



International Conference on Law and Social Science

Editorial Office: postgraduate at Riau Islamic University, Universitas Islam Riau, Pekanbaru, Indonesia.

Phone: +62 85234073707, +62 85329106484

E-mail: law_s3@uir.ac.id

Website : <https://pps.uir.ac.id/icls2024/>

The Impact Of Mickey Mouse Public Domains On Intellectual Property

Radian Suparba¹ Syafrinaldi²

¹ Program Doktor (S3) Hukum / Pasca Sarjana Universitas Islam Riau
radiansuparba2023@law.uir.ac.id

² Program Doktor (S3) Hukum / Pasca Sarjana Universitas Islam Riau
syafrinaldi@law.uir.ac.id

Abstract:

Disney decided to start counting Mickey Mouse characters based on publications, so Mickey Mouse was protected starting in 1928, under the Sonny Bono Copyright Term Copyright Act, the duration of copyright, which was increased to 95 years. Then public domain of the Mickey Mouse character should have started in 2023, but based on copyright law in general, for example TRIPS related to copyright in article 12 concerning protection requirements, where there is a phrase, recorded works will be protected from the end of the calendar year registration, meaning that all formal copyright protection is calculated from the end of the year, so that officially the Mickey Mouse character is protected until December 31st 2023 and becomes public domain in January 2024. Until now, discussions related to the rights of animated characters or cartoons revolve around their protection in intellectual property rights. However, as a result of limiting the use of Mickey Mouse for too long, the use of the public domain has a rigid impression and still imposes restrictions like property rights in general

Keywords: *copyright; intellectual property right, mickey mouse, public domain, exclusive right, Disney.*

I. Introduction

On October 16, 2023, Disney has reached the company's 100th anniversary. Active in the 1920s started by Walt Disney and Roy O. Disney. Then, in 1922, Disney joined UbIwerks as a partner, producing cartoon works with fairy tale and fable themes. Because of this, animators such as Hugh Harman, Rudolf Ising and Isadore ("Friz") Freleng joined Disney and UbIwerks. The results of the merger of the animators are

reflected in the successful distribution of the hybrid work between animation and live action entitled 'Alice in Cartoonland'.¹

Even so, the birth of Mickey Mouse by Disney went through a complicated process, starting with creating a cartoon character named Oswald the Lucky Rabbit in 1927, which produced 27 short episodes, unfortunately the rights to this character were taken over by Universal Pictures as the distributor. As a result, Disney and UbIwerks

¹PETER C. KUNZE, "How the Walt Disney Company Made It to 100," TIME, 2020, <https://time.com/6323556/disney-100-history/>.

were unable to use the character they created, from here by modifying the Oswaldm character, which was originally a rabbit cartoon character arranged into a mouse cartoon character which was named Mickey Mouse by Disney in 1928.²

The characters, created by Walt Disney and UbIwerks, were first shown in 1928 as an introduction, broadcast in the form of moving images along with adapted sound and music or called animation. Since Mickey Mouse has become an icon or company symbol, let alone a mascot, Disney has also had other characters. The development of this cartoon character has legally gone through several changes to copyright regulations starting with The Copyright Act of 1909, Copyright Act of 1976, Copyright Term Extension Act of 1998 and the Bern Convention.³

Then, in January 2024, every registered copyright will be calculated from January after recording in accordance with the Copyright Term Extension Act of 1998, the TRIPS Agreement, and the Bern Convention. It is official that one of Disney's iconic works, namely the cartoon character Mickey Mouse, has become public domain. In general, the synonym for public domain in everyday language is called expired, meaning that from now on, based on the current copyright regulations in force in America or other countries, all people in the world can use this cartoon character freely without needing permission from the owner in the form of the company, namely Walt Disney.⁴

²Helen Scantlebury, "Animation, To Infinity and Beyond: Pixar's Journey to Reinvent," vol. 35 (United Kingdom, 2023), <https://globalcapitalism.history.ox.ac.uk/sitefiles/case-35-pixar.pdf>.

³Kaitlyn Rose Bernaski, "Saving Mickey Mouse: The Upcoming Fight FOR Copyright Term Extension In 2018," *Seton Hall University*, 2014, 3, https://scholarship.shu.edu/cgi/viewcontent.cgi?article=1439&context=student_scholarship.

Until now, discussions related to the rights of animated characters or cartoons revolve around their protection in intellectual property rights. This is to ensure that the creator gets his rights as compensation for realizing the idea, even in fiction or folklore stories, the story and the main character can be separated as a novelty element that is developed. However, after the implementation of public domain on Mickey Mouse in the midst of the rise of the internet where the focus was on the speed of information and being able to be creative digitally so that people could learn to make animations and use cartoon characters well in order to earn income, research or just as entertainment. Streamers creators as well as social media who are currently equipped with streaming skills can make good use of the conditions of freedom of public use of Mickey Mouse domains. However, as a result of limiting the use of Mickey Mouse for too long, the use of the public domain has a rigid impression and still imposes restrictions like property rights in general, so this phenomenon needs to be deepened regarding the influence of the public domain of copyright on the public domain with other intellectual property rights.⁵

II. Legal Materials and Methods

To answer this problem, this research uses a normative juridical research type, while the analytical approach is a statutory, conceptual, case and comparative approach related to

⁴ANNA GORDON, "Mickey Mouse Is Now in the Public Domain After 95 Years of Disney Copyright," *TIME*, 2024, <https://time.com/6551496/mickey-mouse-public-domain-steamboat-willie/>.

