

Copyright Protection of Video Game Characters in Indonesia: Unauthorized Modding, Derivative Works, And A Three-Tier Regulatory Framework

Fadhil Ahda Muhaiyaadden^{1*}, Deizan Azriel Drahmasyfa², Farhan Gunawan³,
Ikhwan Aulia Fatahillah⁴

^{1,2,3,4} UIN Sunan Gunung Djati Bandung, Indonesia

*Correspondence: Fadhilahda9@gmail.com

Abstrak

Perkembangan industri video game di Indonesia telah memperluas praktik modifikasi permainan (modding) sebagai bentuk kreativitas digital sekaligus memunculkan persoalan mengenai batas perlindungan hak cipta atas karakter. Penelitian ini menganalisis kedudukan karakter video game sebagai objek perlindungan hak cipta, kualifikasi yuridis modding tanpa izin, serta kebutuhan rekonstruksi regulasi Indonesia. Penelitian menggunakan metode hukum normatif dengan pendekatan peraturan perundang-undangan, konseptual, komparatif, dan kasus. Bahan hukum utama meliputi Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta, instrumen hukum digital, doktrin karya turunan, perjanjian lisensi pengguna akhir, dan literatur mengenai praktik modding. Hasil penelitian menunjukkan bahwa modding yang melibatkan adaptasi, transformasi, distribusi, komersialisasi, atau pengelakan technological protection measures dapat menimbulkan pelanggaran hak cipta, sedangkan modding non-komersial dan non-distributif masih menyisakan ruang interpretasi. Artikel ini menawarkan kerangka regulasi tiga tingkat yang menggabungkan klasifikasi risiko, lisensi komunitas, dan akuntabilitas platform digital untuk menyeimbangkan perlindungan pemegang hak dengan kreativitas komunitas.

Kata Kunci: hak cipta; karakter video game; modding; karya turunan; regulasi digital.

Abstract

The expansion of the video game industry in Indonesia has intensified modding as a form of digital creativity while also exposing uncertainty over the legal boundaries of copyright protection for game characters. This article examines the legal status of video game characters, the qualification of unauthorized modding under Indonesian copyright law, and the regulatory reconstruction required to address the resulting grey areas. The study employs normative legal research using statutory, conceptual, comparative, and case approaches. Its principal legal materials include Law Number 28 of 2014 on Copyright, digital-law instruments, derivative-work doctrine, end-user licence agreements, technological protection measures, and scholarship on modding practices. The analysis finds that modding involving adaptation, transformation, public distribution, commercialization, or circumvention of technological protection measures may engage the exclusive rights of copyright holders, while private, non-commercial and non-distributive modifications remain less clearly regulated. The article develops a three-tier regulatory framework combining risk-based legal classification, institutionalized community licensing, and proportionate platform accountability. This framework is intended to protect legitimate copyright interests without eliminating socially valuable forms of participatory digital creativity.

Keywords: *copyright; video game characters; modding; derivative works; digital regulation.*

INTRODUCTION

The development of information and communication technologies has created new forms of creative production, among which the video game industry has become one of the most dynamic. In Indonesia, the source materials used in this study record substantial market growth: the national video game market was reported to have reached USD 1.79 billion in 2023, with mobile gaming accounting for approximately 77 percent of the market.¹ Other industry projections cited in the manuscript anticipate continued expansion from USD 3.11 billion in 2024 to USD 6.37 billion by 2033, alongside increasing internet penetration and the growth of the national esports ecosystem.² The same source base also describes Indonesia as having more than 150 million active players, placing the country among the largest game markets in Southeast Asia.³

The expansion of this ecosystem generates not only economic opportunities but also increasingly complex intellectual-property questions. A particularly important issue is modding, understood in this article as the alteration, addition, replacement, or reconfiguration of original game elements by persons other than the original developer. Mods may affect characters, skins, three-dimensional models, voice files, sound, textures, audiovisual material, gameplay mechanics, or other protected assets. Because these activities operate directly on copyrighted material, the legal status of modding depends on the relationship between user creativity and the exclusive rights retained by the creator or copyright holder.

Video game characters are especially significant because they frequently possess both economic and artistic value. Characters may function as visual assets, narrative devices, brand identifiers, and recurring elements across sequels, merchandise, audiovisual adaptations, and online communities. The manuscript therefore treats character design as a legally relevant component of the wider video game work. Under Law Number 28 of 2014 on Copyright (hereafter the Copyright Law 2014), Article 40(1)(r) expressly recognizes video games as protected works. The study interprets that recognition as extending legal protection to original creative elements embedded within the game, including sufficiently original character designs.⁴

Unauthorized modding has nevertheless become increasingly accessible within gaming communities. The source literature associates this development with more readily available modification tools, large online communities operating through platforms such as Nexus Mods and GameBanana, and the absence of a specific Indonesian statutory category defining when game modifications are permitted. A legal study from Universitas Tanjungpura, for example, argues that certain forms of modding may implicate Article 52 of the Copyright Law 2014 on technological protection measures and may also engage Article 9 where the

¹ Kementerian Perdagangan RI. "Nilai Pasar Game Indonesia Diperkirakan Mencapai USD 1,79 Miliar pada 2023." Disampaikan dalam Lapakgaming Battle Arena, Jakarta, 1 Desember 2024. Dikutip dari "Pasar Game Indonesia Mencapai USD 1,79 Miliar," n.d.

² Newzoo, "Global Games Market Report 2024." (Amsterdam, 2024).

³ VIVA, "Nilai Pasar Industri Game RI Tembus Rp26 Triliun, Komunitas Jadi Kunci," n.d.

