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USE OF COPYRIGHT AS CREDIT COLLATERAL IN BANKING IN INDONESIA

Yan Saparja, Hayatul Ismi, Hengki Firmanda
.
Universitas Riau, Indonesia

*Corresponding Author:
Yan Saparja

Abstract.

Copyright is basically a material asset that has commercial (economic) value. If classified as a company asset, copyright is included in the intangible asset category. In Indonesia, regulations regarding banking guarantees in intellectual property have been contained in statutory regulations, for example Law no. 28 of 2014 concerning Copyright , However, the application of copyright as collateral in various countries still faces various obstacles and differences, both in terms of regulations, mechanisms and practice. Based on the results of the research and discussion, it can be concluded. First The use of copyright as collateral for banking credit in Indonesia has great prospects and potential, considering the increasingly rapid development of creative industries and innovation in the digital era. Copyright regulations as collateral for banking credit have been accommodated in Law No. 28 of 2014 concerning Copyright and Government Regulation Number. 24 of 2022 concerning Credit Guarantees with Intellectual Property Rights. Using copyright as collateral for banking credit can have a positive impact on national development, namely encouraging economic growth, social welfare, awareness and respect for copyright, legal culture and social justice. Second The model for using Copyright as collateral for banking credit in Indonesia is that Copyright has economic value and can be used as an object of banking credit collateral through fiduciary guarantees. To be used as collateral for banking credit, Copyright must meet the criteria that have been set, such as having economic value. , registered with the Directorate General of Intellectual Property Rights (Dirjen IPR) in accordance with the provisions of Law of the Republic of Indonesia Number 42 of 1999 concerning Fiduciary Guarantees, is your own property and can be transferred or transferred, with these criteria Copyright Rights can be used as collateral in Banking Credit .

Keywords:Copyrigh, tGuarantee, Credit, Banking Indonesia

INTRODUCTION

Copyright is basically an exclusive right given by the state to creators, inventors or creators for their inventions that have commercial value either automatically or through registration. The concept of legal protection through granting exclusive rights to copyright holders not only functions as proof of protection when legal disputes occur, but in line with the increasing development of the global market, copyright can also be used as collateral to obtain banking credit. This was supported in the 13th session of *the United Nations Commission on International Trade Law (UNCITRAL) in 2008 with*

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material regarding security rights in copyright (*security rights in intellectual property*), which stated that copyright would be used as collateral to obtain bank credit directly. international.[1]

copyright material as an object of collateral in the form of investment is considered very important, especially for business people who have copyright to be able to access bank credit in order to develop their business. This is not without reason, considering that in some countries, copyright ownership can be bankable, which means it can be used as collateral for bank guarantees. Singapore, Malaysia and Thailand , for example, have developed credit based on intangible *assets* . Even Singapore, through *The Intellectual Property Office of Singapore* (IPOS) In fact, it has provided infrastructure and facilitated the development of copyright, including providing banking credit.[2]

Copyrights for literary works have economic value which can be calculated based on income from sales, licenses or royalties obtained from the work and an artist can apply for credit by using the copyright for works of art that he has created or exhibited as collateral. Copyrights for works of art have economic value which can be calculated based on the market price, demand or reputation of the work.

Copyright is basically a material asset that has commercial (economic) value. If classified as a company asset, copyright is included in the intangible asset category. In Indonesia, regulations regarding banking guarantees in intellectual property have been contained in statutory regulations, for example Law no. 28 of 2014 concerning Copyright (Copyright Law). In this law it is clearly stated that copyright is an intangible movable object, which can be transferred or transferred in whole or in part through inheritance, gift, endowment, will, written agreement, other reasons justified in accordance with the provisions of the statutory regulations. .[3]

Copyright as collateral is implemented in accordance with statutory provisions, in particular Law Number 42 of 1999 concerning Fiduciary Guarantees. Copyright is categorized as an intangible movable object that remains in the control of the fiduciary. To be used as collateral, copyright must meet the following requirements:[4]

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[1] Trias Palupi Kurnianingrum, "Intellectual Property Rights as Banking Credit Guarantee," *Journal of Legal Affairs* 8, No. 1 (2017): 31–54.

[2] I Gede Agus Kurniawan, "Brand Valuation as Banking Credit Guarantee: Relevance in the Establishment of an Intellectual Property Appraisal Institution," *Udayana Master of Law Journal (Udayana Master Law Journal)* 9, no. 4 (2020): 767.

