



Intellectual Property Rights as Credit Collateral After Published The Government Regulation Number 24 Year 2022

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ARTICLE INFO	ABSTRACT
<p>Keywords : Credit Collateral; Creative Economy; Intellectual Property Rights.</p> <p>How To Cite : Hijriya, S., & Anggunsuri, U. (2023). Intellectual Property Rights as Credit Collateral After Published The Government Regulation Number 24 Year 2022. <i>Nagari Law Review</i>, 7(2), 269-278.</p> <p>DOI : 10.25077/nalrev.v.7.i.2.p.269-278.2023</p>	<p><i>The creative economy has grown rapidly in recent years. Indonesia has published Government Regulation Number 24 Year 2022 concerning Implementing Regulations for the Creative Economy, which is expected to be able to realize the hopes of many entrepreneurs in the creative economy to gain access bank credit based on intellectual property. Bank credit guarantees are based on intellectual property and are a breakthrough in creative economy industry, but these regulations give rise to complex problems because the assets being guaranteed, namely intellectual property rights, are intangible assets, so there are concerns that banks will not accept them as credit providers. In addition, the time period for intellectual property protection is limited and there is no organization in place to evaluate intellectual property assets in Indonesia that can be used as credit collateral. The problem approach method used is the empirical juridical method. This research discusses financing based on intellectual property rights schemes and the obstacles or challenges faced by the banking industry with this financing based on intellectual property rights. The implementation on Creative Economy Government Regulation still has many obstacles in its implementation. It can be seen from many things have not been regulated clearly and in detail, for example regarding the form of Intellectual Property Rights credit collateral binding have not been clearly regulated, Intellectual Property Rights valuation mechanism and the appraisal team, execution techniques, secondary market is not available to facilitate execution. The lack of clear regulations has resulted in concerns from banking institutions about channeling credit to the creative economy because it is considered to be high risk.</i></p>

1. Introduction

The creative economy has grown rapidly in recent years, despite the impact of the Covid-19 pandemic and the global economic slowdown. Globally, the creative economy is the world's fastest growing sector, contributing around 3% of global GDP and employing around 30 million people worldwide. Meanwhile in Indonesia, the creative economy contributes around USD 82 billion to national GDP and around USD 23.9 billion to national exports.¹ The realization of additional value from intellectual property resulting from human innovation based on scientific, technological, or cultural legacies is known as the creative economy. Intellectual property is defined as everything that results from the creative, tasteful, and independent thinking of humans. It can include works in the arts, sciences, technology, and literature as well as the expanding worldwide market.

¹ Creative Economy Book, Projecting Indonesia's Creative Economy Potential on the Global Stage, tersedia di <https://kemlu.go.id/kuwaitcity/en/news/23423/creative-economy-book>, diakses tanggal 20 Februari 2023.

You can use intellectual property as collateral to get banking loan. The idea about security rights in intellectual property was presented in the United Nations Commission on International Trade Law (UNCITRAL) 13th session in 2008, Information about intellectual property security rights was presented at the 13th session of the United Nations Commission on International Trade Law (UNCITRAL) in 2008, declared that intellectual property rights will be utilized as collateral for banking loans worldwide.²

Intellectual property rights have been utilized as loan in several nations, for example in Singapore, Thailand, England and America. Patents and trademarks in Singapore have created space to use Intellectual Property Rights as objects of banking collateral. Singapore has even developed a financing concept or scheme by the Intellectual Property Office of Singapore (IPOS), where IPOS appoints 3 (three) banks, namely Oriental Bank of Commerce (OBC), Oversea-Chinese Banking Corporate (OCBC), and United Overseas Bank Limited (UOB) to provide banking credit. This credit provision is carried out through collaboration Participating Financial Institutions (PFIs). PFIs have the function of encouraging financial organizations in Singapore to accept intellectual property rights as collateral. These PFIs will later carry out the due diligence process in assessing credit worthiness.³

Indonesia has Law Number 24 of 2019 concerning the Creative Economy and Government Regulation Number 24 of 2022 concerning Implementing Regulations of Law Number 24 of 2019 concerning the Creative Economy, which it is hoped that it will be able to realize the hopes of many creative economy entrepreneurs to get access to banking credit intellectual property-based. Article 9 Creative Economy Government Regulation declares that, "In implementing financing based on intellectual property schemes, bank financial institutions and non-bank financial institutions use intellectual property as an object of debt collateral in the form of fiduciary collateral for intellectual property, contracts in creative economic activities and/or claim rights in creative economic activities" and Article 10 Creative Economy Government Regulation declares that, "Intellectual property that has been recorded or registered with the Ministry which carries out government affairs in the field of law and intellectual property that has been managed either independently and/or the rights have been transferred to other parties".

