

The Policy of Intellectual Property As a Bank Guarantee for The Support Creative Economic Development

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Abstract: The creative economy is an economic activity driven by creative industries that prioritizes the role of intellectual property. One effort to improve the national economy is in the creative economy sector with intellectual property policies as banking collateral in crediting/borrowing business capital. The aim of this research is (i). Analyzing and reviewing the development of Intellectual Property (IP) which is used as collateral for banking credit in Indonesia, especially in relation to the creative economy; (ii). Analyze and review banking regulations related to IP as collateral; (iii). Analyze and assess the risks and obstacles faced in relation to IP as collateral for banking credit; and (iv). Analyzing and reviewing Intellectual Property can contribute to the development of the creative economy. The method used is a qualitative approach through Focus Group Discussion (FGD) and processed using NVivo.

Based on the results of the NVivo and SLR analysis: (i). The development of Intellectual Property (IP) which is used as collateral for banking credit in Indonesia, especially in the creative economy industry, has not yet been discovered, due to the higher risk compared to fixed collateral; (ii). The constraints that are dominantly mapped out in the implementation process are also related to why until now IP assets are still a choice of collateral (second collateral) for the financial world, especially banking; (iii). There is a need for clarity in regulations regarding fiduciary guarantees for Intellectual Property assets. This was touched upon by one of the informants in the regulator category who specifically discussed regulations/laws regarding Intellectual Property fiduciary guarantees; and (iv). Intellectual Property for the creative economy can also be achieved through a financing guarantee.

This research recommends that the government first propose changes to the industrial design law, trademark law, trade secret law, and other intellectual property laws where these laws can regulate that intellectual property can be guaranteed by banks considering that it is new Patent law and copyright law which regulates that patents and copyrights can be used as banking collateral. In addition, the government has established an independent valuation institution that can determine the appropriate valuation method according to the value of intellectual property in Indonesia so that the government has clear policies and regulations to support intellectual property as banking collateral.

Keywords: Creative Economy, Intellectual Property, Banking Guarantee, DJKI, National Economy

Introduction

The development of the economic field eventually reaches creative economic activities where creativity has become the main thing in economic activities. The basis of economic activity which previously was natural resources, is now based on human resources, namely humans who have the power of creativity and imagination. Indonesia, which is famous for its socio-cultural diversity spread throughout the archipelago, can certainly be a source of inspiration in developing the creative economy. So the economic value of a product or service in the creative era is no longer determined by raw materials or production systems as in the industrial era, but rather by utilizing creativity and creating innovation through increasingly advanced technological

developments. Industry can no longer compete in the global market by relying solely on price or product quality but must compete based on innovation, creativity, and imagination.

The term creative economy was first introduced in 2001 by John Howkins and explains the creative economy as economic activities in society that spend most of their time generating ideas, and not just doing routine and repetitive things. According to Howkins, the characteristics of the creative economy are: (i). Collaboration is needed between various actors who play a role in the creative industry, namely scholars (intellectuals), the business world, and the government, which is a basic prerequisite; (ii). Based on ideas or ideas; (iii). Unlimited development in various business fields; and (iv). The concept built is relative.

The creative economy has high economic value for people's welfare and employment and can increase a country's economic growth. The creative economy is driven by entrepreneurs, namely people who have creative and innovative abilities. Currently, the creative economy has become a strategic sector in national development because this sector contributes significantly to the national economy. Based on data from the Central Statistics Agency (BPS), creative economy growth in 2019 was 3.9%. Then in 2020, it decreased (due to the impact of COVID-19) to -0.5%. Then it will rise again to 2.9% in 2021, and in 2022 it rise to 9.49%. In 2023, data from the Ministry of Industry notes that the creative economy sector contribute 7.8% to the National Gross Domestic Product (GDP). This proves the significant contribution of this sector to the country's economy.

According to Howkins, the creative economy cannot be separated from the role of intellectual property. Creative economy players should understand the importance of intellectual property in maintaining the originality of ideas. For this reason, the government urges the public, especially creative economy players, to be aware of the importance of Intellectual Property Rights to protect the ideas of creative industry players. By registering the "creative idea" with IPR, the idea owner does not need to worry about his idea being claimed by someone else. It is also stated that IPR is recognition and appreciation for a person or legal entity for their discovery or creation of intellectual works by granting them special rights both social and economic (Saleh, 1990). From this understanding, it can be concluded that in essence, IPR is the right to economically enjoy the results of intellectual creativity.

The agency authorized to manage Intellectual Property (IP) in Indonesia is the Directorate General of Intellectual Property (DJKI) which is under the Ministry of Law and Human Rights of the Republic of Indonesia. Based on article 691 of the Minister of Law and Human Rights Regulation Number 41 of 2021, it is stated that the DJKI has the task of carrying out the formulation and implementation of policies in the field of IP under statutory provisions. The presence of these institutions is believed to be a basic need because of the increasing role and function of IP. The role of IP has an important role in the current era of modern trade.

The existence of IPR can be a source of increased income for creative economy actors. This can be seen in the image below:

2023	2022	Logo	Name	Country	2023	2022
1	2		BRI		IDR 67,053,858M	IDR 52,014,768M
2	1		Telkom Indonesia		IDR 63,120,315M	IDR 65,972,011M
3			Pertamina		IDR 58,118,583M	
4	3		Bank Mandiri		IDR 53,150,551M	IDR 44,246,976M
5			Sampoerna		IDR 48,689,449M	
6	4		BCA		IDR 45,370,236M	IDR 41,699,015M
7			Gudang Garam		IDR 43,827,559M	
8			A Mild		IDR 37,379,055M	
9	6		PLN		IDR 27,273,228M	IDR 20,998,734M
10	5		BNI		IDR 24,133,386M	IDR 23,300,844M