[3] Reni Budi Setianingrum, "Mechanism for Determining Appraisal Value and Binding of Copyright as an Object of Fiduciary Guarantee," *Legal Media Journal* 23, No. 2 (2017): 229–238.

[4] *Ibid.*

1. Has economic value.
2. Ownership is transferable.
3. Legally, ownership can be owned as a whole.

The application of copyright for credit collateral objects in Indonesia itself is stated in Article 16 paragraph (3) UUHC, if we refer to several foreign countries, copyright ownership can be bankable, which means it can be used as collateral for bank guarantees. For example, Singapore has developed credit based on intangible assets , one of which is Copyright. In fact, Singapore, through *the Intellectual Property Office of Singapore* (IPOS), has actually provided infrastructure which facilitates the development of copyright, including providing banking credit, as well as appointing three commercial banks, namely UOB (*United Overseas Bank*), OCBC (*Overseas-Chinese Banking Corporation)* .) and DBS (*Development Bank of Singapore*), which also looks different from what happens in Indonesia, where copyright itself does not appoint or delegate authority for certain institutions to provide valuations related to Copyright as Credit Guarantee .

Research entitled " Regulation of Intellectual Property Rights as Debt Collateral According to Government Regulation Number 24 of 2022 " was researched by Gerrid Williem Karlosa Reskin in the 2022 Pakuan Law Review Journal discusses Arrangement of Haki as Debt Collateral According to Government Regulation Number 24 of 2022 .[5] Based on this background and problems, the author is interested in discussing research with the title " Use of Copyright as Credit Collateral in Banking in Indonesia".

METHODS

Research is the activity of collecting, processing, analyzing, and presenting data that is carried out systematically and objectively to solve a problem or test a hypothesis to develop general principles.

The type of research used to research in this proposal is sociological research. Sociological research is research that relies on facts taken directly from the human condition, both verbal conditions obtained through answered questions and real conditions carried out by observing

RESULT AND DISCUSSION

Regulation Of Copyright As Banking Credit Guarantee In Indonesia

Intellectual Property Rights (IPR), or what is generally known by the term, is an official phrase used to refer to the rights granted to certain works of

[5] Gerrid Williem Karlosa Reskin, Regulation of Intellectual Property Rights as Debt Collateral According to PP Number 24 of 2022, *Pakuan Law Review Journal* , 2022, p. 1.

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human thought that have economic value.[6] Indonesia itself has several regulations that regulate Intellectual Property Rights (IPR) that can be used as Banking Guarantee Objects, including the following:[7]

1. **Law no. 28 of 2014 concerning Copyright**

Law no. 28 of 2014 concerning Copyright explains that copyright is considered an intangible movable object, which can be transferred in whole or in part through inheritance, gift, waqf, will, written agreement, or in accordance with statutory provisions. Article 16 paragraph (3) of the Copyright Law specifically states that "Copyright can be used as an object of Fiduciary Guarantee."[8]

2. **Copyright Law no. 42 of 1999 concerning Fiduciary Guarantees**

Law no. 42 of 1999 concerning Fiduciary Guarantees, Copyright has been accommodated as an object of collateral through the form of fiduciary guarantees. Fiduciary itself is defined as the transfer of ownership rights to an object based on trust, with the condition that the object whose ownership rights are transferred remains in the control of the owner of the object. [9]Fiduciary guarantees include security rights over movable objects, both tangible and intangible, and immovable objects, especially buildings which cannot be encumbered with mortgage rights in accordance with Law no. 4 of 1996 concerning Mortgage Rights.[10] These objects remain in the control of the fiduciary and are used as collateral for the repayment of certain debts, giving the fiduciary recipient a preferential position compared to other creditors.[11]

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[6]Lutfi Ulinnuha , Use of copyright as fiduciary security, journal of private and commercial law, volume 1 number 1, November 2017, Legal Staff at Bpr Bank Jepara Artha, p. 85

[7] Rindia Fanny Kusumaningtyas , Development of Fiduciary Security Law Relating to Copyright as an Object of Fiduciary Security, Pandecta , Volume 11 Number 1 June 2016, Faculty of Law, Semarang State University, Semarang, Indonesia, p. 97.

[8] Bernard L. Tanya, et al. , Legal Theory of Human Order Strategy Across Space and Generations, Yogyakarta: Genta Publishing, 2010, Page. 127. Compare Trias Palupi Kurnianingrum , "Intellectual Property Rights as Banking Credit Guarantee", State of Law: Vol. 8, no. 1, June 2017, p. 43.

