

Strengthening Intellectual Property Development Based on Local Wisdom in Indonesia

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Strengthening Intellectual Property Development Based on Local Wisdom in Indonesia

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Abstract. Indonesia is one of the countries in the world that has intellectual property based on local wisdom. The amount of intellectual property based on local knowledge in Indonesia is necessary to manage intellectual property based on local knowledge owned by the Indonesian people. The objectives can be achieved by working intellectual property based on local wisdom, namely, developing science and technology. Ultimately, such intellectual property will have economic value for society. The most urgent issue is encouraging community creativity in strengthening the development of intellectual property knowledge based on local wisdom in Indonesia. The result of intellectual property based on local learning is carried out to have an invention that can be categorized as intellectual property in Indonesia, which still has the values of local wisdom. Indonesian people began to forget the importance of local knowledge with the modernization in all Indonesian people's lives. This paper describes intellectual property based on local wisdom and analyzes the protection of intellectual property based on local knowledge in Indonesia.

Keywords: Intellectual Property; Local Wisdom; Indonesian

1 Introduction

Intellectual property is built from human intellectuals with full awareness and developed into a product, tool, method through creative and innovative activities. Humans create the intellectual property with various sacrifices of time, money, and the most important thing is the hard work of the intellectuals carried out by humans themselves. It is not easy to create a product or method that is covered by intellectual property. Not everyone can do that. Therefore, there is a need for legal instruments to ensure and provide protection for creators/inventors/designers, who have various difficulties creating intellectual property.

The protection provided by law shows a guarantee of security and respect for the intellectual work that has been created. The strong protection of intellectual property law will result in more substantial intellectual property development. Intellectual property regime needs legal instruments to ensure the development of intellectual property itself. The law must do its part to protect intellectual property.

Intellectual property generated through intelligence and hard work is an asset of economic value. Investments in intellectual property are naturally guaranteed legal protection to grow and develop and benefit the community. The legal protection of the intellectual property is known as the Intellectual Property Rights (IPR) system. IPR is a legal instrument that guarantees legal protection for creative and innovative works of human intellectual property. Intellectual Property Rights are legal instruments that provide protection for a person's rights to all creative and intelligent works and give the owner the right to enjoy economic benefits from owning these rights.

In principle, the protection of Intellectual Property rights is concrete evidence of recognizing the property rights themselves and the rights granted within a specific time to enjoy or exploit them. During that particular time, other people can enjoy or use or exploit the rights with the rights holders' permission. Through intellectual property protection, rights owners have the right to use, reproduce, publish, or give permission to other parties to utilize their rights through licenses or transfers, including prohibiting other parties to use, reproduce, and publish their intellectual works. In other words, intellectual property rights give monopoly rights to the rights owners while still upholding the restrictions that may be imposed based on the applicable laws and regulations.

Intellectual Property Rights are rights that arise from the results of the intellectual brain thought that produce a product or process that is useful for human life. Objects regulated in Intellectual Property Rights are works that arise because of human intellectual abilities, which give rise to the right to enjoy the results of intellectual creativity [1] economically. Economic rights are rights owned by a creator, inventor and designer to benefit from creations, inventions, and industrial design works. These economic rights develop

with commercial use. It can be seen that to realize an idea and idea in an article, then proceed with a product finding in the field of technology (patent) or industrial design work, of course, requires a sacrifice of time, effort, and money. Therefore, the results of an intellectual work finding must be managed commercially to return the capital and gain profits [2]. The profits derived from intellectual property rights are a reward for the hard work that has been done by inventors, creators, designers.

The Republic of Indonesia, a country with various cultures, each of which has an identity, is an obligation for the government and the Indonesian people to always respect, protect and preserve the communal intellectual property that continues to develop in Indonesia. The Indonesian people, who have cultural, ethnic, and cultural pluralism, indirectly contain massive intellectual property rights pluralism[3]. Intellectual property rights in its development not only recognize individual intellectual rights (personal) but also recognize the existence of communal intellectual property rights. This development provides opportunities for the Indonesian state, which has a lot of potential for joint intellectual property.

