

# Jurnal Simbur Cahaya..docx

*by* Turnitin Indonesia

---

**Submission date:** 08-Nov-2023 09:50PM (UTC-0500)

**Submission ID:** 2222358619

**File name:** Jurnal\_Simbur\_Cahaya..docx (222.82K)

**Word count:** 4992

**Character count:** 30764



ISSN : 1410-0614  
E-ISSN : 2684-9941

## SIMBUR CAHAYA

**Fakultas Hukum Universitas Sriwijaya**

Alamat Redaksi: Fakultas Hukum Universitas Sriwijaya, Jalan Sriwijaya Negara, Bukit Besar, Palembang, Sumatera Selatan 30139, Indonesia.

Telepon: +62711-580063 Fax: +62711-581179

E-mail: [simburcahaya@fh.unsri.ac.id](mailto:simburcahaya@fh.unsri.ac.id)

Website: <http://journal.fh.unsri.ac.id/simburcahaya>

### The Legal Importance of Registering Intellectual Property for Creative Economy Stakeholder as Loan Collateral<sup>1</sup>

Sri Handayani<sup>a</sup>, Muhamad Rasyid<sup>b</sup>, Saut Parulian Panjaitan<sup>c</sup>, Sri Turatmiyah<sup>d</sup>

<sup>a</sup> Faculty of Law, Sriwijaya University, Indonesia, Email: [srihandayani@fh.unsri.ac.id](mailto:srihandayani@fh.unsri.ac.id)

<sup>b</sup> Faculty of Law, Sriwijaya University, Indonesia, Email: [muhammadrasyid@fh.unsri.ac.id](mailto:muhammadrasyid@fh.unsri.ac.id)

<sup>c</sup> Faculty of Law, Sriwijaya University, Indonesia, Email: [sautparulianpanjaitan@fh.unsri.ac.id](mailto:sautparulianpanjaitan@fh.unsri.ac.id)

<sup>d</sup> Faculty of Law, Sriwijaya University, Indonesia, Email: [srituratmiyah@fh.unsri.ac.id](mailto:srituratmiyah@fh.unsri.ac.id)

#### Informasi Artikel

##### Histori Artikel:

Diterima : x-xx-xxx

Direvisi : x-xx-xxx

Disetujui : x-xx-xxx

Diterbitkan : x-xx-xxx

##### Kata Kunci:

Ekonomi Kreatif; Jaminan;  
Kekayaan Intelektual ;  
Pendaftaran; Urgensi

#### Abstrak

Kekayaan Intelektual sebagai basis dari Ekonomi Kreatif dapat memberikan manfaat ekonomi secara masif dengan daya intelektual bangsa, perancangan dan pengembangan skema pembiayaan berbasis kekayaan intelektual. Namun pemanfaatan kekayaan intelektual hasil kreativitas Pelaku Ekonomi Kreatif tersebut dalam penerapan skema pembiayaan berbasis kekayaan intelektual harus memiliki surat pencatatan atau sertifikat kekayaan intelektual. Kesadaran Pelaku Ekonomi Kreatif di Indonesia saat ini masih rendah untuk melakukan pendaftaran produk Kekayaan Intelektual. Penelitian ini adalah penelitian hukum normatif dengan basis data peraturan perundang-undangan sebagai bahan hukum primer. Selain itu didukung pula dengan data sekunder yang diperoleh dari hasil penelaahan kepustakaan atau penelaahan terhadap berbagai literatur yang berkaitan dengan pokok permasalahan serta kajian utama karya ilmiah ini. Pendaftaran dan pencatatan kekayaan intelektual di Indonesia masih rendah karena masyarakat khususnya pelaku ekonomi kreatif belum mengetahui banyak mengenai seluk beluk pendaftaran dan pencatatan. Selain itu Masyarakat merasa percuma melakukan pendaftaran dan pencatatan karena penegakan hukum kekayaan intelektual masih rendah. Pelaku ekonomi kreatif juga belum mengetahui manfaat pendaftaran atau pencatatan sebagai syarat untuk mendapatkan permodalan melalui skema pembiayaan berbasis Kekayaan intelektual. Upaya yang dilakukan pemerintah melakukan penegakan hukum kekayaan intelektual yang

<sup>1</sup> "The research/publication of this article was funded by DIPA of Public Service Agency of Universitas Sriwijaya 2023. Number SP DIPA-023. 17. 2.677515/2023, On November 30,2022, In accordance with the Rector's Decree Number: 0188/UN9.3.1/SK/2023, On April 18,2023".

semakin baik serta pendaftaran dan pencatatan kekayaan intelektual yang semakin mudah dan murah. Dukungan mekanisme pencatatan Kekayaan Intelektual sebagai jaminan utang hingga dapat membantu pelaku ekonomi kreatif untuk mendapatkan permodalan

