

iPhone 13 Pro Max Intellectual Property Rights Legal Protection

Nanda Aza Vahleza¹, Tashya Panji Nugraha², Fahmi Fairuzzaman³

¹⁻³Universitas Muhammadiyah Surakarta

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ABSTRACT

This study's goal is to investigate how the iPhone 13 Pro Max's intellectual property rights are protected. The secondary data type being used in this study is primary and secondary legal resources, and one form of data collection is library studies. The methodology employed in this study is a normative juridical approach. The data analysis method is based on qualitative methods to generate descriptive-analytical information. Article 40 paragraph (1) letter f and s, Article 59 paragraph (1) letter e of the Copyright Law, Article 3 paragraph (1) of the Patent Law, Article 1 Number 1 of the Industrial Design Law, Article 1 Number 1 and Article 2 paragraph (3) of the Trademark Law, and Article 1 Numbers 1 and 2 of the Layout Designs of Integrated Circuits all provide some protection for the findings of the study on the legal protection of intellectual property rights pertaining to the iPhone 13 Pro Max.

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Corresponding Author:

Name: Nanda Aza Vahleza

Institution: Universitas Muhammadiyah Surakarta

e-mail: c100200255@student.ums.ac.id

1. INTRODUCTION

Handphone Copy Draw (HDC) is a replica with a visual appearance nearly identical to the original version.¹ The function and physical appearance of the HDC are similar to the original, but the quality offered and the Operating System (OS) used are different. iPhones have the most HDCs out there because the original products are way more expensive compared to other brands.²

The iPhone 13 Pro Max HDC is widely sold on online shopping sites with a price comparison that is very different from the original. The iPhone 13 Pro Max HDC in the marketplace ranges from 2 million rupiah to 3 million rupiah, while the original iPhone 13 Pro Max can reach 20 million or more.³

iPhone exterior appearance is generally divided into two (2) aspects, namely the phone design, which is a configuration of shape and color, and the User Interface (UI),

¹ Compare Erlina, Suta Ramadan, & Nabila Fakhirah Herlina, "Tinjauan Terhadap Pelanggaran Haki Handphone Copy Draw (HDC) Berdasarkan UU Design Industri (Studi Pada Kanwil Hukum & HAM Prov. Lampung)", *Jurnal Rectum: Tinjauan Yuridis Penanganan Tindak Pidana*, Volume 5 Nomor 1 Januari (2023).

² Compare Benhart Nainggolan, Rodi Syafrizal, "Influence of Product Quality, Brand Image and

Price on The Purchase Decision of Iphone HDC (Handphone Copy Draw) To STIE Development Students", *International Journal of Social Science, Educational, Economics, Agriculture Research, and Technology (IJSET)*, Volume 2 Nomor 9 (2023).

³ Gadgetin, "Yang Satu Rp 2 juta, Yang Satunya Lagi 25 Juta! Bisa Bedain?", at <https://www.youtube.com/watch?v=hBHELXNzVbs>.

which refers to the physical display of the operating system on the phone's screen. Industrial design encompasses a mobile phone's exterior look, including its physical form and user interface. Law Number 31 of 2000 on Industrial Designs (UUDI) governs the protection of industrial designs. Law No. 28 of 2014 respecting Copyright (UUHC) protects the user interface (UI) of the iPhone 13 Pro Max as an invention. The UI is part of the operating system on the iPhone 13 Pro Max. The UI serves as a visual element useful for connecting the user with the technology system.

The software serving as the operating system (OS) operates the hardware of the iPhone 13 Pro Max and, in addition to being safeguarded by Copyright Law, may also be eligible for protection under Law Number 13 of 2016 about Patents (Patent Law). The iPhone 13 Pro Max incorporates a brand emblem that differentiates it from competing competitors. Protection of the brand is governed by Law Number 20 of 2016 concerning Trademarks and Geographical Indications. Electronic devices will not function properly without supporting components. These supporting components consist of active components assembled on an integrated circuit board, which are essential for creating electronic functions. The electronic device referred to is the motherboard. The motherboard is a circuit board within the device that stores electricity as a means of communication between the CPU, RAM in laptops or PCs, and other components. Protection for motherboards has been outlined in Law Number 32 of 2000 concerning the Design Layout of Integrated Circuits (UUDTLST).

