

Perbanyak buku untuk kepentingan pendidikan dalam perspektif hak cipta analisis terhadap penyedia jasa fotokopi = Reproduction of books for educational purposes based on copyright law perspective analysis for photocopy services

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Abstrak

Hampir seluruh penyedia jasa fotokopi di Indonesia ini pasti pernah menfotokopi bahan-bahan berhak cipta seperti buku dan karya tulis lainnya. Rata-rata mereka memperbanyak buku tanpa takut adanya tuntutan pelanggaran hak cipta oleh karena mereka bernaung kepada istilah untuk kepentingan pendidikan. Padahal, kepentingan pendidikan yang dimaksud dalam hak cipta ini mengandung aturan main tersendiri sebagaimana diatur dalam doktrin penggunaan yang wajar (fair use) dari Amerika Serikat. Pembahasan skripsi ini menggunakan metode kualitatif, menggunakan ketentuan hukum hak cipta dan doktrin fair use. Kepentingan pendidikan dalam kerangka fair use adalah kepentingan pendidikan yang bersifat non-komersial dan dilaksanakan oleh lembaga non-komersial pula. Sementara itu, tindakan perbanyak buku oleh penyedia jasa fotokopi bukan merupakan tindakan kepentingan pendidikan yang dikehendaki oleh aturan main doktrin fair use. Oleh karena itu, agar tidak melanggar ketentuan hak cipta, perbanyak buku oleh penyedia jasa fotokopi ini harus melalui prosedur izin terhadap pemegang hak cipta (penerbit buku dan/atau penulis naskah buku), sementara perbanyak buku oleh instansi pendidikan dibatasi porsinya menggunakan perangkat aturan semacam Classroom Guidelines dari Amerika Serikat.

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Almost all the photocopy services in Indonesia have ever photocopied several copyrighted materials such as books and other writings. They reproduce the books without fear of copyright infringement claims because they are ruled by the terms of educational purposes. In fact, the educational purposes which are ruled by copyright law have their own rules as stipulated in the doctrine of fair use of the United States. This study examined the meaning of educational purposes based on the values that exist within the fair use doctrine. The issues of this study were examined using qualitative methods, copyright law, and fair use doctrine. Educational purposes accommodated by fair use doctrine are noncommercial educational uses and are implemented by noncommercial institutions as well. Meanwhile, the reproduction of books by the photocopy services is not a reproduction for educational purposes according to the fair use doctrine. Thus, in order not to infringe the copyright law, the reproduction of books by the photocopy services have to obtain the permission (license) from copyright holder, while the reproduction of books by the educational institutions use a term of limitation such as Classroom Guidelines from United States.