⁵Mélanie Dulong de Rosnay Juan Carlos De Martin, *The Digital Public Domain Foundations for an Open Culture* (United Kingdom: Open Book Publishers, 2012), https://www.google.co.id/books/edition/The_Digital_Public_Domain/sYBIT-nBuLAC?hl=en&gbpv=0.

intellectual property rights, especially copyright. It is hoped that the results of this research can provide solutions to encourage creativity in the field of intellectual property rights that are more flexible and achieve a balance between the protection of intellectual property rights and the public domain as a medium for cultural and technological exchange. The legal materials implemented include primary legal materials in the form of statutory regulations and authoritative decisions, and secondary legal materials explaining international agreements such as the Copyright Act of 1909, the Copyright Act of 1976, The Sonny Bono Copyright Term Copyright, TRIPS, Bern convention, as well as laws regarding industrial property rights which are primary legal materials in the form of literature such as books or papers, as well as other non-legal materials.

III. Result and Discussion

Intellectual property rights have exclusive rights with a limited period, for example patents have a period of 10 years for simple patents or 20 years for ordinary patents, while industrial designs have a validity period of 10 years, trademark have a period of 10 years and can be extended and are the longest rights. Copyright has 3 variations of exclusive rights period, generally the exclusive copyright period is for life plus 50 years after the creator dies, after that a period of 50 years from when the work was first published, and finally copyright without a time limit. This is in accordance with the Bern Convention followed by TRIPS. The consideration is that the function of copyright can continue for up to two generations by taking into account

historical truth and fulfilling the moral and material interests of the creator and heirs. Another variation in copyright is that the protection period is linked to the type of work created, such as applied arts works which are only protected for 25 years from the time they are announced based on article 59 paragraph 2 of Law Number 28 of 2014 concerning Copyright, or related rights such as Broadcasting Institutions only valid 20 years after the work was first broadcast.⁶

The difference in the term of exclusive rights is important and crucial, one of which is because the validity period is different in each country, the protection period for Mickey Mouse characters is 95 years, while Indonesia applies a validity period of 50 years, where each cinematographic work is valid after the announcement. If you apply the principle of national treatment, each country will use its own copyright law for works entering its country. It is possible that Indonesian works that reach America will be given a copyright for 95 years, whereas American works in Indonesia are only given a protection period of 50 years. On the other hand, if reciprocal treatment is applied, the term of copyrighted works will be the same as the law in the country of origin. To overcome this difference, the term grand father clause is known as a safeguard, which is the application of not shortening the validity period of copyright for reasons of the interests of the creator and heirs.⁷ When a Disney work that is broadcast first in the country of origin, enters Indonesia, then the work attached to implementing a validity period of 95 years, so that Indonesia does not

⁶Taufik Effendy Akhmad Munawar, "UPAYA PENEGAKAN HUKUM PELANGGARAN HAK CIPTA MENURUT UNDANG-UNDANG NOMOR 28 TAHUN 2014 TENTANG HAK CIPTA," *Al'Adl* Volume VII (2016): 127–28, <https://doi.org/https://doi.org/10.36987/jiad.v6i2.250>.

⁷Christophe Geiger and Franciska Schönherr, *Research Handbook on EU Internet Law* (Northampton: Edward Elgar Publishing Limited, 2014), <https://doi.org/https://doi.org/10.4337/9781782544173>.

shorten the validity period of Disney works just because of legal differences.

After the copyright period ends, the work that was previously maintained with exclusive rights is separated from the author's authority and becomes public domain.⁸As a result, the rights that originally belonged to the owner of a work no longer belong to a particular individual or group, but instead belong to the public, what is meant by 'public property' in intellectual property rights regulations is found in Article 5 of Law Number 15 of 2001 concerning Trademarks. , states that a mark cannot be registered if the mark contains one of the elements that is contrary to applicable laws and regulations, religious morality, morality or public order; has no distinguishing power; has become public property; or is a description of or relates to goods or services for which registration is requested, in the explanation using the example of a mark like this is a sign of a skull on two crossed bones, which is generally known as a danger sign as well as a sign of a general nature and has become public property, so that the mark cannot be used as a Trademark.⁹ However, the word public property in this regulation is removed in the new regulation, namely Law Number 20 of 2016 concerning trademarks and geographical indications and replaced with the words 'is a common name and/or symbol of public property' in article 20. Explanation in the law to this article, states that the use of

words or general names in trademarks such as "restaurant", "coffee shop" or "skull symbol" indicates danger, and words or symbols that can be understood by the general public attached to trademark names cannot given a trademark.¹⁰ This indicates that there is ambiguity in the word public property or even doubt in determining public domain in intellectual property rights. However, public domain works do not mean they are useless, but their use has fallen on the public.

COPYRIGHT LAWS INVOLVING MICKEY MOUSE CHARACTER

In practice, animated or cartoon characters are more popular and can last longer than fictional characters in terms of assets, they have even become iconic characters for creators or copyright holders, but as iconic characters, it is not enough to protect cartoon characters only by copyright. Considering that anyone who has expertise in the field of art can imitate an image and then sell it without permission in a form other than that displayed on the screen or a moving picture without permission to make a profit without involving the copyright holder, then another solution is to exploit the rights to the trademark, so that the trademark owner can limit trading activities utilizing created characters.¹¹

The Mickey Mouse character by Walt Disney is not just a character created to create a story,

⁸Christopher Benson Hugh Jones, *Publishing Law* (Abingdon: Taylor & Francis, 2016), https://www.google.co.id/books/edition/Publishing_Law/Db7OCwAAQBAJ?hl=en&gbpv=0.