#### Article Info

##### Article History:

Received : xx-xx-xxxx

Revised : xx-xx-xxxx

Accepted : xx-xx-xxxx

Published : xx-xx-xxxx

##### Keywords:

Creative Economy;  
Collateral; Intellectual  
Property; Registration;  
Urgency

#### Abstract

*Intellectual Property as the foundation of the creative economy can provide massive economic benefits with the intellectual capacity of the nation, the design and development of intellectual property-based financing schemes. however, the utilization of intellectual property resulting from the creativity of creative economy practitioners in the application of intellectual property-based financing schemes must have record or certificate of intellectual property. The awareness of creative economy practitioner in Indonesia is currently low when it comes to registering intellectual property products. This research is a normative legal study based on primary legal sources consisting of legislative regulation. It is further supported by secondary data obtained through literature reviews and an analysis of various related literature regarding the core issue of this study. Registration and recording of intellectual property in Indonesia remain low because the public, especially creative economy practitioners have limited knowledge about the intricacies of registration and recording. Additionally, the public perceives registering and recording as futile due to the weak enforcement of intellectual property laws. Creative economy practitioners also lack awareness of the benefits of registration or recording as a requirement for obtaining capital through intellectual property-based financing schemes. Efforts made by the government include improving the enforcement of intellectual property laws and simplifying and reducing the cost of intellectual property registration and recording. The support of the intellectual property recording mechanism as collateral for loans can assist creative economy practitioners in obtaining funding.*

## INTRODUCTION

The development of the national economy can be associated with the protection of intellectual property rights. Advanced countries such as the United States, Singapore, and Thailand have greatly benefited from intellectual property products. Economic advantages can be obtained because intellectual property can be sold, licensed and used as collateral for debts.<sup>2</sup>

<sup>2</sup> Sri Handayani Joni Emirzon, Annalisa Y., 2023, Lembaga Manajemen Kolektif Nasional (LMKN) Sebagai Penilai Nilai Ekonomi Dalam Pengikatan Hak Cipta Musik dan Lagu sebagai Objek Jaminan Fidusia, *Jurnal Ilmiah Kebijakan Hukum*, Volume 17, Nomor Maret 2023, h.13.

One of Indonesia's main assets is the development of the creative economy, which is growing in tandem with the rapid advancements in information and communication technology. This technology has become a significant factor in intellectual property regulation, considering that on one hand, it plays a strategic role in the development of intellectual property but on the other hand, it also serves as a tool for legal violations in this field

The creative economy has been designated by the government as the backbone of Indonesia's future economy. According to Law Number 24 of 2019 concerning the Creative Economy, the protection of intellectual property rights plays a crucial role within this framework.<sup>3</sup>

The creative economy represents a concept in the new era of the economy, primarily driven by information and creativity, which includes ideas and the stock of knowledge from human resources as the main factor of production in economic activities. This development is a result of the ongoing technological transformation wave in the world economy,<sup>4</sup> which has rapidly transitioned from being based on natural resources (SDA) to being based on human resources (SDM), from a genetic and extractive era to a manufacturing and information service era and ultimately into the creative economy era.<sup>5</sup>

Many Countries have conducted assessments and adopted the concept of the creative economy as the primary model for economic development. The Indonesian government recognizes the establishment of the creative economy agency tasked with developing the creative industry in Indonesia.<sup>6</sup>

The creative economy has become a strategic sector in national development. According to Sandiaga Uno,<sup>7</sup> Creative economy practitioners are the main pillars of Indonesia's economic growth. The success of the creative economy in contributing up to 60 percent to the national economy is acknowledged.

---

<sup>3</sup> Dzaki Yudi Ananda, M Halley Yudhistira, 2021, Kepemilikan Hak Kekayaan Intelektual dalam Kinerja Sektor Ekonomi Kreatif di Indonesia, *Jurnal Kebijakan Ekonomi*, Volume 16, Issue 1, h. 1

<sup>4</sup> Ahmad Ilil Aedi dkk, 2020, "Arsitektur Penerapan Omnibus law melalui Transplantasi Hukum Nasional Pembentukan Undang-undang." *Jurnal Ilmiah Kebijakan Hukum* 14, No.1, Balitbangkumham, h.7.

<sup>5</sup> Anonim, "Pengertian Ekonomi Kreatif Singkat", diakses 2 Agustus 2023, Pukul 13.00 Wib, <https://prabhagib/2015/05/pengertian-ekonomi-kreatif-singkat.html>

<sup>6</sup> Zalikanurul, "Perlindungan Hak Atas Kekayaan Intelektual Mendorong Ekonomi Kreatif," diakses tanggal 5 Oktober 2023, Pukul 10.00Wib, <https://zalikanurul98.wordpress.com/2016/03/19/perlindungan-hak-atas-kekayaan-intelektual-mendorong-ekonomi-kreatif>.

