

THE ROLE OF CRIMINAL SANCTIONS AND CIVIL LIABILITY IN THE RESOLUTION OF DISPUTES CONCERNING CONFIDENTIAL INFORMATION AND INTELLECTUAL PROPERTY

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Abstract

This article discusses the contribution of criminal sanctions and civil liabilities in the resolution of disputes concerning confidential information and intellectual property. The focus of the study is on how these two legal instruments operate differently yet complement one another in protecting the interests of rights holders. The research method employed is a literature review using a normative legal approach, involving an examination of legislation, academic journals and relevant legal literature. The findings indicate that criminal sanctions serve as a deterrent and a means of curbing infringing behaviour, particularly in relation to the disclosure of trade secrets and unauthorised copyright infringement. Meanwhile, civil liabilities play a role in redressing losses through compensation, the cessation of infringements, and more flexible dispute resolution mechanisms. Both underscore that legal protection for confidential information and intellectual property is not only aimed at punishing offenders but also at restoring the rights of the aggrieved party in a fair and proportionate manner.

Keywords: criminal sanctions, civil liabilities, disputes, confidential information, intellectual property.

Introduction

The development of a knowledge-based economy has established confidential information and intellectual property as strategic assets in modern business activities. In business practice, economic value no longer rests solely on tangible assets, but also on technical information, production methods, marketing strategies, designs and intellectual works that are highly competitive. In Indonesia, the protection of trade secrets is governed by Law No. 30 of 2000 on Trade Secrets, whilst the protection of copyright is governed by Law No. 28 of 2014 on Copyright. These two legal regimes demonstrate that the state recognises the importance of legal protection for intangible assets of high economic value (Law No. 30 of 2000; Law No. 28 of 2014).

The need for such protection is becoming increasingly urgent as the intensity of information exchange increases, business processes become digitised, and collaboration-based business models expand. In such circumstances, leaks of confidential information can occur more easily, whether through employment relationships, business partnerships or licensing agreements. Trade secrets themselves encompass information in the fields of technology or business that has economic value

and is kept confidential by its owner; consequently, any breach not only causes harm to businesses but also disrupts a healthy competitive environment (Ikbar, 2013) .

On the other hand, intellectual property also faces increasingly complex threats of infringement, particularly in the form of unauthorised reproduction, distribution, and unauthorised commercial use. Copyright infringement, for example, is punishable by imprisonment and heavy fines, depending on the nature of the offence and the degree of culpability (Law No. 28 of 2014). These criminal provisions demonstrate that the legislature does not view intellectual property infringements merely as private disputes, but also as acts that may disrupt the rule of law and harm the economic interests of creators and the wider public (Prasetyo, 2022) .

In the context of law enforcement, criminal sanctions serve both preventive and repressive functions. The preventive function is evident in the aim of deterring businesses or individuals from easily disclosing or reproducing works without permission. The repressive function is evident in the state's efforts to impose penalties on offenders as a form of criminal liability. However, in practice, criminal sanctions often face obstacles relating to the burden of proof, the length of judicial proceedings, and a stronger focus on punishing offenders than on compensating victims for their losses. Therefore, the contribution of criminal sanctions to the resolution of disputes concerning confidential information and intellectual property needs to be viewed critically, not merely as an instrument of punishment, but also as a tool for enforcing legal compliance (Suparno & Santiago, 2018) .

Meanwhile, civil law obligations play a key role as they are geared towards the recovery of losses and the cessation of infringements. In trade secret disputes, for example, the law provides scope for claims for damages and the cessation of all infringing acts, including settlement through arbitration or alternative dispute resolution (Benia, 2022) . This mechanism demonstrates that civil law provides a more direct route to redressing the interests of rights holders, particularly where the resulting losses are of an economic nature and require a swift and quantifiable resolution.

