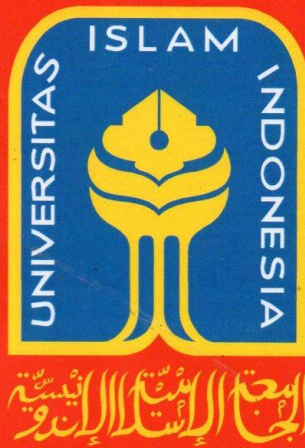


LEGAL PROTECTION OF COSPLAY COSTUME BASED ON
INDONESIA AND JAPAN'S COPYRIGHT AND DESIGN LAW

A THESIS



By:

GALIH DWI RAMADHAN

Student Number : 14410359

INTERNATIONAL PROGRAM
FACULTY OF LAW
UNIVERSITAS ISLAM INDONESIA
YOGYAKARTA

2018

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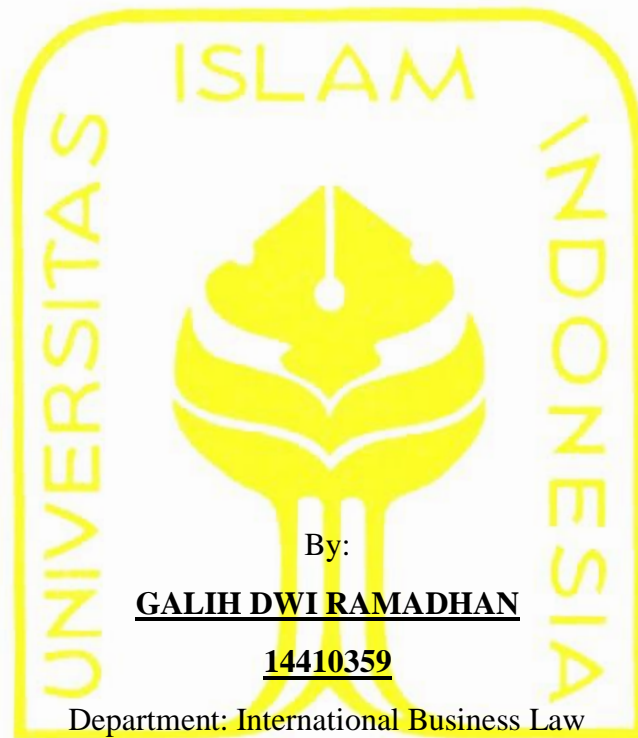
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INDONESIA AND JAPAN'S COPYRIGHT AND DESIGN LAW**

A BACHELOR DEGREE THESIS

**Presented as Partial Fulfillment of the Requirements to Obtain the Bachelor
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INTERNATIONAL PROGRAM
FACULTY OF LAW

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2016

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

A BACHELOR DEGREE THESIS

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**LEGAL PROTECTION OF COSPLAY COSTUME BASED ON INDONESIA AND
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This bachelor degree thesis has been proven and declared acceptable by the Thesis Content Advisor to be examined by the Board of Examiners at the Thesis Examination

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الابدية

Yogyakarta, 17 April 2018

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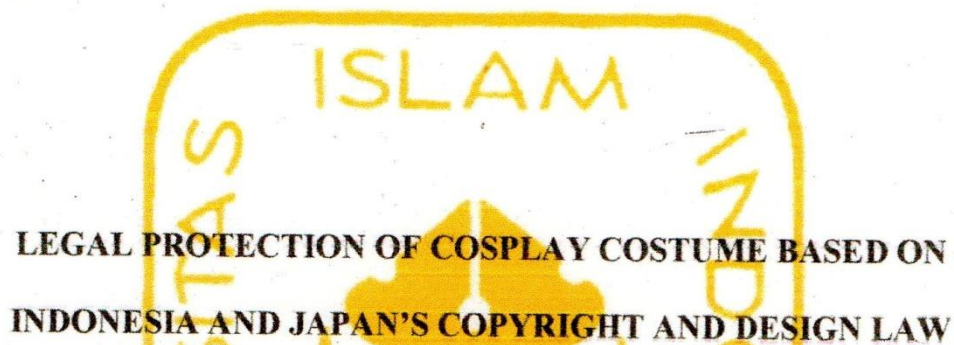
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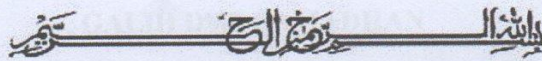
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Yogyakarta, 17 April 2018
Yang Bersangkutan,

A handwritten signature in black ink, consisting of several overlapping loops and lines, appearing to be the name Galih Dwi Ramadhan.

(Galih Dwi Ramadhan)
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MOTTO

*I am the bone of my sword
Steel is my body and fire is my blood
I have created over a thousand blades
Unknown to Death,
Nor known to Life.
Have withstood pain to create many weapons
Yet, those hands will never hold anything
So as I pray,
Unlimited Blade Works.
(Emiya Shirou)*

DEDICATION

*Untuk Ayah dan Ibuku tercinta
menjadi sebuah hadiah istimewa di umur mereka yang ke 49*

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Alhamdulillah *rabbil'alam*, first of all, I would like to thank to Allah SWT who gives me strength to pass part of my life; one of my very important moments is to do my bachelor degree which would be impossible if I only rely on my work. It is blessing of Allah SWT through His prophet Muhammad SAW that leads us from the darkness to the light of life and acknowledgement.

This thesis was written as a partial fulfillment to attain a bachelor degree in the field of Law in the International Program of Faculty of Law Universitas Islam Indonesia, under the title “Legal Protection of Cosplay Costume Based on Indonesia and Japan’s Copyright and Design Law.”

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4. My Rin Tohsaka (Rizqah Miftahul Jannah)
5. My lovely cats (Awkarin, Betmen, Emen & Polycarpus)
6. My Akhirat Best friends forever – 4 Suhu Besar (Ichsan, Anang & Adi)

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10. All of my classmate friend IP FH UII 2014
11. My Cosplayer Ma’jelis – Kape Bubur (John Switch “Bang Bima”, I Gede
Agus “Bli Dharma”. Kak Ovitria “Kak Yon”)
12. My First September Cosplay team (Perlita Fauziah Azzahra
“Vampy/Miaw/Irisviel”)
13. My Silent Syndicate Cosplay team (Jody “Leone/tid/ler”, Kak Adis)
14. My partner on Werewolf Cosproject (Om Galih “Chaz”, Bang Jahe
“Arjuna”, Abang Doni, Eriza, Tiko, Nicosius, Kak Recchi, Kak Rizu,
Mbak Adlina “Panda”, Amu, Fatim, Ody)

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Yogyakarta, 17 April 2018

Galih Dwi Ramadhan

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ABSTRACT

The development of Japan popular culture especially cosplay in Indonesia in which on society done a commercialization in gaining profit from the business activities of making and selling services cosplay costume, raising a legal protection and the background's of cosplay costume based on Indonesia and Japan Copyright and Industrial Design Law. The purposes of this thesis that is to get better understanding of a legal protection and also the background's of cosplay costume based on Indonesia and Japan Copyright and Industrial Design Law with normative legal research. as the result of legal protection of cosplay costume based on Indonesia and Japan Copyright and Industrial Design Law has a similarity to cosplay costume is the protection of economic rights to the image design character as object (Image as object protected by copyright) in which the image character design have been carried out the exploitation of economic rights to do adaptation, transformation and reproduction of a image design character embodied into the costume form, especially character design image of various characters in media entertainment know by public. And industrial design act Indonesia and Japan there are differences of view that in Indonesia industrial design five wider definition related to criteria of costume that is in the form of 3 dimension and made by handicraft, but in Japan design act only give narrower definition of criteria of design. background of legal protection of cosplay costume based on Indonesia and Japan copyright and industrial design law has 3 aspect as background that is law aspect, culture aspect and politic economy aspect.

Keywords: Cosplay, Copyright, Industrial Design.

CHAPTER I

INTRODUCTION

A. Background of The Study

All human creation need to be appreciated by society, so that copyright is present to protect all man-made works. Therefore, copyright is present to protect the works of literature and artwork with all forms of development in this world. Copyright is a set of rights' part called as intellectual property rights whose control is in the science of law and is called the law of intellectual property rights¹. The law covers a field of law in charge of the juridical right of the work or the creation of the results of human thought connected to the interests of the economic and moral².

Copyright in the international world has also been discussed and protected, of which international legal protection of copyright has been relying on several international conventions or treaties. International copyright protection is tied to the conventions that form the basis for international copyright protection. Such conventions or treaties include the Convention, the Universal Copyright Convention, the TRIPs Agreement and the WIPO Copyright Treaty³.

Since the agreement of GATT and after the Marakesh conference in April 1994 have also been found with GATT replaced by a world trade system known as the WTO (World Trade Organization). Within its institutional structure, the WTO has a General Council under the director general of the

¹ Suyud Margono, *Hukum Hak Cipta Indonesia*, Ghalia Indonesia, Bogor, 2010, p.21.

² Eddy Damian, *Hukum Hak Cipta*, Alumni, Bandung, 2003, p.8.

³ Budi Agus Riswandi, *Selayang Pandang Hak Cipta Indonesia*, Total Media, Yogyakarta, 2009, p.19.

WTO which oversees one of the strong councils of Intellectual Property Rights. Affordable official provisions such as the *Berne Convention* for the Protection of literary and artistic works that are in reference in various countries of the world

As to works, protection must include "every production in the literary, scientific and artistic domain, whatever the mode or form of its expression"

In general, TRIPs agreement contains juridical norms that must be obeyed and implemented in the field of Intellectual Property Rights, in addition to the banning setting trading on infringed goods⁴.

Industrial designs are compositions of lines or colors or any three-dimensional forms which give a special appearance to a product or handicraft. They protect the ornamental or aesthetic aspect of a useful article, which usually appeals to the sense of sight or touch and can be reproduced in significant quantities.

All matters relating to the use of such copyrighted works and Industrial design for certain activities shall require permission in use in the use of exclusive rights as the Indonesia and Japan regulations have governed them in Copyright law base on their country.

Indonesia and Japan are countries which have very large population. Therefore, it makes these three countries very quickly affected by foreign cultures entering their country, especially in the culture of dress especially culture of cosplay.

⁴ Sunarmi, *Peranan TRIPs Terhadap Hak atas Kekayaan Intelektual Indonesia*, Jurnal Hukum Universitas Sumatra Utara, p.1.

At the present time, there is a violation of copyright that is not acted strictly and even considered as a reasonable and common in the community to cosplay costume which in the country of Indonesia and Japan. cosplay is a common thing and is considered as a hobby positive but from the cosplay itself happens a violation of copyright that rampant happened and it has been done by fans who doing a cosplay activities. costume means that someone needs clothing and accessories to be a certain character and play is defined as one type of activity doing a thing⁵.

Cosplay itself is a Japanese popular culture that since 2000 spread among the people, especially Indonesia and japan in cosplay, individuals dress up as fictional characters among fellow sci-fi and fantasy enthusiasts. Cosplay is a person who is wearing complete clothing with accessories and makeup similar to fictional characters and also perform all the characters in the form of a performance and performance of the best⁶. Broad insights about popular cosplay culture will make a good overall understanding of cosplay so that someone becomes a good cosplayer⁷. As the of designing, purchasing, or crafting piece of a costume or an entire costume to resemble popular characters⁸ As noted by carlo McCormick in fandomania's introductory essay, "The Purported coinage of the term cosplay as a typical Japanese linguistic contraction of the english words costume and play be a Cosplay, a contraction

⁵ Kanzhi Wang, *Cosplay in China: Popular Culture and Youth Community*, Center for East and South-East Asian Studies, Lund University, 2010, p.18.

⁶ Henrik Bonnichsen, *Cosplay: Creating or Playing Identities*, Stockholm University, 2011, p.7.

⁷ Jiwon Ahn, *Animated Subject: Globalization, Media and East Asian Cultural Imaginaries, Toward a Perfect Cosplay*, Kobunsha, Tokyo, 2008, p.68.

⁸ Melia Robinson, *An Introduction into the Wild World of Cosplay*, Bus. Insider, <http://www.businessinsider.com> accessed on february 4, 2018

of the words costume play, is a hobby in which guests called cosplayers wear costumes and fashion accessories to represent a specific character⁹. Cosplay which means costum player is a practical tool that serves as a specific role, the user can feel the role needed, and can be a personal in want¹⁰.

Cosplayer is a person doing cosplay, often interact to create a subculture, and a broader use of the term "cosplay" applies to any costumed role-playing in venues apart from the stage. Any entity that lends itself to dramatic interpretation may be taken as a subject and it is not unusual to see genders switched. Favorite sources include anime, cartoons, comic books, live-action movies, television series and video games. Cosplayers obtain their apparel through many different methods. Manufacturers produce and sell packaged outfits for use in cosplay, with varying levels of quality. These costumes are often sold online, but also can be purchased from dealers at conventions.

The term "cosplay" was created by Takahashi Nobuyuki in 1984. Nobuyuki attended a science fiction convention in Los Angeles, and he was so impressed with the fans' costume competition that he wrote about his experiences upon returning to Japan. Yet, no word in the Japanese language accurately represented the costume competition Nobuyuki saw. To remedy this predicament, Nobuyuki combined the Japanese equivalents of "costume" and "play" to describe what he saw. This created the word (コスプレkosupure) which in English roughly translates into cosplay. Today, this term universally

⁹ Hannah Dockendorf, *Cosplay Wars: The Legal Implication of Fan Costume Competitions*, <http://www.Law.marquette.edu> accessed on february 4, 2018.