⁹Devi Eka Verawati, "PENTINGNYA PENDAFTARAN MEREK BAGI USAHA MIKRO KECIL MENENGAH DI JAWA TIMUR," *Abdikarya* Vol 5 No 2 (2022): 125–26, <https://doi.org/https://doi.org/10.30996/abdikarya.v5i2.7250>.

¹⁰Rr. Aline Gratika Nugrahani Shafa Bakadam, "TERDAFTARNYA KATA UMUM 'AJAIB'

SEBAGAI MEREK PADA DAFTAR UMUM MEREK," *REFORMASI HUKUM TRISAKTI* Volume 3 N (2021): 751, <https://doi.org/https://doi.org/10.25105/refor.v4i2.13621>.

¹¹Pascal Kamina, *Film Copyright in the European Union* (Cambridge: Cambridge University Press, 2016), https://www.google.co.id/books/edition/Film_Copyright_in_the_European_Union/mi7xCwAAQBAJ?hl=en&gbpv=0.

but function as a trademark or the main face of the company which together carries out business activities that focus on the entertainment sector.¹²

The Mickey Mouse character was originally protected by the Copyright Act of 1909, when television broadcasts were black and white at that time, the work on this character was not subject to the law of individual ownership, but was registered in the name of a legal entity. Owners of works, both individuals and legal entities, are treated the same, so that the exclusive rights period based on this regulation is set at 28 years from publication as in Article 24 of the Copyright Act 1909, however, as long as necessary, the copyright holder can extend the validity period of the copyright so that it has a term of the same applies as after it was recorded, so that the total Mickey Mouse character is protected under this copyright regulation according to the calculation of 28 years plus 28 years to 56 years, where the Mickey Mouse character should have become public domain in 1984.¹³

With the calculations as outlined above, after Disney extended and created another cardboard character as a companion to Mickey Mouse, the was passed as a replacement for the 1909 copyright regulations. This Copyright Act of 1976 regulation was a regulation adapted to the Bern Convention, significant changes were made to the acquisition of copyright has changed to be automatic, friendlier to foreign citizens or immigrants, and the duration of

copyright protection is for life plus 50 years after the creator dies and 75 years after announcement. The protection period is divided into works created after this regulation came into effect (January 1978) and works created before.¹⁴

Focusing on the cartoon character Mickey Mouse, the previous work was protected by previous copyright regulations, including the object of the work which, as per the Copyright Act of 1976 regulations, applies, so the alternative condition is that the object subject to copyright protection has not entered the public domain, where the character belongs Disney is in a safe condition, because its protection is still valid, provided that the protection period which was originally in the Copyright Act of 1909 was converted to 28 years and could be extended, so based on the Copyright Act of 1976, copyright objects cannot be extended but the validity period is increased to 75 years since publication or 100 years since creation, which allows copyright protection to ebb and flow or be counted backwards from the time of publication.

Entrepreneurs who rely on copyright as an asset are not satisfied with just the period of copyright protection that has been adjusted based on the Bern Convention, because possibility of the assets that they built in the form of iconic works created before the Copyright Act of 1976 will expire sooner, for example works published in 1930 can become public domain in 2005, especially after the end of the copyrighted work which

¹²Rachel Mary Winsor, "The Magic of the Mouse: An Exploration of Brand Personality in The Walt Disney Company" (University of New Hampshire, 2015), <https://scholars.unh.edu/honors/237>.

¹³Holly Lechner, "Mickey Mouse – Finally Whistling His Way into the Public Domain," in *Cybaris*®, Vol. 14 (St Paul: mitchell hamline school of law, 2014), 75–76,

<https://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=1108&context=cybaris>.

¹⁴Tatiana Olivera, "Extended Copyright Curtails Creativity: How the Copyright Term Extension Act Limits Writers," *California State University Stanislaus*, 2017, 75, https://www.csustan.edu/sites/default/files/groups/University_Honors_Program/Journals/olivera.pdf.

becomes an asset, it cannot be extended properly like the Copyright Act of 1909. The Sonny Bono Copyright Term Copyright Act is a response to the uneasiness resulting from the implementation of the Copyright Act of 1976.¹⁵

The Sonny Bono Copyright Term Copyright Act is not a copyright regulation that is taken for granted, it is the result of negotiations between large companies including Disney and the United States government. The core implementation of this regulation is a regulation that amends the copyright of 1976 by adding 20 years to the copyright protection period. This regulation applies to works created before and after January 1978. In fact, it does not rule out the possibility that copyright protection can reach more than 95 years, so that the orientation of the work protected copyright becomes longer. The majority of people know that the main perpetrator who triggered this regulation was Walt Disney, some of them even called the Sonny Bono Copyright Term as the Mickey Mouse Protection Copyright Act. The consequence is that creators have to postpone their plans to use Disney cartoon characters without having permission for the first time, even though many intellectual property rights actors, both public and especially internet creators, want to test the validity of the public domain of copyright, in essence, artists want

to borrow ideas from works. existing ones to generate profits.¹⁶

THE IMPACT OF MICKEY MOUSE'S PUBLIC DOMAIN

Disney start counting Mickey Mouse characters based on publications, so Mickey Mouse was protected starting in 1928, under the Sonny Bono Copyright Term Copyright Act, the duration of copyright, which was increased to 95 years. Then public domain of the Mickey Mouse character should have started in 2023, but based on copyright law in general, for example TRIPS related to copyright in article 12 concerning protection requirements, where there is a phrase, recorded works will be protected from the end of the calendar year registration, meaning that all formal copyright protection is calculated from the end of the year, so that officially the Mickey Mouse character is protected until December 31st 2023 and becomes public domain in January 2024. However, it should be noted that the Mickey Mouse that became public domain was the first Mickey Mouse in 1928. first broadcast under the title "Steamboat Willie".¹⁷

¹⁵Samuel Jacobs, "The Effect of the 1886 Berne Convention on the U.S. Copyright System's Treatment of Moral Rights and Copyright Term, and Where That Leaves Us Today," *Michigan Telecommunications and Technology Law Review* Vol. 23:16 (2016): 183–84, <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1225&context=mttlr>.