Civil liability also has the advantage of allowing the parties greater scope to determine a remedy that is proportionate to the actual loss. In copyright infringement cases, rights holders may claim damages for the economic loss arising from unauthorised use (Ulya, 2023). Thus, civil law not only assesses whether an infringement has occurred, but also promotes the restoration of the victim's position through financial compensation, the cessation of the infringement, and the protection of the exclusive rights that have been infringed.

Nevertheless, the effectiveness of civil liability does not always stand on its own. In many cases, compensation without the backing of criminal enforcement may give rise to the perception that IP infringements carry only financial consequences and are still tolerable. At this point, criminal sanctions serve to reinforce compliance by presenting a more decisive threat against unlawful acts. This perspective is consistent with the view

that criminal proceedings may be pursued when civil mechanisms do not provide an adequate deterrent or when the infringement has reached a certain level of seriousness (Prihatin et al., 2024).

The relationship between criminal sanctions and civil liabilities is also important to consider in light of the nature of the protected subject matter. Confidential information is highly dependent on confidentiality and access control; consequently, once leaked, the resulting damage is often difficult to fully remedy. In such circumstances, civil proceedings can help to seek compensation and the cessation of the infringement, whilst criminal sanctions serve as a deterrent to the perpetrator and others who might commit similar offences. Therefore, an effective approach should not treat criminal and civil law as two mutually exclusive paths, but rather as complementary instruments (Ikbar, 2013).

In Indonesia, the protection of trade secrets has also taken on new relevance in the era of franchising, business partnerships and cross-regional business expansion. In business models such as these, the risk of leaks regarding formulas, operational methods or commercial strategies is greater because many parties have access to a company's internal information. A number of studies indicate that trade secret regulations are vital for maintaining healthy business competition and protecting businesses from unfair competitive practices, but their implementation still requires strengthening in the context of modern business relationships (Semaun, 2011).

In the field of copyright, issues are also evolving in line with the rise in digital distribution and online content consumption. Copyright infringement now takes the form not only of physical piracy, but also unauthorised reproduction, distribution and commercial use via digital platforms. Consequently, the criminal penalties set out in the law serve to safeguard the integrity of creators' economic rights, whilst civil remedies serve to compensate for losses arising from unauthorised exploitation. The combination of both is essential to ensure that legal protection does not remain merely a matter of legal norms, but is truly effective in practice (Suparno & Santiago, 2018). Furthermore, developments in government policy indicate that intellectual property is increasingly being positioned as an important part of legal literacy for the public. Efforts to incorporate intellectual property material into the school curriculum demonstrate an awareness that IP protection is not sufficiently achieved through enforcement alone, but also through education and prevention from an early age (Ulya, 2023). This reinforces the argument that the resolution of disputes concerning confidential information and intellectual property must be supported by a legal ecosystem that encompasses enforcement, redress and the fostering of legal awareness.

Based on the above, it is clear that disputes concerning confidential information and intellectual property cannot be resolved by a single legal approach alone. Criminal sanctions are important for deterrence, upholding the authority of the law, and preventing the recurrence of infringements. Meanwhile, civil liabilities are important for

redressing losses, halting infringements, and providing fair compensation to the aggrieved party. Therefore, a systematic analysis of the contributions of both is required to determine the limits, functions and effectiveness of each legal instrument in dispute resolution practice (Law No. 30 of 2000; Law No. 28 of 2014).

Consequently, this article is based on the assumption that the protection of confidential information and intellectual property will be more effective if criminal and civil law are treated as two mutually reinforcing mechanisms. This approach is relevant for addressing the need for legal protection that is swift, fair and adaptable to the dynamics of modern business.

Research Methodology

The research method employed in this article is a literature review, namely research based on written materials such as books, academic journals, legislation and other relevant sources relating to criminal sanctions, civil liabilities, confidential information and intellectual property (Carrie, 2011). This approach is carried out systematically by examining, comparing and interpreting various pieces of literature to gain an in-depth understanding of the contribution of each legal instrument to dispute resolution. The data used is secondary in nature and is then analysed qualitatively to produce a logical, normative and relevant account of the research topic (Eliyah & Aslan, 2025).

