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# THE EFFECTIVENESS OF INTELLECTUAL PROPERTY RIGHTS PROTECTION TO IMPROVE CREATIVE ECONOMY REALIZATION IN SEMARANG DISTRICT

# 知识产权保护对三宝垄地区创新型经济实现的促进作用

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#### **Abstract**

Law No. 24 of 2019 concerning the creative economy states that wealth is a cultural heritage that needs to be utilized. It further becomes a product that creates added value where the Government and Local Government are responsible for creating and developing a creative economy ecosystem. Even though it is legalized in regulations, the management of Intellectual Property Rights in the Regency Semarang is still minimal. The research objectives are to study and analyze the effectiveness of protection of intellectual property rights as a driving force for the creative economy and formulate the ideal role of the Semarang district government in encouraging the realization of the creative economy. The juridical-empirical research method used primary data. The results of this study are that the protection of intellectual property rights as a driving force for the creative economy has not been effective. The number of registered brands from 2018-2020 is 174, which is not comparable to the number of MSME management industries in Semarang Regency. The people still have low legal awareness, lack of business capital, and little knowledge of the community's intellectual property. The ideal government of the Semarang district in encouraging the realization of the creative economy has four fields: the formation of regulations, managing the legality of MSMEs, access to business capital, management, and the MSMEs market.

**Keywords:** Intellectual Property Rights, Creative Economy, Semarang Regency

摘要 关于创意经济的2019年第24号法律规定,财富是需要利用的文化遗产。它进一步成为一种创造附加值的产品,其中政府和地方政府负责创建和发展创意经济生态系统。尽管它在法规中已合法化,但三宝垄摄政区的知识产权管理仍然很少。研究目的是研究和分析保护知识产权作为创意经济的推动力的有效性,并确定三宝垄区政府在鼓励实现创意经济方面的理想作用。法律实证研究方法使用原始数据。这项研究的结果是,保护知识产权作为创意经济的驱动力并没有奏效。从2018年至2020年,注册品牌数量为174个,与三宝垄丽晶的MSME管理行业数量不相上下。人们的法律意识仍然很低,缺乏商业资本,对社区的知识产权知之甚少。三宝垄地区理想的政府在鼓励实现创意经济方面有四个领域:法规的制定,管理MSME的合法性,获得商业资本,管理权和MSME市场。

关键词:知识产权,创意经济,三宝垄丽晶

#### I. Introduction

The creative economy is the creativity, knowledge, and ideas of humans as assets for economic progress. This is, of course, a manifestation of improving the quality of products of SMEs and the public as consumers [1].

Article 1 paragraph 1 of Law Number. 24 of 2019 concerning the creative economy states that the Creative Economy is the embodiment of added value from the intellectual property from human creativity based on cultural heritage, science, and technology. Hence, the Creative Economy is a series of economic activities that come from individual creativity, skills, and talents to create prosperity and employment by generating and exploiting individual creative and creative power [2]. Sulastri said that it is included in the category of industrial groups, which consists of various types of industries, each of which has a relationship in the process of manifesting an idea into an intellectual property that has high economic value for the welfare and employment of the community and can increase the economic growth of a country [3]. Thus, the creative economy is creative products that are produced and owned by creators of art, literature, and science or inventions in the field of technology. They need to be rewarded and protected, according to [4]: "...yet every man has a "property" in his own 'person'. This nobody has any right to but himself. The 'labor' of his body and the 'work' of his hands, we may say, are properly his. Whatsoever, then, he removes out of the state that nature hath provided and left it in, he hath mixed his labor with it, and joined to it something that is his own, and thereby makes it his property."

Emphasizing the need to give appreciation to people who have made "sacrifices" to find and process something that comes from nature, in the form of property rights, is strengthened by Robert M. Sherwood, legal recognition and protection of human intellectual creativity [5] in the form of Reward Theory. Someone who has succeeded in finding or creating intellectual works needs to be given recognition and appreciation in the form of exclusive rights as one of the legal protections for their works as a reward for these creative efforts.