¹⁶Sara R. Bensom, *Compact Copyright: Quick Answers to Common Questions* (Chicago: American Library Association, 2021), <https://books.google.co.id/books?hl=en&lr=&id=GNTFEAAQBAJ&oi=fnd&pg=PR7&dq=Sonny+Bon>

[o+Copyright+Term+as+the+Mickey+Mouse+Protection+Copyright+Act&ots=ikUB9W1v47&sig=6VTzMQE0kAYx_ISKVwHmuJ-oMYo&redir_esc=y#v=onepage&q=Sonny Bono Copyright Term as the Mick.](https://www.wionews.com/opinions-blogs/how-disney-routinely-exerted-influence-on-the-us-copyright-law-to-keep-its-greatest-asset-mickey-mouse-549141)

¹⁷Kshitij Mohan Rawat, "How Disney Routinely Exerted Influence on the US Copyright Law to Keep Its Greatest Asset — Mickey Mouse," WION (New Delhi, January 4, 2023), <https://www.wionews.com/opinions-blogs/how-disney-routinely-exerted-influence-on-the-us-copyright-law-to-keep-its-greatest-asset-mickey-mouse-549141>.

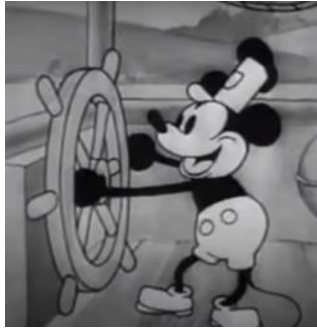


Figure 1

The public domain character Mickey Mouse is limited only to Mickey Mouse's first work in 1928, although there are other Mickey Mouse works, but because of differences in detailed technical form as in Figure 1 showing Mickey Mouse in black and white based on United States copyright regulations, then this Mickey Mouse is the public domain, not the modern version of Mickey Mouse that is shown today in both 2-dimensional and 3-dimensional displays.¹⁸

Even though this is not the first public domain object, if a song becomes public property then everyone can use the song and if a written work in the form of a story becomes public property then everyone can make adaptations of the story without requiring permission. However, when a character is an image that is the source of all kinds of copyright objects, which can be a character in a movie, game or mascot, then directly or indirectly you have to deal with the entrepreneur. As a result, there are different views about the Mickey Mouse public domain which should be the object of copyright.

Regarding the definition, the public domain in copyright studies apparently has different

views depending on the level of tolerance of the country. Indeed, in general public domain can be referred to as public property or a release of rights from the owner so that objects of intellectual property rights can be used by the general public without requiring permission from the owner of intellectual property rights. The difference lies in the scale of freedom where the owner of intellectual property rights does not simply release his work, especially those that still have economic value. The understanding of public domain as in literature from the United Kingdom (UK) there are 4 public domain materials, namely:¹⁹

- Copyrighted works that are no longer subject to protection because their validity period expired after the creator died several years ago, so the release applies to aspects of naming, written and artistic works;
- A work that has never been subject to copyright protection, such as naming, antique works and folklore
- Ideas that have not yet been realized, such as naming, inspiration that has not yet been realized, types, plots or ideas;
- Works that become public domain because of the creator's wishes, such as naming, license free statements, without hindrance from any party

The Copyright Act of 1976, which extended its validity period with the Sonny Bono Copyright Term Copyright Act, is more or less a ratification of the Bern Convention of 1971, so the principles have similarities to almost all copyright regulations in its member countries, including Indonesia. One of the points is the object of copyright

¹⁸David McGowan, "Monochrome Mickey: Modern Nostalgia Texts and the Animated Star Image," *Journal of Popular Film and Television (JPF&T)* Volume 46 (2019): 219–222, <https://doi.org/https://doi.org/10.1080/01956051.2018.1495610>.

¹⁹Kristofer Erickson, "Copyright and the Value of the Public Domain: An Empirical Assessment," *ResearchGate*, 2015, 89, https://www.researchgate.net/publication/326533848_Copyright_and_the_Value_of_the_Public_Domain_An_empirical_assessment.

protection which consists of literary works, music, drama, choreography, drawings and sculptures, films and audiovisual works, sound recordings and architecture (article 2), with a duration of 50 years after the creator dies and for 50 years since the publication of the cinematographic work (article 7). Copyright protection cannot be separated from the title or naming of a creative work, so that when the work has become public domain because it has fulfilled the duration of the exclusive right, then when it becomes public domain the work created for the first time, both in terms of form and naming, will be free from rights of creator.²⁰

Works that are not protected by copyright are antique works and folklore works. To get closer to the topic, the author chose to discuss folklore, which is a work whose creator is unknown, such as fairy tales that are always told from time to time, until it is realized that fairy tales are not protected by copyright. The origin is unknown and has become a culture in society, technically folklore is considered public domain so that people around the world can use it without needing permission.²¹ The use of folklore as a public domain in copyright, whether in the Bern Convention, TRIPS or Copyright Act, has exceptions that allow the inclusion of elements of novelty in folklore, so that new stories, music, settings and fictional

characters can become part of what is protected by copyright, but it still applies original folklore as public domain or especially those inspired by folklore.²² However, for some countries, including Indonesia, folklore is included in copyright which is protected by the state, meaning that the country automatically becomes the owner of the folklore, limiting its use as a public domain only to its territorial territory, but monitoring and strictly monitoring the use of its country's folklore if it is used for benefit certain countries.²³