Results and Discussion

The Role of Criminal Sanctions in the Resolution of Disputes Concerning Confidential Information and Intellectual Property

Criminal sanctions play a vital role in protecting confidential information and intellectual property, as both possess significant economic value and are susceptible to misuse if not strictly safeguarded. Within the Indonesian legal system, the protection of trade secrets is governed by Law No. 30 of 2000, whilst copyright protection is governed by Law No. 28 of 2014. The inclusion of criminal sanctions in both pieces of legislation demonstrates that infringements of trade secrets and intellectual property are not merely regarded as private disputes, but also as acts capable of causing serious disruption to economic interests and the rule of law (Law No. 30 of 2000; Law No. 28 of 2014).

Conceptually, criminal sanctions serve as a means of social control to prevent actions that cause harm to others. In the context of trade secrets, criminal sanctions are necessary because the nature of the subject matter being protected is heavily dependent on confidentiality. Once information is leaked, the damage is often irreparable. Consequently, the threat of criminal sanctions sends a strong signal that the unauthorised acquisition, use or disclosure of trade secrets is not a tolerable act in modern business relations. This function is also evident in legal studies that regard

criminal law as an instrument to curb unfair competition and the misuse of information in the business sector (Waruwu & Siswoyo, 2024).

In practice, criminal sanctions also help to create a deterrent effect. Business operators, employees, business partners or third parties will be more cautious when they realise that breaches of trade secrets or copyright can result in imprisonment and fines. This deterrent effect is important because many intellectual property infringements are committed deliberately, are premeditated, and are driven by a desire for economic gain. Therefore, criminal sanctions do not only come into play after an infringement has occurred, but also at the prevention stage to ensure that legal entities do not readily commit similar infringements (Benia, 2022).

In the field of trade secrets, criminal provisions are explicitly set out in Article 17 of Law No. 30 of 2000. This provision stipulates that any person who intentionally and without authorisation uses another party's trade secret or commits certain acts that cause harm to the owner of the trade secret may be subject to criminal penalties. The existence of these criminal provisions demonstrates that the state affords special protection to information that has commercial value but has not been made public. Such protection is highly relevant to the worlds of industry, trade and technological innovation, which rely heavily on the confidentiality of formulas, working methods and business strategies (Law No. 30 of 2000).

Nevertheless, the effectiveness of criminal sanctions in trade secret disputes is not always optimal. A number of studies indicate that the application of criminal sanctions under Law No. 30 of 2000 has not yet been fully effective as a last resort. This is due to various factors, such as unclear legal provisions, a lack of understanding amongst industry players, and limited public awareness of the law. Consequently, many parties do not yet fully understand the boundaries of actions considered to constitute a breach of trade secrets, meaning that the enforcement of criminal law has not yet resulted in the strong deterrent effect that was hoped for (Suparno & Santiago, 2018).

Criminal law also plays a role in safeguarding the integrity of employment and business relationships. In many cases, leaks of confidential information occur because insiders—such as employees, consultants or business partners—abuse the access they have. Criminal sanctions serve to emphasise that access to information does not imply the right to use it without permission. Within this framework, criminal law does not merely punish, but also fosters a culture of compliance within organisations and companies. Thus, criminal law acts as an internal safeguard to ensure that contractual relationships are not easily breached for unilateral gain (Benia, 2022).

In intellectual property disputes, particularly those concerning copyright, criminal sanctions are a vital tool for tackling piracy and unauthorised commercial use. Law No. 28 of 2014 sets out criminal penalties for various forms of copyright infringement, including the reproduction, broadcasting, distribution and sale of infringing goods. These provisions demonstrate that copyright is not merely a moral

right of the creator, but also an economic right that must be safeguarded through robust legal mechanisms. Criminal sanctions serve here to protect the interests of creators, rights holders and the creative industry as a whole (Law No. 28 of 2014).

