

## Analysis of Intellectual Property Rights as an Object of Fiduciary Guarantee on Banking Credit

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### Abstract

*This writing aims to analyze Intellectual Property Rights as an object of fiduciary guarantee, which until now cannot be said to be maximal, because banks and guarantee institutions have not been able to accept copyright patent rights as fiduciary collateral. There are no clear methods and regulations regarding the basis of Intellectual Property Rights themselves, one of which is regarding the value of the rights attached to intellectual property. This paper discusses the issue of intellectual property rights as an object of fiduciary collateral for credit in banking and how in the future patents and copyrights can be used as objects of fiduciary collateral in banking properly. The theories used in analyzing the problem are legal system theory, ownership theory and fiduciary guarantee theory. The method used in this research is normative legal research which was carried out as an effort to obtain the data needed for the problem. The data used is secondary data and tertiary legal materials. The primary data is used as supporting secondary legal material. And data analysis was carried out using qualitative juridical analysis methods. From the results of this research, it can be seen how the position of patents and copyrights as intangible assets should be used as objects of fiduciary guarantees in banking, by adding the words Intellectual Property Rights regarding guarantees to the Bank Indonesia Regulations (PBI). And what is the concept of examination and assessment of the economic value of intellectual property rights, especially patents and copyrights, which will be used as a reference in calculating financial and legal risks for collateral recipients in future implementation.*

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## 1. INTRODUCTION

Intellectual property is understood as rights obtained from an individual's intellectual results which are expressed in a tangible form, not only limited to ideas but also have a physical form.[1]. In its development, intellectual property has a significant role in supporting the development of the creative economy[2]Promulgation of Government Regulation Number 24 of 2022 concerning Implementing Regulations of Law Number 24 of 2019 concerning the Creative Economy as a support for economic activities, especially actors in the creative economy industry. One of the issues in this regulation is that IPR can be used as an object of credit collateral for bank and/or non-bank financial institutions in the form of fiduciary guarantees.[3].

Law Number 28 of 2014 concerning Copyright in Article 16 paragraph (3) regulates that Copyright as an intangible movable object can be used as an object of fiduciary collateral, this means that all financial institutions, both banking and non-banking, are willing to accept or make Copyright is a form of credit collateral[4]. Article 108 paragraph (1) of Law Number 13 of 2016 concerning Patents also states "the right to a patent can be used as an object of fiduciary security".

The existence of provisions regarding intellectual property as an object of fiduciary guarantees means indirectly forms of intellectual property such as paintings and brands. films and so on can be used as objects of fiduciary collateral in banking. And if an intellectual property holder wants a loan from a bank, his creation or intellectual property can be used as collateral to the bank. Apart from copyright, as stipulated in article 108 paragraph (1) of Law Number 13 of 2016 concerning Patents, namely "the right to a patent

can be used as an object of fiduciary security", then applicants for both patents and simple patents who do not have sufficient capital can guarantee their products. so there is no need to wait for other people or foreign companies to provide funds to manufacture products[4].

Although it has been explained clearly and clearly that copyright can be used as an object of fiduciary guarantee (Article 16 of Law No. 28/2014) and patent rights can also be used as an object of fiduciary guarantee (Article 108 paragraph of Law No. 13/2016). However, there are problems regarding its implementation, which are related to the absence of legal regulations implementing intellectual property as an object of fiduciary guarantees. Until now there are no provisions that explain more specifically regarding the mechanism for assessing or evaluating intellectual property, the technical requirements for submitting intellectual property as an object of fiduciary collateral in financial institutions, and the types of intellectual property that can be used as fiduciary collateral, bearing in mind that not all Legislation -Invitations related to intellectual property regulate intellectual property that may be used as fiduciary collateral[5].

The issue of intellectual property rights as something intangible can be the object of fiduciary guarantees in banking, namely two types of intellectual property rights, namely patent rights and copyright which have not been specifically regulated in Government Regulations regarding guarantees and fiduciary guarantees. Thus, intellectual property rights, especially patents and copyrights, must be regulated in regulations regarding assessment standards and regulations regarding guarantees, so that later in the application of patents and copyrights they can be implemented as objects of fiduciary guarantees in banking. It can be understood that the inhibiting factor in the realization of the use of intellectual property as an object of fiduciary guarantee is the aspect of the absence of supporting institutions that are realized in a regulation that further regulates intellectual property as an object of fiduciary guarantee.