¹⁰ Mitamura Fukiko, *Cosupure Naze Nihonjin ha seifuku ga suka na no*, Shoudensha Shinso, Tokyo, 2008, p.4.

refers to a fan's wearing of costumes, props, and accessories to represent a character often originating from video games, comics, movies, and TV shows¹¹. Such monetary gains naturally bring up concerns regarding the copyrights and trademarks on the imitated characters.

Cosplay provides its hobbyists with a highly creative outlet of expression shared by thousands of people all over the world. The thought and skill used to replicate popular figures from a static channel to real life sizes is undeniable. As the frequency of comic conventions increases, so does the rise in cosplay among fans¹².

Cosplay is a result of a fan who fandoming their fictional characters. Fan interest and enthusiasm in popular texts automatically associates them with 'bad taste', and their disregard for the aesthetic preferences of larger society presents a threat to cultural hierarchies¹³. Consumption of popular texts and the fan activities associated with them are denigrated by dominant culture. Moreover, fans are erroneously deemed uncritical consumers or "cultural dopes", who are unaware of the exploitative nature of the popular culture industry. Then cosplay consists predominately of fan-created, handcrafted costumes.

In general, copyright law protects the imitated characters. These protections allow copyright holders, such as comic book publishers, to protect visual depictions of their characters in derivative works such as replicas, fan

¹¹ Hannah Dockendorf, *Op.Cit.*

¹² Molly Rose Madonia, *All's Fair in Copyright and Costumes: Fair Use Defense to Copyright Infringement in Cosplay*, Marquette Intellectual Property Law Review, Volume 20, p.178.

¹³ Jeffrey Brown, *Comic Book Fandom and Cultural Capital*, Journal of Popular Culture, p.30.

films, and costumes. As cosplayers create costumes of typically protected characters, the costume may be a derivative work, if not an outright copy. According to the Berne Convention, a derivative work refers to the “translations, adaptations, arrangements and similar alterations of preexisting works”, which are protected by law. Typically, merely changing the medium is not enough to make the derivative an original work. The derivative work must have some independent artistic expression sufficient to support a new copyright.

In fact, cosplayers are encouraged to personalize their character portrayal by doing such things as combining multiple characters or satirically changing the gender of the character. Thus, if a cosplayer chooses to portray their chosen character as close as possible to the original form, then the cosplayer likely violates the character’s copyright, because the portrayal lacks any creative additions. Meanwhile, the cosplayer who creatively reinterprets their chosen character will likely meet the requisite amount of creativity sufficient to avoid infringement claims.

The element of cosplay usage is part of the original character of the character fictional maker and also the phenomenon of cosplay rampant in every event that is held to bring a fans from various fandom so it becomes a business opportunity for some people who have been in the cosplay environment and make cosplay became a business in the business of making these costumes. Meanwhile, the copyright holder of the characters in cosplayed by the cosplayer does not give clear permission to the cosplay costume makers and also from the sale and purchase cosplay costumes often the owner of the

copyright of the character does not get profit from the sale and purchase business cosplay costume the. So it becomes an unusual thing for cosplay costume makers to use their creations for commercial purposes. Which is where many business actors make cosplay costume as a profitable business.

A parties of activities to sell goods that use the design of certain characters in a costume. Sale their costumes artificially openly on the internet or in the form of a physical store that can be visited or also in a booth at an event. Which is very common and very easy to find in Indonesia and Japan

Mostly Indonesian people who are involved in the cosplay, raise a business opportunity for some people who take the opportunity of cosplay phenomenon itself rife in Indonesia. some people and cosplayer make business selling cosplay costume along with cosume costume making service as a lucrative business field because every year cosplay phenomenon is still going on and always changing with the times. but the business actors who are involved in cosplay still do not realize that their business activities trading and costume cosplay making services are very vulnerable to copyright infringement there in. From this phenomenon raises a related issue of copyright in the business of selling cosplay costumes that very clearly have violated aspects of the copyright itself for the owners of design characters who have used their designs into the form of a costume by some cosplay costume makers. So raises a question how the rules of Indonesia and Japan copyright law set about trade cosplay costume in terms of copyright and Industrial Design aspects.

B. Problem Formulation

1. How is Legal Protection of Cosplay Costume Based on Indonesia and Japan's Copyright and Industrial Design Law
2. How is Background of Legal Protection of Cosplay Costume Based on Indonesia and Japan's Copyright and Industrial Design Law

C. Research Objectives

1. To get better understanding of Legal Protection of Cosplay Costume Based on Indonesia and Japan's Copyright and Industrial law
2. To know the background of Legal Protection of Cosplay Costume Based on Indonesia and Japan's Copyright and Industrial Design Law

D. Theoretical Framework

Copyright (or author's right) is a legal term used to describe the rights that creators have over their literary and artistic works. Works covered by copyright range from books, music, paintings, sculpture, and films, to computer programs, databases, advertisements, maps, and technical drawings¹⁴. The right of literary property as recognized and sanctioned by positive law. A right granted by statute to the author or originator of certain literary or artistic productions, whereby he is invested, for a limited period, with the sole and

¹⁴ WIPO, <http://www.wipo.int/copyright/en/>. accessed on february 4, 2018

exclusive privilege of multiplying copies of the same and publishing and selling them.

Copyrights give protection rights to Exhaustive lists of works covered by copyright are usually not to be found in legislation. Nonetheless, broadly speaking, works commonly protected by copyright throughout the world include:

- a. Literary works such as novels, poems, plays, reference works, newspaper articles;
- b. Computer programs, databases;
- c. Films, musical compositions, and choreography;
- d. Artistic works such as paintings, drawings, photographs, and sculpture;
- e. Architecture; and
- f. Advertisements, maps, and technical drawings.

Copyright protection extends only to expressions, and not to ideas, procedures, methods of operation or mathematical concepts as such. Copyright may or may not be available for a number of objects such as titles, slogans, or logos, depending on whether they contain sufficient authorship.

There are two types of rights under copyright:

1. Economic rights, which allow the rights owner to derive financial reward from the use of his works by others; an
2. Moral rights, which protect the non-economic interests of the author.

Most copyright laws state that the rights owner has the economic right to authorize or prevent certain uses in relation to a work or, in some cases, to receive remuneration for the use of his work. The economic rights owner of a work can prohibit or authorize:

- a. Reproduction in various forms, such as printed publication or sound recording;
- b. Public performance, such as in a play or musical work;
- c. Recording, for example, in the form of compact discs or DVDs;
- d. Broadcasting, by radio, cable or satellite;
- e. Translation into other languages; and
- f. Adaptation, such as a novel into a film screenplay.

This thesis focused on the analysis towards one of the intellectual property aspects, it is copyright. Firstly, Copyright representatively is right to duplicate or reproduce an artistic work. On the international regulations, the scope of copyright in Berne Convention are:

- a. literary and artistic works;
- b. derivative works;
- c. official texts;
- d. collections;
- e. works of applied art and industrial designs;
- f. and news.

Then, in TRIPs Agreement, as follow are the scopes of copyright which is protected:

- a. Computer programs and compilations of data;
- b. Protection of Performers, producers of phonograms (sound recording), and broadcasting organizations.

Then the next instrument is WIPO Copyright Treaty regulates the protection is extended to the expressions and not to ideas, procedures, methods of operation or mathematical concept as such. As follow:

- a. Computer programs;
- b. Compilations of data (database).

Industrial design in legal sense, an industrial design constitutes the ornamental or aesthetic aspect of an article. An industrial design may consist of three dimensional features, such as the shape of an article, or two dimensional features, such as patterns, lines or color. In principle, the owner of a registered industrial design or of a design patent has the right to prevent third parties from making, selling or importing articles bearing or embodying a design which is a copy, or substantially a copy, of the protected design, when such acts are undertaken for commercial purposes¹⁵.

Industrial designs are applied to a wide variety of products of industry and handicraft items: from packages and containers to furnishing and household

¹⁵ WIPO, <http://www.wipo.int/designs/en/> , accessed on february 12, 2018.

goods, from lighting equipment to jewelry, and from electronic devices to textiles. Industrial designs may also be relevant to graphic symbols, graphical user interfaces (GUI), and logos. With the naming of industrial design or design it is easy to socialize to the businessmen and *pendasain*, in addition because the term industrial design is more close to the foreign word, and more often used in various literatures, the most important is how the definition of industrial design is arranged so as not giving rise to different interpretations¹⁶.

Copyrights law in Indonesia is Law No.28 of 2014, the definition of copyrights law based on Indonesian law is the exclusive right of the creator that arise automatically based on the principle of declarative after and invention is embodied in a tangible form without prejudice to the restrictions in accordance with the provisions of the legislation¹⁷ and Industrial Design Law in Indonesia is Law No. 31 of 2000 give a purpose of this law is to give an exclusive rights granted by the Republic of Indonesia to the Designer of his creation for a certain period of time own, or give its consent to others to exercise that rights.¹⁸

Copyrights law in Japan is Act No.38 of 1970, as Amendement No. 65 of 2010 Japanese copyright law protects all works "in which thoughts or sentiments are expressed in a creative way, and which falls within the literary, scientific, artistic or musical domain." The laws automatically provide the following rights, without the need for formal declaration or registration, The purpose of this Law is, by providing for the rights of authors and the rights neighboring thereon with respect to works as well as performances,

¹⁶ Suyud Margono, *Aspek Hukum Komersialisasi:ASET INTELEKTUAL*, Cv. Nuansa Aulia,Bandung, 2010, p.24.

¹⁷ See Article 1 of Law No.28 of 2014 about Copyright

¹⁸ See Article 1 (5) of Law No. 31 of 2000 about Industrial Design

phonograms, broadcasts and wire diffusions, to secure the protection of the rights of authors, etc., having regard to a just and fair exploitation of these cultural products, and thereby to contribute to the development of culture¹⁹. And Industrial Design Law of Japan is Act No. 125 of 1959, as Amended up to Act No. 36 of 2014 regulate the enforcement of IP and Related Laws, IP Regulatory Body, Industrial Designs, Patents (Inventions), Utility Models.

E. Research Methodology

1. Type of Research

The type of this research shall be the normative legal research, meaning that this research will be conceptual and developed based on the positive law namely regulation and doctrine related with Legal Protection of Cosplay Costume Based on Indonesia and Japan's Copyright and Industrial Design Law.

2. Object of Research

Object of research shall be the matters that will be researched which consist of:

- 1) Legal protection of Cosplay costume based on Indonesia and Japan's Copyright and Industrial Design law.
- 2) Background of Legal Protection of Cosplay Costume Based on Indonesia and Japan's Copyright and Industrial Design Law

¹⁹ See Article 1 of Japan Copyrights law (Act No.38 of 1970, as Amendement No.65 of 2010)

3. Sources of Data

a) Primary legal material shall be legal sources that legally binding which related with the object of this research as follow as:

- 1) Indonesia Copyright Law (Law No.28 of 2014)
- 2) Indonesia Industrial Design Law (Law No. 31 of 2000)
- 3) Japan Copyright Law (Act No.38 of 1970, as Amendemend No. 65 of 2010)
- 4) Japan Design Law (Act No.125 of 1959, as Amended No. 36 of 2014)

b) Secondary legal materials are material that is explaining the nature of the law towards the primary law in the form of textbooks, literatures, law journals and electronic legal material, the results of research and other scholars materials related to the object of research.

c) Tertiary legal materials are material which give the direction and/or explanation towards primary legal material and secondary legal material which consist of :

- 1) Black Law Dictionary
- 2) Encyclopedia
- 3) Law Journal

4. Method of Data Collecting

Method of data collecting in this study is using a research shall be conducted by literature studies which included by study on textbooks, literatures, law journals and electronic legal material, the results of research and other scholars materials with related to Legal Protection of Cosplay Costume Based on Indonesia and Japan's Copyright and Industrial Design Law.

5. Method Approach

Method approach conducted in this research is statutory research approach that is the methods approach in order to understanding the problem based on Legal Protection of Cosplay Costume Based on Indonesia and Japan's Copyright and Industrial Design Law.

6. Legal Material Analysis

This research used the qualitative methods of analysis, shall be data that has been retrieved will be elaborated in the form of description and explanation, and then, it will be examined based on the opinions of experts, legal theories that are relevant, and argument of the researcher itself in order to obtain significant and scientific conclusion. Legal material obtained from this research presented and elaborated qualitatively by ways as following:

- i. Classifying and collecting legal materials based on research problem.

- ii. The result of classification of legal material will be complied systematically.
- iii. Systematic legal materials will be analyzed to be formulated as basic in conclusion formulation.