The iPhone 13 Pro Max HDC is a fraudulent imitation of the authentic iPhone 13 Pro Max. The safeguarding of intellectual property rights is crucial to avoid infringements of such rights. This article will delineate the legal safeguards of intellectual property rights pertaining to the iPhone 13 Pro Max.

2. METHODS

The normative juridical approach is the methodology used. Primary and secondary legal documents make up the secondary data type that is being used. The literature is studied as part of the data collecting process. The method of data analysis relies on qualitative methods to produce information that is descriptive and analytical in nature.

3. RESULTS AND DISCUSSION

3.1 Legal Protection Based on Copyright Law

Copyright is the creator's exclusive right that automatically arises based on the declarative principle after a creation manifests in a tangible form, without lowering the limitations in accordance with the legislation's provisions, as stated in Law Number 28 of 2014 concerning Copyright, Article 1, item 1. A user interface (UI) is regarded as a creation under Article 40 paragraph (1) letters f and s of the Copyright Law. Among the types of works that can be protected by Article 40 paragraph (1) letter f are creations in the fields of science, art, and literature, including works of visual art in all mediums (painting, drawing, carving, calligraphy, sculpture, or collage). According to Article 40, paragraph (1) letters, computer programs are the protected creation.

The application of UI is exemplified in smartphone operating systems, where users frequently interact and input commands both through text and graphical displays.⁴ The UI on the iPhone 13 Pro Max is a type of computer program within the iOS operating system, represented as digital graphic art consisting of illustrations, images, and artworks, as defined in Article 40 paragraph (1) letter f and s of the Copyright Law. Therefore, the UI is considered a type of creation that is protected by the Copyright Law.

According to Article 1 Number 9 of the Copyright Act, a computer program is a set of instructions expressed in the form of

⁴ Ngurah Rangga Wiwesa, "User Interface dan User Experience untuk Mengelola Kepuasan

Pelanggan", *Jurnal Sosial Humaniora Terapan*, Volume 3 Nomor 2 (2021).

language, code, scheme, or in any other form intended for a computer to execute specific functions or achieve specific results. The User Interface (UI) is classified as system software, specifically iOS, which is used on the iPhone 13 Pro Max. In addition to being protected by Article 40 paragraph (1) letters f and s and Article 1 Number 9 of the Copyright Act, the user interface (UI) is also protected by Article 59 paragraph (1) letter e of the Copyright Act. A person or organization that successfully develops a computer program or software may submit a registration application to the Directorate General of Intellectual Property (DJHKI). The purpose of registration is to obtain copyright for the creator and/or copyright holder. The duration of protection for the creation is 50 (fifty) years from the first announcement, as stipulated in the provisions of Article 59 paragraph (2) of the Copyright Law.⁵

A person or entity possesses exclusive rights, including moral and financial rights, as the inventor and/or copyright holder. Moral rights are exclusive rights that belong to the inventor eternally, as stated in Article 5 paragraph (1) of the Copyright Law. These rights give the creator the freedom to use their stage name or pseudonym, modify their work to conform to socially acceptable norms, change the title and subtitles, and preserve their rights in the event that their work is misrepresented, mutilated, or changed in any

other way that might jeopardize their dignity or reputation.⁶ Economic rights, or the only right of the artist and/or copyright holder to profit financially from their works, are governed by Article 8 of the Copyright Law. The author and/or copyright holder may file a lawsuit for damages and pursue both criminal and civil litigation to settle the disagreement if they find evidence of copyright infringement of their work.

