

ABSTRACT

Mushlih, Miftahul, 2013 The Status of Waqf Law And Transfer of Copyrights Through Waqf (Fiqh Analysis On the Law No. 41 of 2004). Thesis. Department of Islamic Business Law. Maulana Malik Ibrahim State Islamic University, Malang.

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The status of copyright ownership transfer by waqf which is not clearly written in Copyright Law is a problematic matter. It is due to the status of the ownership transition which becomes a significant issue to determine the rights to the ownership of an object, and to avoid or anticipate the disputes in determining the ownership of certain object.

This research aims to know the status of the copyright ownership transfer based on waqf law. Besides, it aims to know the object of waqf status which is denoted as copyrights as written in the waqf law No. 41 of 2004 according to fiqh analysis.

This is a normative research employing qualitative approach using primary, secondary, and tertiary data. The data collection is done through documentation by collecting the primary data from direct source. The problems are investigated, then the data is edited, and classified. Furthermore, the data authentication is examined.

This research obtains two conclusions. The first shows that the transfer of the object of waqf copyrights is not only declared orally or through action as happens in the previous case but it is also orally declared and specifically written to prove the authenticity and show the power of law. It is expected that problems can be easily solved when they occur during the application. Second, copyright can be judicially transferred because of "other causes agreed by the legislation". It becomes a bridge for the law which confirms that copyright, in terms of authority, becomes the Religion Court authority when a dispute occurs after previously it belongs to Public Court absolute authority.