CHAPTER II

**THE CONCEPT OF INDONESIA COPYRIGHT AND INDUSTRIAL
DESIGN LAW**

A. Concept of Copyright in Indonesia

1. Definition of Copyrights

Copyright is the exclusive right of the creator that arise automatically based on the principle of declarative after an invention is embodied in a tangible form without prejudice to the restrictions in accordance with the provisions of the legislation. Creator is a person or persons who individually or jointly produce a creation that is unique and personal; Creation is any copyrighted work in the fields of science, art, and literature produced on inspiration, ability, thought, imagination, dexterity, skill or expertise that is expressed in a tangible form; Copyright Holder is the creator as the owner of Copyright, the party receiving such rights lawfully from the Creator, or other parties who receive more rights than those who received the rights lawfully; Related Rights are rights related to copyright the exclusive right for performers, phonogram producers, or broadcasting institution; Performers are one or several persons who individually or together to show and demonstrate a Work; Producer honogramm is the person or legal entity who first recorded and has the responsibility to implement sound recording or sound recording, recording both performance and

recording voice or other sounds; Broadcasting Agency is organizing Broadcasting, both public broadcasting institutions, private broadcasting institutions, community organizations and institutions Broadcasting, Broadcasting subscription in carrying out the duties, functions and responsibilities in accordance with the provisions of the legislation; The computer program is a set of instructions that are expressed in the form of language, code, schema, or in any form computer work perform a specific function or to achieve specific results; Images is a photographic work with human objects; The announcement was reading, broadcasting, exhibition, a creation using any tool either electronic or non-electronic, or perform any way that an invention can be read, heard, or seen others; Cloning is a process, act, or how to duplicate one copy of works and/or phonogram or more in the manner and in any form, permanently or temporarily; Fixation is an audible sound recording, recording images or both, which can be seen, heard, reproduced, or otherwise communicated through any device; Fixation Phonogramm is sound performance or other sounds, or a representation of the sound, which does not include the form of fixation incorporated in a cinematographic or other audiovisual creation. Broadcasting is the transmission of a work or product related rights without wires so that it can be accepted by everyone in a location away from where the transmission originated; Communication to the public, hereinafter referred Communication is the transmission of a work, performance, or Phonogramm through cable or other media

other than broadcasting that can be accepted by the public, including the provision of a work, performance, or Phonogramm to be accessible to the public from a place and time chosen; Distribution is the sales, distribution, and/or dissemination of works and/or products related rights; The attorney is intellectual property consultant, or a person authorized by the Creator, the Copyright Holder, or related rights owner; Application is a listing application to the Minister of Works by the applicant; Licenses are written permission granted by the Copyright Holder or related rights owner to another party to carry out the economic rights over his work or product related rights under certain conditions; Royalties are rewarded for Economic utilization of a work or Products Related Rights received by the creator or owner of related rights; Collective Management Institute is an institution nonprofit legal entity authorized by the Creator, the Copyright Holder, and/or related rights owners to manage their economic rights in the form of collecting and distributing royalties; Piracy is a multiplication of works and/or products related rights unauthorized duplication and distribution of goods referred extensively to gain economic advantage; Use of Commercially is the use of works and/or products related rights in order to obtain economic benefits from various sources or paid; Compensation is payment of a sum of money that is charged to the economic rights abusers Creator, the Copyright Holder and/or related rights owners based on court decisions in civil or criminal cases and binding for damages Creator, the Copyright Holder and/or owner

Related Rights; Minister is the minister who held government affairs in the field of law; The person is an individual or legal entity (Art.1).

Unless proven otherwise, which is considered as the Creator, the person whose name is (Art.31):

- a. Referred to in the work;
- b. Expressed as the creator of the work;
- c. Mentioned in the letter of the recording of the work;
- d. Listed in the general list of creation as creator;

2. Rights on Copyrights

Copyright referred to in Article 3 letter a is an exclusive right that is comprised of moral rights and economic right. The moral rights referred to in Article 4 is eternally inherent right to self-Creator to stays put or not put her name in connection with the use of a copy of his work to the public; using the alias name or pseudonym; change according to the propriety of his work in the community; change the title and subtitle of the work; and defend their rights in the event of distortion of Creation, Creation mutilation, modification of Creation, or things that are detrimental to the honor or reputation of self (Art.5). Economic rights is the exclusive right of the Creator or the Copyright Holder to gain economic benefits of Creation (Art.8).

Scope of Economic Rights The creator or the Copyright Holder as referred to in Article 8 have the right economic to do: Publishing the work; Unauthorized reproduction of a work in all its forms; translation

of the work; adaptation, arrangement, or transforming the Creation; Distribution of the work or a copy of it; performing the work; Announcement of Creation; Communication Creation; and Creation rental. Every person conducting economic rights referred to in paragraph (1) shall obtain permission of the Author or the Copyright Holder. Any person who without permission of the Author or the Copyright Holder prohibited from copying and / or use of the commercially Creation (Art.9). The economic rights to perform the work or distribution of copies as referred to in Article 9 paragraph (1) letter e does not apply to the Work or copies that have been sold or that have transferred ownership of a work to anyone; (2) The economic rights to rents out the work or copies as referred to in Article 9 paragraph (1) letter i is not applicable to the computer program in the computer program is not an essential object of the rental (Art.11). Then economic rights for portrait on article 12 until 15.

Transfer of Economic Rights a Copyright is an intangible moving objects. Copyright may be transferred, in whole or in part by (Art.16):

- a. Inheritance
- b. Grants
- c. Endowments
- d. Wills
- e. Written Agreement

- f. Another reason is justified in accordance with the provisions of laws and regulation

Related rights referred to in Article 3 letter b is an exclusive rights that includes (Art.20):

- a. Moral rights of Performers (Art.21);
- b. Economic Rights of Performers (Art.22);
- c. Producer economic rights of Phonograms (Art.24);
- d. Economic rights of Broadcasting Institution (Art.25)

3. Object of Copyrights

Traditional Cultural expression and Creation of protected, traditional cultural expressions and copyright to work of unknown authors (Art.38). Creation of protected includes work in the fields of science, art, and literature, consisting of (Art.40):

- a. Books, pamphlets, typographical arrangement of a published work, and all other written works;
- b. Speeches, lectures, speeches, and other similar Creation;
- c. Props made for the purposes of education and science;
- d. Songs and / or music with or without text;
- e. Drama, musicals, dance, choreography, puppet shows, pantomimes;
- f. Works of art in all forms such as painting, drawing, sculpture, calligraphy, sculpture, sculpture, or collage;
- g. Works of applied art;

- h. Works of architecture
- i. Maps
- j. Batik artwork or other motives;
- k. Photographic works;
- l. Images;
- m. Cinematographic works;
- n. translations, interpretations, adaptations, anthologies, databases, adaptation, arrangement, modification and other works of the results of the transformation;
- o. translation, adaptation, arrangement, transformation, or modification of traditional cultural expressions;
- p. Creation or data compilation, either in a format that can be read by the computer program or other media;
- q. compilation of traditional cultural expressions during the compilation of an original work;
- r. Video games
- s. Computer programs

The work that is not protected rights include (Art.41):

- 1. The work that has not been realized in the form of real;
- 2. Any idea, procedure, system, method, concept, principle, or discovery although the data have been disclosed, expressed, described, explained, or incorporated in a work; and

3. Tools, objects, or products that are created only to resolve technical problems or whose shape is only intended for the functional needs.

No Copyright on the work in the form of (Art.42):

- a. Result of open meetings of state institutions;
- b. Laws and Regulations;
- c. Speech state or government official speeches;
- d. Court decision or determination of the judge;
- e. Scripture or religious symbols;

4. Limitation of Copyrights

Act which is not considered a violation of Copyright include (Art.43):

- a. Announcements, distribution, communication, and / or multiplication symbol of the state and the national anthem in accordance with their original nature;
- b. Announcements, distribution, communication, and / or doubling everything undertaken by or on behalf of the government, unless otherwise protected by laws and regulations, a statement on the work concerned, or when such work is done on the announcement, distribution, communication, and / or multiplication;
- c. Actual news retrieval, either in whole or in part from news agency, broadcasting organization, and newspaper or other similar sources with the provisions of the source is complete; or

- d. Manufacture and distribution of media content Copyright information and communication technology that is not commercial and / or beneficial Creator or related parties, or the Creator expressed no objection to the creation and dissemination;
- e. Doubling, Announcements, and / or distribution of Images President, Vice President, former President, former Vice President, National Hero, heads of state institutions, leaders of ministries / non-ministerial government agencies, and / or head area with regard dignity and fairness in accordance with the provisions of legislation.

The use, retrieval, multiplication, and / or alteration of a work and / or products related rights in all or a substantial portion is not considered a violation of Copyright if the source is mentioned or included in full for the purposes of (Art.44):

- a. Education, research, scientific writing, report writing, criticism or review an issue with not harm the interest of the Creator or the Copyright Holder;
- b. Security and governance, legislative, and judicial;
- c. Lectures are only for purposes of education and science; or
- d. Performances or performances that are free with the provisions do not prejudice the normal interest of the Creator.

Copying for personal interest to a work that has been done Announcements can only be made in increments of 1 (one) copy and can be done without the permission of the Author or the Copyright

Holder (Art.46). Copying for private purposes referred to in subsection

(1) does not include:

- a. Works of architecture in the form of a building or other construction;
- b. The whole or a substantial part of a book or musical notation;
- c. The whole or a substantial part of the database in digital form;
- d. Doubling for personal interests conflict with the interests of the implementation of the Creator or the fair Copyright Holder.

Limitation copyrights for computer program (Art.45), Library (Art.47), Reproduction, broadcasting, or communication (Art.48 to 51)

5. Duration of Copyright

Validity period of Moral rights of the Creator as referred to in Article 5 paragraph (1) letter a, b, and e valid indefinitely. The moral rights of the Creator as referred to in Article 5 paragraph (1) letter c and d applicable during the period of copyright to a work is concerned (Art.57). Validity period of Economic Rights, protection on:

- a. Books, pamphlets, and all other written works;
- b. Speeches, lectures, speeches, and other similar works;
- c. Props made for the purposes of education and science;
- d. Song or music with or without text;
- e. Drama, musicals, dance, choreography, puppet show, pantonims;
- f. Works of art in all forms such as painting, drawing, sculpture, calligraphy, or collage;

- g. Works of architecture;
- h. Maps; and
- i. Batik artwork or other motives,

Valid for the life of the Creator and continued for 70 (seventy) years after his death, starting from January 1 next year (Art.58).

Protection copyright on (Art.59):

- a. Photographic works;
- b. Images;
- c. Cinematographic works;
- d. Video games;
- e. Computer programs
- f. Appearance of the Paper;
- g. Translations, interpretations, adaptation, arrangement, modification and other works of the result of the transformation;
- h. Translation, adaptations, arrangement, transformation or modification of traditional cultural expressions;
- i. Creation or data compilation, either in a format that can be read by the computer program or other media; and
- j. Compilation of traditional cultural expressions during the compilation of an original work, is valid for 50 (fifty) years since the announcement was first made.

Protection Copyright on a work of applied art shall be valid for 25 (twenty five) years from the announcement was first made. Validity period of related rights, validity of performers The validity period of

the moral rights referred to in Article 57 shall apply *mutatis mutandis* to the moral right Performers. Validity of Economic Performers, Producers of Phonograms and Broadcasting Agency (Art.62).

6. Listing of Creation and Product

The Minister shall keep records and Removal of product creation and Related Rights. The recording of works and products related rights referred to in paragraph (1) is not a requirement for the Copyright and Related Rights (Art.64). Procedure registration, Registration of Works and Related Rights products submitted with application in writing in Indonesian by the Creator, the Copyright Holder, related rights owner, or his proxy to the Minister The application referred to in paragraph (1) is done electronically and / or non-electronic with (Art.66):

- a. Includes a sample of the work, product Related Rights, or its successor;
- b. Attach a statement of ownership of Works and Related Rights; and
- c. Pay a fee.

7. License

Unless otherwise agreed, holders of Copyright or related rights owner is entitled to grant a license to another party by written agreement to carry out the acts referred to in Article 9 paragraph (1), Article 23 paragraph (2), Article 24 paragraph (2), and Article 25

paragraph (2). The licensing agreement as referred to in paragraph (1) shall be valid for a certain period and do not exceed the period of validity of Copyright and Related Rights. Unless otherwise agreed, the implementation of the actions referred to in paragraph (1) shall be the licensee's obligation to provide royalties to the Copyright Holder or owner Related Rights during the term of the License. Determination of the amount of royalties referred to in paragraph (3) and the procedures for granting licenses Royalty done by agreement between the Copyright Holder or related rights owner and the licensee. The amount of royalties under a licensing agreement shall be determined by the prevalence of practices that apply and meet the elements of justice (Art.80). Unless otherwise agreed, the Copyright Holder or related rights owner can implement their own or grant a license to a third party to carry out the acts referred to in Article 9 paragraph (1), Article 23 paragraph (2), Article 24 paragraph (2), and Article 25 paragraph (2) (Art.81). Compulsory license is a license to carry out the translation and / or Unauthorized reproduction of a work in the field of science and literature are given based on the decision of the Minister on the basis of an application for the purposes of education and / or science and research and development activities (Art.84). Everyone can apply for a compulsory license to work in the fields of science and literature as referred to in Article 84 for the purposes of education, science, and research and development activities to the Minister.

8. Other Provision

Collective management Institute (Art.87 to 93), Cost Art.94), Settlement Dispute (Art.95 to 99), Claim Procedure (Art.100 to 101), Remedies (Art.102 to 105), Determination of Temporary court (Art.106 to 109), Investigation (Art.110 to 111), Penalty Provisions (Art.112 to 119), Transitional provision (Art.121 to 122), Closing (Art.123 to 126).