[9]Nata, Ida Bagus Ari Dwipa Yoga, Ketut Sudiatmaka , And Ni Sari Adnyani . "Implementation of Law No. 42 of 1999 concerning Fiduciary Guarantees Regarding Creditor Protection Laws in the Event of Bankruptcy (Fif Singaraja Branch Case Study)." Journal of the Judicial Community 1.1 (2018): p.89.

[10]Setiawan, Taryan . "The Concept of Copyright as Fiduciary Guarantee According to Law Number 28 of 2014 concerning Copyright and Law Number 42 of 1999 concerning Fiduciary Guarantee in the Context of Realizing Legal Certainty." *Justitia Nusantara Media Law Journal (Mjn)* 8.1 (2018): p. 56.

[11]Nusantara, NPTP, & Wirasila, AN (2018). Execution and Registration of Fiduciary Guarantee Objects Based on Law Number 42 of 1999 concerning Fiduciary Guarantees. *Journal of the Faculty of Law, Udayana University , 2* (02), p. 10.

3. Government Regulation Number 24 of 2022 concerning Implementing Regulations for the Creative Economy Law

Then in 2022 the Indonesian Government has issued new regulations regulating Intellectual Property as objects that can be submitted as collateral when applying for banking credit. This is regulated through Government Regulation Number 24 of 2022 concerning Implementing Regulations for the Creative Economy Law. [12] Through Government Regulation Number 24 of 2022 concerning Implementing Regulations for the Creative Economy Law, the Government provides opportunities for creative economy actors to be able to utilize assets in the form of intellectual property that they own such as copyrights, brands and patents to be used as collateral in obtaining capital financing. from the Bank.[13]

Based on the explanation above, Law no. 28 of 2014 concerning Copyright, Copyright Law no. 42 of 1999 concerning Fiduciary Guarantees, Government Regulation Number 24 of 2022 concerning Implementing Regulations for the Creative Economy Law as a legal umbrella for implementing Copyright can be used as collateral for banking credit, however these regulations still have weaknesses, including:

1. Law Number 28 of 2014 concerning Copyright regulates that copyright can be used as an object of fiduciary guarantee.
2. Law Number 42 of 1999 concerning Fiduciary Guarantees regulates that fiduciary guarantees are security rights over movable objects, both tangible and intangible.
3. Government Regulation Number 24 of 2022 concerning Implementing Regulations of Law Number 24 of 2019 concerning the Creative Economy regulates that the object of debt collateral in implementing intellectual property-based financing schemes can be in the form of fiduciary guarantees for intellectual property, contracts in creative economic activities, and/or collection rights. in creative economic activities.

Based on the explanation above, although existing regulations still have weaknesses in implementing Copyright as collateral for Banking Credit, Copyright has potential. One of the great potentials of copyright is that it can be used as collateral for banking credit, which can help creators or copyright

[12] Widharetno , A. (2023). Legal Position of Brand Rights Certificates as Banking Collateral in the Perspective of Government Regulation Number 24 of 2022 concerning Implementing Regulations of Law Number 24 of 2019 concerning the Creative Economy, Doctoral dissertation, Narotama University , p. 20.

[13] Kasman, Delvy . *Legal certainty of copyright as an object of fiduciary guarantee after the enactment of Government Regulation Number 24 of 2022 concerning Implementing Regulations of Law Number 24 of 2019 concerning the Creative Economy* . Doctoral dissertation, Pelita Harapan University, 2023, p. 100.

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holders to obtain business capital, increase productivity and develop creative industries in Indonesia, including:

1. PT. Karya Anak Bangsa (Gojek) which uses the copyright for the Gojek application as collateral to get credit from Bank Mandiri. [14] This agreement is the first in Indonesia to use copyright as collateral for banking credit. The aim of this agreement is to support the development of the creative and digital economic ecosystem in Indonesia.[15]
2. PT. Kreasi Musik Indonesia (KMI) which uses copyright for songs produced by its artists as collateral to obtain credit from Bank Negara Indonesia (BNI). This agreement is the second in Indonesia to use copyright as collateral for banking credit. The aim of this agreement is to support the development of the music and creative industry in Indonesia.[16]

Based on the example above, it shows that copyright as collateral for bank credit can provide benefits for music and creative industry players, especially those engaged in song production. Copyright can be a legal and profitable alternative collateral for business actors who do not have sufficient physical assets to use as collateral for banking credit. Apart from that, copyright as collateral for banking credit can also provide incentives for business actors to continue to innovate and improve the quality of their products, services and creativity.[17]