3.2 Legal Protection Based on Patent Law

The Operating System (OS) on the iPhone functions to operate the hardware. In addition to being protected by the Copyright Law, the software can also be protected under Law Number 13 of 2016 concerning Patents. According to Article 1, Number 1 of the UUP, an inventor's exclusive rights granted by the state for a specific period of time for their technological invention allow the inventor to implement the invention themselves or to grant others permission to do so.⁷

The operating system (OS) used in the iPhone (iOS) satisfies all three requirements that are necessary for inventions in the field of technology to be eligible for patent protection: they must be novel, have inventive steps, and be applicable in an industry. The iOS on the iPhone 13 Pro Max is an example of an invention in the field of technology that offers superiority or advantages over the previously released versions of iOS, as shown in Table 1⁸

iPhone 12 Pro Max (iOS 14)	iPhone 13 Pro Max (iOS 15)
<ul style="list-style-type: none"> - Enhancing the core experience on the iPhone with redesigned widgets on the home screen, a new way to automatically manage apps with App Library, and a new compact design for phone calls and Siri. - A message introducing pinned conversations and enhancements in the group and emojis. - The map adds cycling directions and facilitates finding preferred locations with guidance. - The app introduces a new way to quickly find and use little bits of the app. 	<ul style="list-style-type: none"> - Introducing audio and video enhancements to FaceTime, including spatial audio and portrait mode. - To bring back articles, photos, and other shared content from conversations in the relevant app. - To focus on helping reduce distractions by filtering notifications based on current activities. - Redesigned notifications and a new notification summary present a collection of notifications, allowing them to be accessed during leisure time.

⁵ Muhammad Taufik Rusydi, "Perlindungan Hukum Terhadap Pencipta Perangkat Lunak Komputer", *Jurnal Fundamental Justice*, Volume 3 Nomor 2 (2022).

⁶ Stephanie Erisdora, etc., "Comparison of Moral and Economic Rights Between Indonesia and France", *Journal of Contemporary Law Studies*, Volume 2 Nomor 1 (2024).

⁷ Andi Muhammad Reza Pahlevi Nugraha, "Tinjauan yuridis Hak Paten di dalam Kerangka Hukum Nasional di Indonesia", *Binamulia Hukum*, Volume 11 Nomor 1 (2022).

⁸ Compare <https://support.apple.com/id-id/118390> dan <https://support.apple.com/id-id/108051>.

<ul style="list-style-type: none"> - The new privacy features enhance transparency and user control regarding how the app access location, photos, microphone, and camera. 	<ul style="list-style-type: none"> - The maps feature showcases a beautiful new design with a three-dimensional city experience and augmented reality walking directions. - Live text utilizes device intelligence to recognize text in photos across the web system. - New privacy controls in series, mail, and more provide greater transparency and offer more control over user data.
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iOS 15 on the iPhone 13 Pro Max falls into the category of a new invention. iOS 15 has differences compared to iOS 14. The update to iOS 15 is an upgrade or improvement of software performance to address emerging security issues and provide new features. The novelties in iOS 15 are different from the inventions in iOS 14. The inventions of iOS 15. Based on the differences as mentioned in Table 1, the iPhone 13 Pro Max meets the element of novelty.

An invention may be said to fulfill or possess an inventive step when viewed through the lens of the equivalents and anticipation doctrine. The doctrine of anticipation refers to a type of anticipation without appropriate disclosure in the reference of prior art.⁹ The doctrine of anticipation, in other words, is a technological leap that cannot be predicted by previous discoveries. The technological leap from iOS 14 to iOS 15 can be observed in Table 1, specifically in iOS 15.5 and iOS 14.3. The difference between point 3 and point 5 lies in the 'map' used in the iPhone. The difference in the "maps" contains a technological leap, where in iOS 14 it only serves as a navigation guide, while in iOS 15 there is a new three-dimensional design with pedestrian navigation that was not present in iOS 14. Based on the doctrine of anticipation, iOS 15 can be said to fulfill the elements of a technological leap.

The doctrine of equivalents is a principle regarding an invention or process that does not literally infringe on patent claims but may be deemed infringing if it

possesses similar elements or processes to a given invention. This doctrine aims to prevent others from avoiding patent infringement by merely making insignificant substantial changes.¹⁰ iOS 15 exhibits functional differences from iOS 14 as outlined in Table 1.

The function is implemented in an update to the features used in the iPhone 13 Pro Max with iOS 15. The update to these features has certainly undergone a process and utilized elements that are different from the previous version of iOS. Based on the inventive steps analysis using the doctrine of equivalents approach, it can be stated that iOS 15 fulfills that criterion.