Figure 1. 10 Brand Finance Indonesia Year 2023

The figure explains that IP, in this case, the BRI brand, has been named the brand with the highest or most valuable valuation in Indonesia, namely the equivalent of IDR 67,053 trillion. BRI also succeeded in moving up the rankings, from second place in 2022 to top place in 2023. When compared with the previous year, BRI's brand valuation recorded a growth of 28% in 2023. Telkom Indonesia followed with a brand value of IDR 63,120 trillion. After that, there is Pertamina which has a brand value of IDR 58,118 trillion. Then Bank Mandiri is in fourth place with a brand value of IDR 53,150 trillion. Then, the brand value of cigarette manufacturer Sampoerna was recorded at Rp. 48,689 trillion. There is also Bank Central Asia (BCA) which recorded a brand value of IDR 45,370 trillion. Then, Gudang Garam and A Mild have brand values of IDR 43,827 trillion and IDR 37,379 trillion respectively. This shows that the valuation value of Intellectual Property can be assessed and has economic value for its owner. Apart from that, an idea or product has received IPR and is then used by someone else, so the right holder is entitled to royalties for ownership of the idea.

Along with the development of global society, IPR can also be used as access to obtain banking credit internationally (Kurnianingrum, 2017). Singapore for example. With many IPRs such as patents and trademarks, Singapore has created space to be able to use IPRs as objects of banking collateral. According to Singapore Brand Finance data in 2014 as stated by Tan Weizhen, 42% of the value of Singapore state companies is intangible assets. Through the Intellectual Property Office of Singapore (IPOS), Singapore has even developed a financing concept/scheme where IPOS appoints 3 (three) banks, namely DBS, OCBC and UOB to provide banking credit. Apart from Singapore, Thailand has also regulated credit procedures that use IP, in this case trade secrets as collateral through Thailand's Business Security Act B.E. 2558 (2015). Financial institutions that can provide credit using IPR assets are SME Bank, Bangkok Bank, Government Savings Bank, or other institutions that participate in the Intellectual Property Capitalization Program. Apart from Asia, the UK also allows IPR assets to be used as collateral for banking credit. Even in the UK legal concept, IPR assets are equated like other forms of a person's wealth. Therefore, IPR can be used as collateral because it is categorized as an intangible asset. In the UK, IPR assets can even be used as collateral through mechanisms such as legal mortgages, fixed charges and floating charges. In financial transactions, registered IPR is preferred due to its transferability.

The Indonesian government also issued Government Regulation Number 24 of 2022 concerning Implementing Regulations of Law Number 24 of 2019 concerning the Creative Economy as a form of the government's seriousness in building economic stability in terms of IP-based financing through Bank Financial Institutions and Non-Bank Financial Institutions. However, from July 12, 2022 until now there have been no derivative regulations from this government regulation. This can confuse Bank Financial Institutions and Non-Bank Financial Institutions in determining IP-based financing schemes as banking collateral. This condition must be responded to quickly by the agency authorized to regulate banking guarantees. The Financial Services Authority (OJK) is one of the agencies that has the authority to regulate banking guarantees. OJK has also sent letter No. S-12/D.03/2022 on September 2 2022 to all conventional commercial banks. The letter in question is confirmation and support from the OJK in the practice of using IP as credit collateral by banks. However, the letter is still considered not strong enough as a legal basis for banking or non-bank institutions to apply intellectual property certificates as banking collateral.

Guarantee law in Indonesia needs to be reformed by also regulating the existence and role as well as procedures for granting credit with collateral objects in the form of IP. The existence of a statutory regulation in guarantee law in Indonesia which regulates the establishment of an IP guarantee institution, will increasingly emphasize the implementation of the principle of legal certainty in granting credit with IP collateral. The intended harmonization is between Patent Law, Guarantee Law, Banking Law and Fiduciary Guarantee Law. It is hoped that the study of IPR as banking collateral will be able to provide a solution for parties who want to use their intellectual property as collateral for banks to obtain credit loans. Based on the explanation above, the problem in this research can be formulated as follows: (i). How is the development of IP which is used as collateral for banking credit in Indonesia, especially in relation to the creative economy?; (ii). How are banking regulations related to IP as collateral?; (iii). What are the risks and obstacles faced related to IP as collateral for banking credit?; and (iv). How does IP contribute to the development of the creative economy?

Theoretical Background

Collateral Theory

Financial institutions, when providing financing or loans to third parties, must pay attention to the principles of good financing, including the risks that must be faced regarding the return of financing. To gain confidence before providing credit, banks or financial institutions must carry out a thorough assessment of the character, capital capabilities, collateral, and business prospects of third parties. For this reason, you need to know about the concept of guarantee itself. The term security law comes from the translation of security of law. According to Palfreman (1993), the acquisition of rights to assets is taken to support the borrower's personal efforts to repay. In the Indonesian Dictionary, guarantee comes from guarantee, which means to bear. Collateral is a guarantee for a

loan received or someone's guarantee or promise to cover the debt or obligation is not fulfilled. Furthermore, according to Usman (2003) collateral, or what is better known as collateral is property belonging to a third party or third parties which is bound as a means of payment in the event of default by the third party. According to Mariam (2005), a guarantee is a guarantee given by a debtor and/or a third-party creditor to guarantee their obligations in an agreement.

Based on the nature and form of objects according to law, collateral can be divided into movable objects and immovable objects. Another opinion divides moving objects into Tangible and Intangible. Tangible means that its very nature classifies it into this category, namely all goods that can be moved from one place to another, for example, office inventory items, motor vehicles, and so on. Meanwhile, the intangible is because the law classifies it into that group, for example, checks, money orders, shares, bonds, and bills.

