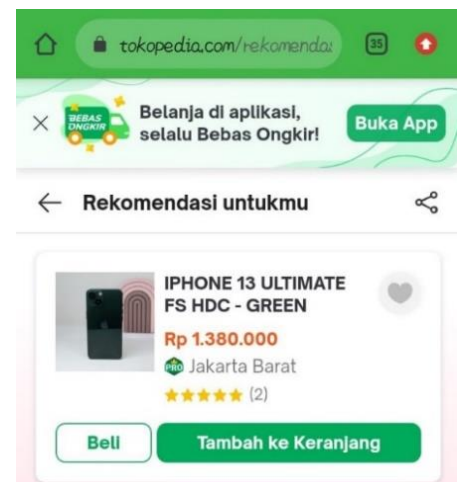


Figure 1 HDC IP Advertising In Market Place

Source : Tokopedia and Lazada

Figure 2 HDC IP Advertising In Market Place



Source : Tokopedia and Lazada

Brand owners have a central role in the evolution of trademark law in Indonesia. They have economic rights to the brands they own. Through licensing, the brand owner can give permission to other parties to use and obtain economic benefits from the brand. Both the licensee and the trademark owner serve as controls over the brand, ensuring that there is no infringement of the trademark in the community (Paulina Kasih, 2016). A brand is an intellectual asset that has significant economic value. Business people use brands in their trading activities, which can be logos, images, or writing. Brands serve as markers to identify goods and services produced or distributed by business people. Therefore, business people usually register their brands to get exclusive rights in the use of the brand.

A trademark is a form of intellectual property in the form of a name or mark associated with a product or service.

The trademark owner can be an individual, a company, or any other legal entity. Trademarks can be visible on packaging, labels, vouchers, or directly on products. Types of trademark infringement include:

- a. Use a brand or Geographical Indication that is wholly similar to a trademark or Geographical Indication that has been registered by another person or party for similar goods or services being traded, without the permission or power of attorney of the rightful owner, and use a misleading Indication of Origin.

- b. Use a mark or Geographical Indication that is substantially similar to a trademark or Geographical Indication already registered by another person or party for similar goods or services being traded, without the permission or power of attorney of the rightful owner.
- c. Use a trademark and Geographical Indication that is wholly similar to a trademark or Geographical Indication that has been recognized and owned by another person or party who has been registered, without permission or authorization from the rightful party.
- d. Use a brand or Geographical Indication that is substantially similar to a trademark or Geographical Indication that has been recognized and owned by another person or party, without the permission or power of attorney of the authorized owner (Maulidda Hafsari, 2021).

Law No. 20 of 2016 concerning Trademarks and Geographical Indications in Article 1 paragraph (5) states that "The State grants exclusive rights to the owner of a registered trademark for a certain period to use the trademark itself or to grant permission to others to use it". Although the Paris Convention does not provide a standard definition or criteria for a brand that is considered well-known, Article 6 *bus* The Paris Convention affirms that "The protection of a well-known mark only includes the obligation for any member or competent authority in a country to reject an application for registration of a mark that is the same or similar to a recognized well-known mark in that country". Therefore, to classify a brand as a well-known brand, it must meet the criteria set by member states.

Intellectual property comes from human ideas that require investment in the form of cost, effort, and time. This investment produces works that have value and the potential to create economic benefits. Therefore, it is important to provide recognition to creators through the protection of intellectual property laws. In general, intellectual property law serves as a protection against the implementation of human creative ideas in a tangible form. In today's digital era, access to intellectual property can be easily accessed through online platforms. Online transactions have not only become a popular fashion, but also an essential necessity. The lifestyle of modern people often relies on online stores for their needs because they are considered more efficient and practical than direct shopping which is considered time-consuming and troublesome. In addition, shopping on e-marketplaces provides advantages such as access to various stores from all over Indonesia with a variety of prices, allowing consumers to choose products at more competitive prices. Online product prices are also often more affordable compared to product prices in physical stores.

*E-Commerce* Just like a market that provides various needs of the community but is packaged in a *digital*. This kind of marketing is able to promote products with greater power than conventional media (Elida & Ari Raharjo, 2019). *Marketplace* is a digital platform where sellers

and buyers interact to make transactions of different types of goods or services. Like traditional markets, e-marketplaces function as a meeting place for sellers and buyers, but with a computerized system that allows for faster provision of information and a wider range of support services for both parties. Based on this principle, the marketplace establishes certain criteria that sellers must meet in order to be able to use the services available on the platform. This criterion is a reference for sellers in carrying out buying and selling transactions in *marketplace*.