Inventions must be applicable in industry, which means the invention is a product, it must be capable of being produced repeatedly with consistent quality. If the invention is a process, then that process must be executable or utilized in practice.¹¹ iOS 15 is an operating system (software) developed by Apple Inc. and materialized in a product in the form of the iPhone 13 Pro Max, which is produced repeatedly with the same quality. iOS 15 meets the criteria for the third requirement of patent granting.

Software must fit into one of many categories in order to qualify for patent protection, as stated in Article 4 letter d of the Patent Law. Software that just consists of techniques and rules is not eligible for a patent, per Article 4 letter d of the Patent Law. According to Article 4 letter d of the Patent Law, "only" refers to a computer program that is composed entirely of computer programs devoid of characters, technical effects, or

⁹ Birendra Kumar, "Anticipation of Invention: Patent and Latent Threats", (2022), dalam <https://www.foxmandal.in/anticipation-of-invention-patent-and-latent-threats/>, Monday 27 Mei 2024 13:50 WIB.

¹⁰ Almira Amalia Husna, "Analisis Doctrine of Equivalent di Indonesia dalam Sengketa Pelanggaran Paten", (Doctoral dissertation, Universitas Brawijaya), (2019).

¹¹ *ibid.*

problem-solving abilities. In addition to being useful in solving technical issues, whether physical or intangible, computer programs that exhibit technological effects may be eligible for patent protection.¹²

The operating system (OS) on iOS is a mobile operating system developed by Apple Inc. The OS is characterized by its unique user interface and ease of use in providing various applications and features for multimedia productivity. Without iOS on the iPhone 13 Pro Max, the smartphone would not function properly; therefore, the OS is a crucial component of a computer or mobile device for accomplishing various specific purposes.

The iPhone 13 Pro Max operating system is one that not only has rules and methods but is also protected by patent laws. Article 22 states that the duration of protection for a computer program lasts from the date of acceptance for a period of 20 (twenty) years and cannot be extended. Protection for computer programs or software is essential to guard against acts of piracy by individuals who use software without the authorization of the patent holder. Software, in general, is protected under copyright law; however, in certain countries such as Japan, the United States, and member states of the European Union, software is protected by patents.¹³

3.3 Legal Protection Based on the Industrial Design Law

The iPhone 13 Pro Max's user interface (UI) and phone design are protected by Law No. 31 of 2000 on Industrial Design. According to Article 1 Number 1 of the UUDI, an industrial design is any creation that involves the form, configuration, or composition of lines or colors, or lines and

colors, or a combination of them, presented in two-dimensional or three-dimensional forms that produces an aesthetic impression and can be realized in two-dimensional or three-dimensional patterns. Products, handicrafts, and industrial commodities goods can all be made using it. A new design could qualify for industrial design protection in accordance with the rules specified in Article 2 paragraph (1) of the Industrial Design Law. Since its design shape (color and form configuration), as viewed in both two- and three-dimensional representations, satisfies the standards outlined in Article 2, paragraph (1) of the legislation, the iPhone 13 Pro Max's visual design is protected by the Industrial Design legislation.

The challenges associated with the evolution of Intellectual Property Rights (IPR) relate to User Interface (UI), which integrates interaction design and visual design elements.¹⁴ Considering that the content of Article 1 Number 1 of the Industrial Design Law (UUDI) only states that industrial design is related to the "function of producing products" while the User Interface (UI) is not something that can be related to and/or produce industrial products. Since the enactment of the UUDI, Indonesia has adopted the Locarno Agreement, which is an industrial design agreement that sets international classification for integrating design property. The UI is part of industrial design as mentioned in classification 14 subclass 04, concerning Graphical User Interface (computer screen layout) based on the provisions of the Locarno Agreement, whereas the UUDI does not accommodate the status of UI.¹⁵ The UI becomes part of an industrial design is protected when registered

¹² Compare Ahdad Alfarizi, "Perlindungan Hukum Terhadap Pemilik Perangkat Lunak (Software) yang digunakan Pihak Lain Tanpa Izin Menurut Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta", (*Doctoral dissertation*, Universitas Komputer Indonesia), (2023).