Previously, Indonesia also had regulations about intellectual property rights that could be utilized as collateral for fiduciary in various laws and regulations, such as Copyright Law and Patents Law. According to Article 16 paragraph (3) of Copyright Law, declared explicitly that "Copyright can be used as an object of fiduciary collateral". The same thing also applies to Patents. According to Article 108 point (1) of Patents Law, declared that, "The right to a patent can be used as an object of fiduciary guarantee".

Even though there are many various laws connected to banking loan collateral based on intellectual property, and a breakthrough in the creative economy industry, these regulations create the complex problems because the assets that being guaranteed, namely intellectual property rights, are intangible assets, so there is concern it is not accepted by the bank as a credit provider. In addition, the time period for intellectual property protection is limited and there is no organization for evaluating intellectual property assets in Indonesia that can be used as credit collateral. Based on this background, this article will discuss about "Intellectual Property Rights as Credit Collateral in Creative Economy Financing After the Published of Government Regulation Number 24 of 2022 concerning Implementation Regulations for the Creative Economy"

² Trias Palupi Kurnianingrum, "Hak Kekayaan Intelektual Sebagai Jaminan Kredit Perbankan (Intellectual Property As Banking Credit Guarantee)", *Jurnal Negara Hukum* Vol. 8 No.1, hlm. 41.

³ Sujana Donandi S., *Hukum Hak Kekayaan Intelektual di Indonesia*, Deepublish, Yogyakarta, 2019, hlm.34-35.

2. Method

The problem approach method used in this research is the empirical juridical method, which legal research by looking at applicable legal norms and connecting them with existing real facts in accordance with the existing problems. This research discusses the development of credit guarantees in form of Intellectual Property Rights owned by entrepreneurs in creative economy after the issuance of Creative Economy Government Regulation, scheme of financing based on intellectual property and obstacles or challenges are faced by banking industry with this financing based on intellectual property.

3. Result

3.1. Legal Concept of Intellectual Property Rights as Collateral

Intellectual property rights are material rights, rights to objects that originate from the work of the brain, the results of the work of reason. The result of the work of human reasoning. The results of his work are in the form of immaterial objects or intangible objects. In Anglo Saxon legal literature it is known as Intellectual Property Rights. This word was then translated into Indonesian as "Hak Milik Intelektual", which ultimately became Hak Kekayaan Intelektual. Intellectual Property Rights is part of an object, namely an intangible object or immaterial object. Objects in civil law can be classified into tangible objects and intangible objects. Article 499 Civil Code declares : "According to the law, what is meant by object is every item and every right that can be controlled by property rights". Prof. Mahadi offered that : the object is property rights, consists of goods and rights. The goods referred to material objects, while rights are immaterial objects. This description is consistent with the objects' categorization, tangible objects (with bodies) and intangible objects (without bodies). We can give examples of immaterial objects or intangible objects in the form of rights such as claim rights, rights to interest on money, rental rights, building use rights, business use rights, intellectual property rights, and so on. Absolute rights over a tangible object are known as object rights, but there are also absolute rights whose object is not a tangible object, called Intellectual Property Rights.

World of Intellectual Property Organization (WIPO) as an international organization that manages Intellectual Property Rights provides explanation: "Intellectual property (IP) refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce".⁴ The definition from WIPO above shows that the meaning of intellectual property refers to creations of the mind in form of inventions, books and artworks, symbols, names, images and designs used in trade. Therefore, Intellectual Property Rights can also be interpreted as ownership of these objects. The meaning of rights contains the value of authority over an object which, if violated, will certainly bring losses to the owner. In this context, Intellectual Property Rights can be interpreted as a legal issue.⁵

The international agreement on Trade Aspects of Intellectual Property Rights (The TRIPs Agreement) under the World Trade Organization (WTO) does not provide a definition of Intellectual Property Rights, but Article 1.2 states that Intellectual Property Rights consists of :

1. Copyright and related rights
2. Trademark
3. Geographical indications
4. Industrial design
5. Patents
6. Integrated circuit layout
7. Protection of confidential information

⁴ Sujana Donandi S., *op.cit*, hlm. 12.