The need for regulations to address the issue of intellectual property as an object of fiduciary security is very necessary, especially for banks. In the world of banking, the principle of banking prudence applies, the principle of prudence is a principle which emphasizes that in carrying out business activities both in collecting and especially in the business of distributing funds to the public. In applying the precautionary principle, the 5 C's method is known, namely; character (assessment, character), capacity (ability), capital (capital capacity), collateral (collateral/guarantee) and condition of economy (debtor's business prospects)[4].

Based on the description above, pay attention to the gap, namely the gap between *das sollen* (the legal basis for copyright can be used as an object of fiduciary guarantee/Article 16 of Law No. 28/2014 and patent rights can also be used as an object of fiduciary guarantee/Article 108 paragraph of Law No. 13/ 2016 and *das sollen* (obstacles to the implementation of intellectual property as fiduciary security due to the absence of specific implementing regulations regarding Copyright & patent rights as objects of fiduciary security. The author is interested in conducting legal research on it with the title; "**Analysis of Intellectual Property Rights as an Object of Fiduciary Guarantee on Banking Credit**". The urgency of this research is so that the public as owners/holders of intellectual property rights can know the certainty of the mechanism implementation of intellectual property as fiduciary collateral as an object of collateral for banking credit.

The aim of this research is to find out the implementation of intellectual property rights as an object of fiduciary collateral for banking credit and future regulations regarding the implementation of intellectual property rights as fiduciary collateral for banking credit. Other research that is similar to this research is research conducted by Anina Syahwita Pane (Thesis) with the title "Copyright as an Object of Fiduciary Guarantee in Sharia Banking"[6], research conducted by Denny Antasena (Thesis) with the title "Intellectual

Property Rights as Banking Credit Guarantee According to Law Number 42 of 1999 concerning Fiduciary Guarantees"[7]and research conducted by Siti Ainurofi'ah (Thesis) with the title "Analysis of the Strength of Patent Rights as a Collateral Object in Sharia Banking Financing in Indonesia"[8]

## **2. RESEARCH METHOD**

The type of research used in this research is normative juridical. Normative legal research is based on primary and secondary legal materials, namely research that refers to the norms contained in statutory regulations[9]. This type of normative juridical research is used because this research discusses norms and legislation related to intellectual property rights and banking credit. In connection with the type of research used is normative juridical, the approach taken in this paper is a statutory approach.

In written research that uses a normative approach, the legal materials used are obtained through searching legal materials or literature studies of primary and secondary legal materials. The primary legal material consists of statutory regulations including: 1) Law Regulation Number 28 of 2014 concerning Copyright, 2) Law Regulation Number 42 of 1999 concerning Fiduciaries, 3) Law No. 13 of 2016 concerning Patents , 4) Law No. 10 of 1998 concerning Banking and 5) Government Regulation Number 24 of 2022 concerning Implementing Regulations of Law Number 24 of 2019 concerning the Creative Economy. Secondary legal materials are legal materials obtained from textbooks, foreign journals, opinions of scholars. Legal cases, as well as symposiums held by related experts.

Legal material was obtained through library research, which includes laws, government regulations, as well as regulations under law, journals, opinions of scholars, and legal cases used by this author. The author describes and connects them in such a way that they can be presented in systematic writing. After collecting some data, namely laws, government regulations, as well as regulations under law, journals and others through literature study, the author will compile, clarify and analyze then explain it, so that the problems regarding this research are described based on the data The results obtained are then analyzed to draw descriptive conclusions.

## **3. RESEARCH RESULTS AND DISCUSSION**

### **3.1.Implementation of Intellectual Property Rights as an Object of Fiduciary Collateral in Banking Credit**

Copyright always has exclusive rights as a creator to be able to enjoy its moral and economic rights, as stated in article 1 of Law no. 28 of 2014 concerning Copyright. The character or characteristic of copyright is that it is an intangible object, namely that it has economic value. According to Burgerlijk Wetboek, objects are divided into several classifications, namely copyrights are classified as intangible assets, where the classification of objects according to Burgerlijk Wetboek (BW) is stated in article 503 BW. Meanwhile, in the appraiser's view, intangible objects have economic value. Intangible objects are not physical, cannot be touched, cannot be held, but can provide economic value to their owners. One of the examples is copyright, where copyright can provide economic value from exclusive rights as a creator that arise from something he created in a tangible form and shape in accordance with the provisions of statutory regulations.