¹³ Daniel Stefan Stefandi & Pande Yogantara S, "Perlindungan Kekayaan Intelektual Software dalam Tatahan Hukum Indonesia", *Jurnal Kertha Desa*, Volume 11 Nomor 2 (2023), 1703-1713.

¹⁴ Secha Wulida Adz-hiya, et.al., "Urgensi Pengaturan Hukum Indonesia Menggunakan Hague System Guna Melindungi Hak Kekayaan Intelektual Bidang Desain Industri", *Diponegoro Private Law Review*, Volume 9 Nomor 2 (2022), 181-204.

¹⁵ Mohamad Rif'an & Liavita Rahmawati, "Pembaharuan UU Desain industri: Tantangan Melindungi User Interface dan Komparasi Unsur Aesthetic Impression", *Jurnal Rechts Vinding: Media*

as a unified entity within the design of a smartphone.

Protection for industrial designs may be conferred to a person following the filing of a registration application to the Directorate General of Intellectual Property, in line with Article 10 of the Industrial Design Law. Upon approval of the application or registration, the designer will have exclusive rights to their invention for a certain duration, enabling them to either utilize the rights independently or authorize others to exercise those rights. According to Article 5, paragraph (1) of the Industrial Design Law, the protection of industrial design rights is given for 10 years after the date of receipt. Exclusive rights are granted to enable the designer to carry out their design vision or to forbid particular organizations from abusing those rights without the creator's consent.¹⁶

A person may be found in breach of industrial design under Article 9, paragraph (1) of the Industrial Design Law if they use, produce, sell, import, export, and/or distribute goods that are protected by industrial design rights without the owner's (the designer's) permission. Parties who feel they have been harmed by the infringement of industrial design rights as stated in Article 9 of the law may sue the offending party for damages and/or the suspension of all actions specified in that article, without affecting the provisions of Article 46 of the Industrial Design Law.

3.4 Legal Protection Based on Trademark Law

The exterior of a mobile phone generally features a logo (brand) as a differentiator from other products, serving as a hallmark of a company. The brand 'iPhone' is one of the products released by Apple Inc, characterized by the use of the 'Apple' logo. Legal protection for the registered trademark "iPhone" is provided by Law Number 20 of 2016 concerning Trademarks and Geographical Indications. A trademark is any

symbol that is visually used to identify products and/or services created by people or legal organizations engaged in the trade of goods and/or services, as stated in Article 1, Number 1 of the Trademark Law. Images, logos, names, words, letters, numbers, color schemes, two- or three-dimensional shapes, sounds, holograms, or combinations of two or more of these components are examples of these signals.

"The iPhone trademark is a combination of several letters that form the word 'iPhone' in a two-dimensional format. The iPhone brand also utilizes a logo in the shape of an incomplete apple, presented in two-dimensional form, which is used on the product. Since protected trademarks are made up of symbols that distinguish goods and/or services produced by individuals or legal entities involved in the trade of goods and/or services, the owner of the well-known trademark for the sale of the iPhone 13 Pro Max is protected by Article 2 paragraph (3) of the Trademark Law. Once the trademark has been registered, the holder may be awarded protection.

The exclusive rights of a trademark holder include the right to use their trademark for a certain period of time or to provide permission for others to use their brand. Legal protection for registered trademarks is granted by the Trademark Law for ten (10) years after the date of acceptance, with the option to extend for a further ten years. In addition to laws, the 1997 Paris Convention for the Protection of Industrial Property and Establishment of the World Intellectual Property Organization includes provisions pertaining to Indonesian trademark rights holders' protection. Article 6 bis of the Paris Convention states that if well-known trademarks have been registered in various countries and have been used for more than 20 years, they may be considered as well-known trademarks.¹⁷

Pembinaan Hukum Nasional, Volume 2 (2020), 295-309.

¹⁶ Ida Ayu Mas Indriani, Ni Made Jaya Senastri, & Ni Made Puspasutari Ujianti, "Hukum Atas Desain

Industri Berdasarkan Undang-undang No. 31 Tahun 2000", *Jurnal Interpretasi Hukum*, Volume 2 Nomor 2 (2021), 297-301.