Ownership of intellectual property rights which have been understood as private rights. While on the other hand, there are (geographical indications, indications of origin, folklore, traditional cultural expressions, genetic resources), which are recognized as part of intellectual property rights that have been granted developed into communal rights. In Indonesia, personal intellectual property and joint intellectual property are protected by legal instruments by the Indonesian state. The Indonesian state accommodates protection of private intellectual property rights and collective intellectual property rights. However, it has not been able to provide legal protection for communal intellectual property rights optimally.

Personal intellectual property rights (private) are fundamental rights granted to individuals or legal entities, providing unique benefits to rights holders. In contrast, communal property rights are rights owned by local communities or indigenous communities or indigenous peoples. Personal intellectual property rights and collective intellectual property rights are distinctly different and contradictory entities. The two of them have very other characteristics.

Personal intellectual property is formed from individual values, while communal intellectual property is generally built based on the importance of the local wisdom of the community. Each community in an area has the values of their respective local wisdom. With that local wisdom, traditional knowledge of the community is formed, which is the potential of communal intellectual property. Local wisdom is the basis for formation of collective intellectual property rights.

Indigenous peoples have inhabited all continents since time immemorial. They have lived on their sacred lands, nurtured their spiritual and cultural values, maintained and cultivated their environment, and kept their traditions alive over centuries [4]. These values are local wisdom for the community.

Personal intellectual property (individual) will provide benefits (economic rights) for creators, inventors, designers themselves. However, communal intellectual property will benefit (economic rights) to a group of people, communities, regions, or countries. This difference lies in who will enjoy the monetary value of intellectual property rights. One person or several people will enjoy personal intellectual property rights. But communal intellectual property rights will be enjoyed by the whole community.

The increasingly global interaction makes the communal intellectual property rights of the Indonesian state very vulnerable to being claimed by other countries. Indonesia is known to have high biodiversity, cultural diversity and traditional works. Without realizing it, many local assets and intellectual property have been registered abroad as the property of foreigners [5]. Meanwhile, the Indonesian state is still not optimal in protecting and preserving communal intellectual property until now. There will be a gap or weakness between the Indonesian state and the Indonesian people.

The infringement of communal intellectual property that occurs because of differences in concepts between indigenous peoples and industrial communities that produce intellectual property rights regulations will result in obstacles in protecting indigenous peoples' communal rights to their traditional philosophical works [6]. The infringement of joint intellectual property must be prevented as early as possible to achieve justice for every human being. Justice must be fought for, especially for the people of Indonesia.

2 Method

This research is normative legal research that aims to find a solution to the legal issues in . The results achieved are to describe what is appropriate for the legal issues raised. The approach used is a statutory approach and a conceptual approach. The collection of legal materials consists of: 1) the study of legislation is an effort to examine and understand the laws and regulations governing the formulation of the problem in this research. 2) Literature study, used to search for conceptions, theories, and opinions related to the formulation of the problem in this study. The analysis method of legal materials is based on primary legal materials in the form of legislation collected by inventory and categorization methods.

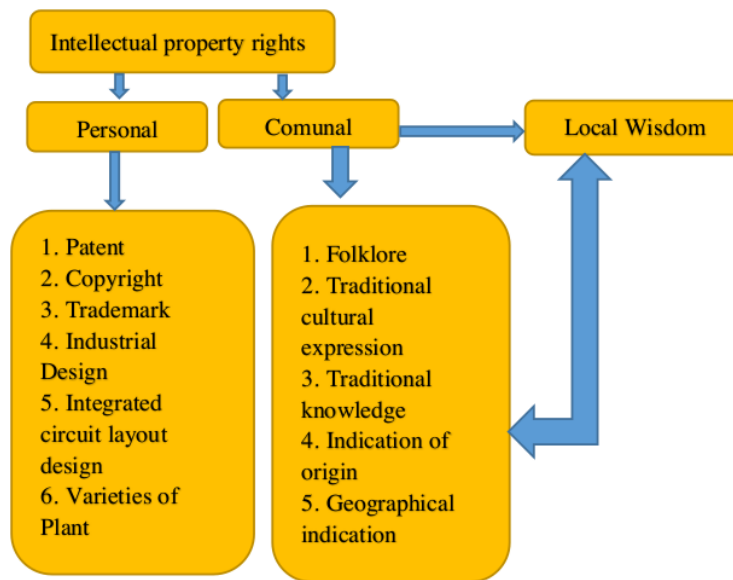
3 Result and Discussion

Intellectual property rights are effective to protect intellectual property by using available legal instruments, namely copyrights, patents, trademark rights and geographical indications, industrial design rights, integrated circuit layout design rights. Intellectual property protection is intended to provide legal understanding to the public regarding the relationship between intellectual property management, both for inventors/owners and users[7]. Legal protection is given to reward inventors or rights owners for developing other intellectual property in the future. Awards are a stimulus for everyone to create intellectual property and extend it to the industry.