⁴ Gilang Dwi Ramadhan, "Ruang Lingkup Perlindungan Hak Kekayaan Intelektual Terhadap Video Game," *Ournal of Intellectual Property* 4 (2021): 1–14.

modification involves unauthorized reproduction, adaptation, or distribution.⁵ This creates a legal problem that cannot be resolved merely by labelling all mods as either lawful fan activity or piracy.

The difficulty is that modding is not a single homogeneous practice. Some modifications are commercial, substitute for official content, bypass access controls, or redistribute protected assets. Others are created for personal experimentation, non-commercial fan participation, accessibility, technical improvement, or community expression. The social and economic functions of these practices differ substantially. The dispute literature discussing *Mobile Legends* and *League of Legends* illustrates the broader sensitivity of character design and interface similarities within the game industry and demonstrates how disputes over creative elements can acquire significant legal consequences.⁶ The central regulatory challenge is therefore one of differentiation: copyright law must identify when a modification crosses the boundary from permitted or tolerated user creativity into an unauthorized exercise of the copyright holder's exclusive rights.

Existing Indonesian scholarship has addressed video game copyright from several directions, including protection of the *Among Us* character, online piracy of video games, and the historical absence of an express video-game category in earlier copyright legislation.⁷ However, the literature reviewed in the source manuscript remains comparatively limited in its specific treatment of unauthorized modding of game characters as a distinct legal problem. This gap is important because character-based modding can simultaneously involve adaptation rights, moral rights, reproduction, distribution, technological protection measures, contractual restrictions under an End User License Agreement (EULA), and the governance responsibilities of digital platforms. A fragmented analysis of only one of these elements risks understating the legal complexity of the practice.

Accordingly, this article asks three related questions. First, how should video game characters be qualified as objects of copyright protection under Indonesian law? Second, under what conditions can unauthorized modification of those characters constitute copyright infringement or another form of legal breach? Third, how should Indonesian regulation respond to modding in a manner that protects copyright while preserving proportionate space for digital creativity and community participation? These questions move the discussion beyond the binary assumption that modding is either categorically illegal or categorically harmless.

The study pursues three corresponding objectives: to explain the legal basis for protecting game characters under the Copyright Law 2014; to evaluate the legal consequences of unauthorized modding through the concepts of adaptation, transformation, distribution, technological circumvention, moral rights and contractual licence restrictions; and to formulate a more coherent regulatory

⁵ Erlangga Maulana Wibowo, "ANALISIS YURIDIS MODIFIKASI (MODDING) VIDEO GAME GRAND THEFT AUTO: SAN ANDREAS," *Fatwa Hukum Universitas Tanjungpura* 8 (2025).

⁶ Syakilah Wanda Ramatasita and Agri Chairunisa Isradjuningtias, "Analisis Perlindungan Hukum Hak Cipta Dalam Industri Game: Studi Kasus *Mobile Legends* Dan *League Of Legends*," *Jurnal Riset Multidisiplin Edukasi* 2 (2025): 29–48.

⁷ Muhammad Mar'Ali and Prameswari Nindya Putri, "Pelindungan Hukum Hak Kekayaan Intelektual Atas Hak Cipta Karakter Game *Among Us* Di Indonesia," *Padjadjaran Law Review* 9 (2021); Vania Irawan, "Analisis Yuridis Terhadap Pelanggaran Hak Cipta Permainan Video (Video Games) Berupa Pembajakan Secara Online," *Journal of Intellectual Property* 3 (2020).

approach. The theoretical contribution lies in connecting the protection of characters as identifiable creative elements with the law of derivative works and digital governance. The practical contribution lies in providing a structured basis for policymakers, rights holders, platforms and modding communities to assess different forms of modification according to their actual legal risk rather than treating all user modifications alike.

The analysis is informed by three conceptual foundations contained in the source manuscript. First, copyright protection is treated as an exclusive right that arises automatically once a qualifying work is expressed in a tangible or perceptible form, without a requirement of registration.⁸ Second, derivative-work theory is used to examine whether adaptation, transformation or other modification of a protected work falls within the copyright holder's exclusive sphere unless a statutory limitation or permission applies. Third, Philipus M. Hadjon's distinction between preventive and repressive legal protection is used to evaluate whether Indonesian law merely supplies remedies after infringement or also provides regulatory mechanisms capable of preventing conflict before it occurs.⁹

The novelty of the article lies in bringing those strands together in a character-specific modding analysis. Rather than treating the video game only as a unitary copyrighted work, the study focuses on the legal status of characters as protected creative elements and then traces how modding can affect multiple rights at once. From that synthesis, the article develops a Three-Tier Modding Governance Framework. The first tier classifies modding according to legal risk and the nature of the rights affected; the second relies on community or developer licensing to create predictable permission structures; and the third addresses the role of digital platforms in distribution and enforcement. The framework is not presented as a substitute for the Copyright Law 2014, but as a regulatory architecture for translating its general norms into the specific context of user-generated game modifications.

RESEARCH METHOD

This study uses normative legal research, understood as research that examines law through legal norms, principles, concepts, legislation and authoritative legal scholarship rather than through the collection of primary field data.¹⁰ The method is appropriate because the central questions concern the legal qualification of game characters, the scope of exclusive copyright rights, the status of unauthorized derivative modifications, and the design of a regulatory response. Primary, secondary and supporting legal materials are interpreted systematically in order to identify the applicable rules, the points of normative uncertainty, and the prescriptive implications for Indonesian copyright governance.

Four approaches are combined. The statutory approach examines the Copyright Law 2014, particularly the provisions identified in the source manuscript concerning computer programs, moral rights, economic rights, video games as protected works, technological protection measures and criminal sanctions. The

⁸ Rahmi Janed, *Hukum Hak Cipta* (Bandung: PT Citra Aditya Bakti, 2014).