In writing this thesis the author wants to limit it to intangible objects or intangible assets from the financial side only. Because according to the author, the discussion in relation to collateral should relate only to the benefits and economic value of an intangible object. The economic value of these intangible objects must have value and can be transferred.

Referring to the provisions of article 499 BW (Civil Code), where the word "rights" contains "immaterial objects". Copyright is included in the rights contained in Article 499 BW (Civil Code), where copyright has immaterial property rights which are the object of an object which is included in intellectual property rights. There are no regulations yet and no one has started national banking institutions to accept the concept of copyright assets as objects of banking credit collateral. This is not without reason considering Article 2 of Law no. 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking, has stated firmly that Indonesian banks carry out their business based on economic democracy using the principle of prudence.

Based on this, in providing credit loan assistance to debtors, banks need to apply the five 5 C' principles, namely:[10]

1. *Character*(personality, character, attitude),
2. *Capital*(capital),
3. *Collateral*(loan),
4. *Capacity*(ability), and
5. *Economic conditions*(economic conditions).

Where, the bank also needs to implement several stages, such as the credit analysis stage, credit documentation stage, credit use stage, credit restructuring stage, and credit collection stage. Of the five stages, the credit analysis point is the most important stage, because this stage is the stage at which a bank will gain confidence that the prospective customer/debtor has the ability and willingness to pay off the credit provided by the bank. Here the banking sector will be careful and selective in choosing potential customers. Customers who fulfill the 5 Cs will later be able to obtain credit facilities and of course become collateral as collateral. And of course, in the future, there will be a good relationship if both parties can maintain mutual trust in the agreement they made.

**Table 1.**Credit Collateral In Accordance with PBI Regulation No. 9/6/PBI/2007

No.	Collateral Type	Binding	Legal basis
1.	Securities, shares that are actively traded on the stock exchange in Indonesia.	Pawn	Article 1150-1160 Civil Code
2.	Land, Buildings and Residential Houses	Mortgage right	UU no. 4 of 1996 concerning Mortgage Rights
3.	Machines and equipment that are an integral part of the land.	Mortgage right	UU no. 4 of 1996 concerning Mortgage Rights
4.	Airplanes and ships.	Mortgage	UU no. 17 of 2008 concerning Shipping Law no. 1 of 2009 concerning Aviation
5.	Motor vehicles and supplies.	Fiduciary	UU no. 42 of 1999 concerning Fiduciary Guarantees

6.	Warehouse receipt	Warranty Rights on Warehouse Receipts	UU no. 9 of 2011 concerning the Warehouse Receipt System
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Here the bank will find it difficult because until now there has been no recent revision regarding the types of collateral/credit guarantees in banking. Lastly, Bank Indonesia has issued Bank Indonesia Regulation (PBI) no. 9/6/PBI/2007. Article 46 PBI No. 9/6/PBI/2007, where it has been stated that the types of collateral or credit guarantees are as follows:

1. securities and shares that are actively traded on stock exchanges in Indonesia or have investment grade and are held in pledge;
2. land, buildings and residences tied to mortgage rights;
3. machines which are an integral part of the land and are bound by mortgage rights;
4. aircraft or ships measuring over twenty cubic meters which are tied to a mortgage;
5. fiduciary-bound motor vehicles and supplies; and/or
6. Warehouse receipts tied to security rights over warehouse receipts.

For further clarity, the types of credit collateral based on Article 46 PBI No. 9/6/PBI/2007 can be seen in table 2. From these provisions, it states that PBI No. 9/6/PBI/2007 cannot yet make it possible for a person or company that only has intangible assets to get bank credit guarantees. Even if it is guaranteed, it is only used as an additional complement to the credit agreement, not the main one.