The intellectual property protection system is intended as a way to present a reward for one's creativity but also to: (1) accelerate the dissemination of information about the related creativity (results); (2) support further research and development activities on related creativity (results); (3) avoiding the existence of the same creativity (outcome); (4) increase the strength (outcome) of creativity related [8]. The intellectual property protection system is maintained and understood by the public. Although intellectual property rights initially clashed with the legal culture of Indonesian society.

Intellectual property rights are private rights for creators, inventors, designers who have produced a philosophical work. Every creator, designer and inventor is given the freedom to register or apply for intellectual creation to get legal protection. Exclusive rights granted by the state to inventors, creators, designers are intended as an appreciation for the work of intellectual creativity. So that other people are stimulated to develop their intellectual property further to produce results of economic value.

3.1. Local Wisdom Position in Intellectual Property Concept



Scheme 1: Personal and communal Intellectual Property Rights

Based on this scheme, it can be seen that local wisdom is one of the forming elements of communal intellectual property in Indonesia. Changes in values in local knowledge will affect joint intellectual property in Indonesia.

a. Development of Intellectual Property Based on Local Wisdom

Indonesia is a country that has a large share of communal intellectual property in the form of biodiversity and traditional knowledge, which become the potential for joint intellectual property. This extraordinary cultural potential is essentially a national asset that must be protected and preserved by the state for its existence and development because it has a very high economic value to benefit the community. Traditional works of art, traditional techniques that have been around for a long time in traditional societies,

are considered an asset of economic value [20]. This potential needs to be developed to provide benefits for the people of Indonesia. Especially the excellent help for the welfare of the Indonesian people.

Indonesia is one of the countries in the world that is very rich in genetic resources. In addition, Indonesia is also one of the world countries with very diverse and rich culture with a very high artistic weight. However, intellectual property is not in line with the welfare of the population. The Indonesian people have not been able to utilize the wealth of resources optimally. The wealth of resources is a particular problem for Indonesia.

Collaborative intellectual property development needs to be strengthened because joint intellectual property is essential for the Indonesian state. The basis for the development of personal intellectual property can be obtained from the materials contained in the communal intellectual property. For example, getting a patent on a drug can be obtained from the community's traditional knowledge. Therefore, it is essential to do documentation or a database on communal intellectual property in Indonesia.

The documentation or database regarding communal intellectual property is not maximal, yet that can be used as non-legal literature, even though this database can be used as a comparative document (prior art). Documenting every communal intellectual property owned by the Indonesian state is carried out with the aim of (1) claiming the types of communal intellectual property owned by the Indonesian state; (2) prevent the registration of communal intellectual property by foreign parties; (3) disseminate the benefits of communal intellectual property to the people of Indonesia. Therefore, the government needs to optimize the database and carry out a continuous inventory of communal intellectual property.

So far, some of Indonesia's communal intellectual property has been protected by UNESCO, while for personal intellectual property through the intellectual property rights legal system. UNESCO has contributed to formulating a policy framework regarding efforts to preserve cultural and traditional heritage as part of communal intellectual property rights in Indonesia, primarily to provide international legal instruments [21]. The World Intellectual Property Organization (WIPO) is a global IPR organization. WIPO is the organization that makes the TRIPs Agreement, which is an international agreement on IPR. Both of these organizations are organizations that directly related to IPR. In addition, there are also international organizations, namely UNESCO, which is an acronym for the United Nations Educational, Scientific and Cultural Organization, which is the only one that can verify cultural heritage in the world.