In Indonesia, protection of intellectual property rights (IPR) is an important thing to implement, which has been guaranteed in Article 27 paragraph (2) of the Universal Declaration of Human Rights: "everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author" [6]. Divah Permata Sari said that Indonesia has great potential in the creative industry and abundant natural resources, so it needs to be supported by optimal efforts to protect intellectual property rights. Currently, in Indonesia, the development of the creative industry is quite fast. It can contribute to national economic growth [7], [26] because the development of industry and trade has made the business world an arena for fierce and selective business competition that has penetrated almost all spheres of community life. According to Adhi Budi Susilo, "intellectual property rights above generally can be grouped into two types of rights:

- 1. Copyright, which includes copyright and other rights related to copyright.
- 2. Industrial Property Rights, which include Patents, Trademarks, Geographical Indications, Plant Varieties, Industrial Designs, Layout Designs of Integrated Circuits, and Trade Secrets" [6].

The realization of the protection of Intellectual Property Rights in the local government, especially in the Semarang district government, lies in the Department of Trade and Industry and the MSMEs Office, where the fundamental problem of low implementation is

not only knowing and understanding but how to build public awareness to register in order to protect rights. Intellectual Property, which then becomes full rights over the results of safe intellectual property [8]. This is implied in the explanation of Law Number 24 of 2019, which states that Indonesia has a rich cultural heritage that needs to be utilized in products. Hence, it further creates added value by developing a creative economy in which the Government and local governments are responsible for creating and developing a creative economy ecosystem to provide added value to products so that they are highly competitive, easily accessible, and legally protected. This is strengthened by Article 36 paragraph (1) of the Regional Regulation of the Province of Central Java Number 3 of 2019 concerning the Implementation of Regional Innovations, which states that intellectual property rights to Regional Innovations in the context of reforms related to the implementation of regional government belong to the Regional Government and not. can be commercialized, Sanjaya said that ecraf has an important meaning because it can mobilize, encourage, or become an input for creating competitiveness for other sectors. not only limited to works based on art and culture but also works based on science and engineering, innovation, technology, and information technology [9].

Based on this, the effectiveness of implementing the above concept is in line with the theory put forward by Laurance M. Friedman in the legal component. There should be three elements [10]:

- 1. Structure: agencies or institutions created by the legal system with various functions to support their functions;
- 2. Substance: In terms of the output of the legal system, it includes the norms and regulations that arise from this system;
- 3. Culture: a legal culture in the form of a set and values that will determine when, where, why people come to law or government [11].

In this case, this can be in the form of behavior related to the legal system [8]. Legal protection of Intellectual Property Rights in developing countries such as Indonesia has not been a serious concern. This is based on the low number of applications for Intellectual Property Rights and rampant violations of law against intellectual property rights. Another factor is the lack of understanding and the importance of Intellectual Property Rights for industries such as Small and Medium Enterprises (SME). Economic factors in Intellectual Property Rights also affect, because they cannot be

obtained instantly like business activities in general. In addition, the little understanding of Intellectual Property Rights is also influenced by the development of industry, technology, and the economy of a country [12].

Based on this background, the purpose of this study is to examine and analyze the effectiveness of protection of intellectual property rights as a driving force for the realization of the creative economy in Semarang district.

#### II. METHODS/MATERIALS

This research includes empirical juridical research, which examines the applicable legal provisions and what happens in reality in society [13]. Empirical juridical research is a study of the enactment or implementation of normative legal provisions in action at any particular legal event in the community [14]. In other words, the research was conducted on the actual situation or real conditions that occur in the community to know and find the facts and data needed. The required data collection has led to the identification of the problem. The final stage is solving the problem. According to Robert M. Sherwood, legal recognition and protection of human intellectual creativity [5] in the form of Reward Theory, that someone who has succeeded in finding or creating intellectual works needs to be given recognition and an award in the form of exclusive rights as legal protection for his works as a reward for these creative efforts.

## III. RESULTS AND DISCUSSION

## A. The Effectiveness of Intellectual Property Rights Protection to Drive Creative Economy Realization in Semarang Regency

In the development of global economic trade, registered trademarks are among the four main pillars of the AEC (ASEAN Economic Community) blueprint to realize the economic competitiveness of integrated IPR (intellectual property right) in the global economy [15].