⁹ Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia*, ed. PT Bina Ilmu (Surabaya, 1987).

¹⁰ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, ed. PT Raja Grafindo Persada (Jakarta, 2003).

analysis also takes account of the Electronic Information and Transactions legislation cited in the source, Presidential Regulation Number 19 of 2024 on the Acceleration of National Game Development, and the international copyright instruments identified by the manuscript, including the Berne Convention and the Agreement on Trade-Related Aspects of Intellectual Property Rights. These materials are read as an interconnected normative environment rather than as isolated rules.

The conceptual approach examines copyright as an exclusive right, fictional characters as potentially protectable creative expressions, derivative works, EULAs as contractual instruments governing the end user's permission, technological protection measures, and copyright limitations or exceptions. The purpose of this approach is to clarify the legal categories that may be triggered by different forms of modding. It also helps distinguish the copyright question from related contractual questions: a modification may implicate exclusive copyright rights, breach a contractual licence condition, circumvent a technical protection measure, or combine more than one of these consequences.

The comparative approach uses the United States, the European Union and Japan as reference points because the source manuscript identifies these jurisdictions as relevant to the development of video game industries and to legal debates surrounding derivative and user-generated content. The comparison is functional rather than exhaustive. It considers the United States doctrine of fair use and fictional-character protection, the European Union's Digital Single Market framework and platform obligations, and the Japanese context of more limited general fair-use flexibility alongside established fan-creation practices. The purpose is not to transplant foreign law mechanically, but to identify regulatory options that may inform a more precise Indonesian approach.

A case-oriented approach supplements the doctrinal analysis. The study refers to the Mobile Legends and League of Legends dispute discussed in the source literature, the Grand Theft Auto: San Andreas modding analysis used as an Indonesian reference,¹¹ and foreign jurisprudential concepts concerning fictional characters and transformative use. These cases and examples are not treated as empirical samples of Indonesian modding behaviour. Rather, they function as legal illustrations showing how questions of character similarity, adaptation, transformation, distribution and contractual permission can arise in concrete settings.

Legal materials were collected through library research by identifying, classifying and comparing legislation, legal doctrine, journal articles, reports and cited case materials relevant to the research questions. The analysis is qualitative and prescriptive. It proceeds by describing the applicable rules, interpreting their relationship, evaluating gaps or tensions, and synthesizing the results into a regulatory framework. Particular attention is paid to the principle of proportionality: the same legal response should not automatically be applied to a private cosmetic modification, a publicly distributed replacement asset, a monetized mod, and a modification that circumvents technological protection measures. The

¹¹ Wibowo, "ANALISIS YURIDIS MODIFIKASI (MODDING) VIDEO GAME GRAND THEFT AUTO: SAN ANDREAS."

method therefore supports a differentiated legal classification rather than an undifferentiated prohibition.

RESULTS AND DISCUSSION

Legal Status of Video Game Characters as Copyright-Protected Works under Indonesian Law

A video game is a multidimensional creative work. It combines software code, graphic design, music, narrative, audiovisual expression, interface elements, and characters that may carry the story or form the principal focus of player interaction. This complexity creates a legal classification problem because the game can be protected as a whole while particular elements may also possess sufficient originality to attract protection in their own right. Mar'Ali and Putri emphasize that game characters can constitute important copyright-relevant elements because they are not merely functional images but creative expressions capable of possessing an identifiable visual and narrative identity.¹²

The source manuscript describes a significant historical transition in Indonesian copyright law. Under the earlier Law Number 19 of 2002, video games were not expressly identified as a separate protected category, requiring protection to be reasoned by analogy through computer programs or audiovisual works. Zainal characterizes this as a normative gap that complicated the legal treatment of game content.¹³ Although copyright protection did not necessarily disappear in the absence of a specific label, the lack of express recognition created uncertainty concerning the classification of the composite elements of video games.

The Copyright Law 2014 altered that position by expressly recognizing video games as protected works. Wibowo regards this recognition as an important development in adapting Indonesian copyright law to the digital creative economy.¹⁴ Article 40(1)(r) expressly includes video games within the catalogue of protected creations, and the source manuscript relies on this provision to support protection for original character designs and related creative elements embodied within a game.¹⁵ The legal significance of this recognition is that a character does not need to be treated only as an incidental part of software code; it may be analysed as a visual, narrative and interactive expression embedded within a larger copyrighted work.

Originality remains central to that analysis. Sari and Dharmakusuma explain that copyright protection requires creative expression that originates from the author rather than mere copying or reproduction of existing material.¹⁶ For a video game character, originality may be reflected in a distinctive combination of visual form, costume, facial expression, proportions, colour arrangement, movement,

¹²Mirza Mar'Ali dan Prameswari Nindya Putri, "Pelindungan Hukum Hak Kekayaan Intelektual atas Hak Cipta Karakter Game Among Us di Indonesia," *Padjadjaran Law Review*, Vol. 9, No. 2, 2021, hlm. 3.

¹³Ahmad Zainal, "Kekosongan Normatif Permainan Video Dalam Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta," *Technology and Economics Law Journal*, Vol. 3, No. 1, 2024, hlm. 4.

¹⁴Ahmad Fajri Wibowo, "Perlindungan Hak Cipta Terhadap Penggandaan Permainan Video," *Dharmasisya: Jurnal Program Magister Hukum FHUI*, Vol. 2, No. 2, 2022, hlm. 2.

¹⁵Pasal 40 ayat (1) huruf r Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta.