Ideas that have not been realized are not protected by copyright or other intellectual property rights. The basis of intellectual property rights is sacrificing time, energy along with expertise to realize an idea or realize inspiration.²⁴ When a work is realized and published, copyright acts as a guardian of the content of the work, such as copyright protects a manuscript from words to words but does not protect the abstract ideas conveyed by the author in a manuscript, whereas in art such as painting, copyright can protect a combination of images, colors and lines but does not protect other points of view from the same painting. You can take the example of the Monalisa painting which currently has dozens of imitation paintings of the Monalisa from other points of view such as the Monalisa with a different background

²⁰Nurwati, "MODEL PENGEMBANGAN JAMINAN FIDUSIA BAGI PEMILIK HAK CIPTA KARYA MUSIK DAN LAGU SEBAGAI OBJEK JAMINAN UNTUK MENDAPATKAN KREDIT PERBANKAN DI INDONESIA," *JURNAL SOSIAL HUMANIORA* VO.11 (2020): 195–96, <http://repository.unida.ac.id/1576/23/Model-Pengembangan-Jaminan-Fidusia.pdf>.

²¹Kunjal Jawaria, "TRADITIONAL KNOWLEDGE PROTECTION THROUGH EXISTING COPYRIGHT REGIME-EXPERIENCE IN U.S.AUSTRALIA,India," *Brain Booster Articles*, 2022, <https://www.brainboosterarticles.com/post/traditional>

-knowledge-protection-through-existing-copyright-regime-experience-in-u-s-australia-india.

²² I Kadek Dwi Noorwatha, "Folklore's Inspiration in Character-Based Intellectual Property (IP) Construction 'RomOn' as an Effort to Create Local IP for Global Markets," *Atlantis Press SARL* volume 512 (2019): 24–26, <https://www.atlantispress.com/article/125950160.pdf>.

²³ Afni Nur Fadilah, "Perlindungan Hukum Terhadap Hak Cipta Warisan Budaya Batik Indonesia Ditinjau Dari Hukum Internasional," *INNOVATIVE* vo.3 no.5 (2023): 4–8.

²⁴ Muhammad Arbani, *Aspek Hukum Bagi Pelaku Usaha Mikro Kecil & Menengah* (Yogyakarta: Nas Media Pustaka, 2022).

to the original or a changed picture of the Monalisa keeping up with the times. Of course, ideas that have been realized are the object of copyright, but the limit extends to ideas that have not been realized or the idealistic meaning conveyed in a creation.

After, unrealized ideas and folklore, public domain occurs because the creator wants it. Usually in industrial property rights, an invention does not provide benefits for the inventor, such as sales not achieving the desired results, there are competing inventions that are more advanced and easier than the previous invention or require community service or endowment. The same thing also applies to copyright, works that are made into the public domain with the aim of being used for certain purposes, at least the user does not need permission from the creator to use it, this practice is commonly demonstrated even from the easiest example on the YouTube streaming website, in the middle of In the middle of paid streaming, YouTube also applies copyright law in accordance with the law of the country of origin, namely the Copyright Act, there are songs that are uploaded by the owner but do not require permission to use the song, which is called royalty free. So, based on the wishes of the owner of the song, the public can use the song for video clips that will be included on YouTube.²⁵

Public domain indicates that no object is eternal, all intellectual property rights consisting of patents, trademarks, industrial designs are accompanied by copyrights such

as literature, art, music, films and so on. Copyright can be said to be a type of intellectual property right that has the longest exclusive rights period, where the rights granted are valid for 50 years, 70 years, 95 years or even up to 120 years.

However, it should be remembered that what is missing for works that are included in the public domain are economic rights only²⁶, where these rights consist of reproduction rights, namely the right to reproduce based on permission from the author, where the number of works increases with the same content or form, even by using same materials or consider the first work as a prototype and make slight arrangements without removing this from the creative work, and of course it can be translated into a creation. Naturally, reproduction rights are also related to related rights, the work created can be reproduced through recording or broadcasting with video media, the creator can determine the appropriate payment to the person recording, this also includes photocopies.²⁷ However, the author does not fully agree that creative works end with reproduction. If the aim of copyright is like that, it is no different from industrial design which also aims to reproduce designs, copyright should be used not only to reproduce but also as a guarantee for the creator to obtain other benefits from just multiplying a work.

In the process of carrying out reproduction as part of copyright, one of the rights of copyright, namely the right of publication,

²⁵ Holly Rogers, ed., *Remediating Sound Repeatable Culture, YouTube and Music* (London: Bloomsbury Publishing, 2023),

https://www.google.co.id/books/edition/Remediating_Sound/DQbMEAAAQBAJ?hl=en&gbpv=0.

²⁶ Sonja Špiranec, ed., *Information Literacy in the Workplace 5th European Conference, ECIL 2017* (Saint Malo: Springer International Publishing, 2018),

https://www.google.co.id/books/edition/Information_Literacy_in_the_Workplace/wexIDwAAQBAJ?hl=en&gbpv=1.

²⁷ Zulvia Makka, "BENTUK PERLINDUNGAN HUKUM TERHADAP PEMEGANG HAK TERKAIT (NEIGHBOURING RIGHTS)," *Borneo Law Review* Vol. 3 No. (2019): 31–34, <http://jurnal.borneo.ac.id/index.php/bolrev/article/view/1011/701>.

plays its role first. This is defined as a work that has been realized must have a witness where the work must be able to be seen, heard and touched by the producer and the buyer, but beforehand you must first obtain permission from the creator or owner of the work, just as a film maker asks permission from the author if he wants to adapt the author's work.