According to Djamil (2010), specifically guarantees in financing have two functions, namely: (i). To pay debts in the event of default by a third party, namely by cashing in or selling the collateral; and (ii). As a result of the first function, or as an indicator for determining the amount of financing that will be provided to third parties. The amount of financing must not exceed the value of the assets guaranteed. In general, collateral functions as a guarantee for repayment of credit/financing. Financing guarantees in the form of character, abilities, capital and business prospects owned by third parties are immaterial guarantees that function as a first way out. With this immaterial guarantee, it can be hoped that the third party can manage the company well so that it obtains business revenue to pay off the financing as agreed. Financing guarantee in the form of material collateral functions as a second way out. As a second way out, the sale/execution of collateral can only be carried out if the third party fails to fulfill its obligations through the first way out. Soebekti (2009) said that good guarantees can be seen from: (i). Can help obtain financing for third parties; (ii). Does not weaken the potential of third parties to receive financing to continue their business; and (iii). Providing certainty to banks to issue financing and easily cash it out if a default occurs. As stated by Salim (2004), guarantee law is the totality of legal rules that regulate the legal relationship between the giver and recipient of collateral in relation to the imposition of collateral to obtain credit facilities.

Intellectual Property

In simple terms, intellectual property (IP) is wealth that arises or is born from human intellectual abilities. Works that arise or are born from human intellectual abilities can work in the fields of technology, science, art, and literature. These works are born or produced from human intellectual abilities through the outpouring of time, energy, thoughts, creativity, taste, and initiative. This is what differentiates IP from other types of wealth that can also be owned by humans but are not produced by human intelligence. For example, natural wealth in the form of land and/or plants that exist in nature are creations of the Creator. Although land and/or plants can be owned by humans, land and plants are not the result of human intellectual work. Wealth or assets in the form of works resulting from human thought or intelligence have economic value or benefits for human life so they can also be considered as commercial assets. Works that are born or produced based on human intellectual abilities, whether through the outpouring of energy, thought and creativity, taste and initiative, should naturally be safeguarded by developing a system of legal protection for This wealth is known as the IPR system. IPR is a way to protect IP by using existing legal instruments, namely Copyright, Patents, Trademarks and Geographical Indications, Trade Secrets, Industrial Design, Integrated Circuit Layout Design, and Plant Variety Protection.

The objectives of intellectual property protection through IPR generally include: (i). Providing legal clarity regarding the relationship between property and inventors, creators, designers, owners, users, intermediaries who use it, the working area of its use, and those who receive the consequences of using IPR for a certain time; (ii). Giving awards for the success of a business or effort to create an intellectual work; (iii). Promote the publication of inventions or creations in the form of IPR documents that are open to the public; (iv). Stimulate the creation of efforts to transfer information through IP and transfer technology through patents; and (v). Provides protection against the possibility of being imitated because there is a guarantee from the state that the implementation of intellectual work is only given to those entitled to it. Apart from that, the IPR system has also caused a change in the culture and perspective of a nation by: (i). Encourage good documentation of research activities; (ii). Encourage the spirit of competition; (ii). Encouraging the creativity of scientists through incentives that make them concentrate and prosper as researchers without having to become entrepreneurs; (iii). Creating awareness and attention to the global economic system, because IPR is related to trade and industrial issues; and (iv). Encourage the protection of research results and their implementation or commercialization.

Creative Economy

The creative economy is a concept for realizing sustainable economic development based on creativity. Utilization of resources that are not only renewable, but also unlimited, namely ideas, thoughts, talents and creativity. The economic value of a product or service in the creative era is no longer determined by raw materials or production systems as in the industrial era, but rather by utilizing creativity and creating innovation through increasingly advanced technological developments. Industry can no longer compete in the global market by relying solely on price or product quality, but must compete based on innovation, creativity and imagination. Indonesia needs to change its economic structure from being based on natural resources to being based on human resources, namely a human paradigm that has the power of creativity and imagination. Indonesia realizes that the creative economy is a new economic source that must be developed further in the national economy. The role of the creative economy in the national economy and the characteristics of Indonesia which is famous for its socio-cultural diversity spread throughout the archipelago can certainly be a source of inspiration in developing the creative economy.

A creative economy that can be used as a social enterprise for the community in an area. In general, each region has product potential that can be developed and developed. The uniqueness or uniqueness of local products must be the core and then add elements of creativity with a touch of technology. Cities in Indonesia, with their unique characteristics, have the potential to be developed as creative cities. Creative economic development can be carried out in line with tourism development. Tourist cities in Indonesia, such as Yogyakarta, Bandung, and Lombok, actually have creative spaces, namely the tourist zones themselves. Tourist attractions can be a source of creative ideas that will never run out to be developed. Meanwhile, in Indonesia, the creative economy was popularized during the time of President Susilo Bambang Yudhoyono by issuing Presidential Instruction Number 6 of 2009 concerning the Development of the Creative Economy, where the definition of the creative economy is as an economic activity based on individual creativity, skills, and talents to create creativity and inventiveness. individuals who have economic value and influence the welfare of Indonesian society. Furthermore, UNCTAD (United Nations Conference on Trade and Development) defines the creative economy as a process of creation, production, and distribution of goods and services that uses creativity and intellectual capital as the main input of the production process. The creative economy production process combines knowledge, intellect, and creativity to produce goods and services as well as intangible intellectual or artistic services with creative content and providing added value.

In improving the national economy, the creative economy is one sector that has the potential to be developed. This is in line with the decreasing availability of natural resources for exploitation. The government is starting to pay attention to the creative economy through Law Number 24 of 2019 concerning the Creative Economy. The government has established 16 creative economy sub-sectors consisting of games applications and development, architecture, interior design, visual communication design, product design, fashion, film/animation/video, photography, crafts, culinary, music, publishing, advertising, performing arts, fine arts, and television/radio. Apart from that, the government has also issued a Presidential Regulation concerning the National Creative Economy Development Master Plan (Rindekraf) for 2018-2025. In Rindekraf it is explained that the Creative Economy is the embodiment of added value from an idea or intellectual property idea that contains originality, born from human intellectual creativity, based on science and technology, skills, and cultural heritage (Presidential Regulation of the Republic of Indonesia Number 142 of 2018 concerning Development Master Plan National Creative Economy 2018-2025).