As well as acting as a deterrent, criminal sanctions also serve a symbolic function. The state asserts that breaches of confidential information and intellectual property are acts that run counter to the principles of justice and propriety. This symbolic function is important because intellectual property disputes often occur in the grey area between the utilisation of ideas and the theft of ideas. Through the threat of criminal sanctions, the state draws a clear line between lawful and unlawful use. This distinction is necessary so that businesses and the public have clear standards of conduct when dealing with intangible assets (Waruwu & Siswoyo, 2024).

However, the role of criminal law must still be viewed critically, as its enforcement is not without obstacles. In practice, proving the elements of intent, unauthorised conduct, and the causal link between the act and the loss often requires technical evidence and internal documents that are not easily obtained. In trade secret disputes, for example, a complaint from the aggrieved party is an essential requirement as the offence is complaint-based. This makes the legal process heavily dependent on the victim's willingness to report the offence and the authorities' ability to prove the infringement convincingly (Law No. 30 of 2000).

On the other hand, criminal law also plays a role in preventing unfair business competition. Many disputes over confidential information arise because certain parties wish to make a quick profit by copying a competitor's formula, operating system or business strategy. In such circumstances, criminal sanctions can serve as a corrective measure to curb fraudulent practices that undermine the business climate. Such protection is essential to ensure that innovation not only generates profits for the creators or owners of trade secrets, but also fosters healthy competition in the market (Suparno & Santiago, 2018).

Criminal sanctions also play a part in establishing legal certainty. Legal certainty is essential for businesses, as they require assurance that the fruits of their intellectual labour and internal company information will not be easily appropriated by third parties. When criminal law is firmly in place, business operators can devise more rigorous internal safeguards, such as confidentiality agreements, access controls and compliance policies. In this way, criminal law is not merely present in the courts, but also encourages more orderly corporate governance from the outset (Semaun, 2011).

In the context of dispute resolution, criminal law is often regarded as a last resort when preventive and civil measures prove inadequate. However, this does not diminish its role. On the contrary, the threat of criminal sanctions strengthens the bargaining power of the aggrieved party in the resolution process. Offenders will be more inclined to cease their actions and seek a more responsible resolution when they realise there is

a real risk of criminal prosecution. Thus, criminal law can expedite dispute resolution through legitimate and measured legal pressure (Ikbar, 2013).

Nevertheless, criminal sanctions should not be seen as the sole solution to all intellectual property disputes. There are many cases that are more appropriately resolved through civil proceedings, as the primary objective is redress rather than punishment. Therefore, the role of criminal law must be viewed within a balanced framework. Criminal law provides normative pressure and a deterrent effect, whilst civil law provides a means of redress. In this model, criminal law remains important, but it must not unduly supplant the reparative function of civil law (Law No. 28 of 2014).

Ultimately, criminal sanctions in disputes concerning confidential information and intellectual property play a key role in three areas: prevention, enforcement and the reinforcement of the value of legal protection. Criminal law protects the economic interests of rights holders, deters fraudulent behaviour and strengthens the legitimacy of the legal system in the face of harmful infringements. However, these contributions will only be effective if supported by clear legal standards, competent enforcement agencies, and legal awareness amongst business operators and the public. Without these, criminal sanctions risk becoming a mere formal threat that is not always capable of effectively resolving disputes (Prihatin et al., 2025).

Criminal sanctions therefore remain an important instrument in the resolution of disputes concerning confidential information and intellectual property, as they serve to deter offences, ensure compliance and protect economic interests that are vulnerable to abuse. However, their effectiveness depends heavily on the quality of regulation, law enforcement and their synergy with civil law mechanisms. Therefore, any discussion of the role of criminal sanctions must always be situated within the framework of comprehensive legal protection, so that dispute resolution does not end with punishment alone, but also creates certainty and justice for the parties involved.