### **3.2.Future Arrangements Regarding the Implementation of Intellectual Property Rights as Fiduciary Collateral for Banking Credit**

Even though it has received legal legitimacy, in reality there is still a need for a clear legal concept regarding Intellectual Property Rights, especially Copyright as an object of collateral for banking credit. Moreover, this material provision was only promulgated in 2014. The reality is that until now there are no clear regulations regarding the interpretation of the assessment of Intellectual Property Rights and the concept of examination. The concept of due diligence is more defined as an important process to ensure the object and subject of ownership of Intellectual Property Rights which will be used as credit collateral in banking. This is considered important, especially since the provisions regarding due diligence have also been regulated in Article 6 letter a of the Fiduciary Guarantee Law, where one of the points contained in the fiduciary guarantee deed must regulate the identity of the party giving and receiving the fiduciary. Meanwhile, the assessment (valuation) of Intellectual Property Rights (Copyright) assets is defined as a process for determining the monetary (financial) value of an Intellectual Property Rights (Copyright) subject. According to Paul Flingor and David Orozco, valuation of Intellectual Property Rights can provide the potential for intellectual property to describe the business, legal and financial aspects of intangible assets. Where valuation is used when:

1. Assisting in the company's business development strategy decision-making process;
2. Investment guarantee;
3. Business negotiations;
4. Measuring potential damages resulting from violations of intellectual property rights;
5. Determining intellectual property rights licensing royalties;
6. Accounting standard requirements; And
7. Tax.

Meanwhile, according to the Indonesian Valuation Standard 320 (SPI 320), there are many types of intangible assets, but the intangible assets that are often considered to fall into the goodwill category are as follows:

1. Intangible assets related to marketing, where intangible assets related to marketing are used in marketing or promotion of products or services. Such as copyrights, trademarks, trade names, trade logos and others.
2. Intangible assets are related to customers, where these intangible assets relate to customers or suppliers including suppliers, orders that have not been served, customer contracts and good customer relationships and are contractual or non-contractual in nature.
3. Intangible assets are related to art, where these intangible assets arise from art rights and benefits that can be obtained from works of art such as dramas, books, films and music from non-contractual copyright protection.
4. Intangible assets related to contracts, where these intangible assets related to contracts represent rights that arise from contractual agreements. Such as license and royalty agreements, service and supply contracts, rental agreements, permits, broadcasting rights, service contracts and natural resource management.
5. Intangible assets are related to technology, where these intangible assets arise from contractual or non-contractual rights to use patented technology, unpatented technology, databases, formulas, designs, software, processes and recipes.

Although similar intangible assets in the same class have the same characteristics as other intangible assets, intangible assets also have differences from other intangible assets. Just like Intellectual Property Rights, there are similarities and differences between each part of intellectual property rights. In valuing intangible assets, the appraiser must understand specifically what needs to be valued and for what purpose. Here it is clear that part of the work of the appraiser profession is to thoroughly assess intangible assets for the purposes of financial reports and the interests of the company's objectives (corporate action). Here it is very clear that no one has ever done this for the purposes of banking collateral or for the purposes of calculating the economic value of banking collateral, because it is very difficult. Valuation of intangible assets is carried out for different interests or purposes. Valuation of intangible assets must understand the purpose or interests for which they will be used. Because with different objectives, intangible asset appraisers can assess them as a group or separately. The following are examples of the objectives and components of the assessment of intangible assets:

1. For financial reporting purposes, intangible asset appraisers often look to the accounting for each business, acquisitions and impairment analysis.
2. For tax reporting purposes, intangible asset appraisers generally analyze transfer pricing, where tax planning and reporting such as inheritance, grants and value added analysis.
3. The aim is to become the subject of litigation, where intangible assets can be analyzed in shareholder disputes, loss calculations and so on.
4. The aim of other legislation, such as providing compensation for land purchases carried out by the government in land acquisition work for the public interest.
5. The purpose of intangible asset assessment is as a general consultation tool in the context of transaction support assignments.

Meanwhile, regarding the Public Appraisal Services Office (KJPP), appraisal is an assessment process in providing an opinion on the value of an asset, both tangible and intangible, based on the results of an analysis of objective and relevant facts using the appraisal methods and principles applicable at the time. certain. One of the uses and benefits of appraisal is to obtain bank guarantees. According to the Indonesian

Appraisal Standards (SPI), in determining asset valuation, there are several parameters that can be used as a basis for market value and values other than market value.