In the preamble to Law Number 24 of 2019 concerning Creative Economy, especially sociology, it has been explained that the government and local governments responsible for creating and developing a creative economic ecosystem so that it can contribute to the national economy and increase global competitiveness in order to achieve the goal of sustainable development of food. This is effective implementation of the government to form a Creative Economy Agency through Presidential Regulation Number. 6 of 2015 concerning the Creative Economy Agency, in which Chapter I on Position, Duties, and Functions is responsible for the development of the creative economy and is tasked with assisting the President in formulating, stipulating, coordinating and synchronizing policies in the creative economy sector. The creative economy designs six major missions [3]:

- 1. Uniting all of Indonesia's creative assets and potentials to achieve an independent ecraf.
- 2. Creating a conducive climate for the development of creative industries.
- 3. Encouraging innovation in the creative field that has added value and competitiveness in the international world.
- 4. Opening public insight and appreciation of all aspects related to ecraf.
- 5. Building awareness and appreciation of IPR, including legal protection of copyright.
- 6. Designing and implement specific strategies to place Indonesia on the world ecraf map.

By definition, there are many interpretations of the meaning of the creative economy. John Howkins himself defines the creative economy as "The creation of values as a result of an idea". According to him, the character of the creative economy is characterized by economic activity that is based on the exploration and exploitation of creative ideas that have high selling value [16]. Meanwhile, Roberta Comunian and Abigail Gilmore, in the book Higher Education and the Creative Economy [17], define the creative economy as a new economic concept that intensifies information and creativity by relying on ideas and knowledge as the main factors of production. It can be said that the creative economy can be said to be an economic concept in the new economic era that intensifies information and creativity by relying on ideas and stock of knowledge from Human Resources (HR) as the main production factor in economic activities.

With the explanation above, it is necessary to build awareness and appreciation of Intellectual Property Rights to develop the creative economy, especially in Semarang district, which is strengthened by Article 11 paragraph (1) and 2 of the Regional Regulation of Central Java Province Number 3 of 2019 concerning the Implementation of Regional Innovation:

- (1) The Community and Higher Education organize regional Innovations in the context of product improvement or production processes.
- (2) Regional innovation, as referred to in paragraph (1), may take the following forms:
  - a. Invention;
  - b. Development;

- c. Duplication;
- d. Synthesis.

This is clarified in Article 12, which states:

- (1) The discovery, as meant in Article 11 paragraph (2) letter a, is the creation of a new product, service, or process that has never been done before;
- (2) Development, as referred to in Article 11 paragraph (2) letter b, is the development of an existing product, service, or process;
- (3) Duplication, as referred to in Article 11 paragraph (2) letter c, is an imitation of an existing product, service, or process;
- (4) The synthesis, as referred to in Article 11 paragraph (2) letter d, combines existing concepts and factors into a new formulation.

According to [18], quoted by [19], currently, the legal system puts wealth into three categories:

- 1. Most people recognize private ownership rights in private property, known as intangible things;
- 2. Wealth in the real sense such as land and buildings;
- 3. Property that is known as intellectual property. Regarding IP, all countries recognize property rights in the form of idea products, such as copyrights, patents, trademarks and trade secrets, the layout of integrated circuits, plant varieties [19].



Figure 1. Semarang Regency

Semarang Regency is administratively divided into 19 districts, 27 sub-districts, and 208 villages. The boundaries of the Semarang Regency are to the north bordering Semarang City and Demak Regency. In the east, it is bordered by Grobogan Regency and Boyolali Regency. In the south, it is bordered by Boyolali Regency and Magelang Regency. In the west, it is bordered by Magelang Regency and Kendal Regency [20].