Previous Research

Several previous studies that are relevant to this research include Habibi & Saidah (2020), Kurniawan (2020), Kusumaningtyas (2016), Amirulloh (2020), Kurnianingrum (2017), and Bagenda & Carbonilla. Based on data regarding existing previous research, it shows that the majority of research looks at the legal perspective and the effectiveness of intellectual property. However, different from previous research, the research conducted by the author seeks to analyze policies on intellectual property banking guarantees which are analyzed using descriptive quantitative and qualitative approaches so as to provide novelty in filling existing research gaps.

Research Methodology

The research method that the author uses in this research is qualitative. Qualitative research is a method of exploring and understanding the meaning that several individuals or groups of people ascribe to social or humanitarian problems (Creswell, 2016). The qualitative research method was carried out using Grounded Theory which included coding techniques. Bandur (2019) explains several things about this technique, namely: (i). Understand the meanings conveyed by respondents to the phenomenon being studied; (ii). Provide open questions to understand the complexity of the main ideas or phenomena under study; (iii). Data can be in the form of words/text, images, and so on; (iv). Use of analysis of text, images, etc. to obtain broad and general patterns; and (v). Identify

the opinion/position of each participant. Data collection in this research was carried out through Focus Group Discussions (FGD) involving stakeholders in accordance with the problem formulation that was developed in accordance with the characteristics of the first qualitative research. The results of the FGD activities will be presented in the form of transcripts from each informant involved. Next, based on the transcripts that have been prepared, a systematic coding process will be carried out. In this case, coding is intended to be able to draw out existing themes contained in the informant's perspective in the form of coding nodes. Apart from that, a systemic literature review will also be carried out to support the findings in the coding analysis (see also: Creswell, 2009; Saldana, 2013; and Miles, et al., 2014)

The following are the 7 (seven) informants involved who are categorized into informant classifications based on institutions.

Table 1. Informant Profile

No.	Informant Name	Occupation	Otganization
1	Anggoro Dasananto,SH	Director of Copyright and Industrial Design	Ministry of Law and Human Rights of the Republic of Indonesia
2	Dr. Ir. Robinson Hasoloan Sinaga, SH.,LL.M	Director of Intellectual Property and Creative Product Development	Ministry of Tourism and Creative Economy of the Republic of Indonesia
3	Indah Iramadhini, SE., Ak., MBA	Director of Institutional Regulation, Products and Banking Activities	Financial Services Authority of the Republic of Indonesia
4	Risnan Yosol	Senior Associate	Ginting & Reksodiputro
5	Ir. Jerry Marmen, MS., M.Ec., M.Mgt., Ph.D	President Commissioner	KB Bukopin Bank
6	Assoc. Prof. Dr. Freddy Harris, SH., MH., LL.M., ACCS	Academician	-
7	Dr. Justiarı Perdana Kusumah, SH., MH	Intellectual Property Consultant	Intellectual Property Consultant

Source: Author

Research Results

Development of Intellectual Property in Indonesia

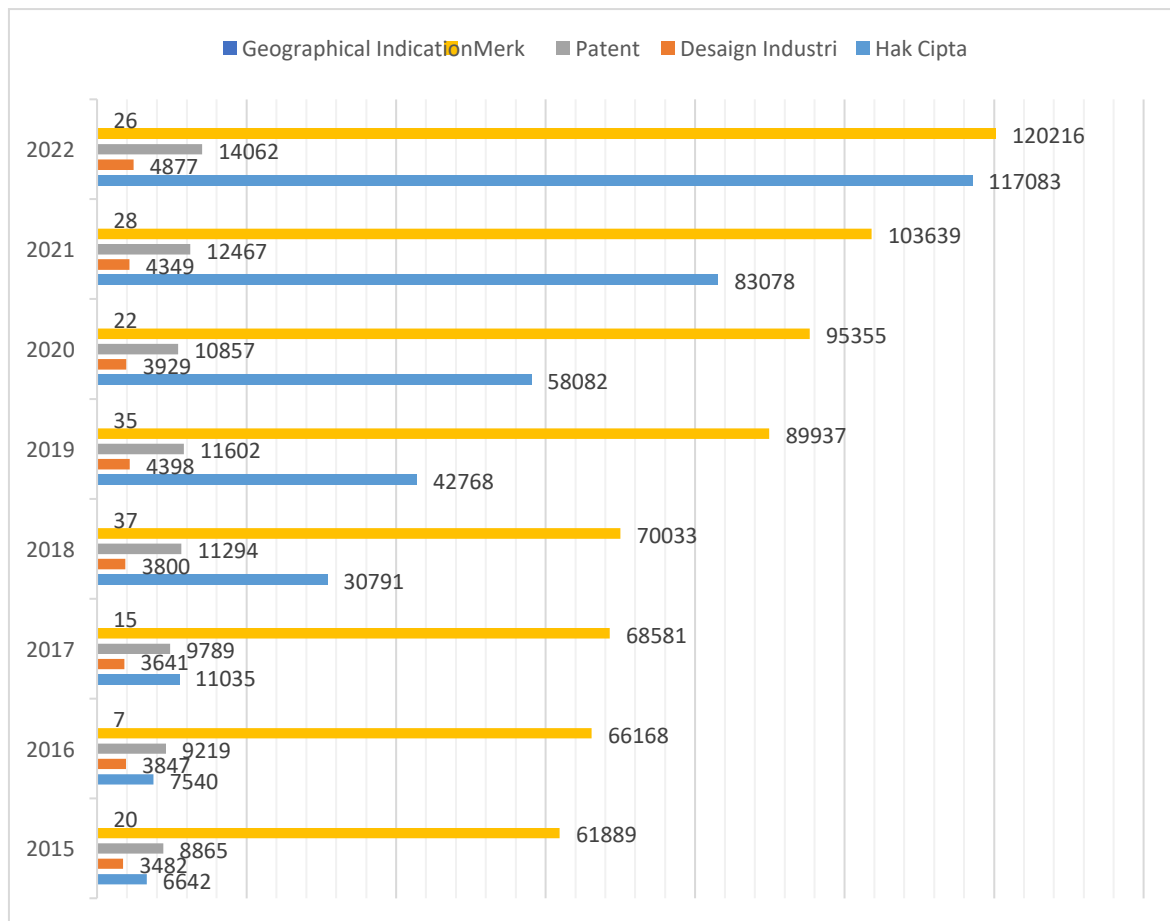
Historically, legislation in the field of IPR in Indonesia has existed since the 1840s. In 1953 the Minister of Justice of the Republic of Indonesia issued an announcement which was the first set of national regulations governing patents. On October 11, 1961, the Indonesian government promulgated Law No. 21 of 1961 concerning Company Marks and Commercial Marks (1961 Trademark Law) to replace the Dutch colonial Trademark Law. 1986 can be called the beginning of the modern era of the IPR system in the country. On July 23 1986 the President of the Republic of Indonesia formed a special team in the field of IPR through Decree No. 34/1986 (This team is better known as the Presidential Decree Team 34). On September 19 1987 the Indonesian Government passed Law No. 7 of 1987 as an amendment to Law No. 12 of 1982 concerning Copyright. Following the ratification of Law No. 7 of 1987, the Indonesian government signed a number of bilateral agreements in the field of copyright as implementation of this law. In 1988 based on Presidential Decree no. 32 stipulated the formation of the Directorate General of Copyright, Patents and Trademarks (DJ HCPM) to take over the functions and duties of the Directorate of Patents and Copyright which is one of the echelon II units within the Directorate General of Law and Legislation, Ministry of Justice.