Transactions using electronic methods refer to legal actions carried out through computers, internet networks, or other electronic media. Today, electronic transactions have become a routine part of people's activities, driven by advances in internet technology. The existence of the internet strengthens the development of information systems and technology that has permeated various sectors, including the trade sector. Electronic commerce refers to the process of buying and selling that is carried out online between individuals or parties involved, without restrictions on time and location, and without the need for direct interaction, which relies heavily on trust between parties (Utomo et al., 2021).

The practice of buying and selling Iphone HDC (Handphone Copy Draw) phones is rampant in the community. Because the price of the phone is many times cheaper than the price of the original phone. The high level of traffic makes it difficult for ordinary people to distinguish between the original phone and HDC. In this case, what is duplicated is the external appearance, namely in the design of the phone itself (shape and color configuration) and the User Interface (OS). The sale of Iphone HDC is an unlawful act according to article 9 paragraph (1) of Law Number 31 of 2000 concerning Industrial Design. To overcome these violations, there are repressive efforts consisting of compensation lawsuits, applications for cancellation of Industrial Design registration, criminal complaints, and arbitration. There are also preventive efforts, namely socialization and education to the public and business actors about the importance of protecting Industrial Design, as well as appeals to the public and business actors that the act of using and circulating Iphone HDC is an unlawful act. Although in reality these protection efforts are hampered because there are no civil lawsuits or criminal complaints made by Apple Incorporated.

## **DISCUSSIONS**

Trademark rights are regulated in Law Number 14/1997 concerning Trademarks. This trademark right belongs to the copyright category which in the Sharia context is known as *ibtikar* rights. In the modern Islamic intellectual tradition, copyright is called *haq al-ibtikar*. In the concept of *haq al-ibtikar*, "haq" refers to the authority or ownership of a newly created copyrighted work



(al-ibtikar). In the fatwa from the Indonesian Ulema Council, it is explained that copyright is a special right owned by the creator or the party who gets the right to publish, reproduce his work, or give permission for it, taking into account the limitations that have been set by the applicable regulations. The definition of copyright affirmed in this fatwa refers to the existing copyright regulations in Indonesia. Although many contemporary Muslim intellectuals have expressed their views on copyright, most of the available literature is more copyright-oriented (*haq at-ta'lif*).

In the concept of copyright, there are two main aspects, namely economic rights (*True al-Iqtishadi*) and moral rights (*haq al-adabi*). Regarding economic rights, every creator of a work is entitled to economic compensation from his work. This opinion is in line with the definition proposed by Abdullah Al-Mushlih and Shalah Al-Shawi, which describes copyright as a number of privileges possessed by authors or creators that can be assessed by monetary value. Sometimes, these rights are also referred to as abstract rights, intellectual property rights, or intellectual rights. These economic rights reflect the commercial value of a written work or work of art, which is determined by the quality and commercial potential of the work when it is published and commercialized.

The presence of economic rights indicates that a creator has total control over his work, giving him the right to obtain both material and moral benefits from his work. In addition to economic rights, there are also moral rights that are an obligation for every creator. The creator has the right to be named when his work is cited, a principle that has long been recognized in the Islamic scientific tradition. This principle is even considered a form of blessing in science, as explained by Imam Al-Qurthuby in his introduction to tafsir. Furthermore, Usamah Muhammad Usman Khalil identified copyright as a component of intellectual property rights (*al-milkiyah al-fikriyah*), which includes the rights of individuals to their work in all formats. In addition, Masjfuk Zuhdi describes copyright as the result of a person's thought process, which is often referred to as *Al-Milkiyyat al-Fikriyyah*. In the fatwa from the Indonesian Ulema Council, it is explained that copyright is a special right owned by the creator or the party who gets the right to publish, reproduce his work, or give permission for it, taking into account the limitations that have been set by the applicable regulations. The definition of copyright affirmed in this fatwa refers to the existing copyright regulations in Indonesia. Although many contemporary Muslim intellectuals have expressed their views on copyright, most of the available literature is more copyright-oriented (*haq at-ta'lif*) (Chutisana & Mukhtar, 2021).