¹⁶Nusan Indah Permata Sari dan Gede Agung Dharmakusuma, "Pengaturan Perlindungan Hak Cipta Permainan Video," *Jurnal Kertha Semaya*, Vol. 8, No. 8, 2020, hlm. 1130.

personality, narrative role or other expressive attributes. Copyright does not protect a general idea such as a warrior, a racing driver or a fantasy creature. The relevant question is whether the particular expression of that idea is sufficiently original and concretely embodied to qualify as protected subject matter.

The international material cited in the source manuscript reinforces the composite nature of character expression. WIPO's comparative study describes game characters as fictional figures controlled or experienced by players and notes that their form varies according to the type of game.¹⁷ This supports an analysis that looks beyond a single static image. A character may be expressed through a combination of visual appearance, movement, voice, animation, interaction and recurring expressive features. The more clearly these attributes form an identifiable creative expression, the stronger the basis for analysing the character as a legally significant protected element.

Indonesian scholarship also places game characters within the broader concept of complex or composite creative works. Ramatasita and Isradjuningtias argue that individual visual components such as body form, clothing, facial expression and colour can collectively contribute to a protected character design.¹⁸ This does not mean that every isolated feature is monopolized. Rather, protection should be assessed in relation to the original expressive arrangement. Such a distinction is important for modding because many modifications preserve the underlying identity of a character while altering only a limited set of visual or behavioural attributes.

The question of ownership is equally important. Article 1 point 3 of the Copyright Law 2014 defines the creator in terms of the person or persons who produce a distinctive and personal work.¹⁹ In modern game development, however, characters are commonly produced through collaborative corporate workflows involving artists, writers, animators, programmers and other personnel. The source manuscript therefore observes that economic rights will often be managed by the game developer or corporate rights holder, subject to the contractual allocation of rights. This has practical consequences for modding because permission may need to be obtained from the entity that controls the relevant rights even where individual creators contributed to the character.

A further issue is whether a fictional character may be protected separately from the original game in which it appears. Hans argues that such protection requires a sufficiently delineated character and adequate originality capable of distinguishing the character from generic genre conventions.²⁰ This approach is useful because it prevents overprotection. Not every avatar, generic model, stock costume or commonplace visual feature should automatically receive independent protection. The more individualized and recognizable the expressive combination, the stronger the argument for separate legal significance. The assessment therefore

¹⁷Andy Ramos et.al., "The Legal Status of Video Games: Comparative Analysis in National Approaches," WIPO, 2013, hlm. 7.

¹⁸Syakilah Wanda Ramatasita dan Agri Chairunisa Isradjuningtias, "Analisis Perlindungan Hukum Hak Cipta dalam Industri Game: Studi Kasus Mobile Legends dan League of Legends," Jurnal Riset Multidisiplin Edukasi, Vol. 2, No. 5, 2025, hlm. 31.

¹⁹Pasal 1 angka 3 Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta.

²⁰Markus Hans, "Esensi Perlindungan Hak Cipta Atas Karakter Fiktif," Mimbar Yustitia, Vol. 2, 2022, hlm. 5.

remains contextual and should consider the totality of the expressive features rather than relying on a single attribute.

Aristyani identifies limited copyright awareness among industry actors and the wider public as an additional challenge in the Indonesian creative economy.²¹ In the context of modding, low legal literacy may lead users to assume that access to game files or possession of a lawful copy automatically carries a right to adapt and redistribute protected assets. Copyright law does not necessarily follow that assumption. Ownership of a copy and ownership of copyright are conceptually different. A user may legitimately possess or access the game while remaining subject to statutory exclusive rights and contractual restrictions governing modification and redistribution.

The legal status of characters can therefore be summarized in three propositions. First, the game as a whole is expressly recognized as a protected work under the Copyright Law 2014. Second, original character expressions may form protected elements within that work and, where sufficiently delineated, may possess legal significance beyond the game as a single undivided object. Third, protection remains expression-based rather than idea-based, making originality, fixation and the specific form of appropriation central to any infringement analysis. These propositions provide the normative foundation for evaluating unauthorized character modification.

Unauthorized Modding as Adaptation, Transformation and Potential Copyright Infringement

Modding is fundamentally an act of alteration. It may replace textures, alter a character model, add accessories, modify animation, import a character from another game, change dialogue or voice, or transform the appearance and behaviour of existing content. When the modified element is protected by copyright, the legal question is whether the user has exercised an exclusive right reserved to the copyright holder. The Copyright Law 2014 defines copyright as an exclusive right arising automatically after a work is expressed in tangible form.²² The source manuscript consequently analyses character modding through the legal concepts of adaptation and transformation.

Mar'Ali and Putri argue that unauthorized use of a protected game character may affect both moral and economic rights.²³ Moral rights are particularly relevant where a modification distorts a character in a manner capable of harming the creator's honour or reputation, while economic rights are implicated when a user reproduces, adapts, transforms or distributes protected expression. The two dimensions should not be conflated. A modification may be economically unauthorized without necessarily causing reputational harm, while a highly derogatory alteration may raise integrity concerns even in the absence of significant commercial exploitation.

²¹Nola Aristyani, "Tantangan Pengembangan Industri Ekonomi Kreatif Melalui Pembiayaan Berbasis Hak Cipta," *Media Hukum Indonesia*, Vol. 2, No. 4, 2024, hlm. 973.

²²Pasal 1 angka 1 Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta.

²³Mar'Ali dan Putri, *Op.Cit.*, hlm. 5.