It can be said that the valuation of Intellectual Property Rights assets is very important. Moreover, in Indonesia there are no further specific regulations that discuss the characteristics of Intellectual Property Rights assets that can be accepted by banks regarding fiduciary guarantees. This is not without reason considering that as an appropriate form of guaranteeing Intellectual Property Rights, the Fiduciary Guarantee Law has clearly regulated that apart from the description of the object that is the object of banking collateral, the value of the guarantee and the value of the object are also important points in the object of banking credit guarantee. Reflecting on countries that already practice this, this can be an obstacle and challenge for Indonesia. In fact, assessing Intellectual Property Rights requires understanding and knowledge to determine conditions, for example the value of a patent, calculating royalties as a result of an asset value contract.

This will be a continuation of the deepening of Intellectual Property Rights to optimize the function of the Intellectual Property Rights object itself so that it can be guaranteed in accordance with guarantee practices like other objects that have been accepted by the bank. However, it is still necessary to pay attention to the mechanism for determining the valuation of the Intellectual Property Rights asset itself. This is because each object of Intellectual Property Rights has different characteristics from one another. So the concept of valuation for Intellectual Property Rights assets is different. According to the author, there are several other points that can become obstacles or barriers to Intellectual Property Rights as collateral objects for banking credit. First, the period of protection and ownership of Intellectual Property Rights is very limited. Here it cannot be denied that the protection period for ownership of Intellectual Property Rights will not be the same as each other.

Copyright for example. Article 58 paragraph (2) of the Copyright Law states that copyright is valid during the life of the creator who dies and lasts for seventy years. Meanwhile, for patents, the patent period is valid for twenty years and simple patents are valid for a period of ten years from the date of receipt. For brands themselves, they are valid for ten years and can be extended for the same period of ten years. The industrial design term is protected for ten years. Meanwhile, trade secrets are valid indefinitely as long as their confidentiality is maintained.

The same thing also applies to geographical indications, where the geographical indication period will be granted as long as the reputation, quality and characteristics that are the basis for providing geographical indication protection for an item are maintained. Looking at the differences in the term of each object of Intellectual Property Rights, it would be best for the banking sector to be careful and careful and ensure what conditions can be used as collateral in banking and of course adjustments need to be made due to differences in the validity period in Intellectual property rights. Second, the nature of Intellectual Property Rights is different, and of course requires knowledge of the nature of each Intellectual Property Right. For example, if we compare Copyright with other objects of Intellectual Property Rights, in principle copyright is an exclusive right of the creator which arises automatically based on declarative principles after a creation is realized in real form without reducing restrictions in accordance with statutory provisions.

With these provisions, it means that exclusive rights from copyright can be granted. Meanwhile, there are separate problems in banking, especially in providing loan assistance, considering that objects that are encumbered with fiduciary guarantees must be registered. Registration mandated in the Fiduciary Guarantee Law must be

carried out at the fiduciary registration office. Based on this, to obtain the legal force of a fiduciary guarantee, Copyright must be registered considering that basically the encumbrance of an object with a fiduciary guarantee must be made with a notarial deed in Indonesian and is a fiduciary guarantee deed. Therefore, Intellectual Property Rights, especially Copyright, which will be used as the object of fiduciary collateral for banking credit, must be registered in order to obtain valid legal force. The method for copyright registration is carried out in accordance with the provisions of the Fiduciary Guarantee Law, bearing in mind that as a material right, copyright also has *droit de suite* characteristics where the copyright holder remains in the hands of anyone who owns the copyright attached to the object.[11].

Copyright registration is very important, especially for the banking world. To obtain fiduciary guarantees, the bank will usually carry out inspections and checks first. Inspections and checks can be carried out at the Directorate General of Intellectual Property Rights (DJKI) to find out whether the Copyright that will be accepted as an object of banking credit collateral has received permanent legal force (registered) in the name of the registered holder or owner. This check can be carried out by the bank or through a notary's office[12]. This is to ensure that the debtor is truly the party who has the authority to guarantee.

As for legal risks, basically it seems that many banks do not want to provide fiduciary guarantees, because there are still many incidents of violations related to Intellectual Property Rights. For example, when copyright occurs, piracy occurs, this is not without reason considering that the general principle of banks in carrying out their business is to be careful. Even though the issue of piracy has been regulated in statutory provisions (Law No. 28 concerning Copyright for example), incidents of piracy are still widespread and occur frequently. So this condition is one of the obstacles why banks seem reluctant to provide fiduciary guarantees for copyright. Furthermore, there is no way to calculate the economic value by an appraisal service agency for copyrights in Indonesia. What is meant by appraisal or valuation is the work process or activity of an appraiser in providing an estimated opinion on the economic value of a property (here Copyright), whether tangible or intangible based on the results of an analysis of objective and relevant facts using methods, approaches, parameters, and applicable assessment principles[12]. When carrying out an appraisal, there are 2 (two) types of appraisers, namely property appraisal and business appraisal.