However, in practice, there are still several obstacles and challenges faced by creators or copyright holders who wish to guarantee their copyright to obtain bank credit, such as: [18] *First* , there is a lack of awareness and understanding of the economic value of copyright, both from creators, copyright holders and banks.[19] *Second* , there is a lack of clear and accurate standards and methods for assessing copyright as a collateral object, making it difficult to determine a reasonable collateral value that is appropriate to credit risk. [20]*Third* , there is a lack of adequate legal protection for banks that receive copyright as

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[14]https://www.bankmandiri.co.id/program-bonus-voucher-gopay-mandiri-online/ Accessed on February 26 2024, at 12.36 WIB .

[15] https://katadata.co.id/digital/startup/64c09e898a501/bank-mandiri-makin-saingi-goto-gojek-panjang-shopee/ accessed February 26 2024, 12.19 WIB .

[16] https://www.bni.co.id/id-id/beranda/kabar-bni/berita/articleid/22228/ accessed 26 February 2024, 12.38 WIB .

[17] https://finansial.bisnis.com/read/20230225/90/1631739/besar-industri-kreatif-bni-dukung-raisa-live-in-concert/ accessed on February 26 2024, 12.40 WIB .

[18] https://bpsdm-dev.kemenkumham.go.id/information-publik/publikasi/pojok-penuluhan-Hukum/mengenal-hak-buat / accessed December 25 2023, 22.43 WIB

[19]https://www.dgip.go.id/faq/list-faq/hak-buat/Hc-umum/ accessed December 25 2023, 22.44 WIB

[20] https://www.kompas.com/skola/read/2021/03/25/123247469/hak-buat-pengertian-function-Hukum-penbesaran-dan-pelanggarannya/ accessed December 25 2023, 22.45Wib

collateral, especially in terms of disbursement, sale or exercise of fiduciary security rights in the event of default or failure to pay by the debtor. *Fourth* , there is a lack of cooperation and coordination between related parties, such as the government, banking, creative industry associations, and other supporting institutions, to create a conducive ecosystem for the use of copyright as collateral for banking credit.

If related to the theory of Intellectual Property Rights (IPR), the regulation of copyright as collateral for banking credit means that one way to utilize the economic value of copyright is to use it as collateral for banking credit. Banking credit collateral is property or rights handed over by the debtor or other party to the bank to guarantee the repayment of the debtor's obligations. Banking credit guarantees can be in the form of fiduciary guarantees, mortgages, pledges, mortgage rights, or other forms regulated in statutory regulations. [21]Bank credit guarantees aim to reduce the risk of default *from* debtors and provide legal certainty for banks in collecting their debts.

MODEL OF USE OF COPYRIGHT AS BANKING CREDIT WARRANTY IN INDONESIA

The use of copyright as credit collateral is an innovation in the field of financing that allows copyright owners to use their intellectual property as collateral to obtain loans. This model aims to provide wider access to financing for creators, such as writers, musicians, artists and other content creators, who may have valuable intellectual property but do not have sufficient physical assets to use as collateral.

In Indonesia itself, it has been regulated that intellectual property can be used as credit as regulated in Government Regulation Number 24 of 2022. According to the Directorate General of Intellectual Property, Intellectual Property Based Financing Schemes can be carried out as follows, the Process for Applying for Intellectual Property Based Credit Schemes in Indonesia based on Government Regulation Number 24 of 2022 concerning Implementing Regulations of Law 24 of 2019 concerning the Creative Economy According to the Directorate General of Intellectual Property are as follows:

[21] https://mas-alahrom.my.id/pkwu/theoretica-hak-kekayaan-intellektual-dan-undang-undang-yang-mengaturnya-di-negara-indonesia/ accessed 26 February 2024 at 16.45 WIB .

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Figure 1 Scheme of based credit application Intellectual Property

Source: Directorate General of Intellectual Property

The cost approach in assessing intellectual property (*IP*) is a method that assesses the value of an IP based on the costs required to create or reproduce the asset. This approach is often used in the context of intellectual property-based financing, especially when IP is used as collateral to obtain financing. Basic Principles of the Cost Approach

The market approach in valuing intellectual property (*IP*) is a method that assesses the value of an IP based on the market price of similar transactions involving comparable IP. This method is often used in intellectual property-based financing to determine the value of IP used as collateral.