B. Concept of Industrial Design in Indonesia

1. Definition of Industrial Design

Industrial design is a creation of form, configuration, or line composition or color, or line and color, or a combination thereof in the form of threedimensional or two dimensional that gives the impression of aesthetics and can be realized within a three-dimensional or two-dimensional pattern and can be used to produce a products, goods, industrial commodities, or handicrafts; The designer is one or more persons who produce Industrial Design; The solicitation shall be a request for registration of the industrial design submitted to Directorate General; Applicant is the party who submits the Application; Right of Industrial Design is an exclusive right granted by the Republic of Indonesia to the Designer of his creation for a certain period of time own, or give its consent to others to exercise the right the; Minister is the Minister who in charge of the

department which is one of the scope of duty and its responsibilities include the field of Intellectual Property Rights, including Design Industry; Directorate General is the Directorate General of Intellectual Property Rights located at under a department headed by the Minister; Proxy shall mean the Consultant of Intellectual Property Rights as stipulated in the Law this; The Filing Date shall be the date of receipt of the completed Application administrative requirements; Consultant of Intellectual Property Rights is a person who has expertise in the field of Rights Intellectual Property and specifically provide services in the field of filing and the application of Patents, Brands, Industrial Designs as well as Rights fields Other Intellectual Property and registered as a Consultant of Intellectual Property Rights at the Directorate General; License shall mean a license granted by the holder of Right to Industrial Design to another party through an agreement based on granting the right (not a transfer of rights) to enjoys the economic benefits of an industrial design that is protected within certain periods and conditions; Priority Right is the right of the Applicant to file an Application originating from countries incorporated in the Paris Convention to obtain recognition that The filing date he or she submits to the destination country, which is also a member of the Convention Paris or the Establishment of World Trade Organization, has a date which is the same as the Filing Date filed in the country of origin during the period time specified under the Paris Convention (Art.1).

2. Scope of Industrial Design

Industrial design get protection by law, Right of Industrial Design awarded for new Industrial Design. ,Industrial Design shall be considered new if on the Filing Date, the Industrial Design not the same as the pre-existing disclosure. ,The preceding disclosure as referred to in paragraph (2) shall be disclosure Prior Industrial Designs (Art.2):

- a. Receipt date; or
- b. The priority date if the Application is filed with Priority Right;
- c. Has been announced or used in Indonesia or outside Indonesia.

An Industrial Design shall not be deemed to have been announced if within a maximum period of 6 (six) months prior to the Filing Date, the Industrial Design (Art.3):

- a. Has been exhibited in a national or international exhibition in Indonesia or overseas which is official or acknowledged as official;
- b. Has been used in Indonesia by the Designer in the framework of experiments with the aim education, research, or development.

The Right of Industrial Design can not be granted if the Industrial Design is in conflict with prevailing laws and regulations, public order, religion, or morality (Art.4). Duration of Industrial design protection, Protection of the Right to Industrial Design shall be granted for a period of 10 (ten) years as of the Filing Date. The date of commencement of the protection period as referred to in paragraph (1)

recorded in the General Register of Industrial Designs and published in the Official Gazette of Industrial Designs (Art.5).

Subject of Industrial Design, The entitled to obtain the Right of Industrial Design shall be the Designer or the receiving right from the Designer. In case the Designer consists of several persons collectively, Right of Industrial Design given to them together, unless otherwise agreed (Art.6). The Right Holder of Industrial Design has the exclusive right to exercise the Right of Design The industry it possesses and to prohibit others who without their consent make, wear, sell, import, export and / or distribute the Righted goods Industrial Design. Exempted from the provisions referred to in paragraph (1) shall be the use of the Design Industry for research and education as long as it does not harm the interests which is reasonable from other Industrial Design title holders (Art.9).

3. Registration of Industrial Design

The Right of Industrial Design is granted on basis of an Application (Art.10). The application shall be submitted in writing in the indonesia language to the directorate general with pay the fees as stipulated in this law, the application shall be signed by the applicant or its power authority, the application shall contain (Art.11):

- a. Date, month and year of application;
- b. Name, complete address, and citizenship of designer;
- c. Name, complete address, and citizenship of the applicant;

- d. Name and full address of proxy when the application is filed by a attorney;
- e. The name of the country and the date of receipt of the first application, in case application is filed with priority right.

The applicant shall be accompanied by:

- a. Physical examples or drawings or photographs and descriptions of the industrial design petitioned for registration;
- b. A special power of attorney, in case the application is filed by a attorney.
- c. A declaration that the industrial design petitioned for registration is property applicant or property of the designer.

In the event that an application is filed jointly by more than one petitioner, the application is signed by one of the applicants by attaching the agreement written from the other petitioners, in the event that an application is filed by a non-designer, an application shall be accompanied statements accompanied by sufficient evidence that the applicant is entitled to design industry concerned, provision on the procedure of the application shall be further stipulated by government regulation.

The party which for the first time filed the application shall be deemed the right holder industrial design, unless proven otherwise (Art.12). Any application may only be submitted for (Art.13):

- a. One industrial design

b. Some industrial design which is one unity of industrial design or another have the same class.

An applicant residing outside the territory of the Republic of Indonesia shall to file an application by attorney, the applicant shall declare and elect a domicile indonesia law (Art.13). Conditions to be appointed as a consultant of wealth rights intellectual is governed by government regulation, while the procedure of appointment is arranged by president decision (Art.15).

An application using a Priority Right must be filed within a period of 6 (six) months from the date of receipt of the first application received at any other country which is a member of the Paris Convention or a member of the Form Approval World Trade Organization (Art.16). The Filing Date shall be the date of receipt of the Application provided that the Applicant has (Art.18):

- a. Filling out an Application form;
- b. Attach a physical example or drawing or photograph and a description of the Industrial Design applied for registration;
- c. Shall pay the Application fee as referred to in Article 11 paragraph (1).

Request for withdrawal of Application may be filed in writing to the Directorate The General by the Applicant or his Attorney during the Application has not yet received decision (Art.21). While still in active service until 12 (twelve) months after retirement or stop for any reason from the Directorate General, the employees of the Directorate

General or the person which due to his duty to work for and / or on behalf of the Directorate General is prohibited apply, obtain, hold, or have rights related to Industrial Design, unless such ownership is acquired by inheritance (Art.22).

4. Transfer Rights and License

The Right of Industrial Design may be transferred or transferred by (Art.31):

- a. Inheritance;
- b. Grant;
- c. Will;
- d. Written agreement;
- e. Other causes justified by legislation.

The transfer of right to industrial design shall be accompanied by documents on the transfer of rights. All forms of transfer of right to industrial design shall be required are recorded in the general directorate ggeneral by paying fees as provided by law, transfer of right to industrial design not listed in the general register of industrial design has no legal effect on a third party,the transfer of right to industrial design shall be announced in official industrial design news.

Transfer of right of industrial design does not remove the designer's right to remain listed name and identity, whether in the certificate of industrial design, official gazette of industrial design, as well as in the general register of industrial design (Art.32). The Right

Holder of Industrial Design shall be entitled to grant the License to the other party on the basis of License agreements to perform all acts as referred to in Article 9, unless otherwise agreed (Art.33). Without prejudice to the provisions referred to in Article 33, the Rightsholder Industrial Design may still exercise its own or provide License to third parties to perform the acts referred to in Article 9, unless agreed other (Art.34).

5. Other Provision

Cancellation Registration Desain Industri (Art.37 to 44), Cost/fees (Art.45), Dispute Settlement (Art.46 to 48), Ttemporary determination of the Court (Art.46 to 52), Investigation (Art.53), Criminal Provision (art.54), Transtitional Provision (Art.55) and Closing Provision (Art.56-57)

C. Concept of Copyright in Japan

1. Definition and Object of Copyright

Japan copyright act is an act No.38 of 1970, as Amended No.65 of 2010. The purpose of this Law is, by providing for the rights of authors and the rights neighboring thereon with respect to works as well as performances, phonograms, broadcasts and wire diffusions, to secure the protection of the rights of authors, etc., having regard to a just and fair exploitation of these cultural

products, and thereby to contribute to the development of culture.” This Article protects the rights of authors and creators and the fair exploitation of their works. It states the purpose of this Law and serves as a guideline for the interpretation of provisions from succeeding articles.

The classification of works or object of copyright law in Article 10(1) As used in this Law, “works” shall include, in particular, the following:

- (i) novels, dramas, articles, lectures and other literary works;
- (ii) musical works;
- (iii) choreographic works and pantomimes;
- (iv) paintings, engravings, sculptures and other artistic works;
- (v) architectural works;
- (vi) maps as well as figurative works of a scientific nature such as plans, charts, and models;
- (vii) cinematographic works;
- (viii) photographic works;
- (ix) program works.

2. Rights on Copyright

The subject of copyright in this law is a distinction must be made between the author and the copyright owner. The author means a person who creates a work (Article 2(1)(ii)). Copyright Law grants moral rights and copyrights to the authors of works

(Article 17). To be an author, just the fact of having created a work is required; there is no need for specific formalities, such as registration. In other words, a non-formality system is applied. The author must be the creator of the work, with the exception where the author is presumed to be the author of that work (Article 14). Also, the author does not have to be a single person, and in cases of authors of a joint work (Article 2(1)(xii)) and authors of a combined work, there will be more than one author for a work. The author have rights, moral rights and copyright/economic rights (Article 17, para.1) rights of Authors:

a. Moral Rights:

- 1) Right of making the work public (Art.18)
- 2) Right of Determining the indication of the author's name (Art.19)
- 3) Right of preserving the integrity (Art.20)

b. Economic Rights:

- 1) Right of reproduction (Art.21)
- 2) Right of performance (Art.22)
- 3) Right of presentation (Art.22*bis*)
- 4) Right of public transmission, etc (Art.23)
- 5) Right of recitation (Art.24)
- 6) Right of Exhibition (Art.25)
- 7) Right of distribution (Art.26)
- 8) Right of transfer of ownership (Art.26*bis*)

9) Right of lending (Art.26*ter*)

Neighboring Rights, Rights of performers, producers of phonograms, broadcasting organizations and wire diffusion organizations (Art.89-Art.100*quater*). Term of protection: fifty years from the time of performance, fixations of sounds on phonograms, broadcasting (Art.101).

3. Limitation of Copyright

Limitation on copyright, Reproduction for private use (Art.30); reproduction in libraries, etc. (Art.31); quotations (Art.32); reproduction in school textbooks, etc. (Art.33); reproduction in school textbooks for preparing a textbook in large print (Art.33*bis*); broadcasting, etc.in school education programs (Art.34); reproduction etc. in schools and other educational institutions, etc. (Art.35); reproduction etc. in examination questions (Art.36); reproduction etc. in for visually handicapped, etc. (Art.37); reproduction etc. for aurally handicapped, etc. (Art.37*bis*); performance, etc. not for profit-making (Art.38); reproduction, etc. of articles on current topics (Art.39); exploitation of political speeches, etc. (Art.40); reporting of current events (Art.41); reproduction for submitting documents in legal proceedings, patent examination procedure and pharmaceutical approval procedure (Art.42); exploitation for Disclosure by the Government Organizations Information Disclosure Law, etc.

(Art.42*bis*); exploitation for preservation etc. by the Public Records Management Law, etc. (Art.42*ter.*); reproduction for collecting internet materials under the National Diet Library Law (Art.42*quater*); ephemeral recordings by broadcasting organizations, etc. (Art.44); reproduction, etc. required for an offer of a transfer of ownership, etc. of an artistic work, etc. (Art.47*bis*); reproduction etc. by the owner of a copy of a program work (Art.47*ter*); temporary reproduction for maintain or repair of machine (Art.47*quater*) reproduction for the prevention, etc. of a difficulty in transmission (Art.47*quinquies*); reproduction, etc. for retrieval, etc. of a transmitter identification code of information which has been made transmittable (Art.47*sexies*); reproduction etc. for analyzing information (Art.47*septies*); reproduction for exploitation of works where is used on a computer (Art.47*octies*); etc.

4. Term of Protection

The term of copyright shall begin with the creation of the work; copyright shall continue to subsist, in principle, until the end of a period of fifty years following the death of the author (Art.51). Copyright in anonymous and pseudonymous works and works bearing the name of a corporate body shall continue to subsist until the end of a period of fifty years following the making public of the work (Art.52, Art.53). Copyright in cinematographic works

shall continue to subsist until the end of a period of seventy years following the making public of the work (Art.54).

5. Registration of Copyright

Registration of the true name (Art.75); registration of the date of the first publication, etc. (Art.76); registration of the date of creation (Art.76*bis*); registration of copyright (Art.77). Procedures for registration (Art.78); exceptional provision for the registration of program works (Art.78*bis*).

6. Other Provision

Measures against infringement on copyright split into two measures is Civil Measures and Criminal Measures. Civil Measures Right of demanding cessation (Art.112); measures for recovery of honor, etc. (Art.115); compensation for damages; recovery of the undue profit; etc. Criminal Measures Any person who infringes copyrights, right of publication or neighboring rights shall be punishable by imprisonment for a term not exceeding ten years or a fine not exceeding ten million Yen, or both (Art.119, (1)). Any person who infringes moral rights of authors or moral rights of performers or who does an act considered to constitutes an infringement under Art.113(1), etc. shall be punishable by imprisonment for a term not exceeding five years or a five not

exceeding five million Yen (Art.119(2)). Any person who, for the purpose of private use, infringes copyright or neighboring rights by making a digital sound or visual recording with knowing that such recording is made upon reception of an interactive transmission which infringes copyright or neighboring rights of works for value etc. shall be punishable by imprisonment for a term not exceeding two years or a fine not exceeding two million Yen, or both (Art.119(3)). Any person who does acts of manufacture, distribution, etc. of a device, etc. for the circumvention of technological protection measures shall be punishable by imprisonment for a term not exceeding three years or a fine not exceeding three million Yen, or both (Art.120*bis*). A legal person who infringes rights shall be punishable by a fine not exceeding three hundred million Yen (Art.124).