<sup>7</sup> <https://www.goodnewsfromindonesia.id/2021/10/14/ekonomi-kreatif-dan-kontribusinya-terhadap-perekonomian-indonesia>, diakses tanggal 5 Oktober 2023, Pukul 10.10 Wib

Statistical data on macro indicators of tourism and the creative economy demonstrate a continuous increase in the contribution of the creative economy sector to the national economy. It has growth from IDR 526 trillion in 2010 to IDR 989 trillion in 2017 and contributed IDR 1,105 trillion regarding Indonesia's GDP in 2019, this contribution even places the creative economy as the the largest in the world, following the United States and South Korea.<sup>8</sup>

The crucial role of the creative economy in becoming a leading sector in the recovery of the national economy is undeniable. The creative economy is expected to become a cornerstone of indonesia's future economy.<sup>9</sup> The government has focused on the development of the creative economy with various efforts made particularly by the Ministry of tourism and creative economy/the agency for tourism and creative economy of the republic of indonesia to support the creative economy. These efforts include improving the infrastructure and human resources with in the creative economy sector.<sup>10</sup>

The fundamental reason for the development of the creative economy in indonesia is its substantial contribution to job creation, GDP growth and the creation of a positive business environment that can have a beneficial impact on other sector.

To aid creative economy practitioners in securing financing, the government issued government regulation Number 24 of 2022 concerning the creative economy, abbreviated as (PP Creative Economy). PP creative economy was signed by president Joko Widodo on July 12, 2022, providing a breath of fresh air for creative economy practitioners.

PP Creative Economy opens up opportunities for creative economy actors to apply for loans secured by intellectual property. According to PP Creative Economy, loan applications are made using a financing scheme based on intellectual property. This financing scheme uses intellectual property as collateral for financial institution, both banks and non-bank financial institutional to provide financing to creative economy actors (Article 1 point 4 of PP Creative Economy)/ The availability of financing is expected to provide a solution to the capital limitations faced by creative economy practitioners

---

<sup>8</sup> *Ibid*

<sup>9</sup> Rika Anggraeni, "PP Nomor 24 Tahun 2022 jadi Angin Segar Pelaku Ekonomi Kreatif, 22 Juli 2022, <https://finansial.bisnis.com/read/20220722/90/1558154/pp-nomor-24-tahun-2022-jadi-angin-segar-pelaku-ekonomi-kreatif/All>, diakses tanggal 7 Oktober 2023, Pukul 11.00 Wib.

<sup>10</sup> Kementerian Pariwisata dan Ekonomi Kreatif/Badan Pariwisata dan Ekonomi Kreatif RI, "Ekonomi Kreatif Jadi Garda Terdepan Pemulihan Ekonomi Nasional", 22 Mei 2021, <https://kemenparekraf.go.id/ragam-ekonomi-kreatif/Ekonomi-kreatif-Jadi-Garda-Terdepan-Pemulihan-Ekonomi-Nasional>, diakses tanggal 5 Oktober 2023, Pukul 11.30 Wib



In the intellectual property based financing scheme, creative economy practitioners in need of funds can apply for intellectual property based financing from banking or non banking financial institutions. The minimum requirements for such intellectual property based financing applications consist of: a) a financing proposal; b) having a creative economic enterprise; c) having an agreement related to the intellectual property of creative economic product and d) possessing a registration certificate or intellectual property certificate (Article 7 of the Creative Economy Government Regulation). With the submission of intellectual property based financing by creative economy practitioners, financial institutions, both banking and non banking, in providing intellectual property based financing shall: a) verify the creative economic enterprise; b) verify the creative economic enterprise; b) verify the registration certificate or intellectual property certificate used as collateral that can be executed in case of dispute or non-dispute; c) assess the intellectual property used as collateral; d) disburse funds to creative economy practitioners; and e) receive the repayment of financing from creative economy practitioners in accordance with the agreement (Article 8 of the creative economy government regulation)

The object used as collateral in the intellectual property based financing schemes is intellectual property. However, according to article 10 of the creative economy government regulation, intellectual property that has been recorded or registered with the ministry responsible for government affairs in the field of law. Yet, only a few creative economy enterprises possess intellectual property<sup>11</sup>

To date, the registration and recording of intellectual property in Indonesia remain very low compared to other countries. The ministry of Law and Human Rights has developed an online registration system called IPROnline to facilitate the registration of intellectual property. The lack of awareness among creative economy practitioners regarding the registration of intellectual property is a task for the government to actively promote the importance of registering intellectual property to help creative economy practitioners secure financing from both banking and non banking financial institutions, enabling the growth of creative economic enterprises. This research will analyze the importance of registering intellectual property for creative economy practitioners as loan collateral

---

<sup>11</sup> Rika Anggraeni, "PP Nomor 24 Tahun 2022 jadi Angin Segar Pelaku Ekonomi Kreatif, 22 Juli 2022, <https://finansial.bisnis.com/read/20220722/90/1558154/pp-nomor-24-tahun-2022-jadi-angin-segar-pelaku-ekonomi-kreatif/All>, diakses tanggal 7 Oktober 2023, Pukul 11.40 Wib

## METHOD

The method used in this research is a literature review. Literature review or literature study is a research approach that critically examines the knowledge, ideas, or findings found in academic oriented literature and formulates its theoretical and methodological contributions the topic of the importance of registering intellectual property for creative economy practitioners as collateral for loans. The nature of this research is descriptive analysis, and conclusions are drawn in a deductive manner

## DISCUSSION AND ANALYSIS

### 1. The Intellectual Property Registration System in Indonesia Positive Law

Indonesia as an archipelagic nation boasts a rich diversity of art and culture, which aligns with its diverse ethnicities, nationalities and regions, collectively constituting a national potential that requires protection. Legal protection of Intellectual Property (IP) is absolutely necessary. Because without legal protection it would undoubtedly affect creator's ability to engage in intellectual endeavors. This phenomenon is frequently encountered and serves as evidence that Indonesia with all its artistic and creative potential actively participates in and contributes to the national creative industry market.