In the authors' opinion, laws, especially intellectual property rights, are quite

comprehensive in providing regulations for their protection. However, in this condition, there are internal obstacles, especially in the district of Semarang due to the low awareness of the people of Semarang regency about the importance of intellectual property rights and the lack of enthusiasm of the people of Semarang district to register ideas or works even though the number of district micro-business fostered continues to increase from year to year which can be seen in the chart image below:

Table 1. Number of micro business assistance in Semarang Regency in 2019 (Office of Cooperatives, Micro Enterprises, Industry and Trade of Semarang Regency)

Field of Assistance	Total		
Agriculture, Animal Husbandry,	743		
Forestry & Fisheries			
Mining and excavation	0		
Processing industry	3204		
Electricity, Gas and Clean Water	30		
Building	196		
Trade, Hotel, and Restaurant	5831		
Transport and Communication	14		
Finance, Leasing and Corporate Services	570		
Private services	840		
Number 2019	11 428		
2018	11 721		
2017	11 807		

Industrial business actors, especially the processing industry, which has a total of 3024 in 2019 above, do not yet understand the importance of registering intellectual property rights, where products that have been registered through the DJHKI are proven by a certificate of intellectual property rights the state recognizes and protects the perpetrator of his intellectual property. Therefore, for industry players, the registration of intellectual property rights is very important to register the work of industrial players to ensure legal certainty regarding the rights and obligations that must be carried out as creative industry players concerning the work that has been created. Semarang Regency itself has facilitated the registration of goods and services for micro and small entrepreneurs even though the facility is only limited to trademark intellectual property rights, as shown in the image data below:

Table 2.
Distribution of brand submission data for 2018-2020 (Department of Cooperatives, Micro Industry, Industry and Trade, Semarang Regency)

No	District	2018	2019	2020	Total
1.	Ambarawa	-	8	4	12
2.	Bancak	1	4	-	6
3.	Bandungan	3	1	-	4

4.	Bawen	-	6	6	12
5.	Banyu Biru	3	5	3	12
6.	Bergas	-	4	3	8
7.	Bringin	1	-	-	1
8.	Getasan	1	4	1	6
9	Jambu	1	16	6	24
10	Kaliwungu	1	-	-	2
11	Pabelan	-	2	-	4
12	Pringapus	3	8	2	13
13.	Sumowono	-	-	4	4
14	Suruh	-	2	1	3
15	Susukan	2	4	1	7
16	Tengaran	-	4	-	7
17	Tuntang	2	2	6	11
18	Ungaran	3	13	8	31
	Barat				
19	Ungaran	3	17	5	27
	Timur				
Total		24	100	50	174
	•	•			

From the data above, information is obtained that the submission of Intellectual Property Rights, especially Trademarks as a form of legal protection in the economic industry from 2018 to 2020, totaled 174, which is a very minimal development. If the number of management industries in Semarang Regency is built due to the difficulty to raise awareness and disseminate the need for legal protection of Intellectual Property for the creative economy industry, namely the problem of registration fees and trust in product names that have been circulating. Many business actors think that their money is better used as business capital than applied for Intellectual Property Rights. Business actors who have already used certain brands to sell their products are believed to bring good luck, even though the trademark or copyrights already belong to another party.

Based on these circumstances, a powerful way is needed to build public awareness to register their Intellectual Property Rights, which then become the full right. In the end, the intellectual property is safe, so that it becomes a positive effort for the legal arrangement, legal formation, and legal effectiveness to function in society. These difficulties do not reduce enthusiasm for socializing and assisting creative industry players in Semarang Regency.

## **B.** Legal Protection

According to Satjipto Rahardjo, one of the characteristics and at the same time, the purpose of the law is to protect the community. Further, legal protection for the community must be realized in the form of legal certainty. Legal protection itself is an effort to protect a person's interests by allocating power to him/her to act in his/her interests [21]. The concept of e-craft is an economic concept in the new economic era that intensifies information and creativity by relying on artificial resources in the form of ideas and

stock of knowledge of human resources as the main production factor in economic activities [3]. Meanwhile, according to Muchsin [22], legal protection is an activity to protect individuals by harmonizing the relationship of values or principles manifested in attitudes and actions in creating order in social relationships living among people.

## C. The Ideal Role of the Regional Government of Semarang Regency in Encouraging the Realization of Creative Economy

The ideal role of local governments in providing legal protection to the community is an appreciation, especially for business actors, including intellectual property rights for creative economy actors requiring the participation of various parties.