Some of Indonesia's heritage recognized by UNESCO are intangible cultural heritage and world heritage. Indonesian heritage recognized by UNESCO in the field of world heritage, namely: (1) Ujung Kulon National Park; (2) Komodo National Park; (3) Borobudur Temple; (4) Prambanan Temple; (5) Sangiran Early Man Site; (6) Lorentz National Park; (7) Tropical Rainforest Heritage Sumatera; (8) Cultural Landscape Bali; (9) Ombilin Coal Mining Heritage of Sawahlunto. Meanwhile, several Indonesian heritages recognized by UNESCO in the field of intangible cultural heritage: (1) Keris; (2) Wayang; (3) Batik; (4) Best Practice Batik; (5) Angklung; (6) Saman Dance; (7) Noken Papua; (8) Three Genres of Traditional Dance in Bali; (9) Pini's: The Art of Boat Building in South Sulawesi; (10) Traditions of Pencak Silat.

The Republic of Indonesia has conducted an Inventory of Communal Intellectual Property. Communal intellectual property is a national priority in 2020 to improve the national economy. In 2020 the Director-General of Intellectual Property (DJKI) was mandated to build a Communal Indonesia intellectual property data centre with an inventory of 120 documents. The Director-General of Intellectual Property was appointed as the focal point in coordinating the collection and integration of national data. For this reason, DJKI was agreed to be the coordinator and the authority for the collection and integration of databases with the application remaining in the respective Ministries/Agencies.

Strengthening the National Communal Intellectual Property System and Database The achievement in the 2020 National Priority Program. National Priority Program's strategic issue of "Intellectual Property in Accelerating the National Economic Competitiveness" matters. Those issues related to intellectual property are placed on National Priority 1 'Human Development and Poverty Alleviation by Priority Program number 5 is 'Development of Culture, Character, and Achievement of the Nation' where the related intellectual property issue is about Communal Intellectual Property. The program established to support the National Priority is the Protection of Cultural Rights and Freedom of Cultural Expression. The program has the target in the Development of the National Data Center for KIK (Communal Intellectual Property). Indonesia gets 1103 KIK recorded in the database, and of this number, there have been 201 Certified KIK (out of 120 certified KIK targets in 2020).

In 2021, even though the COVID-19 pandemic is still ongoing, the state of Indonesia will continue to run a collaborative intellectual property documentation program. It is hoped that this can provide benefits for the Indonesian people and provide welfare for the people of Indonesia. However, it remains "homework" for Indonesia to provide legal awareness of the protection of communal intellectual property.

In addition to using the mechanism of intellectual property law, the protection of communal intellectual property can be done in other ways. Legal protection for joint intellectual property can be done outside of

the intellectual property right system, namely: (1) Customary law; (2) Cultural heritage legislation; (3) The legal instruments in the field of human rights and the rights of indigenous peoples

Legal protection functions if foreign parties use the work. Therefore, it is necessary to increase or pay more attention to legal protection so that it is appropriate and adequate through regulations in the field of Intellectual Property Law that already exist or make new regulations. Regulations or rules governing the protection will be considered an excellent action to ensure the survival of the intangible cultural heritage and communal creativity.

The Indonesian people have characteristics or peculiarities in their society. Why is it because the Indonesian community is more concerned with sharing? However, this does not mean that individuals in every society are deprived of their rights. When it comes to implementing intellectual property rights, the Indonesian people are very different, and many local people are less concerned about efforts to protect intellectual property rights. Intellectual property rights are individualistic, but Indonesian people are communal people. They highly value togetherness.

The application of intellectual property rights in Indonesia faces many obstacles. This obstacle makes it challenging for the government to form legislation appropriate to the local Indonesian community's collaborative culture. Regulations that are "sui generis" may be necessary for the Indonesian people to provide legal protection for joint intellectual property.

It can be said that the obstacle in the implementation of intellectual property rights in Indonesia lies in the incomplete legislation. The Indonesian government must make a breakthrough and encourage various stakeholders to increase efforts to appreciate communal intellectual property based on local wisdom in Indonesia. This strategy is very much needed to back up the Indonesian economy.

In Indonesia, one of the obstacles to providing communal intellectual property protection is the Indonesian people themselves. Indonesian people still consider the communal intellectual property a "public right" that has a social function because many people still don't mind if other people can imitate their products.

The law is expected to be able to overcome various problems that arise related to Intellectual Property Rights. The law must be able to protect intellectual works to develop the creative power of the community, which ultimately leads to the goal of successful defence of Intellectual Property Rights.