D. Concept of Design in Japan

1. Definition of Design

The purpose of this Act is, through promoting the protection and the utilization of designs, to encourage creation of designs, and thereby to contribute to the development of industry. Then the definition of design in article 2, "Design" in this Act shall mean the shape, patterns or colors, or any combination thereof, of an article (including a part of an article, the same shall apply

hereinafter except in Article 8), which creates an aesthetic impression through the eye. The shape, patterns or colors, or any combination thereof, of a part of an article as used in the preceding paragraph shall include those in a graphic image on a screen that is provided for use in the operation of the article (limited to the operations carried out in order to enable the article to perform its functions) and is displayed on the article itself or another article that is used with the article in an integrated manner. "Use" of a design in this Act shall mean the manufacturing, using, assigning, leasing, exporting or importing, or offering for assignment or lease (including displaying for the purpose of assignment or lease, the same shall apply hereinafter) of an article to the design. "Registered design" in this Act shall mean a design for which a design registration has been granted.

2. Registration of Design

Condition for design (Art.3), Exception to lack of novelty design (Art.4), unregistrable design (Art.5), Provisional Non-Exclusive license (Art.5-2), One application each design (art.7), Design for set of articles (Art.8), Prior application (Art.9), Related design (Art.10 to 13), Secret Design (Art.14), Application *mutatis mutandis* provision of the patent act (Art.15).

3. Examination

Examination by examiner (Art.16), Examiner's decision of refusal (Art.17), Dismissal of amendments (Art.17-2), New application for amended design (Art.17-3), Examiner's decision to the effect that a design registration is to be granted (Art.18), Application mutatis mutandis of provisions of the Patent Act (Art.19).

4. Design Rights

Registration of establishment of a design right (Art.20), Duration of design rights (Art.21), Transfer of the design right of a related design (Art.22), Effect of design right (Art.23), Scope of registered design (Art.24) Relationship to registered design (Art.26), Exclusive license (Art.27), Non-exclusive license (Art.28), Non-exclusive license based on prior use (Art.29), Non-exclusive license due to the working of the design prior to the registration of the request for invalidation trial (Art.30), Non-exclusive license after expiration of duration of design right (Art.31), Award granting non-exclusive license (Art.33), Right of pledge (Art.35), Application mutatis mutandis provision of the patent act (Art.36), infringement of rights (Art.37 to 41), Registration fees (Art.42 to 45).

5. Trials and Appeals

Appeal against examiner's decision of refusal (Art.46), Appeal examiner's ruling dismissing an amendment (Art.47), Invalidation trial of design registration (Art.48), Trial to invalidate a design registrations (Art.49), Application mutatis mutandis of provision on examination (Art.50).

6. Retrial and Litigation

Request for retrial (Art.53), Restriction on effect of design right restored by retrial (Art.55), Application mutatis mutandis of provision on Trial (Art.57), Application mutatis mutandis of provision on of the Patent (Art.58), Actions against appeal/trial decision (Art.59), Action against amount of compensation (Art.60), Relationship between administrative objection and litigation (Art.60-2), Special provision based on Geneva Act of the Hague Agreement concerning the International Registration of Industrial Design (Art.60-3) to 60-23).

7. Other Provision

Miscellaneous provision (Art.60-24 to 68), Penal Provision (Art.69 to 77).

E. Concept of Cosplay

1. History of Cosplay

Initially dubbed as ‘costuming’, cosplay began in the late 1930s in North America. Back then, cosplay did not require participants to mimic a character’s appearance. Rather, they simply needed to dress appropriately for the genre, which is what Forrest J. Ackerman did in his futuristic costume when he attended a sci-fi convention. He was the first attendee to show up in costume, so in the following years, conventions began to look like masquerade balls, and prizes were given to whoever had the ‘best costume.’ In Japan, the manga series, *Urusei Yatsura*, and television series, *Mobile Suit Gundam*, helped launch the movement, as Japanese college students eagerly dressed as their favourite characters for conventions. Borrowing the practice of masquerading from North America, fans would re-enact their favourite scenes, which added to the excitement, as they were able to display their adoration for the series²⁰. It was not until 1984 that the term ‘cosplay’ was invented, combining the words ‘costume’ and ‘play’. This was coined by the Japanese reporter, Nobuyuki Takahashi, after he attended Worldcon in Los Angeles. When translating the word ‘masquerade’ to the Japanese audience, he thought that the word sounded ‘too old-fashioned’ and used ‘cosplay’ to describe the concept.

²⁰ *An Overview of Cosplay: Exploring the Subculture*, on <https://the-artifice.com/cosplay-overview/> accessed on april 12, 2018.

Cosplay sits as the best-known expressions of anime and manga fandom. Each year, fans spend countless hours designing and sewing their costumes and perfecting their impersonations. Many view cosplay, a contraction of costume play, as a Japanese import. However, like anime, cosplay comes from the interplay of American and Japanese culture.

Cosplay involves more than donning a costume. After all, people don't consider Halloween costumes a part of cosplay culture. We can define cosplay as a performance art. It involves more than dressing up. It involves people taking on the physical and mental role of a fictional character²¹. Cosplay expresses a fan's adoration of a character. In a study of cosplayers, over 70% of people surveyed became fans of a specific character because the character possessed traits the fans wanted to have as well. The fans expressed a desire to "get inside the skin" of the character. Many of the fans surveyed (79%) stated they learned to draw by copying commercially produced drawings of their favorite characters²². We call people who dress up like this *cosplayers*. The focus on the word *play* in both labels emphasizes two points: fun and performance. Cosplay involves 4 points²³:

²¹ Bainbridge, *Understanding Cosplay as Social Networking in a Material Culture*. Intersections: Gender & Sexuality In Asia & The Pacific, (32), p.6.

²² Rosenberg, R. & Letamendi, *Expressions of Fandom: Findings from a Psychological Survey of Cosplay and Costume Wear*. Intensities: The Journal of Cult Media. p.8.

²³ Winge, T. *Costuming the Imagination: Origins of Anime and Manga Cosplay*. Mechademia 1, Emerging Worlds of Anime and Manga. Pp. 65-76.

- a. Narrative – the personality and story of the fictional character
- b. Clothing – the design of the outfits and the community surrounding this design
- c. Play – mimicking the mannerisms of the character as accurately as possible
- d. Player – the character and identity of the cosplayer

2. Definition of Cosplay

Cosplay a shortened form of costume play has grown with rapidly throughout the world including and is recognized as popular culture. Cosplay words taken from the English language that is costume and play, people who use these costumes called Cosplayer refers to the word costume player. Cosplayer is a person who is wearing complete clothing with accessories and makeup similar to fictional characters and also perform all the characters in the form of a performance and performance of the best²⁴. Broad insights about popular cosplay culture will make a good overall understanding of cosplay so that someone becomes a good cosplayer²⁵.

The term “cosplay” was created by Takahashi Nobuyuki in 1984. Nobuyuki attended a science fiction convention in Los Angeles, and he was so impressed with the fans’ costume competition that he wrote about his experiences upon returning to Japan. Yet, no word in

²⁴ Henrik Bonnichsen, *Cosplay: Creating or Playing Identities*, Stockholm University, 2011, p.7.

²⁵ Jiwon Ahn, *Animated Subject: Globalization, Media and East Asian Cultural Imaginaries, Toward a Perfect Cosplay*, Kobunsha, Tokyo, 2008, p.68.

the Japanese language accurately represented the costume competition Nobuyuki saw. To remedy this predicament, Nobuyuki combined the Japanese equivalents of “costume” and “play” to describe what he saw. This created the word (コスプレ) which in English roughly translates into cosplay. Today, this term universally refers to a fan’s wearing of costumes, props, and accessories to represent a character often originating from video games, comics, movies, and TV shows²⁶. Such monetary gains naturally bring up concerns regarding the copyrights and trademarks on the imitated characters.

3. Utilization of Cosplay

Thoughts and reasons someone to like an activity sometimes do not need many reasons in general can be understood that someone started cosplay because of his love of Japanese pop-culture. mentioned also with cosplay, one can be an admired character even if only a day. cosplay in a cosplay event was originally intended to be a fantasy area. this is the main attraction for fans who have interest and admiration for a work or character²⁷.

²⁶ Hannah Dockendorf, *Op. Cit.*

²⁷ Kentaro Minoura, *Daijuukou Kospureshi Kokusai Otaku Daigaku*, Jepang, 1998, p.27.

Based on the cosplay phenomena that occur today can be categorized that cosplay can be utilized to be a hobby and a business activity:

a. As Hobby

The utilization of cosplay as a hobby, is the cosplay actors who do .cosplay with the aim of satisfying his lust in the form of a hoby on the basis of fondness or interest in a fictional character by using cosplay as a satisfying desire to play a role against a certain character in a very deep inspiration which is relative to cosplay actors, as well as cosplayers who use as a hobby do not worry about how much time, effort and money they use for a cosplay itself which is done on the basis of a love of a fictional character and also the satisfying desire.

b. As Bussiness

The utilization of cosplay as activites which can make a profit to their person who doing a cosplay, based on phenomena of cosplay today in the world, it classified 4 profit from cosplay activites:

1) Gain Profit from Cosplay Competition

In world, every convention of Japan Pop-Culture and Comic Convention held a cosplay competition for any cosplayer competitor and each competition have a award and price. Then,

mostly any cosplayer targeted a some convention who held a cosplay competition to gain a profit from competition award, example competition is a World Cosplay Summit²⁸ held every year in nagoya, japan with competitor form each country represent their own country to doing cosplay competition.

2) Gain Profit from Cosplay Modeling

Every cosplayer in world, can be famous like an movie star on entertainment sector especially in pop-culture circle. Mostly the famous cosplayer can selling and distribute their picture of their cosplay (wearing cosplay costume) to public by face to face or by internet through e-commerce or patreon and be a guest star of some Japan Culture and Comic Convention and the famous cosplayer can be some ambassador of some fabric product, example Yaya Han famoues as cosplayer in the world who have own tv shows “Hereos of Cosplay”²⁹.

3) Gain Profit from Stage Performance

In Japan Entertainment Stage show, Any stage actor perform some Japan Pop Culture especially adaption form anime, manga, movie adopted to some live stage performance, who all stage actor be a cosplay base on their character in stage

²⁸ See World Cosplay Summit website <http://www.worldcosplaysummit.jp/en/>

²⁹ See Yaya Han website <http://www.yayahan.com/>

performance. Example Adaption Game Online of Touken Ranbu officially adopted to live stage performance³⁰.

4) Gain Profit from Trade Cosplay Costume

Mostly a cosplayer can make a some services to public to do manufacturing service of cosplay costume by handcraft or by a factory a fabric costume and any accessoris of cosplay costume like a wig and contact lens based on some fictional characters. Example for a persone do manufacturing service of cosplay costume is a Kamui Cosplay³¹.

F. Copyright and Industrial Design in Islamic Perspective

1. Copyright and Industrial Design according to Al-Qur'an

Copyright and Design are part of Intellectual Property Rights which things can be classified as assets of economic value therein, the Word of Allah SWT about the prohibition of the use of others (without rights) and the prohibition of property and the rights of others, among others:

³⁰ See Touken Ranbu live stage performance on http://www.marv.jp/special/toukenranbu/toukenranbu_4/index02.html

³¹ See Kamui Cosplay on <https://www.kamuicosplay.com/>

a. QS. Al-Baqarah [2]: 188).

وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَطْلِ وَتُدْلُوا بِهَا إِلَى الْحُكَّامِ
لِتَأْكُلُوا فَرِيقًا مِّنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ ﴿١٨٨﴾

“And do not consume one another’s wealth unjustly or send it (in bribery) to the rulers in order that (they might aid) you (to) consume a portion of the wealth of the people in sin, while you know (it is unlawful).”

Ali bin AbiTalha relates, from Ibn Abbas, that this concerns a person who has a wealth dependent but has no witness against it in this matter, then he denies the property and disputes it to the authorities, while he himself knows that the treasure is not to be his rights and knowing that he is a sinner, eating illicit goods. Thus narrated from Mujahid, Sa'idibnJubair, Ikrimah, Hasan al-Basri, Qatadah, as-Suddi, MuqatilibnHayyan, and AbdurRahman bin ZaidibnAslam, they all say, "Do not dispute you knowing that you are dhalim . "

In the book of Sahih al-Bukhari and Muslim it is mentioned, from Umm Salamah that the Messenger of Allah said: "Behold, I am only an ordinary man, and come unto me the people in dispute. Perhaps some of you are more clever to argue than others, so I make a decision that benefits him. Therefore, whoever I decide to have the right of another Muslim, it is actually nothing but a piece of hell fire. So it's up to him, willing to take him or leave him. "(Narrated by Al-Bukhari and Muslim)

Thus, the above verse and hadith indicate that the judge's verdict can't in fact change any law of any kind, does not make something that is actually haram to be lawful or that is lawful to be haram, only the judge is bound to what appears from it. If appropriate, then that is what is desired, and if not then the judge still get the reward and for those who do the tricks of obtaining sin.

b. QS. Al-Nisa' [4]:29).

يٰۤاَيُّهَا الَّذِيْنَ ءَامَنُوْا لَا تَأْكُلُوْا اَمْوَالِكُمْ بَيْنَكُمْ
بِالْبَطْلِ اِلَّا اَنْ تَكُوْنَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوْا
اَنْفُسَكُمْ اِنَّ اللّٰهَ كَانَ بِكُمْ رَحِيْمًا ﴿٢٩﴾

“O you who have believed, do not consume one another’s wealth unjustly but only (in lawful) business by mutual consent. And do not kill yourselves (or one another). Indeed, Allah is to you ever Merciful”.