The income approach (*Income Based Valuation*) in assessing intellectual property (*IP*) is a method that assesses value intellectual property based on expected future cash flows from the use of the intellectual property. This approach estimates the present value of future revenues generated by intellectual property, taking risk and time into account.

Intellectual property assessment institutions and assessment panels must have special expertise in assessing the economic value of intellectual property (IP) guaranteed by the institution must have the following criteria:

a. Independent Institution
b. KI Assessment Consultant or Firm
c. Professional Association

Then, according to the Ministry of Tourism and Creative Economy, the IPR-based financing scheme is a financing scheme that makes intellectual property the main collateral object for bank financial institutions or non-bank financial institutions so that they can provide financing based on intellectual property rights. According to the Ministry of Tourism and Creative Economy, the IPR-Based Financing Scheme is as follows:

1. Legal Basis for IPR-Based Financing Schemes

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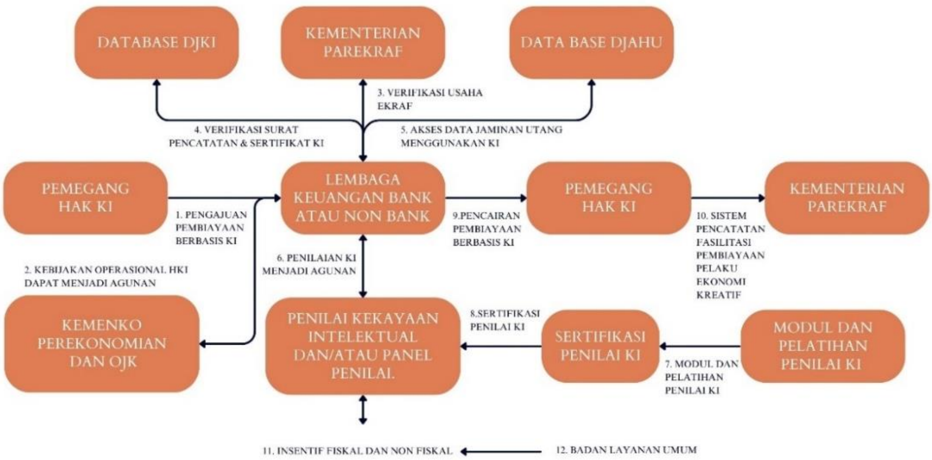
a. Law Number 28 of 2014 concerning Copyright
b. Law Number 20 of 2016 concerning Marks and Geographical Indications
c. Law Number 13 of 2006 concerning Patents
d. Law Number 30 of 2000 concerning Trade Secrets
e. Law Number 31 of 2000 concerning Industrial Design
f. Law Number 42 of 1999 concerning Fiduciary Guarantees
g. Law Number 24 of 2019 concerning the Creative Economy
h. Republic of Indonesia Government Regulation Number 24 of 2022 concerning Implementing Regulations of Law 24 of 2019 concerning the Creative Economy

2. Mind Map for IPR Based Financing

Figure 2 Mind Map for IPR-Based Financing



Source: Ministry of Tourism and Creative Economy

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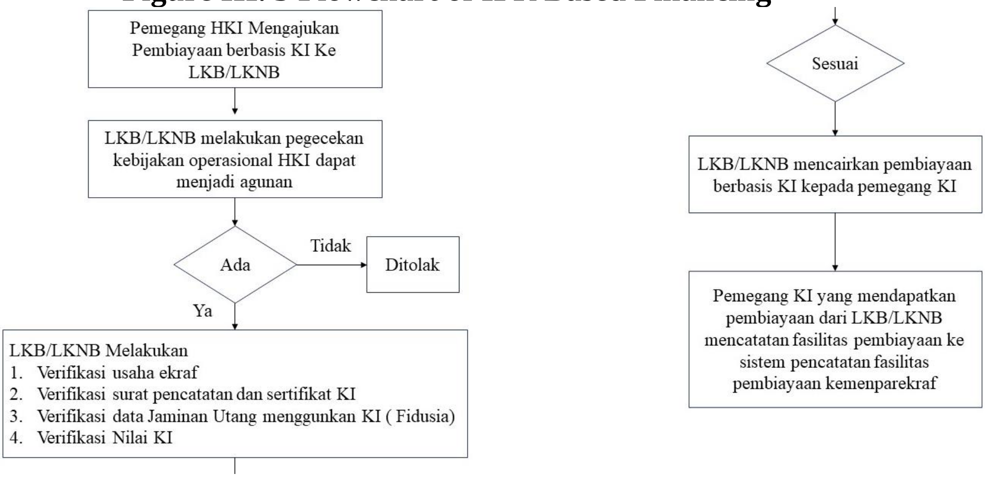
3. Flowchart of IPR Based Financing