¹⁷ *Ibid.*

Popular brands are often subject to imitation, leading to losses for trademark holders; moreover, it can undermine consumer trust and damage the company's reputation. Efforts to ensure the protection of trademark rights include that if the trademark is used without the permission of the trademark holder, as stipulated in Article 83 of the Trademark Law, the famous trademark holder may file a lawsuit for compensation. Such compensation may include damages in both material and immaterial forms.¹⁸

3.5 Legal Protection Based on the Law of Layout Designs of Integrated Circuits

The motherboard is the primary hardware component in an electronic product. It is a circuit board featuring several sockets and slots used to connect the hardware components of a computer. The hardware referred to includes the CPU, RAM, hard drive, and video card, enabling the computer or electronic device to function as intended.¹⁹

Law Number 32 of 2000 regulating Integrated Circuit Layout Designs protects the motherboard of the iPhone. Article 1 Numbers 1 and 2 of the Layout Designs of Integrated Circuits Law explicitly identify the two sections that make up the Layout Designs of Integrated Circuits. According to Article 1 Number 1 of Layout Designs of Integrated Circuits, the main definition of an integrated circuit is a product in a finished or semi-finished form that is made up of multiple elements, at least one of which is an active element, that partially or fully interconnect and are integrally formed within a semiconductor material intended to produce electronic functions.

Second, the layout design is a three-dimensional arrangement of various elements, at least one of which is an active element, and part or all of the

interconnections within an integrated circuit with the goal of preparing for integrated circuit manufacturing, as stated in Article 1 Paragraph 2 of The Layout Designs of Integrated Circuits. This kind of protection may be used to integrated circuit designs that are capable of producing electronic processes. According to the rules of Article 2 of the Layout Designs of Integrated Law, legal protection for integrated circuit designs is only given to original works, which means that they must be the designer's creations and not, at the time of production, comprise anything that is common among designers. According to Article 4 of the Layout Designs of Integrated Law, protection for integrated layout designs for designers is given for a period of 10 (10) years from the date the application is registered.

The Layout Designs of Integrated Law's Article 8 paragraph (1) gives the owner of the exclusive rights the ability to exercise those rights and to stop others from acting, using, selling, importing, exporting, or distributing goods that include all or a portion of the legally protected design. The owner of the rights to the Layout Designs of Integrated Law or a licensee under the Layout Designs of Integrated Law may file a civil lawsuit against anyone who willfully and without authorization has committed acts as specified in Article 8 of the Layout Designs of Integrated Law, in accordance with the provisions set forth in Article 38 paragraph (1) of the Layout Designs of Integrated Law. This covers demands for compensation and/or the halting of actions as outlined in Article 8 of the Integrated Law Layout Designs.²⁰

4. CONCLUSION

Law Number 28 of 2014 on Copyright, Law Number 13 of 2016 on

¹⁸ Compare Zulkarnain & Safrina, "Perlindungan Hukum Terhadap Hak Merek Terkenal Iphone dan Samsung atas Penjualan Smartphone Supercopy", *Jurnal Ilmiah Mahasiswa Bidang Hukum Keperdataan*, Volume 6 Nomor 2 (2022).

¹⁹ Perpustakaan SMAN 6 Berau, "Mengenal Motherboard, Processor, Hardisk, dan RAM", (2023),

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²⁰ Sabri Fataruba, "TRIPs dalam Kaitannya dengan Perlindungan Hukum Terhadap Rahasia Dagang, Desain Industri dan Desain Tata Letak Sirkuit Terpadu di Indonesia", *Sasi*, Volume 26 Nomor 1 (2020), hal 1-8.

Patents, Law Number 31 of 2000 on Industrial Designs, Law Number 20 of 2016 on Trademarks and Geographical Indications, and Law Number 32 of 2000 on Integrated Circuit Layout Designs are the minimum of five (5) laws that safeguard intellectual property rights pertaining to the iPhone 13

Pro Max. Violations of intellectual property rights pertaining to the iPhone 13 Pro Max can be addressed through both civil and criminal liability, and the party who feels wronged may file a lawsuit in accordance with the relevant laws and regulations.

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