One way the state provides legal protection for intellectual property is through the enactment of various laws, including law number 28 of 2014 concerning Copyright Law Number 20 of 2016 concerning Trademarks and Geographical Indications

In the mechanism of registering or recording intellectual property rights, two system are recognized: the constitutive system and declarative system.<sup>12</sup> The constitutive system implies that registration serves to create rights to the creation.<sup>13</sup>

On the other hand, in the declarative system, the registration of a creation does not create rights to that creation. The function of registration in this system is merely to provide an assumption or presumption that based on the law, the person registering a creation is the rightful holder of the copyright to that creation, as long as no one else proves otherwise. In such cases, the registrant is recognized de facto by the law as the creator or the rights holder.

---

<sup>12</sup> OK Saidin, *Aspek Hukum Hak Kekayaan Intelektual, (Intellectual Property Rights)* Edisi Revisi ke-5, (Jakarta: PT Raja Grafindo Persada, 2006), hlm. 89.

<sup>13</sup> *Ibid*

Conversely, if someone else disputes this, the registrant de jure must prove that they are the creator or the rights holder.<sup>14</sup>

Below is a table related to the Intellectual Property registration system in Indonesia

**Table 2: Registration of Intellectual Property in Indonesia**

No	Type of Intellectual Property	Registration System	Duration
1	Copyright (Law Number 28 of 2014)	Declarative	Lifetime + 70 Years
2	Patent (Law Number 13 of 2016)	Constitutive	P= 20 Years Ps= 10 Years
3	Treadmark and Geographical (Law Number 20 of 2016)	Constitutive	Trademark 10 Years, extendable IG= as long as reputation, quality and character of IG are maintained
4	Industrial Design Rights (Law Number 31 of 2000)	Constitutive	10 years, no extension
5	Trade secrets (Law Number 30 of 2000)	Declarative	
6	Integrated Circuit Layout Rights (Law Number 31 of 2000)	Constitutive	10 Years
7	Plant Variety Rights (Law Number 29 of 2000)	Constitutive	20 years for perennial plant 25 years for annual plants

**Source: DJKI**

From the table above, it can be explained that the Intellectual Property registration system in Indonesia, as governed by positive law, recognizes two registration system: the declarative system and the constitutive system. The registration system for trade secrets and copyrights for example, follows the declarative system. In the case of copyright, the right is born as soon as a creation is made public. Registration or recording is not mandatory because copyright is a already protected even without registration.

However, this declarative principle has its limitations in protecting creators, meaning that creators must rely on the declarative principle to obtain legal protection.<sup>15</sup>

An example of a creation that was not registered is the controversial song titled “Tinggal Kenangan- Gaby,” which was not registered by its creator. This led to a copyright dispute in 2008 with several singers in various regions each claiming to be the song’s creator. Eventually, a court decision awarded the copyright to Rfai Ilyas a guitarist from the band caramel

From the example of the copyright infringement case above, it can be concluded that even though Law Number 28 of 2014 follows declarative principle and states that registering a

<sup>14</sup> *Ibid*

<sup>15</sup> Ganis Dhenandapinasthi, Skripsi: “*Perlindungan Hak Cipta di Indonesia Studi Kasus Penggunaan Potret untuk Video Klip Akad Payung Teduh*”, (Yogyakarta: Universitas Islam Indonesia, 2018), hlm. 44.



creation is not a requirement to obtain copyright, it is highly recommended to register a creation. Having a copyright certificate for a creation serves as important evidence in case of disputes. The prevalence of copyright infringements also discourages many individuals from developing their creativity as one common form of copyright infringement is unauthorized duplication or reproduction without the creator's or copyright holder's permission, often referred to as piracy or plagiarism.

## 2. The Urgency of Intellectual Property Registration for Creative Economy Practitioners

The creative economy industry in Indonesia ranks as the third largest in the world following the United States and South Korea. Despite being third, the creative economy plays a significant role in the economy, providing employment opportunities, generating income, increasing earnings, boosting non-oil and gas exports and strengthening the national economy. The crucial role of the creative economy makes it a key sector for revitalizing the national economy, especially in the aftermath of the Covid-19 pandemic.<sup>16</sup> As it has demonstrated resilience in the face of the crisis. According to the statistics of the tourism and creative economy industry 2020, the creative economy is expected to become a cornerstone of Indonesia's future economy. Intellectual property rights are a system deeply integrated into modern life. The development of the creative economy sector has become a focal point of government attention. Various efforts have been made by the government, particularly the ministry of tourism and creative economy/Indonesia tourism and creative agency to resources of the creative economic sector. To assist creative economy practitioners in obtaining financing, the government has issued government regulation No 24 of 2022 concerning the creative economy

The term intellectual property originally derived from the phrase intellectual property right (IPR) defined as rights arising from human intellectual capabilities. Intellectual property comprises exclusive rights granted by law or regulations to an individual or a group of individuals over their creative works, enabling them to derive economic benefits from their intellectual creativity. Intellectual property has recently become a trend in society seen as intangible asset with economic and investment potential.