Komara, Fauzan and Jaelani describe the Copyright Law 2014 as protecting both the video game and the copyrightable works contained within it.²⁴ On that basis, a mod that changes protected character expression without authorization may engage Article 9(1), which reserves acts such as adaptation, arrangement and transformation to the rights holder.²⁵ The decisive issue is not the label “mod” but the legal substance of the conduct. A user who creates a new file that merely changes a personal configuration may present a different risk from a user who reproduces protected meshes, textures or character assets and distributes them as a substitute product.

The Indonesian study of Grand Theft Auto: San Andreas modding cited in the manuscript identifies two principal statutory concerns. The first is unauthorized adaptation or transformation under Article 9. The second is circumvention of technological protection measures under Article 52 where access to protected assets requires bypassing digital rights management or other technical controls.²⁶ These concerns are analytically distinct. Even if the underlying modification might otherwise be arguable as non-commercial or limited, intentional circumvention of a technological measure may create a separate legal problem depending on the statutory conditions.

Distribution is another major dividing line. Article 9(2), as cited in the source manuscript, prohibits the exercise of the copyright holder's economic rights without permission.²⁷ A modification that remains entirely on a user's private device does not create the same dissemination consequences as a mod uploaded to a public repository. Once protected assets or derivative modifications are made available through Nexus Mods, GameBanana, forums or other digital platforms, the act may involve reproduction, communication or distribution in addition to the original act of modification. The legal risk therefore increases as the mod moves from private experimentation to public circulation.

Commercialization further intensifies that risk. Wibowo notes that monetized mods, paid downloads, subscription-based access, advertising-supported distribution or use of modified characters in paid content can interfere more directly with the copyright holder's economic interests.²⁸ Commerciality is not necessarily the only criterion for infringement, but it is highly relevant to the gravity of exploitation, the likelihood of market substitution and the rationale for enforcement. A regulatory model that treats a private fan modification and a monetized replacement asset identically would fail to account for this important difference.

Article 52 of the Copyright Law 2014 adds a technological dimension by prohibiting intentional circumvention of technological control measures used to protect a work.²⁹ Game modification may sometimes require no circumvention at

²⁴D. Komara, M. Fauzan, dan E. Jaelani, "Perlindungan Hukum Hak Cipta Terhadap Tindakan Pembajakan Software Game Ditinjau dari UU No. 28 Tahun 2014," *Varia Hukum*, Vol. 4, No. 2, 2022, hlm. 84.

²⁵Pasal 9 ayat (1) Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta.

²⁶Erlangga Maulana Wibowo, "Analisis Yuridis Modifikasi (Modding) Video Game Grand Theft Auto: San Andreas," *Fatwa Hukum Universitas Tanjungpura*, Vol. 8, 2025, hlm. 6.

²⁷Pasal 9 ayat (2) Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta.

²⁸Wibowo, *Op.Cit.*, hlm. 7.

²⁹Pasal 52 Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta.

all, particularly when the developer provides official tools or accessible modification directories. In other situations, however, modification may depend on bypassing encryption, anti-tamper systems, access controls or DRM in order to extract or alter protected assets. The legal analysis should therefore ask not only what was modified, but also how access to the material was obtained.

The existence of statutory limitations and exceptions prevents the analysis from becoming absolute. The Copyright Law 2014 contains limitations for specified purposes, including certain educational, research and non-commercial uses. The source literature notes a grey area where a modification is strictly private, non-commercial and not publicly distributed.³⁰ Such circumstances do not automatically establish legality, but they may affect the applicable legal characterization, evidentiary questions and the proportionality of enforcement. This is one reason why a context-sensitive framework is preferable to a categorical prohibition on all modifications.

EULAs provide an additional layer of governance. Hakim explains that a licence agreement can contractually define the scope of an end user's permitted use, including whether modification is allowed.³¹ A developer may expressly permit specified non-commercial mods, prohibit modification entirely, require use of official tools, restrict reverse engineering, or impose conditions on distribution. Breach of those conditions may generate contractual consequences that are conceptually distinct from copyright infringement. A user can therefore face a layered legal analysis in which statutory copyright rights and contractual licence obligations operate simultaneously.

Zainal identifies the absence of a specific Indonesian statutory category for modding as a source of legal uncertainty.³² General copyright provisions must currently be applied by analogy to a broad range of technically different activities. This creates uncertainty for both rights holders and good-faith modders because the legal consequences may depend on a combination of the protected element, the degree of transformation, the method of access, the presence of distribution, commercial purpose and the licence terms. A clearer regulatory structure should therefore provide decision criteria rather than merely adding another general prohibition.

The analysis supports a risk-based classification. Low-risk modding would generally involve private, non-commercial alterations that do not redistribute protected assets, do not bypass technological protection measures, and do not misrepresent the origin of the work. Medium-risk modding would include public distribution of derivative modifications or uses that remain non-commercial but reproduce substantial protected expression. High-risk modding would include commercial exploitation, replacement markets for official content, unauthorized redistribution of game assets, systematic circumvention of technological measures, or modifications that materially interfere with the integrity or commercial exploitation of the original character. These categories do not predetermine legal

³⁰Ahmad Fajri Wibowo, Op.Cit., hlm. 4.

³¹Dini Anggraini Hakim, "Perjanjian Lisensi Sebagai Bentuk Pengalihan Hak Kekayaan Intelektual," *Yurisprudencia: Jurnal Hukum Ekonomi*, Vol. 7, No. 1, 2021, hlm. 19.

³²Zainal, Op.Cit., hlm. 7.

liability, but they provide a more useful governance structure for interpreting the general provisions of the Copyright Law 2014.