On October 13, 1989, the House of Representatives approved the Bill on Patents, which was subsequently passed into Law No. 6 of 1989 by the President of the Republic of Indonesia on 1 November 1989. On 28 August 1992, the Government of the Republic of Indonesia ratified Law No. 19 of 1992 concerning Brands. At the end of

2000, three new laws in the IP sector were passed, namely Law No. 30 of 2000 concerning Trade Secrets, Law No. 31 of 2000 concerning Industrial Design, and Law Number 32 of 2000 concerning Integrated Circuit Layout Design. In an effort to align all laws and regulations in the IP sector with the TRIPS Agreement, in 2001 the Indonesian Government passed Law No. 14 of 2001 concerning Patents and Law No. 15 of 2001 concerning Brands. IP has become an important part of national and international economic development. Various types of information about policies, regulations, the latest developments in the practice of implementing and protecting Intellectual Property, have become material that is needed by various groups of society, such as academics, professionals, industry, and government in a national and international scope.

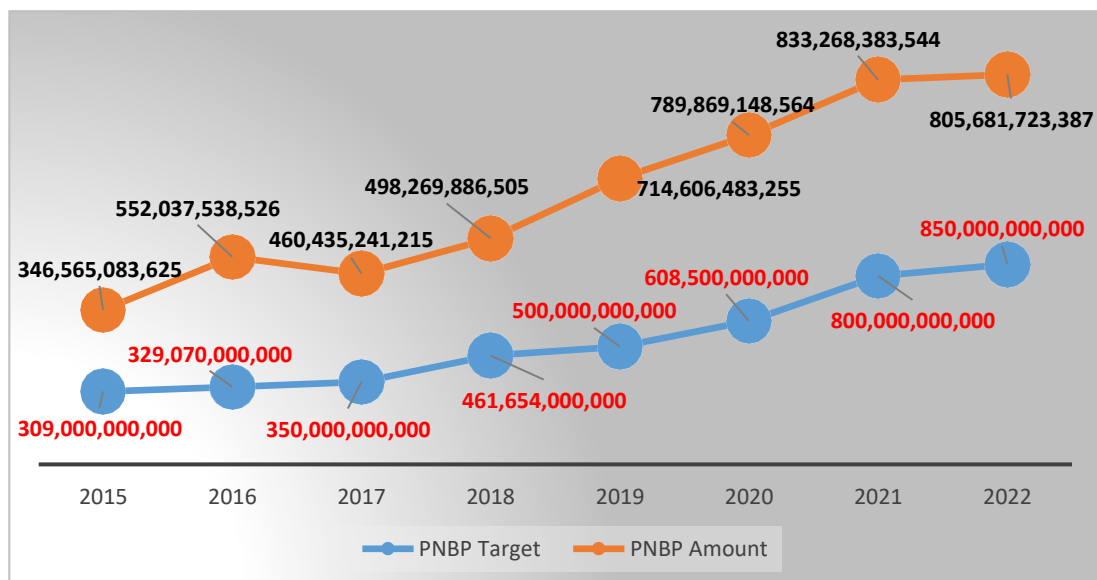
Since 1994, Indonesia has joined as a member of the WTO (World Trade Organization). One of the most important parts of the WTO agreement is the Agreement on Trade-Related Aspects of Intellectual Property Rights Including Trade in Counterfeit Goods (TRIPS). As a consequence of Indonesia's participation as a member of the WTO (World Trade Organization), Indonesia requires Indonesia to adapt all its laws and regulations in the field of Intellectual Property Rights to the TRIP's standards which began in 1997 and were updated later in 2000 and 2001. Therefore, the agency authorized to manage Intellectual Property in Indonesia is the Directorate General of Intellectual Property (DJKI) which is under the Ministry of Law and Human Rights of the Republic of Indonesia. One of the duties of the Directorate General of Intellectual Property is to handle registration applications and protect copyrights, patents, brands, industrial designs and trade secrets. This can be seen in the table of IP applications received by the DJKI from 2015 to 2022.

Graph 1. Statistical Register of Total Intellectual Property Applications Intellectual



Source: Directorate General of Intellectual Property, 2023

This data shows that every year there are more and more registrations of intellectual property applications submitted by the public to the DJKI. This shows that more and more people are sensitive to the importance of registering their inventions. Apart from that, the increase in intellectual property applications is in line with the increase in Non-Tax State Revenue (PNBP) at the DJKI. This can be seen in the PNBP table below.