⁵ *Ibid*, hlm.12-13.

8. Control of unfair business competition practices in licensing agreements.⁶

Indonesia has also ratified several international conventions regarding Intellectual Property Rights into law and also changed several times, including :

1. Copyright,
2. Patents,
3. Trademarks,
4. Plant Variety Protection,
5. Trade Secrets,
6. Industrial Design,
7. Integrated Circuit Layout Design.

The growing concept of property in human intellectual works ultimately created the need to protect or to maintain this property. In turn, this will give rise to the concept of legal protection for intellectual property, including recognition of rights to it. In accordance with its essence, Intellectual Property Rights is grouped as individual property rights which are intangible.⁷

The understanding of Indonesian property rights that is known in Civil Law which is in force today basically depends on the concept of materiality. More than that, this concept also turns out to be very dependent on physical assumptions, such as land or nature and other objects that are contained or grow on it. Even if it then develops on the assumption that it is non-physical or intangible, such rights are still derivative of the rights that originate from the material concept. The Second Book on objects in the Civil Code which is always in force shows all of this. The contents of Book Two of the Civil Code do not yet contain human intellectual property rights themselves.⁸

Indonesia through Copyright Law and Patents Law, has also implemented a legal concept of fiduciary collateral in its impositions. Transferring ownership rights to an object based on trust is known as a fiduciary transfer, as long as the object's owner retains control over it. Fiduciary collateral is a security right over movable property, both tangible and intangible, as well as immovable property. This includes buildings, which are controlled by the fiduciary and cannot be subject to mortgage rights as defined by the Mortgage Law. Fiduciary collateral is used as collateral for the repayment of specific amounts of money, giving the fiduciary recipient preference over other creditors.

Article 16 Copyright Law declares that copyright can be used as an object of fiduciary collateral. And also patents, Article 108 Patents Law declares that patent rights can be used as collateral for fiduciary. If related to Article 1 point 4 Fiduciary Guarantee Law, the copyright and patents as objects of fiduciary collateral can be implemented. However, Article 11 of the Fiduciary Guarantee Law mandates the registration of goods that are secured by fiduciary guarantees. Registration is done manually at the Fiduciary Registration Office in every province in Indonesia or registration electronically.

If we look at other Intellectual Property Rights Laws, such as Trademark Law, Trademarks Law, and Industrial Design Law, it is not stated that each of these Intellectual Property Rights can be used as an object of fiduciary collateral. However, if we look at the category of objects in Article 499 of the Civil Code, Intellectual Property Rights includes movable property or intangible assets which also have the same characteristics as the Copyright Law and Patent Law, so there is no need to hesitate to use them as collateral. In fact, many countries such as Singapore, Thailand, England and America have made Intellectual Property Rights a collateral for financing. For example, England, in its legal concept,

⁶ Tim Lindsey, dkk. *Hak Kekayaan Intelektual Suatu Pengantar*, Alumni, Bandung, 2006.

⁷ Suyud Margono, *Aspek Hukum Komersialisasi Aset Intelektual*, Bandung, Nuansa Aulisa, 2010, hlm.3.

⁸ *Ibid.*

applies Intellectual Property Rights as a collateral item on par with other types of individual property. Because intellectual property rights fall under the category of intangible assets, they can thus be used as collateral. Another Asian example is Thailand, where establishes trade secrets as collateral. The Business Security Act B.E.2558 (2015) of Thailand states that both tangible and intangible assets may be utilized as collateral in order to provide enterprises with greater access to capital.⁹

In principle, not all collateral objects can be guaranteed as collateral to banking institutions or non-bank financial institutions, however, objects that can be guaranteed as collateral are objects that meet certain conditions. The requirements for a good collateral object are first, it can easily help obtain credit by the party who needs it. Second, it does not weaken the potential or strength of credit seekers to carry out or continue their business. Third, it provides certainty to the creditor, in means that the collateral is available for execution at any time, and can be easily cashed in if necessary to pay off the recipient's debt.¹⁰

3.2. Financing based on intellectual Property Rights Scheme as A Credit Collateral

One type of financing known as intellectual property rights financing, which entrepreneurs in the creative economy get funding from bank or non-bank financial organizations using intellectual property as collateral. It consist of creators and intellectual property managers. Creators are people or groups of people who work to demonstrate their creativity or carry out creative processes or produce creative works, designs or inventions, for example artist, songwriter, singer, designer, programmer, or YouTube content creators or youtubers, whose work has been seen by millions of viewers, while intellectual property managers are the parties who commercialize intellectual property owned by oneself or owned by other parties based on certain agreements, such as music publishers, films, games, music distributors, films, games, cinemas, video streaming services, restaurants, cafes, advertising companies, theater management, online portal management, and online program management.