The Role of Civil Liability in Dispute Resolution and Compensation for Losses

Civil liability plays a central role in dispute resolution, as civil law is fundamentally designed to protect individual interests, regulate relationships between legal entities, and provide redress for losses arising from breach of contract or unlawful acts. In the context of disputes over confidential information and intellectual property, civil liability serves as an instrument that enables the aggrieved party to reclaim their rights in a more concrete manner. This is important because many intellectual property infringements result not only in abstract losses, but also in direct economic losses that can be quantified and claimed through civil proceedings (Truli, 2018).

In legal practice, civil law places restoration as its primary objective. Unlike criminal law, which is oriented towards punishment, civil law places greater emphasis on restoring the situation to its original state as far as possible. Consequently, in the event of a dispute involving the disclosure of trade secrets or the unauthorised use of a

work, the aggrieved party may claim damages, an injunction to cease the infringement, or specific measures aimed at restoring their rights. This approach is highly relevant because the losses in intellectual property disputes are often directly linked to lost profits, damage to reputation, or disruption to a competitive position in the market (Spinello, 2007).

One of the key roles of civil law is to provide more flexible means of dispute resolution. The parties may seek resolution through the courts or through out-of-court means such as negotiation, mediation, arbitration or other forms of alternative dispute resolution. This flexibility is particularly needed in trade secret and intellectual property disputes, as not all cases require lengthy and formal litigation. In many cases, rights holders require a swift cessation of the infringement and proportionate compensation rather than merely a judgement punishing the infringer (Romer, 2002).

Civil liability is also important because it allows victims to prove their losses in more specific terms. In civil law, losses are not viewed merely in abstract terms, but can be quantified on the basis of lost income, a reduction in commercial value, restoration costs, or the loss of business opportunities. In intellectual property disputes, this approach is particularly useful as the protected subject matter does indeed possess an economic value that can be quantified. Consequently, civil proceedings become a more appropriate instrument for seeking compensation that is commensurate with the actual losses suffered by the aggrieved party (Correa, 2020).

In disputes concerning confidential information, civil liabilities often take the form of damages and injunctions to cease unlawful acts. Damages are intended to compensate for material losses arising from the misuse of confidential information, whilst an injunction is intended to prevent further losses. These two forms of liability are complementary. Without damages, the victim does not receive adequate redress. Without an injunction, the infringement may continue and exacerbate the impact of the losses that have already occurred (Suparno & Santiago, 2018).

The role of civil law is also evident in its ability to maintain a balance of interests between the rights holder and the alleged infringer. In many disputes, particularly those involving long-term business relationships, a resolution that is too punitive may actually damage commercial relationships that could otherwise be restored. Civil law allows for more proportionate solutions as it provides scope for compromise, reconciliation and the adjustment of obligations in accordance with the specific circumstances of the parties. It is here that civil law functions not only as a means of redress, but also as a mechanism for the restoration of legal relationships (Khasanah et al., 2023).

Furthermore, civil obligations provide a strong basis for the principle of legal liability. A person or legal entity that causes loss is obliged to compensate for that loss in accordance with applicable law. This principle is particularly important in trade secret disputes, as the control of information often involves contractual relationships, employment relationships or licence agreements. When one party breaches its

obligations, civil law provides a basis for seeking liability without necessarily having to rely on the more onerous burden of proving criminal elements (Purba et al., 2023).

In the context of intellectual property, civil liabilities also play a role in safeguarding the exclusivity of rights. Copyright, for example, grants economic rights to creators to control the use of their works. If another party uses the work without permission, the rights holder may claim damages as a form of redress for the infringement of those exclusive rights. This mechanism is crucial because the economic value of a work can be lost or drastically reduced when it is disseminated without control. Through civil proceedings, the rights holder has a formal avenue to enforce their rights directly (Ziliwu et al., 2023).

Civil liability also serves an indirect deterrent function. When the public and businesses are aware that any infringement may result in an obligation to pay damages or to cease certain activities, they will exercise greater caution when using another party's information or works. Whilst this effect is not as potent as the threat of criminal sanctions, it remains significant as it fosters an awareness that infringing rights is not a risk-free act. Thus, civil law contributes to the creation of a culture of compliance based on responsibility (Saputra & Aizani, 2024).