Figure III. 3 Flowchart of IPR Based Financing



Source: Ministry of Tourism and Creative Economy

Although the concept of using copyright as credit collateral has great potential, its implementation in Indonesia still faces a number of significant challenges. One of the main obstacles is the lack of understanding and awareness among both creators and financial institutions about how copyright can be valued and used as a collateral asset. Many banks and financial institutions are still more comfortable with the traditional model of using physical assets as collateral, because assessing the value of copyrights is considered more complex and unstable. In addition, the legal and regulatory infrastructure that supports the use of copyright as collateral is still not fully developed . Even though there is a law that recognizes copyright as an asset that can be pledged as collateral, its practical and procedural application is often unclear and difficult to implement.

The model for using copyright as collateral for banking credit in Indonesia can be taken as an example from several countries in the world. Several countries have implemented copyright as credit collateral. This policy allows copyright owners to use their intellectual assets as collateral to obtain loans from financial institutions. The following is a comparison of several countries that have implemented or are developing these policies:

Table 1. Comparison of countries that have implemented copyright as collateral for banking credit

No	Country	Application of Copyright as Credit Collateral	Special Policies/Programs	Government Support	Authorized institution	Policy/Law
1	India	Establish appropriate guidelines for KI assessment. Facilitate investment in IP-based businesses	Providing incentives to financial institutions such as banks to development and commercialization of KI.	Provide support and spread awareness among groups less empowered IP owners such as farmers, artisans, artisans, etc	*Reserve Bank of India (RBI)* *Central Registry of Securitisation Asset Reconstruction and Security Interest of India (CERSAI)* *Registrar of Companies (ROC)*	Companies Act, 2013 SARFAESI Act, 2002 **Patents Act, 1970** Trade Marks Act, 1999 Designs Act, 2000
2	South Korea	Intellectual property assets, including copyrights, can be used as	Special programs that support the use of intellectual assets as collateral.	The government provides incentives to encourage the use of intellectu	*Korean Intellectual Property Office*	*Korean Copyright Act, Secured Transactions Act*[22]

[22] *Yukky Kang, Introduction to Act on Security over Movable Assets and Receivables, Jipyong Jisung Newslatter* , November 2012 Vol. 4 No. 10, https://www.jipyong.com , accessed on June 13 2024, at 11.40 WIB , translated using Google Translate.

No	Country	Application of Copyright as Credit Collateral	Special Policies/Programs	Government Support	Authorized institution	Policy/Law
		collateral for loans.		al assets as collateral.		
3	China	Copyrights and other intellectual assets can be used as collateral for credit.	Policies and programs to promote the use of intellectual assets as collateral.	The government actively promotes and supports this scheme to encourage innovation.	*National Copyright Administration*	*Property Law of the People's Republic of China*[23]
4	Singapore	Copyright is recognized as an asset that can be pledged as collateral.	There are no special programs that are well known, but the system supports the use of copyright as collateral.	Government support in the form of a framework that supports the use of intellectual assets as collateral.	*Intellectual Property Office of Singapore*	*Singapore Copyright Act, Secured Transactions Act*[24]

[23] http://www.npc.gov.cn/zgrdw/englishnpc/Law/2009-02/20/content_1471118.htm/ accessed on June 13 2024, at 11.50 WIB , translated using Google Translate.

[24] https://sso.agc.gov.sg/Act/CA2021/Copyright/Act/2021-Singapore-Statutes-Online/ accessed on 13 June 2024, at 12.00 WIB , translated using Google Translate.

No	Country	Application of Copyright as Credit Collateral	Special Policies/Programs	Government Support	Authorized institution	Policy/Law
5	Japan	Copyrights can be used as collateral for credit and have developed financial instruments to support this.	Development of financial instruments that support the use of copyright as collateral.	The government recognizes the economic value of intellectual assets and supports their use as collateral.	*Japan Patent Office*	*Copyright Act of Japan, Civil Code of Japan*[25]
6	Malaysia	The Malaysian government created a 5-year roadmap in 2015 with the aim of changing KI from an KI-based business	Policy in Malaysia where the government launched an IP Financing Scheme to help encourage SMEs in expanding their business by using KI as guarantee.	The Malaysian government provides a 2% interest rate subsidy and a 50% guarantee for KI-backed loans.	*Property Corporation of Malaysia (MyIPO) and Malaysian Debt Ventures Berhad (MDV).*	*Intellectual Property Corporation of Malaysia Act 2002 Patents Act 1983, Trademarks Act 2019, and Copyright Act 1987*

[25]https://www.cric.or.jp/english/Japan/Copyright/Law/clj/cl2.html/ accessed on June 13 2024, at 12.22 WIB , translated using Google Translate.