Property protection (*Hifdz Al-Mal*) is one of the principles of Islamic law (*Maqasid al-Shari'ah*) which reflects the basic needs of each individual. Thus, although Islam recognizes

copyright as part of the right of ownership, this right can be protected as well as the protection of other assets. The safety aspect in this context includes two things: first, it is forbidden to take or use the property of others without permission. In the context of copyright, this means prohibiting the use or exploitation without rights of a person's intellectual work. This prohibition is stated in the Qur'an, Al-Baqarah verse 188, where Allah says about the need to respect the property rights of others. The following is a quote from QS Al-Baqarah 188:

وَلَا تَأْكُلُوا أَمْوَالَكُم بَيْنَكُم بِالْبَاطِلِ وَتُدْلُوا بِهَا إِلَى الْحُكَّامِ لِتَأْكُلُوا فَرِيقًا مِّنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنتُمْ تَعْلَمُونَ

Means:

*Do not eat the wealth among yourselves in an unrighteous way, and you shall not bring it to the judges with the intention that you may eat some of the wealth of others by sin, even though you know it.*

The verse expressly prohibits anyone, both men and women, from taking someone else's property in an unfair way. In the context of copyright, this means that others are not allowed to use someone's work without permission or rights. Imam Al-Tabary in his translation stated this verse as: Do not take other people's property with an arrogant attitude. Allah teaches that taking someone else's property with a haughty attitude is the same as taking one's own property with a haughty attitude. The cause of taking property with an arrogant attitude involves actions that are contrary to Islamic teachings, such as theft, robbery, gambling, taking usury, and so on. In the Tafsir Jalalain, it is known that the background of the descent of verse Al-Baqarah verse 188 comes from the incident of land disputes between several individuals, including Umru-ul Qeis bin 'Abis and Abdan bin Ashwa' Al Hadrami. This dispute reached a point where Umru-ul Qeis almost took his oath as evidence. The verse Al-Baqarah verse 188 is expressed as a warning: "And do not allow some of you to take the wealth of others in an arrogant way."

The conclusion of this verse emphasizes that according to shhari'a, taking someone else's property with an arrogant attitude, such as stealing, robbing, taking without permission, or giving bribes (*riswah*), is haram. Utilizing property in such an arrogant manner is considered to be against Islamic law, and it has been agreed upon (*ijma'*) by the scholars. Meanwhile, a hadith from the Prophet Muhammad (peace and blessings of Allaah be upon him) warns every Muslim not to take his brother's property with arrogance, and there are many hadiths that corroborate this. One of them is:

e Messenger of Allah (peace and blessings of Allaah be upon him) reported that the Messenger of Allah (peace and blessings of Allaah be upon him) said: I was ordered to fight people until they testify that there is no god but Allah and that Muhammad is the Messenger of Allah, and that they should pray and pay zakat, and if they do so they will spare me their blood and wealth except for the right of Islam and the calculation is with Allah. Narrated by al-Bukhaari and their account against Allah Almighty. Narrated by al-Muslim.

عَنْ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: أُمِرْتُ أَنْ أَقَاتِلَ النَّاسَ حَتَّى يَشْهَدُوا أَنْ لَا إِلَهَ إِلَّا اللَّهُ وَأَنَّ مُحَمَّدًا رَسُولُ اللَّهِ وَيُقِيمُوا الصَّلَاةَ وَيُؤْتُوا الزَّكَاةَ فَإِذَا فَعَلُوا ذَلِكَ عَصَمُوا مِنِّي دِمَاءَهُمْ وَأَمْوَالَهُمْ إِلَّا بِحَقِّ الْإِسْلَامِ وَحِسَابُهُمْ عَلَى اللَّهِ تَعَالَى. رَوَاهُ الْبُخَارِيُّ وَمُسْلِمٌ

Means:

*From Ibn Umar that the Messenger of Allah (peace and blessings of Allaah be upon him) said: I am commanded to fight against people until they testify that there is no God but Allah and Muhammad is His messenger, establish prayers, pay zakat, if they have achieved this then their blood and property will be saved from me, apart from the right of Islam, and the calculation is with Allah. HR. Bukhaari and Muslims.*

This hadith especially emphasizes the importance of safeguarding the life and property of every Muslim. If a person violates this principle, it can be considered that they have violated the rules that have been established by Allah the Almighty and His Messenger. Copyright protection in Islam also involves administrative security and safety through civil law regulations.