According to Ibnu katsir, Allah SWT prohibits His believing servants from eating the treasures of some of them over others in vanity, by means of businesses not recognized by the Shari'a, such as by usury and gambling and other means which fall into that category by using various deceptions and deception. Although in the outward way they use the way recognized by the syari 'law, but Allah knows better that the perpetrators are merely usury, but by hailah (deceit). That's what happens to most. Until Ibn Jarir said, had told me Ibnul MuSanna, had told us Abdul Wahhab, had told us David, from Ikrimah, from Ibn Abbas in connection with a man who bought from another man a garment.

Then the first man said, "If I like, then I will take it, and if I do not like it, then I will return the following with a dirham." Ibn Abbas said that this is what Allah Almighty says. in his word: O ye who believe! do not eat one another's treasure with a vanity. Ibn Abu Hatim said. has told us Ali ibn Harb Al-Musalli, has told us Ibnul Futlail, from Daud Al-Aidi, from Amir, from Alqamah, from Abdullah in connection with this verse, that this verse is muhkamah, not mansukh and will not be treated until the day apocalypse.

c. QS. Al-Syu'ara [26]: 183).

وَلَا تَبْخَسُوا النَّاسَ أَشْيَاءَهُمْ وَلَا تَعْثَوْا فِي الْأَرْضِ مُفْسِدِينَ ﴿١٨٣﴾

“And withhold not things justly due to men, nor do devil in the land, working mischief.”

According to Tafsir Jalalayn, (And do not harm human beings in their rights) do not reduce their rights to the slightest (and do not rampant on earth by making damage) commit murder and other damages. Ta'tsau's pronunciation comes from 'Atsiya which means to make damage; and Mufsiidiina's pronunciation is a Hal or an adverb of circumstances rather than 'Amilnya, ieTa'tsau's pronunciation.

2. Fatwa Majelis Ulama Indonesia (MUI) No. 1 MUNAS VII/MUI/15/2005 about Intellectual Property protection.

In this fatwa, what is meant by intellectual property is wealth arising from the brain thought that produces a product or process that is useful to humans and recognized by the state based on applicable legislation. Therefore, IPR is the right to enjoy economically the result of an intellectual creativity of the person concerned so as to grant her the private right to register and obtain protection for her intellectual work.

In the MUI fatwa, it is stated that the intellectual property rights (HKI) is regarded as a right of property (*huquq maliyah*) which obtains legal protection as wealth (*mal*), HKI can be used as akad object (*al-ma'qud 'alaih*), both *mu'awadhah* (exchange, commercial) *akad tabarru'at* (non-commercial), and can be waqaf and bequeathed, IPR which get protection here is HKI which is not contrary to Islamic law, and affirmed about prohibition to multiply, plowing, plagiarize and the like without permission, because the action includes the action of dzalim.

CHAPTER III

**LEGAL PROTECTION OF COSPLAY COSTUME BASED ON
INDONESIA AND JAPAN’S COPYRIGHT AND INDUSTRIAL DESIGN
LAW**

A. Legal Protection of Cosplay Costume Based on Indonesia Copyright and Industrial Design Law.

Cosplay a shortened form of “costume” and “play” has grown with rapidly throughout the world including and is recognized as popular culture. Cosplay words taken from the English language that is costume and play, Costumes that mean is the adaptation of a design contained in an image and play there subject user wearing costumes play a role based on the characters in the role than a people who use these costumes called Cosplayer refers to the word costume player. Cosplayer is a person who is wearing complete clothing with accessories and makeup similar to fictional characters and also perform all the characters in the form of a performance and performance of the best³². Broad insights about popular cosplay culture will make a good overall understanding of cosplay so that someone becomes a good cosplayer³³.

³² Henrik Bonnichsen, *Cosplay: Creating or Playing Identities*, Stockholm University, 2011, p.7.

³³ Jiwon Ahn, *Animated Subject: Globalization, Media and East Asian Cultural Imaginaries, Toward a Perfect Cosplay*, Kobunsha, Tokyo, 2008, p.68.

Objects in the intent in cosplay is a costume and subject in the intention is person. Review whether the costume is a protected object category in Law No.28 of 2014 about Copyright. Referring to article 40 Law No.28 of 2014, which in that article explains some elements that are protected under copyright law, the provisions of that article do not distinguish between a work that meets the requirements of authenticity and high creativity as the main creations and is directly under the protection of the creators of actual derivatives under the protection of rights related to authenticity and creativity. Here are some elements that are protected by article 40:

(1) Creation of protected include the creation in the fields of science, art and literature, consisting of:

- a. books, pamphlets, typographical arrangement of a published work, and all other written works;
- b. speeches, lectures, speeches, and other similar Creation;
- c. props made for the purposes of education and science;
- d. songs and / or music with or without text;
- e. drama, musicals, dance, choreography, puppet shows, pantomimes;
- f. works of art in all forms such as painting, drawing, sculpture, calligraphy, sculpture, sculpture, or collage;
- g. works of applied art;
- h. works of architecture;
- i. maps
- j. art batik artwork or other motives;

k. photographic works

l. Images

m. cinematographic works

n. translations, interpretations, adaptations, anthologies, databases, adaptation, arrangement, modification and other works of the results of the transformation;

o. translation, adaptation, arrangement, transformation, or modification of traditional cultural expressions;

p. Creation or data compilation, either in a format that can be read by the computer program or other media;

q. compilation of traditional cultural expressions during the compilation of an original work;

r. video games

s. Computer Programs

(2) Work as referred to in paragraph (1) letter n is protected as a separate work without prejudice to the rights over the original work.

(3) Protection as referred to in paragraph (1) and paragraph (2), including the protection of the works that are not or have not done announcement but already embodied in a tangible form that allows the multiplication of such work.

Based on Article 40 letter f, the Copyright Act No.28 of 2014 has discussed the work of art in forms such as paintings, drawings, calligraphy carvings, sculptures, sculptures or collages. In the explanation of copyright law article 40 letter f, which is meant to be this picture is the motives,

diagrams, sketches, logos, color elements and beautiful letters. As already mentioned, the creation of a character begins with a sketch of an image that requires several stages to be called a character intact. So that a character design belongs to a protected element in copyright law that belongs to a work of art in any form of image.

Specifically in the article is not mentioned about the costume. Which is the making of costumes in the form of cosplay there are no regulations that discuss it in the indonesia copyright law. Based on the notion of cosplay, the judgment of the embodiment of a work of art becomes a creation from head to foot as well as the behavior of characters imitated in such a way as to be expected to be similar to a particular character. So the costume is not an object that is protected by copyright under Article 40 Law. 28 of 2014.

Although the costume is not an object protected by Copyright law but if analyzed, the costume itself is an adaptation of a character design, the design is poured in an image. Based on article 40 verses (f) the design is poured in an image included into the art. So the design of a character is an object protected by Copyright law because the design is poured in the form of images, which the design of its own character including the drawing category. from an image then transformed and adapted into the form of a costume.

Costume in the intention is the adaptation of a design contained in an image. The adaptation in the form of a costume and costume is the embodiment of a 3-dimensional form, so the costume has a link with

Industrial Design law. Based on Article 1 law No.31 of 2000. Industrial Design is a creation of the shape, configuration, or composition of lines or colors, or lines and colors, or a combination thereof in the form of three-dimensional or two-dimensional that gives the impression of aesthetic and can be realized in a three-dimensional or two-dimensional pattern and can be used to produce a product, an item, an industrial commodity, or a handicraft.

Image 1, Original image character design of Siegfried from Fate-Series by illusator Konoe Ototsugu



Image 2, A cosplayer wearing cosplay costume of Siegfried from Fate Series



Costume is an adaptation of a previous character design in the form of drawing and then made into the form of 3 demension by handicraft. So the costume itself is included in the object protected by Industrial Design

because the costume is a creation of 3-dimensional shape and handcraft. Which if classified into Industrial Design then has exclusive rights granted by the republic of Indonesia to the Designer of his creation for a certain period of time to carry it out on his own, or give his consent to another exercise that right.

Costum is included in the handcraft because it is hand-made because it uses the human hand which is arranged in such a way as to create an artistic impression and is similar to the character in the guideline or without guideline following the character's design which is then used not for commercial and industrial purposes. So that under copyright law states that cosplay as unregistered copyrighted works that have social and economic functions and cosplay is not an object protected by copyright law. But cosplay itself has a social and economic function, which for some parties can take commercial and industrial action from a cosplay itself. There are two types of rights under copyright:

- a. Economic rights, which allow the rights owner to derive financial reward from the use of his works by others; an
- b. Moral rights, which protect the non-economic interests of the author.

Copyright which has granted copyright protection to each author in the form of an exclusive right that applies for a certain period of time to reproduce and / or announce his or her creation. The law governs so because the state views that every creator has contributed to society through their works in art, literature or science so that they deserve the award of the

exclusive right³⁴. If there is any other party who announces or reproduces the copyright, then there has been a copyright infringement that may result in legal sanctions, whether civilized through a compensation suit or criminal in the form of imprisonment and fine³⁵.

Law Number 28 Year 2014 About Copyright, Article 8: Economic Rights are the Copyright Holder for the above. Creation. the exclusive right of the Creator or to obtain economic benefits for the exploitation of such economic rights. Article 9 paragraph (1) Creator or Copyright Holder as referred to in Article 8 has the economic right to:

- a. Publishing the works;*
- b. Unauthorized reproduction of a work in all its forms;*
- c. Translation of the work;*
- d. Adaptation, aransement, or transforming the work;*
- e. Distribution of the work or a copy of it*
- f. Performing the work;*
- g. Announcement of work;*
- h. Communication work; and*
- i. Creation Rental*

(1) Everyone who exercises economic rights as referred to in paragraph (1) shall obtain the permission of the Creator or Copyright Holder.

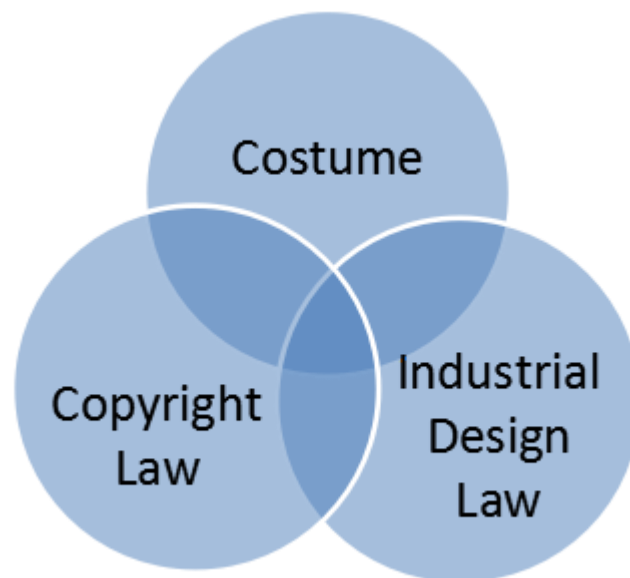
(2) Any Person without the permission of the Creator or the Copyright Holder is prohibited from performing Duplication and / or Commercial Use of Creation.

³⁴ Andre Gerungan, *Pengalihan Hak Ekonomi Atas Hak Cipta Menurut Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta*, Journal Hukum Lex Privatum, Vol. IV/No.2/Feb/2016.

³⁵ Prayudi Setiadharma, *Mari Mengenal HKI*, Goodfaith Production, Jakarta 2010, p.61.

Based on the copyright and industrial design law costume becomes an object that is set in both rules. In copyright costume is an adaptation of an image that is then in production and in the design of the costume industry is a 3-dimensional work that is made by handicraft, theoretically based on each explanation copyright and industrial design law that the costume is in 2 laws that regulate about it.

Chart 1, Relationship Costume with Copyright and Industrial Design Law



Cosplay itself has a difference to the costumes in the intent, the costume made in the original creation of creator follow the design and the costume made follow the other person design which follow the design character of entertainment sector (Movies, Animation, Comic Etc) especially Japan Pop -Culture (Anime, Manga, Game etc), it makes a difference in the legal protection of original costumes and costumes made following the existing character designs that affect the law of Copyright

and Industrial Design Law, especially in production activities and development aspects of a costume.

Legal protection of cosplay costumes alone can be given by distinguishing between cosplay costumes that are made originally or made according to the design that is available, which to the difference in costume is tied to copyright and industrial design law by providing legal protection in some conditions if the conditions are in set in the rules are met, then split the legal protection of cosplay into:

1. Original costum

The original costume in the intent is the costume and the character design is made by the same designer or jointly which the costume is made based on the creator's creation without following or copying the existing design in full. The original costume was originally a 2 dimensional image before being adapted into costume form. So that the creator of the image has an exclusive right that protects its creation, copyright is an exclusive right of the creator that arises automatically on the basis of a declarative principle after a work is manifested in its tangible form without prejudice to restrictions in accordance with the provisions of legislation. Creation is any work of creation in the field of science, art and literature that results from inspiration, ability, thought, imagination, dexterity, skill or expertise expressed in the real form, which in the intention of

creation in this context is a picture that contains a costume design in a character that will then be adapted into the form of a costume.

Costumes adapted from a design drawing of a character costume are created by the creator based on inspiration, ability, thought, imagination, dexterity, skill, or expertise expressed in real form. But the object protected by copyright law is that it is not a costume, because the costume is not mentioned as an object protected by copyright law in article 40. However, the image is an object protected by copyright law especially in Article 40 paragraph (f). And the creator fully controls the moral rights and economic rights of his creation after being publicly announced.