Table 1. Normative Classification of Modding Practices

Scenario	Principal Legal Issue	Indicative Risk	Governance Response
Private, non-commercial modification	Adaptation of protected expression; EULA limits	Low to medium	Clear licence terms; education; no unnecessary enforcement
Publicly distributed non-commercial mod	Adaptation plus reproduction/distribution	Medium	Community licence; attribution and platform rules
Monetized or market-substituting mod	Economic rights; commercial exploitation	High	Express permission; licensing; civil enforcement where necessary
Mod requiring TPM/DRM circumvention	Technological protection measures and access controls	High	Technical restrictions; targeted enforcement; lawful access pathways
Unauthorized redistribution of original assets	Reproduction and distribution of protected content	High	Notice-and-response; removal; proportionate remedies

Source: Authors' synthesis based on the Copyright Law 2014 and the literature reviewed in this study.

Comparative Approaches to Modding and Character Protection

Comparative law is useful because Indonesia is not the only jurisdiction attempting to reconcile exclusive copyright rights with participatory digital culture. The source manuscript identifies the United States, the European Union and Japan as relevant reference points. The United States provides an extensive body of copyright doctrine and a large game industry.³³ European and Asian scholarship cited in the source also demonstrates the different ways in which game content and derivative digital use can be regulated.³⁴ The purpose of the comparison is not to claim that one foreign system offers a complete model, but to isolate mechanisms that can clarify Indonesian policy choices.

In the United States, copyright protection for fictional characters has developed through jurisprudential tests concerned with the distinctiveness and delineation of the character. The source manuscript refers to the “story being told” and “sufficiently delineated” approaches as ways of identifying characters that are sufficiently developed to receive protection apart from generic ideas.³⁵ Section 107

³³Vania Irawan, 'Analisis Yuridis Terhadap Pelanggaran Hak Cipta Permainan Video (Video Games) Berupa Pembajakan Secara Online', JIPRO: Journal of Intellectual Property, Vol. 3, No. 2 (2020), hlm. 35-52. <https://doi.org/10.20885/jipro.vol3.iss2.art3>

³⁴Nusan Indah Permata Sari dan Gede Agung Dharmakusuma, 'Pengaturan Perlindungan Hak Cipta Permainan Video', Kertha Semaya: Journal Ilmu Hukum, Vol. 8, No. 8 (2020), hlm. 1129-1137.

³⁵Ahmad Fajri Wibowo, 'Perlindungan Hak Cipta terhadap Penggandaan Permainan Video (Copyright Protection Against Video Game Copying)', Dharmasiswa: Jurnal Program Magister Hukum FHUI, Vol. 2, No. 2 (2022), Artikel 17. <https://scholarhub.ui.ac.id/dharmasiswa/vol2/iss2/17>

of the U.S. Copyright Act also establishes the fair-use doctrine, which considers the purpose and character of the use, the nature of the copyrighted work, the amount used, and the effect on the potential market.³⁶ For modding, this structure creates room for a case-specific assessment rather than relying solely on a formal distinction between authorized and unauthorized copying.

The source material further describes a pragmatic industry practice in which some United States-based developers provide official modding tools or permit specified forms of non-commercial community modification.³⁷ This illustrates the importance of licensing architecture. The copyright holder does not need to surrender copyright in order to enable modding. Instead, it can define a permission space: which assets may be modified, whether redistribution is allowed, whether monetization is prohibited, whether attribution is required, and which platforms may host the resulting content. Rasyid's discussion of EULAs reinforces the legal significance of licence design in regulating the relationship between rights holders and users.³⁸

The European Union provides a different reference point through Directive (EU) 2019/790 on Copyright in the Digital Single Market. The source manuscript emphasizes Article 17 and the increasing responsibility of content-sharing platforms to address unauthorized copyrighted material.³⁹ It also notes that the EU framework preserves mandatory user protections for quotation, criticism, review, caricature, parody and pastiche.⁴⁰ The relevance for modding lies in the combination of stronger platform governance with defined spaces for transformative expression. Indonesian regulation could draw from this structure without reproducing it mechanically by clarifying both platform responsibilities and lawful or licensed user activities.

Japan presents a more culturally mediated model in the source manuscript. Japanese copyright law is described as lacking a broad general fair-use doctrine comparable to the United States, while fan-created derivative culture has nevertheless developed through a combination of rights-holder policy, social practice and selective tolerance. The important lesson is not that non-commercial fan works are automatically lawful. Rather, it is that legal certainty can be improved when rights holders publish clear policies concerning fan creations, prohibited uses,

³⁶Taupiqqurrahman, "Perlindungan Hak Cipta Terkait Pelanggaran Modifikasi Karya Ciptaan Asing Yang Dilakukan Tanpa Izin Di Indonesia," *SUPREMASI: Jurnal Hukum* Vol. 4, No. 1 (2021), hlm. 95–108, <https://doi.org/10.36441/supremasi.v4i1.548>.

³⁷Laila Dahren dan Alvi Rasyidi, 'Perlindungan Hukum bagi Pemegang Lisensi Hak Cipta Game Online terhadap Pihak Ketiga sebagai Pembuat Program Modifikasi', *Eksekusi: Journal of Law*, Vol. 1, No. 2 (2019), hlm. 156-180. <https://doi.org/10.24014/je.v1i2.8428>

³⁸Nur Rasyid, 'Kedudukan End-User License Agreement (EULA) dalam Perlindungan Hak Cipta', *JIPRO: Journal of Intellectual Property*, Vol. 7, No. 1 (2024). <https://doi.org/10.20885/jipro.vol7.iss1>

³⁹Sadeli Djamiludin dan Fuad, 'Pertanggungjawaban Hukum Marketplace di Indonesia terkait Pelanggaran Hak Cipta: Tantangan, Regulasi, dan Upaya Pencegahan dalam Era E-Commerce', *UNES Law Review*, Vol. 6, No. 3 (2024). <https://doi.org/10.31933/unesrev.v6i3>

⁴⁰Fahrul Hikmah, Ardiyan Yanto, dan Kurniawan Ariski, 'Perlindungan Hak Ekonomi bagi Pemilik Hak Cipta dalam Perspektif Hukum Kekayaan Intelektual di Indonesia', *Jurnal Pendidikan dan Konseling (JPDK)*, Vol. 5, No. 2 (2023), hlm. 2254-2260. <https://doi.org/10.31004/jpdk.v5i2.13503>

commercialization, reputational harm and distribution. Informal tolerance is fragile; explicit permission is more predictable for both creators and communities.