---

<sup>16</sup> Dian Cahyaningrum. Kekayaan Intelektual Sebagai Jaminan Utang Pelaku Ekonomi Kreatif, *Jurnal Info Singkat*. XIV (15), h.19

IP rights holder are essentially the same as as owners of tangible property under book II of the Indonesia civil code. This topic has gained considerable attention in the financial service sector, particularly among creative economy practitioners, regarding the regulation or processes for applying for intellectual property rights to financial institutional and cooperation between financial institution and creditors. Additionally, new considerations have emerged, particularly regarding the clarity of the value of intellectual property products being submitted which is interesting to further explore

When viewed from the perspective of the state's need to establish an economic order, it is essential to respect individual right in balance with the value and is considered intangible wealth. The government has issued government regulation No. 24 of 2022 on the implementation of law No. 24 of 2019 concerning the creative economy. In this regulation, the Government and regional government are responsible for creating and developing a creative economic ecosystem that can contribute to the national economy and enhance global competitiveness, thereby achieving sustainable development goals.<sup>17</sup>

From a formal legal perspective, the creative economy represent added value from intellectual property rooted in human creativity based on cultural heritage, scientific knowledge and technology. In Indonesia's civil law system, where intellectual property can be considered a proprietary right, it constitutes a right over an object sourced from intellectual work or the reasonable intellectual work of the human mind and its result are immaterial property.<sup>18</sup>

Referring to several definitions of the creativity economy it is evident that intellectual property derived from human creativity, result in a product or work with economic value that can be sold. It is this economic value inherent in intellectual property that makes it a valuable asset that can serve as collateral for loans. The higher the value and economic potential of intellectual property, the greater the amount of debt that can be obtained. For example, content creators on Youtubers whose work has been viewed, the more significant the loan potential. Even before creative economy regulation (PP Ekraf) was issued some banks allowed verified and monetized channels to be used as loan collateral

---

<sup>17</sup> Mochamad Januar Rizki. 2022, HKI Sebagai Jaminan Utang, Berikut Aspek-aspek Hukum Yang Perlu Dicermati. *Artikel*. 2 September 2022, <https://www.hukumonline.com/hki-sebagai-jaminan-utang--ini-aspek-aspek-hukum-yang-perlu-dicermati>. Diakses tanggal 2 Oktober 2023, Pukul 10.00Wib.

<sup>18</sup> H. OK. Saidin., *Aspek Hukum Hak Kekayaan Intelektual*, Jakarta : PT. Raja Grafindo Persada, 2004, h. 9.

<sup>3</sup> Intellectual Property (IP) is wealth that arises or is born from human intellectual capabilities through creativity, insight and expression, which can be in the form of works in technology, science, art, and literature. The scope of regulation in this government regulation encompasses: creative economic financing, facilitating the development of a market system for creative economic product base on intellectual property, creative economic infrastructure, incentives for creative economy practitioners, government and regional government responsibilities and community participation in creative economy development and dispute resolution of financing <sup>19</sup>

The utilization of intellectual property can also be associated with government regulation No. 24 of 2022. Business development is always linked to the creative economy, which represents the added value of intellectual property originating from human creativity based on cultural heritage, scientific knowledge and technology. Facilities provided by the government under the scheme of intellectual property based financing through non-bank financial institutions include the utilization of economically valuable intellectual property and the assessment of intellectual property. The requirement for applying for intellectual property financing include a financing proposal, involvement in the creative economic business, a contract relate to creative economic assets and a record certificate of intellectual property.

The financing application procedure includes the completion of business verification, intellectual property legality verification, intellectual property assessment, fund sourcing and fund disbursement. Intellectual property is used as a collateral object in the form of debt-based collateral are fiduciary guarantees on intellectual property, contracts in creative economic activities and receivables in creative economic activities. The conditions for intellectual property as a collateral object are registration or registration in the directorate general of intellectual property, as well as independent management or the transfer of rights to third parties. The ministry responsible for legal and human rights government affairs provides access to intellectual property data used as collateral.