The creator of the character costume design contained in an image has the moral rights and economic rights bound in the picture. If the creator makes the original character costume design without following the existing design, it makes the costume creator have exclusive rights, especially the moral rights and economic rights which, if the creator makes the original, the creator holds full control of moral rights and economic rights over his creations based on copyright law especially the creator can fully control the image adaptation into the costume form which then the costume production and distribution to the commercialization which it is part of the economic rights on the basis of artwork in the form of drawings (images that contain the design of the character costume) are made by the original creator. So that the creator and his creation are

protected by copyright law but before being protected by the law the creator must be able to prove that his creation is original by completing all the documentation in which it is necessary to strengthen the law attached to his creation.

Although the costume is not an object protected by copyright law, but if expanding the meaning of the costume itself is a work made in a 3-dimensional handicraft that can be used by humans, which in industrial design intent is a creation of form, configuration, or line or color composition, or line and color, or combination thereof in the form of three dimensions or two dimensions which gives the aesthetic impression and can be realized in a three dimensional or two dimensional pattern and can be used to produce a product, goods, industrial commodity, or handicraft hands. Which costume has met the criteria in the meaning of article 1 Industrial Law design is the creation of a combination of the form of line and color composition that embodied into 3 dimensional form that can be used to produce a product and handicraft. But in order to obtain legal protection from the design industry law the creator or designer must register the costume into the registration of the industrial design submitted to the directorate general until the creator or designer officially obtains the industrial design right over the costumes he has made, whereby industrial design rights may is granted to others through an agreement (License) based on the grant of rights (not a transfer of rights) to enjoy the economic benefits of an industrial

design which is granted protection within a specified period and conditions.

2. Non-original costum

Non-Original costume in the intent is a costume that is made based on adaptation of an existing character design or characters that have been in the public. Costume makers create costumes based on their existing designs, while the costume design is created by others whose creators are costume designs that have moral rights and economic rights automatically embedded when the design of the characters is manifested in real form in an image. So that makes the costume maker has violated the economic rights of the creator of costume design because it has adapted and reproduced the costume design into costume form if the costume maker does not have permission in adapting and reproducing the work of the creator.

Economic rights are the exclusive right of the copyright-holder's creator to gain the economic benefits of creation. Creation in the intent is a picture that contains the character costume design. In this case the costume maker has adapted or transformed the creation of an image into the form of a costume in which it violates article 9.

(1)The creator or the copyright Holder as referred to in article 8 have the right economic to do:

a. Publishing the Work;

b. Unauthorized reproduction of a work in all its forms;

c. Translation of the work;

d. Adaptation, Aransement, or transforming the creation;

e. distribution of the work or a copy of it;

f. performing the work;

g. Announcement of Creation;

h. Communication Creation; and

i. Creation rental.

(2) Every Person conducting economic rights referred to in paragraph (1) shall obtain permission of the author or the copyright holder

(3) Any person who without permission of the author or the copyright holder prohibited from copyring and/or use of the commercially creation

In the cosplay practices that occur in the society, the costumes themselves are made used for various performances, especially performances in a cosplay event or Japan-Pop Culture Event or comic convention event. Which according to Article 9 paragraph f to perform a creation that has previously been adapted or transformed from the image into the form of costumes, the performance of creation is the economic right of the owner of the copyright that is the creator of the design of the character costume in an image that has been realized to the form of a real costume so that the cosplay show has violated the provisions of Article 9 paragraph f if it does not get the creator's permission or the copyright holder. So in this case if the costume maker wants to do an adaptation or transformation of an image of a character costume design that already exists and created by others then before that the costume maker must have permission from the creator of the costume design drawing character to adapt or transform his creation into the form a

costume before the costume maker gets legal protection by copyright law under article 8, paragraph 2, because the costume maker can't fully control the moral rights and economic rights of others. Because basically the costume is not an object that is protected by copyright law but costume cosplay is an adaptation of a costume design drawing character in which the image is an object that is protected by copyright law.

Consider from the industrial design law, the costumes are made based on the image of the character costume design that has been in public so in the industrial design law does not regulate the activity. But if the costume maker makes other people's costumes previously listed on the industrial design rights then the costume maker has violated the law design industry for having transferred rights without the approval of the design owner of the industry. In the transfer of Right to Industrial Design may be transferred or transferred by:

- a. Inheritance;
- b. Grants;
- c. Will;
- d. Written agreement;
- e. Other causes justified by legislation

If the costume maker creates the costumed costume and the owner of the costume has industrial design rights it is necessary to

grant industrial design rights if it is to do so. Which industrial design rights holders have the exclusive right to exercise their industrial design rights and to prohibit others who, without their consent, make, use, sell, import, export and / or distribute goods granted industrial design rights.

The activity of production costume cosplay influence the legal protection for costume cosplay. Cosplay is a form of costume game, produced and created in such a way as to achieve the form as closely as possible with the original form or design of the original character. Which can be said as a form of adaptation, one part of the explanation of announce and multiply. So cosplay itself is a form of creation. The word creation informs a literary creation, a creation of a drama, a musical creation or an art creation. An idea becomes a creation when the idea is not necessarily made in written form or other material form. Then cosplay itself can be classified as a form of applied art creations, the creation of art in question includes paintings, drawings, sculpture or photography art and handicrafts.

In producing a costume, both the original costume and the costume that follows the existing design. In the case of production it is necessary to analyze the production of a cosplay costume with three step doctrine. Cosplay itself has exclusive rights, especially the economic rights owned because of its own cosplay of social and economic value, so need to know the limits of copyright on the cosplay itself. In the copyright there is a copyright delimiter. To define copyright restrictions may use a three-step

test, which is used as a limitation of the exclusive rights of the creator and privilege and the main balance to use (previlage to use)³⁶.

Base on Article 9(2) of the Berne Convention for the Protection of Literary and Artistic Works in 1967. Article 9 of the Berne Convention states that:

Right of Reproduction: 1. Generally; 2. Possible exceptions; 3. Sound and visual recordings - (1) Authors of literary and artistic works protected by this Convention shall have the exclusive right of authorizing the reproduction of these works, in any manner or form. (2) It shall be a matter for legislation in the countries of the Union to permit the reproduction of such works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author. (3) Any sound or visual recording shall be considered as a reproduction for the purposes of this Convention.

Three-step Test includes three stages that are cumulative and based on sequence Article 9 (2) of the Berne Convention:

1. Basic Rule: limitation must be certain special case
2. First condition delimitting the basic rule: no Conflict with a norma
explotation-cumpulsory licences impossible
3. Second condition delimitting the basic rule: no unreasonable prejudice
to litigitimate interest-compulsory licences posible.

In the first step, the basic rule used is that the restrictions apply only to certain special cases and there is no commercial purpose, comercial activity according to black law dictionary is an activity, such as

³⁶ Martin Stenfleben, *Copyright, Limitations and Three Step Test in International and EC Copyright Law*, Den Haag, 2003, p.112.

operating business, conducted a profit. Non-commercial use does not bring financial benefits to those who do so. Then associate with cosplay costume making activities to personally do not bring financial benefits to the creator but otherwise cosplay costume maker issuing financially belongs to its own maker to make a cosplay costume where it is done to channel the love of the character that he will cosplay it by making the costumes personally, for cosplay costume maker who aims to be traded after the costume is completed then the activity can bring financial benefits and is commercial for cosplay costume maker.

Second Stage, the act of using another person's creations without permission, must not conflict with the normal utilization of the creator or copyright holder. In making cosplay costume elements that are in use in making cosplay costume is the character design, especially the costume design that used the character. However, the character design is fully attached to the character designer/creator of the character design. So that less meet the element of pure own creativity. otherwise, if there is enough improvisation of cosplay costume that is made based on the character design but give some differences in costumes then the element of creativity can be fulfilled because of the idea and obsession of the cosplay costume creator is. Improvise enough when there is personal creativity from the creator of his costume so that it becomes a distinguishing element of the character design.

Third stage, the act of using another person's creation without permission must not prejudice legitimate interest from the creator or

copyright holder. Cosplay itself can indirectly increase the level of promotion in a certain form of entertainment such as movies, animations, comics, video games etc. Which through cosplay becomes a free promotional media based on the actions of fans who like certain entertainment, and from cosplay itself to be proof that the entertainment is selling in the market and accepted and liked by the community because many of the entertainment fans are doing cosplay from one of the characters in the entertainment. But cosplay it self allows it to reduce the number of official accessories sold by certain entertainment as a form of promoting their entertainment and selling a variety of authorized accessories with exactly the same theme as entertainment, which people prefer to make their own accessories or order to costume makers whose price is much cheaper than accessories are sold authorized. So it endangers the interests of copyright holders who have obtained permission or license from the creator.

Base on the three stages of Three-Step Test, tested by cosplay phenomena. It can be seen that the creation of cosplay costumes that meet the three-step test as the basic norms of copyright restrictions and some do not fulfill it. In view of the cosplay usage point of view, if cosplay costume is used for personal purposes, it has the distinguishing power of its original design so that it does not conflict with normal utilization, and the cosplay maker does not trade, cosplay costumes are categorized in the copyright restriction norms based on the results three step test. If the cosplay costumes of its use for commercial purposes, then does not have a

distinguishing power at all with the original character design, and then traded so as to affect the sale of official accessories on the same character, it can be concluded that the cosplay cost can't be categorized in the norms of copyright restrictions based on three-step test results.

Based on the three step doctrine analysis is associated with costume creation, there is a limit on the copyright in the production of a costume in which cosplay costumes are made based on existing designs and already known publicly there is a reasonable limit if the manufacturer of the costume made only for his own personal interests and not for commercialization, the non-original costume maker adapted a particular character design and then transformed into a costume with a similar level of similarity then it was given a copyright restriction in producing a work that is in the form of costumes in production for personal purposes and not to be commercially based on a three-step test in the first test ie in a certain case the costumes made for the person do not infringe a copyright. Unlike if the costume is in production to commercialize his work then it requires permission from the copyright holder of a character design drawing or the rights holder of the industry if it has been registered.

In producing an Original costume and a Non-Original costume has a limit if the costume maker produces costumes for his own benefit then it is a limitation given on Berne Convention article 9 (2) in which Berne Convention is basic in the Law on Rights Cipta Indonesia. But if the costume maker makes costumes for commercial purposes and then in

production, then there is a similar treatment between the original costume and Non-Original costume.

The copyright law restrictions contained in article 43-51 set about copyright restrictions. From the article that discusses the discussion of copyright itself related to costume cosplay is article 43, 44 and article 46.

In article 43 (d) that act which is not considered a violation of copyright is the manufacture and distribution of the media content of copyright information and communication technology that is not commercial and / or the beneficial creator or related parties, or the creator expressed no objection to the creation and dissemination. In the cosplay costume itself which is the result of the adaptation of a transformed image into a costume form then based on article 43 (d) it makes cosplay costumes in a copyright restriction if the cosplay costumes are not commercialized and / or profitable creator or related parties, in practice in the community with the cosplay itself circulating in the community indirectly into a promotion of the work that is owned by the creator and from the cosplay itself the public can know the work of the creator.

In article 44 (1) paragraph d, that the use, retrieval, multiplication, and / or alteration of work and / or products is not considered a violation of copyright if the source is mentioned or included in full the purposes of performances that are free with the provisions of not the prejudice of the normal interest of the creator. In society cosplayers channel their hobby cosplay in a japan pop-culture event or comic convention which in the

show many show cosplay activities as a means of performances in the event, indeed in the cosplayer not much to know who the creator of the character design that they cosplay it, but the cosplayer must know where the characters they come from (eg: Character Emiya Shirou, Derived from the Anime / Manga Fate-Stay Night series) so that the source of the characters in the cosplay it has been mentioned or listed orally and / or verbally.

In Article 46 (1), it is understood that copying for personal interest to a work of copyright holder. Based on the explanation that every person who adapts a character design image transforms the image into a costume form without the permission of the creator of the character image design or copyright holder then it is allowed if the costume maker only makes 1 costume only based on the character design drawings in the adaptation.

Production of costumes based on adaptation or transformation of the work of an image design into the form of costume, which the costume can be classified as original costume or non original. then in production must be under the supervision and permission of the creator of the image or with the creator of the image provides a transfer of rights to certain parties to perform costume production in the adaptation of a character design drawings, because based on Copyright law costume is not an object that is protected by copyright law but which is protected here is a character design drawings that become the guidelines in making the costume. So the image creator has the exclusive right to exercise the economic rights of adaptation and transformation of an image into a costume form.

If there is someone who wants to create a costume based on a person's image design the person can freely make the adaptation of the image into a costume form for the purpose of personal production not to be commercialized, if the commercial without getting permission from the creator of the image it has violated the exclusive rights owned by the creator although there are differentiating aspects in the costume then the costume maker only has exclusive rights to the differentiation aspect in the costume but other parts of the same according to the drawing design should still get permission from the creator. Similarly, if the costume has been registered into the industrial design then every person who wants to make the costume must obtain a right transfer from the right holder to conduct commercial production related to the economic activity and the management of economic rights of a work.

In Japanese copyright law, there is no clear word that the costume is categorized as a work in Article 10, so the costume is not the object of Japanese copyright law. However, cosplay costumes are an adaptation of image character designs in which images in Japanese copyright law are objects that are protected and images are categories of work in article 10 (iv), the provisions on adaptation of reproduction of works in chapters 21 and 27 are manifested to cosplay costumes, and for copyright restrictions for personal use in article 30 (1). The menus all discuss the cosplay costume analysis under copyright law. Terms of provision of the provisions of copyright law of Indonesia and japan related to cosplay costume.