Across the three comparative settings, a common theme emerges: copyright protection and community creativity need not be treated as mutually exclusive. The legal systems and industry practices differ, but each offers mechanisms capable of reducing uncertainty. These include a structured transformative-use analysis, explicit licence permissions, rights-holder modding policies, platform-level copyright governance, and defined exceptions for particular forms of expression. Indonesia can adapt these mechanisms to its own statutory structure by focusing on clear permissions and risk categories rather than importing foreign doctrines wholesale.

A comparative approach also reveals the importance of procedural clarity. Users need to know whether modification is permitted before they invest substantial creative effort; rights holders need predictable methods for limiting harmful uses; and platforms need criteria for responding to notices without automatically removing every community-created work. The absence of such clarity can produce two opposite forms of overreach: under-enforcement against commercially exploitative infringement and over-enforcement against low-risk, socially valuable fan creativity. A balanced framework should reduce both errors.

Legal Liability and the Need to Reconstruct Indonesia's Modding Governance

Legal liability for unauthorized modding in Indonesia should be examined through both existing enforcement mechanisms and the need for preventive regulatory design. The first question is what legal consequences are already available under the Copyright Law 2014. The second is whether those consequences provide sufficient ex ante guidance for users, developers and platforms. The distinction reflects Hadjon's preventive and repressive conception of legal protection: an effective legal system should not only punish infringement after it occurs but also structure conduct in ways that reduce avoidable conflict.

On the criminal side, the source manuscript refers to Article 113 of the Copyright Law 2014. It explains that intentional and commercial infringement of economic rights may result in imprisonment and fines, with more serious consequences where the conduct falls within the aggravated statutory provisions. In the modding context, criminal liability is most plausibly relevant where the conduct involves intentional commercial exploitation, unauthorized distribution on a significant scale, or other facts satisfying the statutory elements.⁴¹ A proportionate enforcement policy should distinguish these cases from low-level private experimentation and should remain attentive to the elements required by the statute.

Civil liability offers a different route. Article 99, as described in the manuscript, enables a copyright holder to seek damages and other civil remedies against infringement. The study uses unauthorized commercial exploitation of recognizable game characters as an example of conduct that may affect both economic and moral interests. The wider digital environment makes character assets easy to reproduce and place into merchandise, downloadable content or other monetized products,

⁴¹ Fakultas Hukum et al., "PERLINDUNGAN HUKUM TERHADAP PUBLISHER GAME ONLINE ATAS KEBERLAKUAN GAME ONLINE SEJENIS TANPA LISENSI BERBASIS PRIVATE SERVER DI INDONESIA DITINJAU DARI HAK CIPTA "" 9, no. 2 (2024): 189–201.

while enforcement may remain difficult in dispersed online markets.⁴² Civil remedies are therefore important not only for compensation but also for stopping continued unauthorized exploitation.

Alternative dispute resolution is also relevant. Article 95 of the Copyright Law 2014 permits copyright disputes to be addressed through arbitration, mediation, conciliation or other alternative mechanisms. This can be particularly suitable for modding conflicts where the parties may benefit more from a negotiated removal, licence, attribution arrangement, modification of distribution terms, or cessation of monetization than from prolonged litigation. A graduated enforcement model can reserve the most severe responses for deliberate commercial infringement while offering proportionate pathways for disputes arising from good-faith community activity.

The need for regulatory reconstruction arises from three structural problems identified in the source manuscript. First, the Copyright Law 2014 contains no specific definition of modding, requiring users and rights holders to infer legal consequences from general provisions on adaptation, transformation, distribution and technological protection measures. Second, the law does not provide a structured mechanism specifically tailored to non-commercial, fan-created modifications, leaving uncertainty over how private or community uses should be assessed. Third, enforcement in digital environments remains difficult, particularly where mods are distributed through online repositories or platforms beyond the immediate control of the rights holder.⁴³

These problems justify a Three-Tier Modding Governance Framework. Tier One is legal classification. Regulations or official guidance should identify relevant variables: whether the mod uses protected assets; the amount and importance of expression taken; whether it is transformative; whether it remains private or is publicly distributed; whether it is monetized; whether it substitutes for official content; whether technological protection measures are bypassed; and whether the modification is permitted by the applicable licence. This tier would not create an automatic safe harbour, but it would make the legal assessment transparent and more predictable.

Tier Two is community licensing. The source manuscript recommends an institutionalized permission mechanism resembling open or standardized licensing, under which developers can proactively define the categories of modding they permit. A developer might allow non-commercial cosmetic mods, require distribution only through specified platforms, prohibit the extraction of original asset files, restrict use of trademarks, ban discriminatory or reputation-damaging content, and reserve monetization rights. Community licensing would convert uncertain tolerance into legally intelligible permission and would allow rights holders to differentiate between activities they support and activities they prohibit.