Intellectual Property is essential for protecting intellectual property from theft and infringement. Objects that can be used as collateral in the intellectual property-based financing

---

<sup>19</sup> Pasal 2 Peraturan Pemerintah Republik Indonesia Nomor 24 tahun 2022 Tentang Peraturan Pelaksanaan Undang- Undang Nomor 24 Tahun 2019 Tentang Ekonomi Kreatif.

schemes are intellectual property. According to Article 10 of the creative economy regulation,<sup>14</sup> intellectual property that can serve as collateral for loans is intellectual property registered with the ministry responsible for legal government affairs. Unfortunately, very few creative economy businesses have intellectual property rights. Of all creative economy businesses in 2020, only 1.98% had HKI, while 98.02% either had no HKI or were no register. Among those with HKI, 39.39% had trademark rights, 33.74% had copyright, 33.4% had patents, 30.17% had trade secrets, 30.02% had industrial design, and 25.92% had integrated circuit layout designs.<sup>9</sup> The scarcity of creative economy businesses with HKI is due to a lack awareness of its importance.<sup>9</sup> In 2020, only 27.63% of creative economy businesses considered having HKI important, while 72.37% had not realized the urgency or importance of having HKI.<sup>20</sup>

Intellectual property Registration for the Purpose of Obtaining financing or capital is a requirement (Article 7 (d) jo Article 10 (a) Regulation No. 24 of 2022). The existence of regulation No 24 of 2022 is a prerequisite that must be met by creative economy practitioners in order to use intellectual property as collateral.<sup>5</sup>

The protection of intellectual property in the creative economy industry plays a crucial role in the era of globalization.<sup>10</sup> Protection efforts can be carried out by applying for the registration of creative economy products that meet the requirements for intellectual property. Consequently, the government/ state will provide protection.<sup>7</sup>

The low rate of intellectual property registration presents several challenges for creative economy practitioners as follows

### 1. Legal Factors

Examining the impact of regulation in society is an effort to determine whether the law truly functions or not. A regulation is considered good when it not only meets philosophical/ideological and juridical requirements but also applies sosiologically.<sup>21</sup> Legal provisions must be given time to become ingrained in society. If there are frequent violations of a specific regulation, it does not necessarily mean that sosiologically the regulation is not effective in society. Perhaps the enforcers of the regulation are not firm

---

<sup>20</sup> Dian Cahyaningrum. Kekayaan Intelektual Sebagai Jaminan Utang Pelaku Ekonomi Kreatif. *Jurnal Info Singkat*. XIV(15), hlm. 19-24.

<sup>21</sup> Soerjono Soekanto, 2007, *Pokok-pokok Sosiologi Hukum*, PT. Rajagrafindo Persada, Jakarta.

or responsible enough in their work and this should be considered when assessing whether a law is good or not.

An issue within the legislation is the existence of various laws that have not yet been provided with implementing regulations, as required by the law is sometimes resolved by issuing lower ranking implementing regulations compared to what is stipulated in the law

Another problem that may arise in legislation is the lack of clarity in the wording used in certain article formulations. This ambiguity may be due to the use of words with broad interpretations or issues related to translations from a foreign language that are not precise

Therefore, it can be concluded that disruptions to law enforcement originating from the law are caused by:<sup>22</sup>

1. The failure to adhere to the principles
2. The absence of much needed implementing regulations to enforce the law.
3. Ambiguities in the wording of the law leading to inconsistencies in interpretation and application.

## **2. Law Enforcement Factors**

Law enforcement in this study refers to civil state employees of intellectual property rights (PPNS HKI), which consist of the head general of legal services division and the head of general legal services field. Law enforcement officers serves as role models in society and should possess specific skills that align with the aspirations the community. They need to be able to communicate and gain understanding from the target group while performing roles that are acceptable to them. The roles law enforcement officers include:<sup>23</sup> *ideal role, expected role, perceived role and actual role*.

## **3. Facilities and Infrastructure Factors**

In realizing the registration of intellectual property conducted by creative economy players, the South Sumatera Regional Office of the Ministry of Law and Human Rights has the necessary facilities and infrastructure to facilitate the registration process.

---

<sup>22</sup> *Ibid*, hlm. 17

<sup>23</sup> *Ibid*, hlm. 20



When determining the registration time, the South Sumatera Regional Office of the Ministry of Law and Human Rights uses an e-filing system operated through the internet. The e-filing system is used for submitting application documents requested by applicant to the regional office. This system also allows applicants to easily search for the intellectual property they wish to register.

Therefore, facilities and infrastructure play a crucial role in law enforcement and without these resources, effective law enforcement cannot proceed smoothly

#### **4. Community Factors**

Another factor influencing law enforcement is the community. Among the various definitions of law, there is a significant tendency among the community to perceive law as law enforcement or legal officers

One benchmark for assessing whether the law is being maximally implemented regarding registration or registration application is if creative economy players, who are the owners of Intellectual Property do not register their intellectual property for their product. This indicates that the awareness of creative economy players to register their products in accordance with the law has not yet been effectively established. Based on this indicator, it can be determined whether the law is being effectively enforced or not.

#### **5. Legal Cultural Factors**

In regulating human interactions, culture is also referred to as a normative structure, meaning that cultural aspects represent a fundamental framework for behavior that setting rules about what should be done, what is considered appropriate and so forth.<sup>24</sup>

Since law is an integral part of social culture, it cannot be separated from the spirit and thought processes of the supporting society's culture. Therefore, in legal research, cultural elements cannot be dismissed lightly because fundamentally law operates within the framework of societal culture.