Table 1, Comparison of Indonesia and Japan Copyright law related to Cosplay Costume

No.	Matters Related to Cosplay Costume on Copyright Law	Indonesia Copyright Law	Japan Copyright Act
1.	Costume Categorize as Works	<i>No</i> , There is no clearly word stated on this law about “Costume” as Works	<i>No</i> , There is no clearly word stated on this law about “Costume” as Works
2.	Image/Drawing Categorize as Works	<i>Yes</i> , on Article 40 (f)	<i>Yes</i> , on Article 10 (iv)
3.	Economic Rights about Adapation of Works	<i>Yes</i> , on Article 9(d)	<i>Yes</i> , on Article 27
4.	Economic Rights about Reproduction of Works	<i>Yes</i> , on Article 9 (b)	<i>Yes</i> , on Article 21
5.	Limitation of Copyright for Private use	<i>Yes</i> , on Article 43(d); 44 para.1 (d); 46 (1).	<i>Yes</i> , on Article 30 (10)

In japan design act, in the definition design is the shape, pattern or colors, or any combination thereof, which creates an asthetic impression through the eye. Based on the explanation of the design in intention, the costumes themselves only meet the criteria for

the design made of combined shapes, patterns or colors but no further explanation whether the combination of shapes, patterns or colors can be a 3-dimensional form in which the costume itself is a combined design shape , patterns and colors are shaped 3 dimensions and made handicrafts. In the explanation also does not explain about the design can be made handicraft or not, so it can be concluded that the costume is not included into the design act because there is no further clarity whether the design in the intent can be 3 dimensions which is a combination of shape, patterns or color and can also be a handicraft.

B. The Background of Legal Protection of Indonesia Copyright and Design Law related to Cosplay Costume.

Both Indonesian and Japanese law on copyright and industrial design have provided specific rules on the various matters pertaining to it. Especially related to cosplay which in previously been described about the legal protection of cosplay costume based on Indonesia and japan copyright and industrial design law. Based on the two comparisons of the two laws of the country, a question arises as to whether the background of the legal protection concerning the cosplay is based on different and equal aspects of the protection of the law, so that there are certain aspects of the background legal protection against cosplay costume based Indonesia and japan copyright and industrial design law, namely:

1. Law aspect

There is a similarity of the background of Indonesia and Japan copyright law in which the two countries are the state of assembly Berne Convention. So that the two countries in making a copyright law based on the agreement in the Berne Convention, so there are similar provisions between copyright Indonesia and Japan.

The Berne Convention, adopted in 1886, deals with the protection of works and the rights of their authors. It provides creators such as authors, musicians, poets, painters etc. with the means to control how their works are used, by whom, and on what terms. It is based on three basic principles and contains a series of provisions determining the minimum protection to be granted, as well as special provisions available to developing countries that want to make use of them.

The Berne Convention deals with the protection of works and the rights of their authors. It is based on three basic principles and contains a series of provisions determining the minimum protection to be granted, as well as special provisions available to developing countries that want to make use of them³⁷. The three basic principles are the following:

a. Works originating in one of the Contracting States (that is, works the author of which is a national of such a State or works first published in such a State) must be given the same protection in each of the

³⁷ WIPO, <http://www.wipo.int/treaties/en/ip/berne/> accessed on 12 April, 2018

other Contracting States as the latter grants to the works of its own nationals (principle of "national treatment").

b. Protection must not be conditional upon compliance with any formality (principle of "automatic" protection).

c. Protection is independent of the existence of protection in the country of origin of the work (principle of "independence" of protection). If, however, a Contracting State provides for a longer term of protection than the minimum prescribed by the Convention and the work ceases to be protected in the country of origin, protection may be denied once protection in the country of origin ceases.

The minimum standards of protection relate to the works and rights to be protected, and to the duration of protection:

a. As to works, protection must include "every production in the literary, scientific and artistic domain, whatever the mode or form of its expression" (Article 2(1) of the Convention).

b. Subject to certain allowed reservations, limitations or exceptions, the following are among the rights that must be recognized as exclusive rights of authorization:

(1) The right to translate,

(2) The right to make adaptations and arrangements of the work,

- (3) The right to perform in public dramatic, dramatico-musical and musical works,
- (4) The right to recite literary works in public,
- (5) The right to communicate to the public the performance of such works,
- (6) The right to broadcast (with the possibility that a Contracting State may provide for a mere right to equitable remuneration instead of a right of authorization),
- (7) The right to make reproductions in any manner or form (with the possibility that a Contracting State may permit, in certain special cases, reproduction without authorization, provided that the reproduction does not conflict with the normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author; and the possibility that a Contracting State may provide, in the case of sound recordings of musical works, for a right to equitable remuneration),
- (8) The right to use the work as a basis for an audiovisual work, and the right to reproduce, distribute, perform in public or communicate to the public that audiovisual work.

The Convention also provides for "moral rights", that is, the right to claim authorship of the work and the right to object to any mutilation, deformation or other modification of, or other derogatory action in relation to, the work that would be prejudicial to the author's honor or

reputation. As to the duration of protection, the general rule is that protection must be granted until the expiration of the 50th year after the author's death. There are, however, exceptions to this general rule. In the case of anonymous or pseudonymous works, the term of protection expires 50 years after the work has been lawfully made available to the public, except if the pseudonym leaves no doubt as to the author's identity or if the author discloses his or her identity during that period; in the latter case, the general rule applies. In the case of audiovisual (cinematographic) works, the minimum term of protection is 50 years after the making available of the work to the public ("release") or – failing such an event – from the creation of the work. In the case of works of applied art and photographic works, the minimum term is 25 years from the creation of the work.

The Berne Convention allows certain limitations and exceptions on economic rights, that is, cases in which protected works may be used without the authorization of the owner of the copyright, and without payment of compensation. These limitations are commonly referred to as "free uses" of protected works, and are set forth in Articles 9(2) (reproduction in certain special cases), 10 (quotations and use of works by way of illustration for teaching purposes), 10*bis* (reproduction of newspaper or similar articles and use of works for the purpose of reporting current events) and 11*bis*(3) (ephemeral recordings for broadcasting purposes).

The Appendix to the Paris Act of the Convention also permits developing countries to implement non-voluntary licenses for translation and reproduction of works in certain cases, in connection with educational activities. In these cases, the described use is allowed without the authorization of the right holder, subject to the payment of remuneration to be fixed by the law.

The Berne Union has an Assembly and an Executive Committee. Every country that is a member of the Union and has adhered to at least the administrative and final provisions of the Stockholm Act is a member of the Assembly. The members of the Executive Committee are elected from among the members of the Union, except for Switzerland, which is a member *ex officio*. The establishment of the biennial program and budget of the WIPO Secretariat – as far as the Berne Union is concerned – is the task of its Assembly. The Berne Convention, concluded in 1886, was revised at Paris in 1896 and at Berlin in 1908, completed at Berne in 1914, revised at Rome in 1928, at Brussels in 1948, at Stockholm in 1967 and at Paris in 1971, and was amended in 1979. The Convention is open to all States. Instruments of ratification or accession must be deposited with the Director General of WIPO.

Based on the berne convention there is an exclusive right to make reproductions and adaptation of work, which is the basis for Indonesia and japan copyright law in regulating economic rights and exclusive rights related to cosplay costume, which where in the previous

explanation cosplay costume is an adaptation of an image which then in production becomes a costume cosplay.

In Indonesia and Japan design there are differences that only Japan design act that ratify the Hague agreement and in Indonesia Design Law not ratify the Hague agreement. The Hague Agreement governs the international registration of industrial designs. First adopted in 1925, the Agreement establishes an international system - the Hague System - that allows industrial designs to be protected in multiple countries or regions with minimal formalities. So it is a difference that background of industrial design of Indonesia and Japan, which makes the explanation of the design that is different intent between Indonesia and Japan.

2. Culture aspect

The culture of Indonesia and Japan is very different from what is owned by the two countries, when discussing about cosplay itself as a culture then cosplay is part of Japanese culture, because cosplay is a form of adaptation of a character image design in which Japanese popular culture. It includes Japanese cinema, cuisine, television programs, anime, manga and music, etc. Because Japanese cinema, especially anime, manga and video games, the majority of Japanese origin is a reference from the whole world, so the Japanese state pays special attention to the production of anime, manga and video games as a work that is protected by the Japanese state itself.

Japan popular culture especially anime, manga and video game is very much in production in Japan and then disseminated around the world, which every country in the world must know Japan popular culture and many various circles that form a society of enthusiasts Japan popular culture. Because that culture is the main thing in advancing Japan as a country that is known in the world so that the Japanese state to give special attention to Japan popular culture itself.

Cosplay itself uses a lot of characters from popular culture Japan especially characters from anime, manga and video games. Various circles in various worlds are many who play as a character of popular Japan character which it shows that popular culture has been accepted by society in foreign countries. Japan itself is hosting the World Cosplay Summit. Japan's Manga and Anime culture have been influenced various people worldwide. As a result, the Cosplay culture was born. The World Cosplay Summit in 2003 in Nagoya Japan to create a new sense of international friendship with cosplayers from all over the world. Year after year, the number of participating countries has been increasing. In 2012, the number grew to 20 countries. Now, many cosplayers from around the world go to Cosplay Holy Land; ie Nagoya, Japan. The World Cosplay Championship is where representatives from each country display their best performances on stage to determine the grand champion. The Championship does not just judge the quality of participants' costumes, but also the art direction and overall performance. It's the ultimate world championship of cosplay. WCS has partnerships

with manga, anime and cosplay events all over the world to hold the preliminaries.

For Japan's own culture to be a holy land for fans of Anime, Manga and Video games from all over the world so Japan pays special attention to their popular culture japan especially in Cinematic, Anime, Manga and Video game fields. In many worlds, there are many events in the community that have their own theme of popular culture in the form of comic convention or Japan Pop Culuture convention which is one of the biggest popular culture event is Ennichisai held every year in Jakarta.

Different to Indonesia, indonesia populer culture in the know the world of the majority in the field of traditional culture and Tourism sector. For the cinematic sector has not been much enjoyed in the country itself as well as outside countries and also in the video game sector Indonesia is still in the process of developing games made in their own country, so cosplay in Indonesia is very rare to display the original characteristic character from Indonesia itself, though rare but there are various parties that develop various original characters indonesian developed in order to become one of Indonesia Popular culture in the sector Animation, comic and video game that is Re: Comics on Comics and JTOKU moving in the field of Cosplay.

3. Politic and Economic aspect

Cosplay if viewed in the politic aspect into a media campaign for free without a special engagement that binds the party, through cosplay into a media campaign has improved the aspects of economic for various parties whose character has been in the cosplay it community. Through the cosplay of Japanese countries became known in various countries in the world, through cosplay also be a proof that Japan Popular culture has been accepted overseas as a country that received culture japan popular culture as well as recipient country popular culture became a follower of popular japan culture itself seems to be a pride in various circles of society if they have received and developed a popular japan culture.

The acceptance of popular Japanese culture outside Japan becomes a sign that in the inter-state trade sector will run smoothly in trading in general and trade in the field of goods related to Japan Popular Culture in the form of Action Figure, Toys, Movie especially Costume Cosplay Etc.

Indonesia itself became a country that accepted Japan Popular culture. many various products originating from japan especially related Japan Popular Culture can be easily found in Indonesia itself, which is a variety of products are great in the community of Indonesia. Cosplay in Indonesia itself provides a role for the business actors engaged in the field of goods related to cosplay and cosplay costume making services, various business actors are receiving a lot of cosplay costume services that the

majority of costume cosplay made based on various characters in japan
popular culture that is from Anime, Manga, Movie and Video game.

CHAPTER IV

CLOSURE

A. Conclusion

1. Legal protection of cosplay costume based on indonesia and japan copyright law has a similarity to cosplay costume is the protection of economic rights to the image design character as object (Image as object protected by copyright) in which the image character design have been carried out the exploitation of economic rights to do adaptation, transformation and reproduction of a image design character embodied into the costume form, especially character design image of various characters in media entertainment know by public. And industrial design act indonesia and japan there are differences of view that in Indonesia industrial design five wider definition related to criteria of costume that is in the form of 3 dimation and made by handicraft, but in japan design act only give narrower definition of criteria of design, so criteria of costume only fer fulfilled on japan design act but on indonesia industrial design covers all fulfilled of criteria of costum into industrial design definition.
2. Background of legal protection of cosplay costume based on Indonesia and Japan Copyright and Industrial Design law has 3 aspect as background that is law aspect whereby legal aspect of copyright between Indonesia and Japan is based on Berne

convention but in industrial design is different because only japan country based on hague agreement while Indonesia is not, the next aspect is a culture aspect where japan culture is highly popularizing their popular culture such as anime, manga and video game is more developed and has been known to the world while Indonesian culture is more popular for ethnic and tourism, and the last aspect is politic economy which is the japanese country more gain in terms of economi in cosplay in the enjoyment of various countries. so that is exposed to similarities and differences between the three aspects that underlie the background of legal protection of cosplay costume between Indonesia and Japan.

B. Sugestion

1. Understanding of the legal protection of cosplay costume based on copyright and industrial design law is still very poorly understood by the public of the exclusive rights attached to costume, so that the public, especially the cosplayer and business actors related to cosplay need to have an understanding of the protection the law contained in the cosplay costume so that the public can understand the exclusive rights inherent in a costume based on copyright and industrial design law so that in the future when business activity in the world of cosplay does not become a strange thing in society and law practitioners have understood the law when there is a case related to cosplay in court.

2. Through the comparison of legal protection backgrounds cosplay costume based on Indonesia and japan copyright law becomes a comparison study which if needed to update Indonesia copyright and industrial design law to a better direction based on various aspects of the background of protection of costum cosplay law between country of indonesia and japan.

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World Intellectual Property Organization Copyright

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