Graph 2. Target and Amount of PNPB of Directorate General of Intellectual Property

Source: Directorate General of Intellectual Property, 2023

The data above shows that the DJKI's PNPB resulting from intellectual property applications always exceeds the target determined by the DJKI. This increase in PNPB shows that IP has a role in Indonesia's economic development. Apart from that, in 2022, the DJKI will also contribute PNPB amounting to IDR 805,681,723. This also shows that intellectual property applications in Indonesia play a very important role in Indonesia's economic recovery after the Covid 19 pandemic.

Results Analysis and Discussion

Focus Group Discussion (FGD) Results

As mentioned above, in this research, informants were divided into 4 (four) categories, namely Regulators, Operators, Academics and Associations. For the Regulator category, there are 3 (three) informants concerned, namely Anggoro Dasananto, Robinson Hasoloan Sinaga, and Indah Iramadhini. For the Operator category, there were 2 (two) informants, namely Risnan Yosol and Jerry Marmen. Furthermore, there was only 1 (one) informant representing Academics and Associations, namely Freddy Harris and Justiarı Perdana Kusumah.

From the perspective of the Regulator, Anggoro Dasananto, generally refers to the clarity of the legal aspects of intellectual property in relation to fiduciary collateral. The informant also touched on the clarity of regulations related to other types of IP such as brands, industrial designs, and geographical indications which can be used as fiduciary collateral. The informant also touched on the clarity of existing regulations related to financing schemes regarding parties who can obtain financing facilities by using their IP as debt collateral. Furthermore, from Robinson Hasoloan Sinaga, generally refers to banking readiness in implementing IP as fiduciary collateral. The informant touched on the problem of banks' readiness to accept IP as fiduciary collateral, one of which was ignorance of aspects of IP (HR/valuator competency). Apart from that, the informant also mentioned the need for physical collateral that must be accepted by banks for creative economy industry players. The informant also touched on the readiness of human resources (valuators). Furthermore, from Indah Iramadhini, generally also referred to the readiness of banks to implement IP as fiduciary collateral, especially the obstacles found. It can be concluded that there are several obstacles found, such as the liquidity level of the IP that is collateralized to the market potential needed to sell the IP in the event of bad credit. The informant also mentioned further regarding the development of market potential (ecosystem) which is needed in the implementation of IP as financing collateral. Furthermore, the informant also touched on aspects of Human Resources (HR) or in this case IP appraisers.

From the operator's perspective, Risnan Yosol, refers to the obstacles specifically faced by banks in the

implementation process regarding IP fiduciary guarantees. This statement shows that, there are at least 3 (three) obstacles faced by banks, especially in accepting IP as financing collateral, namely: (i). The perception of banks that still consider IP as collateral is still not commonplace in the Indonesian financial market; (ii). There is still a lack of knowledge regarding how to execute the IP in question; and (iii). Regarding the protection aspect of IP. Furthermore, Risnan Yosol also mentioned that most banks only accept collateral in physical form, and use IP as additional collateral (second collateral). Meanwhile, Jerry Marmen, also referred to the obstacles specifically faced by banks in the implementation process regarding IP fiduciary guarantees. First, the informant questioned the level of liquidity of the IP itself. The reason for the level of liquidation capability of IP collateral is based on banking liquidity risk. Apart from that, another obstacle revealed by informants was the problem of bankers' ability to understand aspects of the Risk Apatite Framework, making it difficult for them to take the risk of IP collateral as financing collateral. Apart from that, the informant also indirectly mentioned the need to create an ecosystem in terms of IP as collateral for financing.

From the perspective of an Academician, Freddy Harris, referred to the journey of IP as banking collateral in Indonesia and its role in the economy. First, the informant mentioned the potential of IP as collateral for financing due to the fact that 70% of land in Indonesia has been pledged as collateral. Furthermore, the informant also touched a little about the global journey of IP to show that IP also has a valuation that can be measured in terms of its role as collateral/guarantee for financing in banking.

From the Association's perspective, Justiarı Perdana Kusumah explained the development of IP and the importance of assessing an IP asset that will be pledged as collateral. The informant also touched on the role of IP consultants in providing information regarding IP assets as collateral. The information also mentioned the qualifications of an IP consultant through certification. This is indirectly related to increasing HR competency, in the field of IP. Furthermore, the informant also touched on the role of IP Consultants in helping provide advice regarding the valuation of Intellectual Property assets that will be pledged as collateral and the importance of carrying out the due diligence stages, which implicitly stated the need for coordination between IP consultants and the appraisers themselves.

Coding Analysis

Based on the results of the FGD, coding was then carried out to see which nodes were the most dominant (or had the highest number of coding activities) of all the informants. The following is a table that describes the aggregate number of references from each node, as follows:

Table 2. Aggregate Hierarchy of Nodes Reference

No.	Nodes	Ref.	Files Coded	Max. Value	Share
1	Regulatory Clarity	4	4	7	58%
2	Ease Of Executing Collateral For IP Assets	4	3	7	58%
3	Ecosystem Readiness	4	4	7	58%
4	Market	4	3	7	58%
5	Credit Guarantee	4	4	7	58%
6	IP Collateral	3	2	7	43%
7	Clarity of IP Fiduciary Agreement	3	3	7	43%
8	Understanding of Banking IP	3	3	7	43%
9	IP Asset Valuation	3	3	7	43%
10	Risk Apatite	3	3	7	43%
11	Liquidation Rate	3	2	7	43%
12	Creative Economy Credit Analysis	3	2	7	43%
13	Stakeholders Synergy	3	2	7	43%
14	External Valuator	2	2	7	29%
15	Clarity of Valuation Mechanism	2	2	7	29%
16	Second Collateral	2	2	7	29%
17	Securitization > Risk Apatite	2	2	7	29%
18	Fiduciary Guarantee Regulation	2	2	7	29%
19	Appraiser Certification	2	2	7	29%

Source: Data processed (2023)

These results show that the 19 (nineteen) nodes above have the largest contribution to the overall hierarchy;

both in terms of number of references and data sources (transcripts). This indicates that, as a whole (4 categories of informants), both implicitly and explicitly, they touch on the issue of regulatory clarity, ease of executing collateral for IP assets if they are collateralized, market and ecosystem readiness to liquidate collateralized IP assets, and the need for credit guarantee support. from the government. The other nodes are "IP Collateral", "Clarity of IP Fiduciary Agreements", "Understanding IP Banking", "IP Asset Valuation", "Risk Apatite", "Liquidation Level", "Creative Economy Credit Analysis", and "Stakeholder Synergy" has references of 3 (three) with a contribution value of 43%. This indicates that, there are around 43% of informants who mentioned these nodes. As for other nodes, they have a similar interpretation.