The description above is called adaptation rights, actions such as translating a work into a language other than the original language, arranging music, dramatization, changing a fictional story into non-fiction or vice versa. This is a dream for every story script writer, meaning that his income is not only from books sold, but also from other means of his work being changed from its original form, which makes it possible for the writer to be involved in a project down to the details, whether related to cutting the story for adaptation or describe the characters so they fit the story. After that, it continues with the right to display the results of his work to the public and communicate them through broadcasting to the general public, before carrying out distribution, which constitutes copyright as the creator's right to distribute the work he has created to the public, such as selling, renting or other forms so that the work can be known by the public.²⁸

Moral rights are rights that are also attached to intellectual property rights, the manifestation of this right is in the form of recognition of an original work without eliminating the history of the creator in the

form of the name, year the work was created, and the location and time of announcement, although in technical terms the copyright registration only contains the name, location, the time of the announcement, as well as the work created, non-technical matters cannot be omitted because a work created must have an individual or group who created it. Even though the work has entered the public domain, moral rights cannot and may not be removed by anyone, therefore legally, the nature of moral rights is eternal, not tied to the term of exclusive rights in intellectual property rights.²⁹

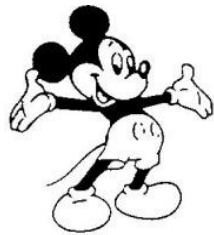
The influence of the Mickey Mouse public domain on copyright also has an influence on other types of intellectual property rights. When a creative work, invention or design has passed its term and becomes public domain, the economic rights are lost, causing any party to be able to use it without requiring permission or payment as a license, and the remaining public domain work can no longer be an object for the protection of intellectual property rights. The exception to the public domain is the use of works that become free use by including new elements in some folklore texts, or arranging regional songs. So, the cartoon character with the main character 'mickey mouse' in the short animation broadcast in 1928, can be used by anyone as long as it does not violate moral rights therein.

Apart from being registered in copyright, Disney also registered it as a trademark as a savior of its intellectual property rights so

²⁸ Bhaladika Adhibrata Pradana, "TINJAUAN YURIDIS TERHADAP HAK CIPTA KARAKTER SHERLOCK HOLMES YANG DI KISAHKAN DALAM NOVEL DAN FILM ENOLA HOLMES," *Jurnal Ilmu Sosial Dan Pendidikan (JISIP)* Vol. 6 No. (2022): 2778–81, <https://doi.org/http://dx.doi.org/10.58258/jisip.v6i4.3831>.

²⁹ Sarah Hook, *Moral Rights, Creativity, and Copyright Law The Death of the Transformative Author* (United Kingdom: Taylor & Francis, 2023), https://www.google.co.id/books/edition/Moral_Right_s_Creativity_and_Copyright_La/KcjhEAAAQBAJ?hl=en&gbpv=1&dq=Moral+rights+are+rights+that+are+also++intellectual+property+rights&printsec=frontcover.

that Disney's characters are not free from full economic rights. Trademark ownership can be seen through trademark search websites in the United States and international trademark websites in several countries such as Indonesia, Japan, South Korea, Malaysia, Singapore, Europe, Chile, Australia and so on. Registration of Mickey Mouse as a trademark's goal is not aimed for selling goods and services under the Mickey Mouse trademark, but is aimed at protecting the company's assets and reputation and avoiding the use of Mickey Mouse for trading activities that cause confusion among the general public.³⁰ In this case, what is registered in the trademark is the name and image of "Mickey Mouse", currently the majority of trademark images used in international trademarks are the same as in figure 2.



MICKEY MOUSE

Figure 2.

The depiction of Mickey Mouse used today is both under copyright and trademark protection, different from his first work in the title "Steamboat Willie", accompanied by a wide scale of different public domains, for now Disney can still maintain its iconic cartoon character in terms of modern depiction. The appearance of the Mickey Mouse character currently shown, both in 2-

dimensional colored and 3-dimensional form, is still held by Disney both in terms of copyright and trademark.

Even though the image of Mickey Mouse like Figure 1 and its name have become public domain, due to the inclusion of the Mickey Mouse trademark, the name Mickey Mouse cannot be used for Disney's cartoon character. As long as the trademark continues, in terms of its modern image (figure 2) and naming it cannot be used by the public. Trademark are one way to protect characters that have cartoon-like images, unlike copyright which protects cartoon characters because they are part of a story, trademark protection is directly based on the image and has no connection with copyright, as long as it is used for trade and service purposes. Not much different from other regulations, the definition trademark law in the united states is a the law that regulates the use of a device (including words, phrases, symbols, product shapes, or logos) by owners or traders to identify their goods and to differentiate these goods from goods made or sold by other people, as a comparison based on Law Number 20 of 2016 concerning trademark and geographical indications, a trademark is a sign that can be displayed graphically in the form of images, logos, names, words, letters, numbers, color arrangements, in 2 (two) dimensions and/or 3 (three) dimensions, sounds, holograms, or a combination of 2 (two) or more of these elements to differentiate goods and/or services produced by individuals or legal entities in goods and/or services trading activities. Exclusive trademark rights are valid for 10 years but there are rules for extension carried out by the trademark owner. Trademark extensions do

³⁰ Jane C. Ginsburg and Irene Calboli, "Overlapping Copyright and Trademark Protection in the United States," in *Cambridge University Press*, ed. Irene Calboli (Cambridge: Cambridge University Press,

2020), 436–40, <https://doi.org/https://doi.org/10.1017/9781108399456.028>.

not have a limit on the number of trademark extensions, but as long as the trademark is still registered and extended, an image is protected as a trademark right. So, naming Disney cartoon characters during the validity period of the trademark with that name remains in registered status as long as Disney's assets remain.