In dispute resolution, civil law also offers an advantage in terms of proving loss. The claimant may construct their case based on evidence of financial loss, financial statements, business contracts or market data demonstrating the impact of the infringement. This mechanism is important because disputes concerning confidential information and intellectual property generally involve technical and economic evidence that can be analysed in detail. Unlike criminal law, which emphasises the element of fault and the threat of sanctions, civil law focuses more on actual losses and appropriate remedies (Laksmi & Danyathi, 2025).

Civil law obligations are also highly relevant in efforts to prevent recurring losses. Civil court rulings may include orders to cease the use of trade secrets, prohibit the distribution of works, or mandate the restoration of a specific state of affairs. In ongoing disputes, such as the unauthorised use of a design or formula, a cease-and-desist order serves as a vital instrument to prevent further losses. Consequently, civil law functions not only after losses have occurred, but also whilst the infringement is still taking place (Erfamiati, 2021).

In many cases, civil liability is also more adaptable to the parties' needs than the criminal justice system. The parties can negotiate the amount of damages, the scope of the injunction, or a phased settlement scheme. This adaptability is crucial in complex business disputes, as overly rigid settlements are often ineffective. Civil law allows for more realistic resolutions that are geared towards restoring the parties' interests, rather than merely punishing the perpetrator (Darwance et al., 2020).

Nevertheless, civil liability also has its limitations. Civil litigation can be time-consuming, costly and labour-intensive, particularly if the defendant refuses to accept

liability. Furthermore, not all losses are easily quantified, particularly immaterial losses such as damage to reputation or loss of market confidence. Nevertheless, these limitations do not diminish the significance of civil law as the primary instrument for redress, as the law still allows for the assessment of damages based on available evidence and considerations of justice (Andiza et al., 2023).

Ultimately, civil law plays a vital role in dispute resolution and the redress of losses, as it places the victim at the centre of the legal process. Through compensation, the cessation of infringements and flexible settlements, civil law is able to redress the interests that have been harmed in a more concrete manner. In disputes concerning confidential information and intellectual property, civil law serves as an instrument that not only resolves conflicts but also restores the balance of rights and obligations between the parties (Arjana & Kurniawan, 2024).

Consequently, civil liability cannot be regarded merely as a supplementary measure, but rather as a cornerstone of legal protection for confidential information and intellectual property. It provides a mechanism for redress that is more direct, more flexible, and better suited to the nature of the economic losses arising from intellectual property infringements. Consequently, effective dispute resolution requires the strengthening of civil law instruments so that victims may obtain justice, redress, and legal certainty in a proportionate manner.

Conclusion

Criminal sanctions and civil liabilities both play important and complementary roles in the resolution of disputes concerning trade secrets and intellectual property. In trade secret disputes, Indonesian law provides for criminal penalties for infringements committed intentionally and without authorisation, whilst civil proceedings allow rights holders to claim damages and seek an injunction to stop the infringement. The combination of the two demonstrates that legal protection is not only intended to punish the perpetrator, but also to restore the rights and interests of the aggrieved party.

Functionally, criminal sanctions act as a means of deterring and curbing unlawful behaviour, whilst civil liabilities serve as a more direct and concrete mechanism for redress. In copyright cases, criminal penalties can include imprisonment and heavy fines, whilst civil proceedings enable creators to obtain compensation for economic losses resulting from the unauthorised use of their works. Therefore, dispute resolution will be more effective if these two instruments are applied in a balanced manner and in accordance with the nature of the loss.

Consequently, the resolution of disputes concerning confidential information and intellectual property requires an integrated legal approach. Criminal sanctions act as a deterrent and reinforce compliance, whilst civil liabilities ensure fair compensation for the aggrieved party. Such a protection model is better suited to the needs of

business practice and the current dynamics of intellectual property infringements, as it does not stop at punishment but also leads to justice and tangible redress.

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