Next, the following will show the top hierarchy of the Nodes 1 System (Implementation Constraints & Risks). The contribution value can be seen in the table below:

Table 3. System Hierarchy Reference of Nodes 1

No.	Nodes	Ref.	Files Coded	Max. Value	Share
1	Regulatory Clarity	4	4	7	58%
2	Ease of Execution of IP Assets	4	3	7	58%
3	Ecosystem Readiness	4	4	7	58%
4	Market	4	3	7	58%
5	Credit Guarantee	4	4	7	58%
6	IP Collateral	3	2	7	43%
7	Clarity of IP Fiduciary Agreement	3	3	7	43%
8	Understanding of Banking IP	3	3	7	43%
9	IP Asset Valuation	3	3	7	43%
10	Risk Apatite	3	3	7	43%
11	Liquidation Rate	3	2	7	43%
12	External Valuator	2	2	7	29%
13	Clarity of Valuation Mechanism	2	2	7	29%
14	Second Collateral	2	2	7	29%
15	Securitization > Risk Apatite	2	2	7	29%

Source: Data processed (2023)

From Table 3, it can be seen that the nodes "Regulatory Clarity", "Ease of Execution of IP Assets", "Ecosystem Readiness", "Market", and "Credit Guarantee", respectively, have a contribution of 58% from all available sources. As for the following, IP collateral, understanding of banking IP concepts, clarity of fiduciary agreements on IP assets between creditors and debtors, banking risk appetite, assessment of IP assets, level of liquidation capability of IP assets that are collateralized, the concept of 5C credit analysis, to with the need for synergy from all stakeholders mentioned by 43% of informants respectively. Next, the following will show the hierarchy of the Nodes 2 System (IP for the National Economy). The contribution value can be seen in the table below:

Table 4. System Hierarchy Reference of Nodes 2

No.	Nodes	Ref.	Files Coded	Max. Value	Share
1	Potential IP Assets	1	1	7	14%
2	Regulatory Clarity > MSME Sustainability	1	1	7	14%
3	Creative Economy Credit Access	1	1	7	14%

Source: Data processed (2023)

From Table 4, it can be seen that the nodes "IP Asset Potential", "Regulatory Clarity > MSME Sustainability", and "Creative Economy Credit Access", respectively, have a contribution of 14% of the total sources available. There is. This means that the linkage of aspects of Intellectual Property to the economy through fiduciary guarantees for Intellectual Property assets, development of creative industries, and easy access to credit were mentioned by 14% of the informants.

Next, the hierarchy of the Nodes Other System is shown (things touched on outside the research objectives). The contribution value can be seen in the table below:

Table 5. Hierarchy Reference Systems of Nodes Others

No.	Nodes	Ref.	Files Coded	Max. Value	Share
1	Stakeholders Synergy	3	2	7	43%
2	Creative Economy Credit Analysis	3	3	7	43%
3	Fiduciary Guarantee Regulations	2	2	7	29%
4	Appraiser Certification	2	2	7	29%
5	Fintech	1	1	7	14%
6	Fixed Asset Collateral	1	1	7	14%
7	IP Due Diligence	1	1	7	14%
8	Auction	1	1	7	14%
9	Violation of Law	1	1	7	14%
10	Role of IP Consultant	1	1	7	14%
11	Royalty Levy	1	1	7	14%
12	Self-Appraisal	1	1	7	14%

Source: Data processed (2023)

From Table 5, it can be seen that the nodes "Stakeholder Synergy", "Creative Economy Credit Analysis", "Fiduciary Guarantee Regulations", and "Appraiser Certification", respectively, have a contribution of 43%, 43%, 29%, and 29% of all existing sources.

Furthermore, the results of the comparison diagram analysis will be displayed. This section is the second stage in coding analysis. This second cycle coding is based on nodes or coding that have been created previously (first cycle coding). The results illustrate the similarities in things mentioned by each informant category. These similarities are displayed in the nodes located in the middle of the informant's case. Meanwhile, the nodes to the right and left of the informant are nodes touched on by each informant that are not related to each other, which can replace the exploration diagram. The following will show the similarity of nodes between Regulators and Operators. There are around 12 (twelve) similarity nodes (including Clarity of Regulations, Clarity of Intellectual Property Fiduciary Agreements, Valuation of Intellectual Property Assets, etc.) that are touched upon by both parties, either explicitly or implicitly. Next, the results of the comparative diagram analysis between Regulators and Associations

will be displayed. There are around 5 (five) common nodes (including Clarity of Regulations, Clarity of IP Fiduciary Agreements, etc.) which are touched upon by both parties, both explicitly and implicitly. Then, the results of the comparative diagram analysis between Regulators and Academics will be displayed. There are around 3 (three) common nodes (Ecosystem Readiness, Risk Apatite, and Credit Guarantee) which are touched upon by both parties, both explicitly and implicitly. Next, the results of the comparative diagram analysis between Operators and Associations will be displayed. There are around 4 (four) common nodes (Clarity of Regulations, Clarity of IP Fiduciary Agreements, Valuation of IP Assets, and Understanding of Banking IP) which are touched upon by both parties, both explicitly and implicitly. Next, the results of the comparative diagram analysis between Operators and Academics will be displayed. There are around 5 (five) similar nodes (IP Collateral, Ecosystem Readiness, Risk Apatite, Credit Guarantee, and Securitization > Risk Apatite) which are touched upon by both parties, both explicitly and implicitly. Next, the results of the comparative diagram analysis between Associations and Academics will be displayed. There were no similarities in the things mentioned between informants in the Association and Academic categories.