The State Revenue and Expenditure Budget (APBN), the Regional Revenue and Expenditure Budget (APBD), and other legal sources provide funding for the creative economy. Financing through the APBN or APBD is adjusted to the state's financial capacity or regional financial capacity. Other sources of financing that are legitimate in the sense that they are not binding and comply with regulations. Through bank and non-bank financial organizations, the government encourages financing based on intellectual property rights schemes. Intellectual property rights with economic worth and intellectual property rights evaluation are used to carry out financing based on intellectual property rights scheme facilities, such as registration or recording application process and maximizing the use of intellectual property rights as collateral for loans, while evaluation instrument for facilitation in education and training.

Entrepreneurs in the creative economy can apply to bank or non-bank financial institutions for financing based on intellectual property rights. To apply for financing based intellectual property rights, you must meet the following requirements: :

1. Financing plan
2. Own a company in the creative economy
3. Own agreement relating to the intellectual property rights from the creative economy
4. Own registration certificate of intellectual property rights

After that, the financial institution, whether bank or non-bank, will execute :

⁹ Trias Palupi Kurnianingrum, *op.cit*, hlm.30.

¹⁰ Salim, *Perkembangan Hukum Jaminan di Indonesia*, Jakarta: Rajawali Pers, hlm.27-28.

1. Check the Intellectual Property Rights certificate or registration letter that serves as collateral and can be executed in the case of a dispute or not.
2. Evaluation Intellectual Property Rights
3. Giving money to entrepreneurs in the creative economy
4. Getting funding returns from entrepreneurs in the creative economy in accordance with the agreement

Implementation of fiduciary collateral for Intellectual Property Rights, can be in creative economic activities contract, such as license agreements, work contracts/work orders received by creative economy entrepreneur and claim rights to the royalties that users of songs or musical instruments must pay when using them for commercial purposes. The conditions that must be met in order for intellectual property rights to be accepted as collateral for loans are recorded or registered in Directorate General of Intellectual Property Rights and the management of intellectual property rights has been either independent or by transfer to a different entity. It implies that the owner or a third party has been commercialized intellectual property rights in accordance with an agreement.

Several methods are used to evaluate the intellectual property rights that will be used as collateral, including (1). Cost approach; provide a value signal based on economic principles such that, at the time of purchase or construction, the buyer will not pay more for an asset than what it would cost to obtain an asset with the same or equal usage. (2). Market approach; provide a value signal by contrasting the item under appraisal with similar or identical assets for which bid price or transaction data is accessible. (3) Income approach; provide a value indicator by altering future cash flows.¹¹

Evaluation on Intellectual Property Rights is performed by appraisal panel or by an intellectual property rights appraisal. Appraisal needs to fulfill the requirements, which include obtaining a Ministry of Finance public appraisal permission, expert in evaluating intellectual property rights, and having a Ministry of Tourism and Creative Economy registration. The appraisal panel needs to fulfill the requirements, including serving as a financial institution representative and conducting evaluations that are not covered by the appraisal intellectual property rights for creative economy entrepreneurs seeking funding. However, if necessary, intellectual property rights appraisal and financial institution's appraisal panel can work together in intellectual property right evaluation. Intellectual property rights appraisal's responsibilities is to :

1. Evaluate the intellectual property that will be utilized as collateral
2. Conduct a market study of the intellectual property that will be utilized as collateral
3. Examine the analysis report on the industrial application of intellectual property

At least two elements need to be taken into consideration when evaluating the guarantee:

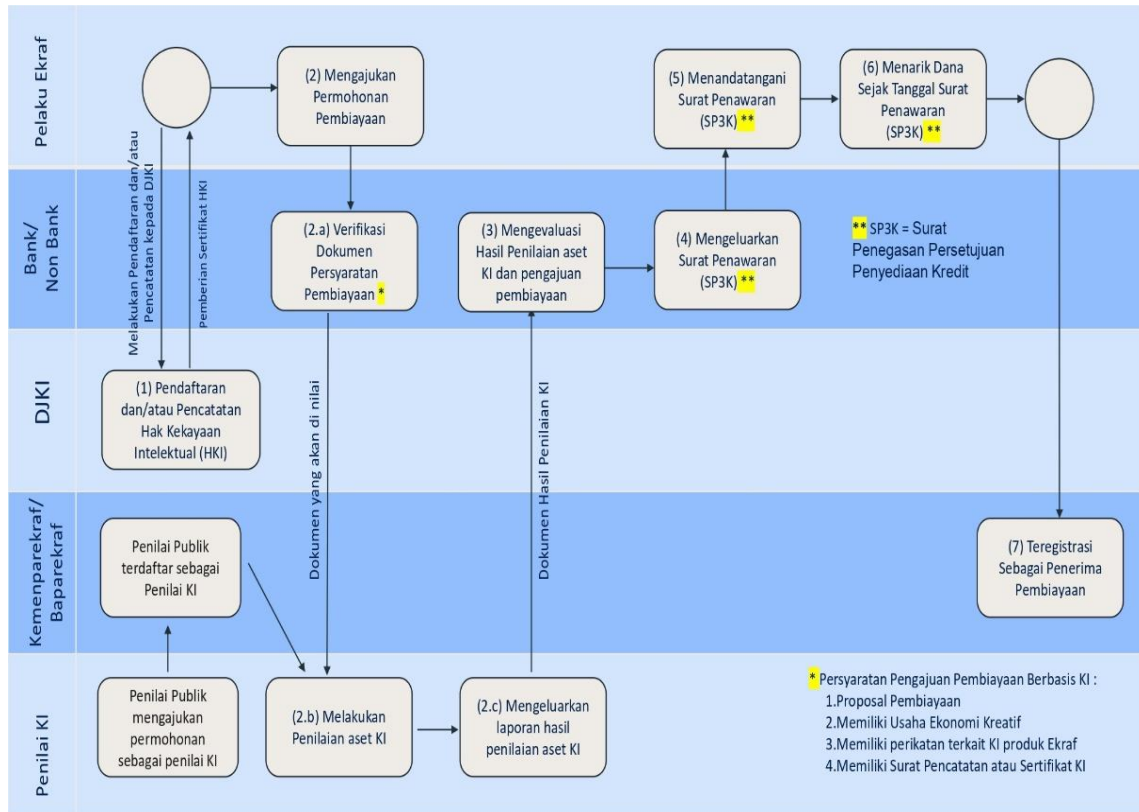
1. The term "secured" refers to the guarantee's formal ability to be enforceable, allowing the creditor to take execution actions with solid legal support in the event that the debtor defaults.
2. The collateral to be executed must be marketable in order for all of the debtor's obligations to be settled through an instant sale and cash infusion¹²

It is mandatory for creative economy entrepreneurs to register creative economy financing facilities if they receive funding from bank or non-bank financial institutions. The ministry responsible for carrying out government functions in the creative economy sector is in charge of organizing the registration system for financing facilitation. According to regulations, creative economy entrepreneurs that receive funding from bank or non-bank financial institutions may be able to obtain

¹¹ Sri Mulyani, *Konstruksi Konsep Hak Atas Merek Dalam Sistem Hukum Jaminan Fidusia sebagai Upaya Mendukung Pembangunan Ekonomi*, Fakultas Hukum Universitas 17 Agustus 1945, Semarang, 2013.

¹² Johannes Ibrahim, *Cross Collateral & Cross Default sebagai Upaya Penyelesaian Kredit Bermasalah*, Bandung: Refika Aditama, 2004, hlm.71.

guarantee facilities through insurance or guarantee companies. Alternative sources of financing for the creative economy outside the mechanisms of financing institutions can be information technology-based joint funding services and securities offerings through information technology-based crowdfunding services that have received permission from the Financial Services Authority (OJK). The following is an overview of the Intellectual Property Rights-based financing scheme:



Source : Ministry of Tourist and Creative Economy

3.2. Obstacles in Financing based on intellectual property rights as Credit Collateral

Recently, Intellectual Property Rights has become a trend in society which is considered an intangible asset that has economic and investment potential and also an object that has the potential to be used as credit collateral. The government currently has a regulation in Creative Economy. According to this regulation, developing a creative economic ecosystem is the responsibility of government and local governments, in order to encourage sustainable development through strengthening the country's economy and raising its level of competitiveness internationally. The creative industry related to Intellectual Property Rights, which is comparatively still new, will be largely dependent on the government's and relevant authorities' incentives and innovative offerings. Several banks in West Sumatra, such as Bank Mandiri, BRI, and Bank Nagari are still not ready to implement this Creative Economy Regulation. The reason is because the assessment mechanism for Intellectual Property Rights guarantees does not yet exist, unlike collateral in the form of mortgage rights which already have an assessment, so the bank is hesitant because there is a high risk that it must bear if a default occurs with creative economy actors. The mechanism for determining Intellectual Property Rights assessment needs to be differentiated because each Intellectual Property Rights object has different characteristics from one another.