IV. Conclusion and Suggestion

1. The cartoon character Mickey Mouse has officially become a public domain based on the animated broadcast in 1928 entitled Steamboat Willie. This first version of the public domain Mickey Mouse has gone through copyright regulations year after year starting from the Copyright Act of 1909, Copyright Act of 1976, Copyright Act of 1998 or what is known as the Sonny Bono Copyright Term Copyright Act, TRIPS and the Bern Convention.
2. However, this does not mean that the public can use Mickey Mouse completely, copyright still protects the latest version of Mickey Mouse that is currently being displayed, and the public cannot use the name 'Mickey Mouse' because it is bound by the protection of intellectual property rights in the form of a trademark.
3. So, except for the depiction of the 1928 version of the Mickey Mouse character which has become public domain, this character is still protected by copyright and trademarks regarding elements of the depiction of Mickey Mouse's latest developments and its naming.

References

Book:

¹Arbani, Muhammad. *Aspek Hukum Bagi Pelaku Usaha Mikro Kecil & Menengah*. Yogyakarta: Nas Media Pustaka, 2022.

²Christophe Geiger and Franciska Schönherr. *Research Handbook on EU Internet Law*. Northampton: Edward Elgar Publishing Limited, 2014. <https://doi.org/https://doi.org/10.4337/9781782544173>.

³Hook, Sarah. *Moral Rights, Creativity, and Copyright Law The Death of the Transformative Author*. United Kingdom: Taylor & Francis, 2023. https://www.google.co.id/books/edition/Moral_Rights_Creativity_and_Copyri/ht_La/KcjhEAAAQBAJ?hl=en&gbpv=1&dq=Moral+rights+are+rights+that+are+also++intellectual+property+rights&printsec=frontcover.

⁴Hugh Jones, Christopher Benson. *Publishing Law*. Abingdon: Taylor & Francis, 2016. https://www.google.co.id/books/edition/Publishing_Law/Db7OCwAAQBAJ?hl=en&gbpv=0.

⁵Juan Carlos De Martin, Mélanie Dulong de Rosnay. *The Digital Public Domain Foundations for an Open Culture*. United Kingdom: Open Book Publishers, 2012. https://www.google.co.id/books/edition/The_Digital_Public_Domain/sYBIT-nBuL4C?hl=en&gbpv=0.

⁶Kamina, Pascal. *Film Copyright in the European Union*. Cambridge: Cambridge University Press, 2016. https://www.google.co.id/books/edition/Film_Copyright_in_the_European_Un/ion/mi7xCwAAQBAJ?hl=en&gbpv=0.

⁷Rogers, Holly, ed. *Remediating Sound Repeatable Culture, YouTube and*

Music. London: Bloomsbury Publishing, 2023.
https://www.google.co.id/books/edition/Remediating_Sound/DQbMEAAAQBAJ?hl=en&gbpv=0.

⁸Sara R. Bensom. *Compact Copyright: Quick Answers to Common Questions*.

Chicago: American Library Association, 2021.

https://books.google.co.id/books?hl=en&lr=&id=GNTFEAAAQBAJ&oi=fnd&pg=PR7&dq=Sonny+Bono+Copyright+Term+as+the+Mickey+Mouse+Protection+Copyright+Act&ots=ikUB9W1v47&sig=6VTzMQE0kAYx_ISKVwHmuJ-oMYo&redir_esc=y#v=onepage&q=Sonny+Bono+Copyright+Term+as+the+Mick.

⁹Spiranec, Sonja, ed. *Information Literacy in the Workplace 5th European Conference, ECIL 2017*. Saint Malo:

Springer International Publishing, 2018.

https://www.google.co.id/books/edition/Information_Literacy_in_the_Workplace/wexIDwAAQBAJ?hl=en&gbpv=1.

Journal article:

¹Afni Nur Fadilah. “Perlindungan Hukum Terhadap Hak Cipta Warisan Budaya Batik Indonesia Ditinjau Dari Hukum Internasional.” *INNOVATIVE* vo.3 no.5 (2023): 4–8.

²Akhmad Munawar, Taufik Effendy. “UPAYA PENEGAKAN HUKUM PELANGGARAN HAK CIPTA MENURUT UNDANG-UNDANG NOMOR 28 TAHUN 2014 TENTANG HAK CIPTA.” *Al’Adl* Volume VII (2016): 127–28.
<https://doi.org/https://doi.org/10.36987/jiad.v6i2.250>.

³Bernaski, Kaitlyn Rose. “Saving Mickey Mouse: The Upcoming Fight FOR Copyright Term Extension In 2018.” *Seton Hall University*, 2014, 3.
<https://scholarship.shu.edu/cgi/viewcon>

tent.cgi?article=1439&context=student_scholarship.

⁴Bhaladika Adhibrata Pradana.

“TINJAUAN YURIDIS TERHADAP HAK CIPTA KARAKTER SHERLOCK HOLMES YANG DI KISAHKAN DALAM NOVEL DAN FILM ENOLA HOLMES.” *Jurnal Ilmu Sosial Dan Pendidikan (JISIP)* Vol. 6 No. (2022): 2778–81.

<https://doi.org/http://dx.doi.org/10.58258/jisip.v6i4.3831>.