Providing legal protection for communal intellectual property is considered necessary because Indonesia, as a developing country, has abundant genetic resources, culture, folklore, traditional cultural expressions, geographical indication products and origin indications. Unfortunately, Indonesia has not been able to maximize legal protection for these rights. In Indonesia also has not been maximized in concretizing its potential due to weak regulations that regulate, lack of knowledge and ability of the community to develop existing potential [22].

Therefore, the fundamental reasons for the need for legal protection of communal intellectual property based on local wisdom in Indonesia are: first, consideration of justice. It is fair if the owner of the joint intellectual property used and commercialized gets profit sharing or compensation from the use of the intellectual property. Second, conservation of culture and local wisdom values. Third, maintenance of traditional culture and practices. Fourth, Prevention of rights violations, especially against use without permission from the public. Fifth, Maintaining cultural assets. For the Indonesian state, communal intellectual property based on local wisdom is an invaluable state asset. Therefore it must be protected and preserved.

Strengthening the development of intellectual property based on local wisdom can be done by several actions, namely: (1) Conducting socialization by instilling knowledge and insight into the importance of protecting and preserving intellectual property based on local wisdom; (2) Inviting the Indonesian people to maintain the values of local wisdom and customary law, so that the Indonesian state does not lose its identity; (3) Empowering the community to be able to manage intellectual property based on local wisdom properly; (4) Supporting the Indonesian state in optimizing the communal intellectual property database; (5) Participate in the registration of communal intellectual property; (6) Developing (either through research or by conducting community service activities) on local culture and wisdom that has the potential as communal intellectual property.

Indonesian society has great potential in strengthening intellectual property development based on local wisdom. These potentials include natural resources, environment, culture, genetic resources, community knowledge, and human resources themselves. All of these resources can be developed according to their potential and opportunities. Generally, Indonesian people are not aware of the potential and capabilities that can be developed. Therefore, in education or empowerment, it is necessary to make people aware of their potential and abilities. In this case, the Indonesian people need assistance, guidance, and assistance on an ongoing basis.

Indonesian people and even indigenous peoples in Indonesia need to understand the protection measures for their communal intellectual property. Do not allow foreign parties to take and use without

providing benefits to indigenous peoples. Benefit-sharing is a mechanism to provide economic benefits to indigenous peoples and can be used for community welfare.

The form of strengthening intellectual property development based on local wisdom can be done by various methods, according to the problems and potentials that exist in the community, based on needs analysis. These methods include entrepreneurship training, farming courses, product development training, demonstrations of agricultural innovation results, cultural performances, and others.

Strengthening development, especially on empowerment based on natural potential, must pay attention to aspects of environmental sustainability. The exploitation of natural potential on a large scale without considering ecological factors (biological, social, cultural) is not a community empowerment activity. Still, it is a form of crime even though it gets financial benefits. The environment must be a priority for sustainability because the essence of community empowerment activities is towards community self-reliance [23]. Economic independence of the community is an alternative that cannot be rejected. Optimizing oneself and breaking away from foreign dependence is the only way to exit the crisis [24] elegantly. So strengthening the development of intellectual property based on local wisdom in Indonesian society is very important to improve the welfare of the Indonesian people.

4 Conclusion

The Indonesian state has communal intellectual property spread throughout the territory of the Republic of Indonesia. Joint intellectual property in traditional knowledge, folklore, traditional cultural expressions, indications of origin, geographical indications, and collaborative brands. Some forms of intellectual property have been protected through UNESCO, such as intangible cultural heritage and world heritage. UNESCO protects intellectual property in folklore and traditional artistic expressions, while other forms of communal intellectual property cannot be saved through UNESCO. Intellectual property rights provide legal protection for joint intellectual property, but this protection has not run optimally in practice. Violations that occur are still challenging to apply for law enforcement because they are related to cross-country. Indonesia is a country that is rich in culture and traditional values (local wisdom values). Every region in the territory of Indonesia has local wisdom. Local wisdom in Indonesia lives in customary law. Customary law is the law that lives in Indonesian society. The local knowledge is the embryo of the formation of communal intellectual property. Therefore, it is time for the Indonesian state to optimize the database related to joint intellectual property. In addition, it is still necessary to increase the awareness of the Indonesian people to protect and preserve communal intellectual property jointly. Unite to be strong and fight the infringement of Indonesia's joint intellectual property.

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