OJK views Intellectual Property Rights from the perspective of the financial services sector, in the growth of the intellectual property rights ecosystem and their commercialization, it has considerable potential to be explored and can contribute greatly to the national economy. This potential includes

that Intellectual Property Rights can be an incentive for innovation efforts to maintain business hegemony. Apart from that, Intellectual Property Rights assets in the form of soft skills, patents or licenses can encourage business acceleration through the efficiency of the business processes created. Intellectual Property Rights intensive companies also tend to be more resistant to crises because they are considered faster and easier to adapt, such as technology-based companies whose services tend to be more flexible following trend developments, for example the gaming, virtual reality and software industries, which is no less important registered Intellectual Property Rights can be optimized to obtain regular passive income, for example income from royalties and patents which have actually been running but the market is not that big. Seeing this potential, Creative Economy Government regulation offers financial support based on intellectual property rights, specifically a financing plan that enables banks and non-bank financial institutions to use intellectual property as collateral for loans. The Creative Economy Government regulation offers financial support based on intellectual property rights, specifically a financing plan that enables banks and non-bank financial institutions to use intellectual property as collateral for loans for creative economy entrepreneurs. It is also believed that intellectual property rights must be protected in order to promote innovation in the creation of goods and services that are centered on the creative industry.

However, there are challenges in fluctuations side in the value of intellectual property rights, which is the highest depending on market sentiment, marketing performance, trends in public tastes, time value and the productive economic age of intellectual property rights. There will be more difficulties in the future that require everyone's attention, in order for intellectual property rights to be accepted as security for loans and other financing. First, the development of intellectual property rights causes competition between industries within it to become increasingly competitive. Intellectual Property Rights-based Micro, Small, Medium enterprises may experience difficulties entering the market and accessing capital from external parties. Second, in terms of financial system stability, the assessment of intellectual property rights is still frequently associated with low productivity and high returns and value fluctuations, so it is categorized as a contributor to stability risk, in order to finance projects based on intellectual property rights, banks must set aside more cash. Third, the intangible version of asset investment and its relatively small portion financed by bank loans has the potential to weaken the monetary policy transmission channel because it is considered less responsive to changes in interest rates. Fourth, there is cost dispersion where the success of the economic scale of Intellectual Property Rights-based businesses depends on leaders and trends in the sector and depends on the level of new innovation in the creative industry.

Various challenges faced by banks and finance companies must be dealt with properly, first, type of legally mandated binding is not well regulated. Currently, copyrights and patents are the only forms of intellectual property rights that are legally binding, in form of fiduciary duty, but for other types of Intellectual Property Right, there is no regulation regarding the legal basis for binding. Second, guidelines for determining economic value are required. Regulation and study by a number of parties with expertise in intellectual property rights mostly requires to be done, because there hasn't yet been a set formula for determining intellectual property rights that can be utilized for determining credit collateral. Third, it is necessary to establish an institution for evaluating the economic value of intellectual property rights. As of right now, no assessment organization specializes in evaluating intellectual property rights as bank references. Fourth, figuring out the processes for carrying out the execution of intellectual property rights and the organizations that support these rights' execution that are used as collateral. Fifth, there is no secondary market accessible, at the moment of execution Sales cannot be conducted effectively, Banks find it hard to get paid back for the financing credit they have given.

But if we look at the OJK Regulations as they stand right now, The OJK provisions do not forbid using intellectual property rights as collateral for loans or other forms of funding. There are things that need to be considered, including valuation, namely the assessment or evaluation for value of

Intellectual Property Rights, either by an independent appraisal who has certification related to Intellectual Property Rights or an internal bank appraisal. Binding of Intellectual Property Rights where the bank must be able to ensure that Intellectual Property Rights has been bound perfectly, such as copyrights and patents which can currently utilized as objects of fiduciary collateral. Execution where collateral is tied perfectly will simple for banks to execute collateral when debtor failure so that it is necessary to develop the Intellectual Property Rights market as re-collateral. From an institutional perspective, the government can establish an agency for registration, recording Intellectual Property Rights transactions and loans. Apart from that, establishing ecosystem, liquid market, various products and types of Intellectual Property Rights is imperative. The most crucial element is government assistance in the form of interest subsidies and guarantee program incentives by trial with using intellectual property rights as guarantee. thereby creating self-confidence from the banking and finance companies.