It is necessary to have synergy between the Government, the business actors, the community, and the creative economy actors, which are very important. There are at least three parties involved in the three supporting pillars of the creative economy, starting to implement the creative industry by producing creativepreneurs to do their business well. In connection with this, to further commercialize the creative economy, local governments, the business world, and intellectuals must collaborate, including with banking institutions, while also paying attention to aspects of technology and resources and striving for a public space that can become an arena for creativity [23], which is supported by Law Number 9 of 2015 concerning regional government wherein carrying out regional governance is directed to accelerate realization of community welfare through improving services, empowerment, community participation and increasing regional competitiveness by paying attention to principles of democracy, equity, justice, and the uniqueness of a region.

According to the U.S. Hornby [24], the quality of working hard, the production of goods, the creation of wealth by human efforts. Industrial activity requires hard work to be successful, which will provide several products that will provide human satisfaction and wellbeing. That is why the word industry always implies a business that produces a product. This product is a series of services that have economic, social, and psychological aspects [25]. The formation of Bekraf is expected not only to act as a facilitator for creative industry players in developing and marketing their creative products but also as a bridge connecting several institutions related to creative industries, such as

the Ministry of Industry, Trade, Tourism and the Ministry of Law and Human Rights, especially those related to intellectual property rights, so that obstacles that cause the creative industry to be less or less developed can be overcome by cooperation between institutions supported by associations, entrepreneurs, College.

The thing that is most complained about by creative industry actors is that there is still no pilot and not yet conducive to regulations, so it is necessary to harmonize regulations that are simple, fast, and friendly, which prioritizes innovation and creativity supported by clear regulations in order to keep the business environment conducive and dynamic because later in the creative industry, Intellectual Property Rights are the life that is the main commodity of the local government. So when the above indicators have been met, it can be said that the degree of public legal awareness is high, and vice versa. The high level of public legal awareness has a positive impact on legal compliance with applicable legal provisions.

The existence of the above ideal role of the Semarang district as a facilitator of the government as an effort to encourage the realization of the creative economy conducted training and facilitated business institutions by providing insight into business management which consists of sales of cash/noncash goods, expenditure of production costs and production techniques besides providing business management facilities in the form of business entity registration, SIUP (Trading Business Permit), TDP (Company Registration) and SITU (Business Place Permit). Although not free, the district government Semarang provides convenience in its management to access capital in banking easily. For regulations, the Semarang district government will immediately pass regional regulations on regional innovation. Therefore, the ideal role of the Semarang district government is in accordance with the view of Moekijat, which states that business development to improve the implementation of current and future work affects attitudes and adds skills that are in accordance with the nomenclature. In Law Number 20 of 2008, the local government, especially the Semarang district government, facilitates business development in production, processing, marketing, human resources, design, and technology.

#### IV. CONCLUSION

Protection of Intellectual Property Rights to Drive Creative Economy Realization in Semarang Regency has not been effective because the registration of intellectual property rights by the MSME community is still relatively low, not proportional to the number of MSMEs. The ideal role of Local Government is in 4 fields, including the formation of regulations, the legality of MSMEs, Capital, Management, and the MSMEs Market so that the Semarang district government in its role is obliged to facilitate training and business institutions by providing insight into business management and ratifying the Semarang district regional regulations regarding regional innovation, managing the legality of MSMEs, and increasing banking access in obtaining business capital.

## V. TERMINOLOGY

- 1. Intellectual Property Rights (IPR) are exclusive rights granted by the state of ideas in a tangible form divided into copyright and industrial property without reducing restrictions following the provisions of laws and regulations.
- 2. Industrial and Trade Micro Business Cooperatives or MSMEs are executors of government affairs that become regional authorities and assign assistance tasks to the Government in Trade and Industry, Cooperatives, Small and Medium Enterprises.
- 3. Creative Economy is a concept in the new economic era that intensifies information and creativity by relying on ideas and knowledge from human resources as the main production factor.
- 4. Semarang Regency is a district in Central Java Province. The capital is Ungaran.
- 5. Company Business Permit or (SIUP) is an operational permit intended for all companies or entities that carry out business activities in the trade sector, such as selling goods or services.
- 6. Company Registration Certificate (TDP) is this note that also contains several things that must be registered by each company and obtain approval from the authorized official.
- 7. A Business Place Permit (SITU) is a permit given to individuals, companies, entities to obtain business premises in accordance with the spatial layout required for investment.

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