The legal awareness of the community, particularly within the realm of creative economy players, regarding the importance of trademark registration should continue to be promoted. Beyond offering protection and legal certainty to trademark owners, the registration certificate is also a requirement for obtaining capital in intellectual property based financing schemes.

---

<sup>24</sup> Soerjono Soekanto, *Pokok-pokok Sosiologi Hukum*, PT. Raja Grafindo Persada: Jakarta, 2007, hlm.204.

### **C. Efforts to Overcome Barriers in Utilizing Intellectual Property Registration for Creative Economy Players.**

The proliferation of issues related to trademark in business activities, particularly the violation of intellectual property rights for creative economy players often stems from the non-registration of intellectual property rights. Efforts to address or resolve obstacles in the implementation of intellectual property registration for creative economy players include

#### **a. Increased Socialization Activities for the general public especially for creative economy players**

In the pursuit of enhancing public understanding in the field of intellectual property, the government has been proactive.<sup>25</sup> For example, the intellectual property registration office conducts initiatives aimed at creative economy players, emphasizing the importance of registering intellectual property registration especially for creative economy players

#### **b. Enhancement of Legal Awareness Among the Public**

The initiative to boost legal awareness among the public is motivated by the fact that there is still a lack of legal awareness and legal culture among the population. The problems arising from the lack of knowledge and the relatively low understanding of the benefits and usefulness of intellectual property registration require serious attention from the directorate general of intellectual property and the ministry of law and human rights. Creating awareness about importance of registering intellectual property product can help creative economy players secure funding through both banking and non-banking financial institutions

---

<sup>25</sup> Henry Soelistyo, *Hak Cipta tanpa Hak Moral*, PT. RajaGrafindo Persada, Jakarta, 2011, hlm.301

## CONCLUSION

Based on the discussion and analysis, the following conclusions can be drawn:

The urgency of registering intellectual property for creative economy players as loan collateral has not been effectively implemented. This is primarily because a significant portion of business players do not register their intellectual property due to a lack of understanding of the registration procedures. They also perceive the registration process as complex and time consuming, considering it expensive. Another contributing factor is the lack of routine and well organized socialization by law enforcement agencies, particularly the Intellectual Property Rights Enforcement Task Force (PPNS KI). Furthermore, inadequate data within the directorate general of intellectual property poses a significant obstacle. The involvement of society and cultural factors in the registration of Intellectual Property is also crucial. Many creative economy players lack awareness of the benefits of registering intellectual property and consider intellectual property protection unimportant. The dominant role of societal and legal structure becomes a significant barrier to the registration of intellectual property for creative economy players. Efforts to enhance awareness of intellectual property registration among creative economy players include increasing awareness through regular socialization activities, improving the quality of law enforcement officers and human resources and raising legal awareness among the public, particularly creative economic players. The goal is to ensure that they understand the importance of registering intellectual property to secure funding from both banking and non banking financial institutions.

## REFERENCE

- Ahmad Ilil Aedi dkk, 2020, "Arsitektur Penerapan Omnibus law melalui Transplantasi Hukum Nasional Pembentukan Undang-undang." *Jurnal Ilmiah Kebijakan Hukum* 14, No.1, Balitbangkumham, h.7.
- Anonim, "Pengertian Ekonomi Kreatif Singkat", diakses 2 Agustus 2023, Pukul 13.00 Wib, <https://prabhagib/2015/05/pengertian-ekonomi-kreatif-singkat.html>
- Dian Cahyaningrum. Kekayaan Intelektual Sebagai Jaminan Utang Pelaku Ekonomi Kreatif. *Jurnal Info Singkat*. XIV (15), hlm. 19-24.
- Dzaki Yudi Ananda, M Halley Yudhistira, 2021, Kepemilikan Hak Kekayaan Intelektual dalam Kinerja Sektor Ekonomi Kreatif di Indonesia, *Jurnal Kebijakan Ekonomi*, Volume 16, Issue 1, h. 1

Henry Soelistyo, *Hak Cipta tanpa Hak Moral*, PT. RajaGrafindo Persada, Jakarta, 2011, hlm.301

Ganis Dhenandapinasthi, Skripsi: “*Perlindungan Hak Cipta di Indonesia Studi Kasus Penggunaan Potret untuk Video Klip Akad Payung Teduh*”, (Yogyakarta: Universitas Islam Indonesia, 2018), hlm. 44.

<https://www.goodnewsfromindonesia.id/2021/10/14/ekonomi-kreatif-dan-kontribusinyaterhadap-perekonomian-indonesia>, diakses tanggal 5 Oktober 2023, Pukul 10.10 Wib

Kementerian Pariwisata dan Ekonomi Kreatif/Badan Pariwisata dan Ekonomi Kreatif RI, “*Ekonomi Kreatif Jadi Garda Terdepan Pemulihan Ekonomi Nasional*”, 22 Mei 2021, <https://kemenparekraf.go.id/ragam-ekonomi-kreatif/Ekonomi-kreatif-Jadi-Garda-Terdepan-Pemulihan-Ekonomi-Nasional>, diakses tanggal 5 Oktober 2023, Pukul 11.30 Wib

Mochamad Januar Rizki. 2022, HKI Sebagai Jaminan Utang, Berikut Aspek-aspek Hukum Yang Perlu Dicermati. *Artikel*. 2 September 2022, <https://www.hukumonline.com/hki-sebagai-jaminan-utang--ini-aspek-aspek-hukum-yang-perlu-dicermati>. Diakses tanggal 2 Oktober 2023, Pukul 10.00Wib.