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No	Country	Application of Copyright as Credit Collateral	Special Policies/Programs	Government Support	Authorized institution	Policy/Law
		to a resource riches				*Malaysian Debt Ventures Berhad* (MDV)

Source: Author Data Processing 2024

One model of using intellectual property rights as banking credit guarantee that can be applied in Indonesia is the model applied in Singapore . Singapore is a neighbor of Indonesia and a member of the WTO and WIPO. Practice shows that copyright can be used as collateral for material goods in banking institutions. IPOS (*Intellectual Property Office of Singapore*) in Singapore, in practice, has appointed three banks, namely UOB (*United Overseas Bank*), OCBC (*Overseas-Chinese Bank Corporation*), and DBS (*Development Bank of Singapore*), to provide credit with Rights Copyright as collateral.[26]

the model for using copyright as collateral for banking credit in Indonesia is that copyright must have a use value (*value in use*) and an exchange value (*value in exchange*) , the use value and exchange value are :[27]

1. Use Value (*Value in Use*):
    a. Subjective Use Value: Is the value given by someone to an item because the item can be used to meet their needs.
    b. Objective Use Value: Is the ability of an item to meet human needs in general.
2. Exchange Value (*Value in Exchange*):
    a. Subjective Exchange Value: Is the value given by someone to an item because the item can be exchanged for another item .

[26]Komang Febri Berliana Mawarni , et.al, Criteria for Song Copyright as an Object of Fiduciary Guarantee in View of Article 16 Paragraph (3) of Law Number 28 of 2014 concerning Copyright, Justisia Community Journal, Ganesha Education University, Legal Studies Study Program (Volume 3 No. 3 of 2020), *Ganesha University of Education*, p 266.
[27]T. Gilarso , Introduction to Macroeconomics, Revised Edition 70, Kanisius , Jakarta, 2003, p. 34.

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b. Objective Exchange Value: This is the ability of an item to be exchanged for lane goods. It is important to note that in the Objective Exchange Value Theory, the emphasis is more on producers, while consumers tend to value goods from a subjective perspective or who is doing the evaluating.

According to Earl Naumann in his book entitled " *Creating Customer Value: The Path to Sustainable Competitive Advantage* ," this theory explains that customer or consumer assessment consists of several aspects, such as product quality, service quality, price and image. If consumers can exceed expectations in these four aspects, their assessment of the company will increase. This high assessment shapes customer perceptions of the positive value of the company. In the context of applying this theory to measure the economic value of a work that has been registered as a Copyright, the quality of the product, service, price and image of the work are factors that make it suitable to be used as an object of debt collateral by banking institutions. This is because the Copyright has met the criteria as a marketable asset and is safe for returning loan funds.[28]

Copyright as collateral for banking credit in Indonesia to be used as credit collateral must have the following criteria:

1. Has Economic Value

   The economic value of copyright is a value that shows the potential profits that can be obtained from the use of copyright by its owner or other party who obtains permission. The economic value of copyright can be direct or indirect.[29]
2. Registered with the Directorate General of Intellectual Property Rights (Dirjen IPR) in accordance with the provisions of Law of the Republic of Indonesia Number 42 of 1999 concerning Fiduciary Guarantees
3. Still Under Protection Period

   The copyright protection period is the period of time determined by law to grant exclusive rights to the creator or recipient of the rights to his or her work of creation.[30]

This transfer of copyright must be done in good faith and not harm third parties. Good faith means that the parties involved in the transfer of copyright must act honestly, fairly, and without any malicious intent. Not

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[28]Earl Naumann, Creating Customer Value: The Path To Sustainable Competitive Advantage, Framsida , Thomson Executive Press 1995-279, p 10.

[29]Reni Budi Setianingrum , Mechanism for Determining Economic Value and Binding of Copyright as an Object of Fiduciary Guarantee, Legal Media Journal, Vol. 23 No. 2 December 2016 Faculty of Law, Muhammadiyah University of Yogyakarta, p. 230.