Tier Three is platform accountability. Online repositories and content-sharing services play a crucial role in the dissemination of mods. The manuscript therefore proposes stronger platform obligations inspired by the governance logic of the EU

⁴² Ranissa Sekar Elaies, "Tanggung Jawab Perdata Terhadap Pelanggaran Hak Cipta Atas Tindakan Pembajakan Film Melalui Situs Ilegal" 2, no. 05 (2023): 367–77.

⁴³ Ujang Badru Jaman, Galuh Ratna Putri, and Tiara Azzahra Anzani, "Urgensi Perlindungan Hukum Terhadap Hak Cipta Karya Digital," 2014.

Digital Single Market framework.⁴⁴ Platform responsibility should be proportionate and procedurally fair: platforms should publish copyright policies, provide notice-and-response procedures, preserve evidence of authorization where appropriate, distinguish between licensed and unlicensed uploads, and avoid designing enforcement in a manner that automatically erases lawful or authorized community content. The objective is not universal automated filtering, but an accountable distribution environment.

The three tiers are interdependent. Classification without licensing leaves users uncertain about whether the rights holder consents. Licensing without platform implementation may be ineffective because unauthorized copies can still circulate widely. Platform enforcement without clear legal categories risks over-removal and inconsistent treatment. A coherent model therefore needs all three components: statutory or administrative guidance, rights-holder permission structures, and platform procedures. This integrated design also reflects preventive legal protection because it seeks to reduce disputes before they require criminal or civil enforcement.

Presidential Regulation Number 19 of 2024 on the Acceleration of National Game Development provides a policy context within which such regulatory refinement can be discussed. As the source manuscript argues, the growth of a national game ecosystem requires a copyright environment that serves developers, rights holders, users and creative communities simultaneously. A mature regulatory system should protect investment and original creation while also recognizing that modding can generate engagement, technical learning, accessibility improvements and community participation when conducted within legitimate boundaries. The legal task is therefore to define those boundaries with greater precision.

The proposed framework also helps correct a conceptual weakness in many copyright disputes: the tendency to treat legal protection and digital creativity as opposite values. Copyright protection is intended to secure legitimate rights and incentives, but legal certainty can also enable creativity by telling users what they may lawfully do. Community licensing, clear exceptions and proportionate enforcement can reduce the chilling effect of uncertainty without depriving rights holders of control over substantial commercial exploitation. In this sense, regulatory clarity is not a concession to infringement; it is a mechanism for distinguishing legitimate participation from conduct that genuinely threatens protected interests.

The study nevertheless has limitations. It is a normative legal analysis and does not empirically measure how Indonesian modders interpret EULAs, how frequently developers authorize particular modifications, or how platforms respond to copyright complaints. It also relies on the comparative materials and case illustrations contained in the source corpus rather than a comprehensive survey of foreign jurisprudence. Future research should therefore test the proposed classification through empirical studies of Indonesian modding communities, developer policies, marketplace practices and dispute-resolution outcomes. Such research would help refine the threshold between low-, medium- and high-risk modifications.

⁴⁴ Jurnal Ilmu Hukum et al., "PERLINDUNGAN HAK CIPTA DIGITAL SEBAGAI BENTUK DIGITAL COPYRIGHT PROTECTION AS A FORM OF INTELLECTUAL PROPERTY DEVELOPMENT IMPLEMENTATION" 8, no. April (2024): 269–90.

CONCLUSION

This study concludes, first, that video game characters may qualify as copyright-protected expression within the framework of the Copyright Law 2014 when they embody sufficient originality in a tangible or perceptible form. Article 40(1)(r) expressly recognizes video games as protected works, and the character may form a legally significant element within that composite work. Protection is strongest where the character is sufficiently individualized through a distinctive combination of visual, narrative, behavioural and interactive attributes. The law should therefore distinguish protected expression from generic ideas, stock features and genre conventions.

Second, unauthorized character modding may engage several legal dimensions at once. Adaptation and transformation can implicate the economic rights recognized in Article 9; public distribution may create additional infringement risk; commercial exploitation strengthens the economic dimension; and intentional circumvention of technological protection measures may raise a separate issue under Article 52. EULAs can add contractual restrictions independently of copyright. At the same time, private, non-commercial and non-distributive modifications remain less clearly regulated, which demonstrates the need for a contextual assessment rather than a uniform legal response to every mod.

Third, the comparative discussion shows that copyright protection and participatory creativity can be reconciled through more precise governance mechanisms. The United States illustrates case-specific transformative-use analysis and developer-created modding permissions; the European Union illustrates stronger platform governance combined with protected spaces for specified forms of user expression; and the Japanese context demonstrates the practical importance of explicit rights-holder policies in fan-creation environments. Indonesia should draw from these mechanisms functionally while retaining the structure of its own copyright law.

Fourth, the article proposes a Three-Tier Modding Governance Framework consisting of risk-based legal classification, institutionalized community licensing, and proportionate platform accountability. The framework translates the general provisions of the Copyright Law 2014 into a more usable decision structure without removing the rights holder's exclusive rights. It also gives developers a mechanism to authorize beneficial community practices and gives platforms clearer criteria for distribution governance. This approach places prevention and legal certainty alongside enforcement.

Policy development should therefore prioritize specific guidance on modding, developer-facing community licence models, and transparent platform procedures. Law-enforcement authorities and dispute-resolution institutions should apply proportionality by considering the nature of the protected material, the degree of transformation, distribution, commercial purpose, technological circumvention, licence terms, and actual harm. Further empirical research should examine modding practices in Indonesia, the legal awareness of modding communities, the content of EULAs used by major game publishers, and the effectiveness of notice, licensing and mediation mechanisms. Such evidence is necessary to determine whether the proposed framework can support both a credible copyright regime and a sustainable digital creative ecosystem.

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