Rika Anggraeni, “PP Nomor 24 Tahun 2022 jadi Angin Segar Pelaku Ekonomi Kreatif, 22 Juli 2022, <https://finansial.bisnis.com/read/20220722/90/1558154/pp-nomor-24-tahun-2022-jadi-angin-segar-pelaku-ekonomi-kreatif/All>, diakses tanggal 7 Oktober 2023, Pukul 11.00 Wib.

OK. Saidin., *Aspek Hukum Hak Kekayaan Intelektual*, Jakarta : PT. Raja Grafindo Persada, 2004, h. 9.

\_\_\_\_\_. *Aspek Hukum Hak Kekayaan Intelektual, (Intellectual Property Rights)* Edisi Revisi ke-5, (Jakarta: PT Raja Grafindo Persada, 2006), hlm. 89.

Pasal 2 Peraturan Pemerintah Republik Indonesia Nomor 24 tahun 2022 Tentang Peraturan Pelaksanaan Undang- Undang Nomor 24 Tahun 2019 Tentang Ekonomi Kreatif.

Soerjono Soekanto, *Pokok-pokok Sosiologi Hukum*, PT. Raja Grafindo Persada: Jakarta, 2007, hlm.204.

Sri Handayani, Joni Emirzon, Annalisa Y, 2023, Lembaga Manajemen Kolektif Nasional (LMKN)(Sebagai Penilai Nilai Ekonomi Dalam Pengikatan Hak Cipta Musik dan Lagu sebagai Objek Jaminan Fidusia, *Jurnal Ilmiah Kebijakan Hukum*, Volume 17, Nomor Maret 2023, h.13. Jakarta.

Zalikanurul, “Perlindungan Hak Atas Kekayaan Intelektual Mendorong Ekonomi Kreatif,” diakses tanggal 5 Oktober 2023, Pukul 10.00Wib,<https://zalikanurul98.wordpress.com/2016/03/19/perlindungan-hak-ataskekayaan-intelektual-mendorong-ekonomi-kreatif>.

# Jurnal Simbur Cahaya..docx

## ORIGINALITY REPORT

18%

SIMILARITY INDEX

18%

INTERNET SOURCES

13%

PUBLICATIONS

3%

STUDENT PAPERS

## PRIMARY SOURCES

1	<a href="http://journal.unpak.ac.id">journal.unpak.ac.id</a> Internet Source	2%
2	<a href="http://berkas.dpr.go.id">berkas.dpr.go.id</a> Internet Source	2%
3	<a href="http://jurnal.unissula.ac.id">jurnal.unissula.ac.id</a> Internet Source	2%
4	<a href="http://journal.fh.unsri.ac.id">journal.fh.unsri.ac.id</a> Internet Source	2%
5	<a href="http://jurnalnasional.ump.ac.id">jurnalnasional.ump.ac.id</a> Internet Source	2%
6	<a href="http://ejournal.uhn.ac.id">ejournal.uhn.ac.id</a> Internet Source	1%
7	Ika Atikah, Ahmad Zaini, Iin Ratna Sumirat. "Intellectual Property Rights as The Resource for Creative Economic in Indonesia", Jurnal Penelitian Hukum De Jure, 2022 Publication	1%
8	Sri Handayani, Joni Emirzon, Annalisa Yahanan. "The National Collective	1%



# Management Institute (LMKN) as an Appraiser of Economic Value in the Binding of Music and Song Copyrights as Objects of Fiduciary Guarantees", Jurnal Ilmiah Kebijakan Hukum, 2023

Publication

9	<a href="https://www.ijssers.org">ijssers.org</a> Internet Source	1 %
10	Suryansyah Suryansyah. "Legal Protection on Intellectual Property Rights in the Development of Creative Economy in Mamuju Regency", Substantive Justice International Journal of Law, 2019 Publication	1 %
11	Submitted to Universitas Sebelas Maret Student Paper	1 %
12	<a href="http://ejournal.unma.ac.id">ejournal.unma.ac.id</a> Internet Source	1 %
13	Submitted to Submitted on 1686209898205 Student Paper	1 %
14	<a href="http://jurnal.untagsmg.ac.id">jurnal.untagsmg.ac.id</a> Internet Source	1 %
15	<a href="http://repository.uin-malang.ac.id">repository.uin-malang.ac.id</a> Internet Source	1 %
16	<a href="http://www.ojs.uma.ac.id">www.ojs.uma.ac.id</a> Internet Source	1 %

---

Exclude quotes      On

Exclude matches      < 1%

Exclude bibliography      On