Furthermore, the results of the cluster analysis of each coding activity carried out will also be shown. It can be shown that the correlation coefficient of each node is compared to each other. The following is a table that shows what is meant:

Table 6. Nodes Correlation Coefficient of Nodes

Code A	Code B	Pearson correlation coefficient
IP Asset Business Prospects	High Risk	1
Liquidation Rate	Market	0.976356
Liquidation Rate	Ease of Execution of IP Assets	0.941917
Market	Ease of Execution of IP Assets	0.929363
Second Collateral	Revenue Stream	0.917373
Second Collateral	Ecosystem Readiness	0.859941
Ecosystem Readiness	Ease of Execution of IP Assets	0.842065
Tingkat Likuidasi	Ecosystem Readiness	0.832087
Kesiapan Ekosistem	High Risk	0.792071
Prospek Bisnis Aset KI	Ecosystem Readiness	0.792071
Second Collateral	Market	0.771611
Tingkat Likuidasi	Second Collateral	0.757662
Second Collateral	Credit Guarantee	0.693342
Revenue Stream	Ecosystem Readiness	0.692326

Source: Data processed

Based on the table above, it can be seen that:

1. The pair between the "IP Asset Business Prospects" and "High Risk" nodes has a positive and high coefficient value, namely 1 (one). This means that these two things are coded in the same sentence. Apart from that, it can also be said that the business prospects for IP assets are considered to be still immature due to the lack of market and ecosystem readiness, which has an impact on banking perceptions, which view fiduciary collateral for IP assets as having a high risk.

2. There is also a pair between nodes "Liquidation Rate" vs "Market"; "Liquidation Rate" vs "Ease of Execution of IP Assets", and "Market" vs "Ease of Execution of IP Assets" also have very high coefficients, namely 0.97 respectively; 0.94; and 0.92 on a scale of 1. Apart from being coded in one relatively similar sentence, this can also mean that the level of liquidation of a collateralized IP asset is very dependent on market readiness and also the ecosystem which will facilitate the execution (liquidation) process of the collateral. This means when bad credit occurs.
3. There is also a pair between "Second Collateral" vs "Revenue Stream" nodes; and "Second Collateral" vs "Ecosystem Readiness" also have very high coefficients, namely 0.91 and 0.85 respectively on a scale of 1. Apart from being coded in one relatively similar sentence, these things can also, implicitly, be linked to Banking preferences still use IP assets as an alternative financing collateral because it is related to the business prospects of the IP assets themselves which have an impact on the revenue stream from the collateralized assets.
4. The pair between the "Second Collateral" vs "Credit Guarantee" nodes also has a moderate correlation coefficient, namely 0.69 on a scale of 1. This can also, implicitly, be linked to the credit guarantees required by financial institutions, especially banks, in provide financing, if IP assets are used as main collateral or not as alternative collateral (second collateral).

Conclusions and Policy Recommendations

Conclusion

Based on the results and analysis described previously, conclusions related to this research can be drawn as follows:

1. The development of Intellectual Property (IP) as collateral for banking credit in Indonesia, especially in the creative economy industry, has not yet been discovered. This can be seen from the existence of "Second Collateral" and "Fixed Asset Collateral" nodes. The contents of these nodes refer to banking options that use Intellectual Property assets as collateral or alternative collateral in the financing/credit facilities provided. One informant in the Operator category mentioned that IP assets have a higher risk compared to fixed collateral and the perceived condition of the financial industry in Indonesia is not yet fully aware of pledging IP assets as the main collateral.
2. Several obstacles that are dominantly mapped out in the implementation process relating to IP assets which are still an alternative choice of collateral (Second Collateral) for the financial world, especially banking, are related to obstacles regarding the clarity of regulations and the liquidation capacity of collateralized IP assets as well as the need for guarantees credit for collateralized IP assets.
3. Obstacles related to IP as banking collateral include the need for clarity in regulations regarding fiduciary guarantees for IP assets. IP within the scope of the Ministry of Law and Human Rights is divided into 6 (six), including geographical indications and brands, industrial designs, trade secrets which are considered not to explicitly include Fiduciary banking guarantees even though the regulations that can be guaranteed are tangible and intangible objects. Apart from that, there is also the problem of clarity regarding who IP asset-based financing can be provided to, whether to the creative economy which already has strong capital strength or as a whole.
4. The impact of the IP aspect on the development of the creative economy can be seen from the existence of three nodes in the Nodes System 2, namely: "IP Asset Potential", "Regulatory Clarity > MSME Sustainability", and "Creative Credit Access". These three nodes relate to the role of Intellectual Property for the economy and can also be achieved through a financing guarantee. The potential for IP assets can actually be used as collateral to help encourage economic growth through the creative economy, which is considered to still have great potential and, moreover, requires very large amounts of funds.

Policy Recommendations

Based on the research conclusions, the following recommendations are put forward:

- a. Intellectual property (IP) plays an important role in supporting the development of the creative economy. With increasing recognition of the economic value of IP, banks are expected to increasingly accept IP as collateral for working capital financing, investment or other project financing.
- b. So that the government, in this case, the DJKI, can first propose changes to the industrial design law, trademark law, trade secret law, and other intellectual property laws. Where in this law it is also regulated that intellectual property can be used as banking collateral. Because until now, only the patent law and copyright law regulate that patents and copyrights can be used as banking collateral.

- c. One of the obstacles faced in relation to IP as collateral for banking credit is that there are no valuers and valuation methods in Indonesia. Therefore, it is recommended that all relevant stakeholders determine the appropriate valuation method according to the value of the intellectual property itself. This can be modeled after the LPDP (Education Fund Management Institute), where in accordance with Presidential Regulation Number 111 of 2021 concerning Educational Endowment Funds, the LPDP is mandated to manage national education development funds.

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