[30]https://id.creativecommons.net/2019/12/30/besar-masa-berlaku-hak-buat-di-indonesia-dasar-uuhc-2014/ accessed December 25 2023, 21.44 WIB

harming third parties means that the transfer of copyright must not interfere with or eliminate the rights already owned by other parties who are not involved in the transfer of copyright. An example of harming a third party is when a publisher sells the copyright for a book he has published to another publisher , even though there is an exclusive agreement between the first publisher and the author of the book.[31]

Then the flow or description of the model for using Intellectual Property Rights as collateral for banking credit in Indonesia is as follows:[32]

1. Submit a Financing Proposal
2. Banks or other financial institutions carry out verification and validation
3. Terms and Criteria
4. Sign the Credit Agreement
5. Register Fiduciary Guarantee for IPR
6. Other Financial Institutions Disburse Credit
7. Creative and Digital Economy Players Pay Off Credit

The model for using IPR as collateral for banking credit in Indonesia can be seen from several aspects, namely legal aspects, economic aspects and social aspects. From a legal aspect, the regulation of IPR as collateral for banking credit in Indonesia has been accommodated in several laws and regulations, including:

1. Article 16 paragraph (3) Law no. 28 of 2014 concerning Copyright, which states that copyright can be used as fiduciary collateral in accordance with statutory provisions.
2. Article 108 paragraph (1) Law no. 13 of 2016 concerning Patents, which states that patents can be used as fiduciary collateral in accordance with statutory provisions.
3. Article 61 paragraph (1) Law no. 20 of 2016 concerning Marks and Geographical Indications, which states that marks can be used as fiduciary collateral in accordance with statutory provisions.
4. PP No. 24 of 2022 concerning Credit Guarantees with Intellectual Property Rights, which regulates in more detail the procedures, conditions and mechanisms for using IPR as banking credit collateral.

From an economic aspect, the model of using copyright as collateral for banking credit in Indonesia has great prospects and potential, considering the increasingly rapid development of creative industries and innovation in the digital era. IPR can be a source of income and capital for business actors, especially micro, small and medium enterprises (MSMEs) which have limited

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[31] *Ibid.*

[32] https://bisnis.tempo.co/read/1616150/produk-kekayaan-intellektual-jadi-jaminan-kredit-ke-bank-ini-besarnya/ accessed on February 26 2023, 17.35 WIB .

access to capital. By using IPR as collateral for banking credit, business actors can obtain easier, cheaper and faster financing to develop their business. Apart from that, the model of using IPR as collateral for banking credit can also increase the added value and competitiveness of local products in national and international markets.[33]

1. From a social aspect, the model of using copyright as collateral for banking credit in Indonesia can have a positive impact on national development, namely:
2. Encouraging economic growth and community welfare through increasing productivity, innovation and creativity of business actors.
3. Increase awareness and appreciation of copyright as a valuable asset that must be protected and utilized optimally.
4. copyright holders and users .
5. Realizing social justice and equitable development throughout Indonesia.

The model of using copyright as collateral for banking credit in Indonesia can be linked to the development law theory put forward by Prof. Dr. Mochtar Kusumaatmadja , Development legal theory is a theory that views law as a means of societal renewal in accordance with society's needs, aspirations and values. Development law theory emphasizes the important role of law in creating conditions conducive to achieving national development goals, namely a just and prosperous society based on Pancasila.

CONCLUSION

1. Copyright regulations as collateral for banking credit have been accommodated in Law No. 28 of 2014 concerning Copyright and Government Regulation Number. 24 of 2022 concerning Credit Guarantees with Intellectual Property Rights. However, there are no implementing regulations yet. By regulating the use of copyright as collateral for banking credit, it can have a positive impact on national development, namely encouraging economic growth, social welfare, awareness and respect for copyright, legal culture and social justice.
2. The model of using copyright as collateral for banking credit in Indonesia is an innovation in the field of banking financing that allows copyright owners to use their intellectual property as collateral to obtain loans. However, there is a need to establish a standard model for the use of copyright as collateral for banking credit in Indonesia which is expected to effectively provide wider access to financing for creators, such as

[33]Hibatullah, I., Annalisa, Y., Syaifuddin , M., Samawati , P., & Hasan, KS (2023). Challenges of Binding Copyright as Collateral for Banking Credit in Indonesia. *Innovative: Journal Of Social Science Research* , Volume *3* Number 4, p. 7611

writers, musicians, artists and other content creators, who may have valuable intellectual property but do not have sufficient physical assets to use as collateral.

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