

UNDERGRADUATE THESIS

**GAME EMULATOR COPYRIGHT INFRINGEMENTS AND
LEGAL REMEDY**



BY:

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**FACULTY OF LAW
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SURABAYA**

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**Proposed to Complete the Tasks and Meet the Requirements to Achieve a
Bachelor Law Degree**

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**This Thesis Has Been Tested and Defended Before the Examining Committee
On
20 July 2022**

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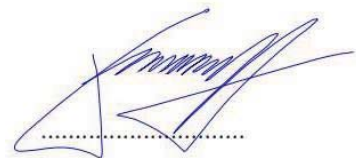
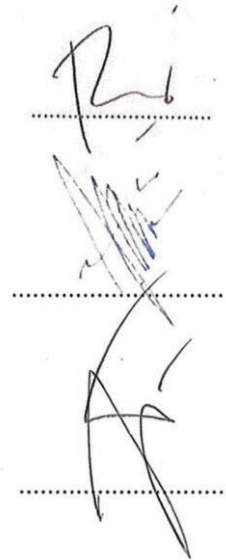
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Thus, this statement is made without coercion from any party. If this statement is not true, it will be sanctioned by the Head of Department of the Faculty of Law.

Surabaya, 20 July 2022

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Foreword

Praise and gratitude to God, I was able to complete the preparation of this undergraduate thesis. The title of the undergraduate thesis that I propose is “Game Emulator Copyright Infringements and Legal Remedy”. This thesis is submitted to fulfill the graduation requirements for the Thesis course at the Faculty of Law, Airlangga University. There is no denying that it took a lot of effort to complete this thesis. However, this work would not have been completed without the people around me who support and help me. My thanks go to:

- Dr. Iman Primahardono, SH, LL.M., Ph.D. as the Dean of the Faculty of Law of Airlangga University.
- Prof. Dr. Rahmi Jened, SH., MH., as the supervisor who has provided guidance and knowledge to the author.
- All Lecturers of the Faculty of Law who have educated and provided knowledge during lectures and all staff who have always been patient in serving all administration during the research process.
- My parents, family and friends who have given me motivation and spiritual guidance so that I may complete the thesis.
- All parties who have helped and cannot be mentioned one by one.

I hope that all goodness and help will be blessed by God. Finally, I realize that this thesis is still far from perfect, due to the limitations of my knowledge. For this

reason, I humbly expect suggestions and constructive criticism from all parties in order to write this thesis.

Surabaya, 20 July, 2022

Samuel Triston

ABSTRACT

This thesis is a legal writing regarding the case of Copyright and Game Emulator Copyright Violations that occurred in America if the same case was in Indonesia based on Act No. 28 of 2014 concerning Copyright. This legal writing uses a statutory, conceptual and case approach. All legal materials are analyzed normatively to produce prescriptions according to the formulation of the problems discussed. The copyright applies for Game Programmers if the computer program meets copyright protection standards, the right acquisition is automatic (Article 1 (1) jo. Article 40 Paragraph (1) (s) of Act No. 28 of 2014). Game programmers have copyright on computer programs in the form of exclusive rights which has the dimensions of economic rights (Article 8 of Act No. 28 of 2014) and moral rights (Article 5 of Act No. 28 of 2014). The game emulator programmer, if without the permission of the computer program creator, violates the copyright of the computer program creator because the game emulator is not a limitation of creation, it cannot obtain rights or use fair use. Legal remedies for game emulator copyright infringements are in the form of civil lawsuits (Article 95 (1) and 99 (1) and (3) of Act No. 28 of 2014) and criminal charges (Article 95 (1) and (4), 113 of Act No. 28 of 2014) as well as temporary suspension by customs (Article 54, 55 and 56 of Act No. 10 of 1995 concerning Customs jo. Article 7 of Government Regulation No. 20 of 2017).

Keywords: copyright, game emulator, copyright infringement

ABSTRAK

Skripsi ini adalah penulisan hukum tentang kasus Hak Cipta dan Pelanggaran Hak Cipta *Game Emulator* yg terjadi di Amerika jika kasus yang sama di Indonesia berdasarkan UU No. 28/2014 tentang Hak Cipta. Penulisan hukum ini menggunakan pendekatan perundang undangan, konseptual dan kasus. Seluruh bahan hukum dianalisis secara normatif untuk menghasilkan preskripsi sesuai rumusan masalah yg dibahas. Hak cipta bagi Programmer Game jika ciptaan program komputernya memenuhi standar perlindungan hak cipta, perolehannya secara otomatis (Pasal 1 Angka 1 jo. Pasal 40 Ayat (1) huruf s UU No. 28/2014). Programmer game memiliki hal cipta atas program komputer berupa hak eksklusif yang berdimensi hak ekonomi (Pasal 8 UU No. 28/2014) dan hak moral (Pasal 5 UU No. 28/2014). Pembuat *game emulator*, jika tanpa izin pencipta program komputer melanggar Hak cipta pencipta program komputer karena *game emulator* bukan termasuk pembatasan ciptaan (*limitation*), tidak dapat perolehan hak atau penggunaan *fair use*. jika tanpa izin dari pembuat program komputer, melanggar hak cipta pembuat program komputer karena emulator game bukan merupakan batasan penciptaan, ia tidak dapat memperoleh hak atau penggunaan wajar. Upaya hukum atas pelanggaran hak cipta *game emulator* berupa gugatan perdata (Pasal 95 (1) dan 99 (1) dan (3) Undang-Undang Nomor 28 Tahun 2014) dan tuntutan pidana (Pasal 95 (1) dan (4) jo. Pasal 113 Undang-Undang Nomor 28 Tahun 2014) serta penghentian sementara oleh bea cukai (Pasal 54, 55 dan 56 Undang-Undang Nomor 10 Tahun 1995 tentang Kepabeanan jo. Pasal 7 Peraturan Pemerintah Nomor 20 Tahun 2017).

Kata kunci: hak cipta, game emulator, pelanggaran hak cipta

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