It is hoped that the Creative Economy Law and the Creative Economy Regulation will be able to realize the hopes of many creative economy players to obtain Intellectual Property Rights-based banking assets. Intellectual Property Rights registration or recording data available at DJKI until 2022 shows that Trademarks and Copyrights are have great potential for financing loans based on intellectual property rights. The registration system for Copyrights is not mandatory for registration, but the government and several countries recommend that Copyrights be registered, as proof if the Copyright owner is faced with a dispute. Patents, Trademarks and Trade Secrets are also not required to be registered, because they are confidential in nature so there is no obligation to register. However, based on the Creative Economy Regulation, applications for financing based on intellectual property rights must meet certain requirements in order to be approved by bank financial institutions or non-bank financial institutions, including having registered intellectual property rights.

Another thing that needs to be considered is the limited period of Intellectual Property Rights protection. The copyright protection period is for the life of the creator, plus 70 years after the creator dies, heirs can still manage their rights through inheritance rights. The patent protection period is protected for 20 years and for simple patents it is protected for 10 years and this cannot be extended. Brands have no protection time limit, they can be renewed every 10 years. The period of protection for a trade secret is as long as it is still considered secret, meaning that the confidentiality is not disclosed to the public so that it can still be held by the owner of the trade secret to become a commodity. The industrial design protection period is valid for 10 years and cannot be extended.

Intellectual Property Rights can also be granted by granting permission to other parties to carry out activities related to the economic interests of the right owner or what is known as a license. Regulations related to this license are subject to Government Regulation Number 36 Year 2018 concerning the Recording of Intellectual Property License Agreements. The granting of licenses by the parties must be registered with the DJKI which has the implication that if it is not recorded there will be invalidity for third parties. Therefore, banks must know whether this type of Intellectual Property Rights was submitted by the right party or not. If the rights to one type of Intellectual Property Rights have been transferred to another party, then the rights holder will have control over the use of this IPR, so that the person who is eligible to apply to a bank or non-bank institution is the party holding the rights in the context of exploitation and credit applications. The most important thing you also need to know before applying for Financing based on intellectual property rights is whether there is a transfer of rights to another party or a licensing agreement. To find out whether the Intellectual Property Rights being guaranteed is original or not, we can check the data on the website www.djip.co.id to see all types of Intellectual Property Rights registered with DJKI. Apart from that, in partnership with DJKI, financial institutions and the Ministry of Tourism and Creative Economy can also verify if the intellectual property rights have been transferred to another entity or whether this Intellectual Property Rights is in dispute or there is a lawsuit from another party, the protection

period has ended, whether the Intellectual Property Rights has ever been licensed, and what is the position the license.

3. Conclusion

The implementation on Creative Economy Government Regulation still has many obstacles in its implementation. It can be seen from many things have not been regulated clearly and in detail, for example regarding the form of Intellectual Property Rights credit collateral binding have not been clearly regulated, Intellectual Property Rights valuation mechanism and the appraisal team, execution techniques, secondary market not available to facilitate execution. The lack of clear regulations has resulted in concerns from banking institutions about channeling credit to the creative economy because it is considered to be high risk. In distributing credit, banks must apply the prudential banking to avoid bad credit. In practice in other countries, such as IPOS Singapore, there are only two types of Intellectual Property Rights that can be guaranteed, namely patents and trademarks. Thailand only allows trade secrets to be pledged, even though there is no obligation to register trade secrets. Not all banks accept Intellectual Property Rights guarantees in their financing, Singapore only has 3 banks, DBS, OCBC and UOB, Thailand has SME Bank, Bangkok Bank, Government Savings Bank. So what is executed later in Intellectual Property Rights -based financing is not the object but the economic rights, exploitation rights and commercialization rights that exist in that object. Apart from that, few creative economy actors are aware of the importance of registering IPR. Therefore, it is hoped that the government's role will be to increase socialization of the importance of understanding IPR to creative economy actors to register their IPR

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