- a. Protections in the field of management include clarity in the contract between the creator and the organization that produces the copyrighted work. For example, the duration required by authors and their heirs to earn royalties from their work.
- b. Legal protection through civil regulations gives copyright holders the right to take their cases to court if they feel that their rights have been abused.

In addition to the security aspect, there are other security considerations related to copyright, especially in the context of criminal regulations. In Islam, every act of violation has its consequences which are regulated in the criminal law (*fiqh al-jinayah*). In the case of copyright infringement, it is important to determine the type of infringement that occurred. If referring to UUHC No. 19 of 2002 Article 72, copyright infringement includes the act: Announce, reproduce, or give permission to a work intentionally and without rights. One example is violating the provisions of deliberately displaying advertisements that are contrary to the authorities in the areas of royal protection and security, norms of decency, and public order. In addition, deliberately exhibiting, distributing, or promoting to the public works or goods related to copyright infringement is also

considered infringement. Based on the previous quote above, a brief conclusion regarding copyright infringement is:

- a. Distributing, displaying, and distributing other people's work without permission
- b. Duplicating someone else's work without permission
- c. Granting permission to reproduce the work of others without permission
- d. Selling someone else's work without permission.
- e. Announce, exhibit, distribute, reproduce, and market goods resulting from copyright infringement.

In piracy, the common occurrence is that other people make a profit by copying someone's copyrighted work without permission from the owner. From this, it can be concluded that piracy is the act of taking the rights of others without consent. These rights are special rights obtained by the creator. For example, the perpetrator of piracy can profit greatly from his illegal actions, while the creator gets nothing. In the context of theft, piracy is taking away the rights of others without permission, and those rights are part of the exclusive rights of the creator. In summary, copyright protection in Islam includes several aspects, including:

- a. Prohibition of eating other people's belongings without permission.
- b. Islamic medical manners that must be implemented.
- c. The settlement must be legal.
- d. Protection from civil law attitudes.
- e. Protection from criminal legal stances.
- f. The threat of consuming non-halal food is a preventive effort from Islam to stop the spread of piracy that can cause damage in society. (Nursania Dasopang, 2023).

## CONCLUSIONS

The existence of Iphone HDC violates Intellectual Property Rights regulated in Law No. 20 of 2016 concerning Trademarks and Geographical Indications. Selling Iphone HDC which is freely carried out in the market place is an unlawful act according to article 9 paragraph (1) of Law Number 31 of 2000 concerning Industrial Design. However, due to the scale of Iphone Incorporated's own international sales in various countries and its sales are always good, Apple rarely sues the perpetrators who make the counterfeit goods and tends to ignore them considering that the perpetrators can be punished when the party who has the right to file a complaint against the party who commits fraud (complaint offense).

Based on the Industrial Design Law, Handphone phone design and user interface (User Interface) can be considered as an Industrial Design in accordance with Article 1 paragraph 1 of the

Industrial Design Law. The user interface can be considered as a work of image as mentioned in Article 40 paragraph (1) letter f of the Copyright Law, so HDC is a product that violates the article. The exterior design of Handphone phones often uses distinctive logos or symbols that can be considered trademarks and are protected by the Trademark Law in accordance with Article 1 paragraph 1 of the Trademark Law. For example, criminal sanctions are given to anyone who without permission uses the same trademark as another person's registered trademark for the same or similar goods produced or traded, such as the iPhone brand, with the threat of imprisonment of up to 5 years and/or a maximum fine of Rp 2 billion.

In Sharia, especially based on Surah Al-Baqarah verse 188, it is emphasized that it is forbidden for men and women to take other people's property illegally. Regarding copyright, this indicates that others are not allowed to benefit from the copyrighted work. The verse affirms that taking someone else's property in an arrogant way, such as stealing, robbing, or taking without permission, is haram. This has been agreed upon by the scholars. In addition, a hadith from the Prophet Muhammad (peace and blessings of Allaah be upon him) prohibits every Muslim from taking his brother's property with an arrogant attitude. This hadith emphasizes the importance of safeguarding the blood and property of every Muslim. If a person violates this, it means that he has violated the law set by Allah and His Messenger.

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