⁵David McGowan. “Monochrome Mickey: Modern Nostalgia Texts and the Animated Star Image.” *Journal of Popular Film and Television (JPF&T)* Volume 46 (2019): 219–22.

<https://doi.org/https://doi.org/10.1080/01956051.2018.1495610>.

⁶Erickson, Kristofer. “Copyright and the Value of the Public Domain: An Empirical Assessment.” *ResearchGate*, 2015, 89.

https://www.researchgate.net/publication/326533848_Copyright_and_the_Value_of_the_Public_Domain_An_empirical_assessment.

⁷Helen Scantlebury. “Animation, To Infinity and Beyond: Pixar’s Journey to Reinvent.” Vol. 35. United Kingdom, 2023.

<https://globalcapitalism.history.ox.ac.uk/sitefiles/case-35-pixar.pdf>.

⁸Holly Lechner. “Mickey Mouse – Finally Whistling His W y Mouse – Finally Whistling His Way into the Public Domain.” In *Cybaris*®, Vol. 14., 75–76. St Paul: mitchell hamline school of law, 2014.

<https://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=1108&context=cybaris>.

⁹Jane C. Ginsburg and Irene Calboli.

“Overlapping Copyright and Trademark Protection in the United States.” In *Cambridge University Press*, edited by Irene Calboli, 436–40. Cambridge: Cambridge University

Press, 2020.

<https://doi.org/https://doi.org/10.1017/9781108399456.028>.

- ¹⁰Noorwatha, I Kadek Dwi. “Folklore’s Inspiration in Character-Based Intellectual Property (IP) Construction ‘RomOn’ as an Effort to Create Local IP for Global Markets.” *Atlantis Press SARL* volume 512 (2019): 24–26. <https://www.atlantispress.com/article/125950160.pdf>.
- ¹¹Nurwati. “MODEL PENGEMBANGAN JAMINAN FIDUSIA BAGI PEMILIK HAK CIPTA KARYA MUSIK DAN LAGU SEBAGAI OBJEK JAMINAN UNTUK MENDAPATKAN KREDIT PERBANKAN DI INDONESIA.” *JURNAL SOSIAL HUMANIORA* VO.11 (2020): 195–96. [http://repository.unida.ac.id/1576/23/Model Pengembangan Jaminan Fidusia.pdf](http://repository.unida.ac.id/1576/23/Model%20Pengembangan%20Jaminan%20Fidusia.pdf).
- ¹²Samuel Jacobs. “The Effect of the 1886 Berne Convention on the U.S. Copyright System’s Treatment of Moral Rights and Copyright Term, and Where That Leaves Us Today.” *Michigan Telecommunications and Technology Law Review* Vol. 23:16 (2016): 183–84. <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1225&context=mttlr>.
- ¹³Shafa Bakadam, Rr. Aline Gratika Nugrahani. “TERDAFTARNYA KATA UMUM ‘AJAIB’ SEBAGAI MEREK PADA DAFTAR UMUM MEREK.” *REFORMASI HUKUM TRISAKTI* Volume 3 N (2021): 751. <https://doi.org/https://doi.org/10.25105/refor.v4i2.13621>.
- ¹⁴Tatiana Olivera. “Extended Copyright Curtails Creativity: How the Copyright Term Extension Act Limits Writers.” *California State University Stanislaus*, 2017, 75. [https://www.csustan.edu/sites/default/files/groups/University Honors Program/Journals/olivera.pdf](https://www.csustan.edu/sites/default/files/groups/University%20Honors%20Program/Journals/olivera.pdf).
- ¹⁵Verawati, Devi Eka. “PENTINGNYA PENDAFTARAN MEREK BAGI USAHA MIKRO KECIL MENENGAH DI JAWA TIMUR.” *Abdikarya* Vol 5 No 2 (2022): 125–26. <https://doi.org/https://doi.org/10.30996/abdikarya.v5i2.7250>.
- ¹⁶Winsor, Rachel Mary. “The Magic of the Mouse: An Exploration of Brand Personality in The Walt Disney Company.” University of New Hampshire, 2015. <https://scholars.unh.edu/honors/237>.
- ¹⁷Zulvia Makka. “BENTUK PERLINDUNGAN HUKUM TERHADAP PEMEGANG HAK TERKAIT (NEIGHBOURING RIGHTS).” *Borneo Law Review* Vol. 3 No. (2019): 31–34. <http://jurnal.borneo.ac.id/index.php/bolrev/article/view/1011/701>.

Article:

- ¹GORDON, ANNA. “Mickey Mouse Is Now in the Public Domain After 95 Years of Disney Copyright.” *TIME*, 2024. <https://time.com/6551496/mickey-mouse-public-domain-steamboat-willie/>.
- ²Jawaria, Kunjal. “TRADITIONAL KNOWLEDGE PROTECTION THROUGH EXISTING COPYRIGHT REGIME- EXPERIENCE IN U.S.AUSTRALIA,India.” *Brain Booster Articles*, 2022. <https://www.brainboosterarticles.com/post/traditional-knowledge-protection-through-existing-copyright-regime-experience-in-u-s-australia-india>.
- ³Kshitij Mohan Rawat. “How Disney Routinely Exerted Influence on the US Copyright Law to Keep Its Greatest Asset — Mickey Mouse.” *WION*. New Delhi, January 4, 2023. <https://www.wionews.com/opinions-blogs/how-disney-routinely-exerted->

influence-on-the-us-copyright-law-to-keep-its-greatest-asset-mickey-mouse-549141.

⁴KUNZE, PETER C. “How the Walt Disney Company Made It to 100.” TIME,

2020.

<https://time.com/6323556/disney-100-history/>.