Property (asset) appraisal includes:

1. Appraisal of land and buildings and their accessories, as well as other developments on land;
2. Assessment of machines and equipment that are assembled into one unit and/or stand-alone used in the production process;
3. Assessment of transportation equipment, heavy equipment, communication equipment, medical equipment, laboratory and utility equipment, office equipment and furniture, and military equipment;
4. Assessment of agriculture, plantations, livestock, fisheries and forestry;
5. Mining assessment.

Meanwhile, business or business appraisal includes:

1. Valuation of corporate/business entities;
2. Inclusion assessment;
3. Valuation of securities;
4. Assessment of company rights and obligations;
5. Valuation of intangible assets;
6. Assessment of economic losses; And



#### 7. Fairness opinion assessment.

In number 4, for business or business assessments, currently there is no special institution that functions to assess Intellectual Property Rights, which will be one of the obstacles in the difficulty of obtaining fiduciary loans from banks. Even though Indonesia already has a Directorate General of Intellectual Property (DJKI), the function of DJKI itself is not yet to assess Intellectual Property Rights assets. The Directorate General of Intellectual Property (DJKI) is basically an implementer within the Ministry of Law and Human Rights which has the task of organizing and formulating the implementation of policies in the field of intellectual property in accordance with the provisions of statutory regulations. In carrying out its duties, the Directorate General of Intellectual Property (DJKI) has functions including:[13]

1. Formulating policies in the field of legal protection of intellectual property, carrying out applications for registration of intellectual property, investigations, dispute resolution and complaints regarding intellectual property violations, cooperation, promotion of intellectual property, and information technology in the field of intellectual property;
2. Providing training as well as technical guidance and supervision in the field of legal protection of intellectual property, settlement of applications for registration of intellectual property, investigations, dispute resolution and complaints of intellectual property violations, cooperation, promotion of intellectual property, and information technology in the field of intellectual property;
3. Carry out monitoring, evaluation of reporting in the field of legal protection of intellectual property, completion of applications for registration of intellectual property, investigations, resolution of disputes and complaints of intellectual property violations, promotion of intellectual property, and information technology in the field of intellectual property;
4. Implementation of the administrative sector of the Directorate General of Intellectual Property (DJKI); And
5. Implementation of other functions.

Therefore, it can be concluded that the task of the Directorate General of Intellectual Property (DJKI) is not yet regarding the assessment of Intellectual Property Rights. In this case, it is very unfortunate, considering that several countries already have and practice the concept of special assessment/valuation institutions for Intellectual Property Rights. One thing, as a comparison, there are several countries that actually have appraisals for Intellectual Property Rights. However, there are also those that do not require a separate appraisal, where the task of appraising Intellectual Property Rights assets is to do what is done by the local intellectual property office, in which way they do it in various ways, namely by disseminating information as widely as possible to the public through mass media, online -line and brochures provided.

Intellectual Property Rights can also be needed when a problem of default or breach of contract occurs in the future. The establishment of an appraisal/appraiser institution for Intellectual Property Rights in Indonesia can later be carried out by actually establishing an independent appraisal institution such as Australia, Singapore, or countries that still use the Directorate General of Intellectual Property so that the task of appraising Intellectual Property Rights assets is still carried out by the intellectual property office. locally, which is done in various ways, namely by providing knowledge and education as well as disseminating information as widely as possible to the public through the media regarding what Intellectual Property Rights are. If we really want to do as in other countries, namely assessing Intellectual Property Rights in the Directorate General of Intellectual Property, then we must prepare for the empowerment of Human

Resources in the Directorate General of Intellectual Property (DJKI) to be improved, especially in the field of valuation or valuation of Intellectual Property Rights assets. .

Another option is to switch to the appraisal-appraisal (independent appraiser) that already exists in Indonesia, namely the Indonesian Appraisal Professional Society (MAPPI). Even though human resources at the Directorate General of Intellectual Property are deemed not to have the authority and ability to carry out an assessment of Intellectual Property Rights, the task of assessing Intellectual Property Rights assets can be transferred to appraisers/appraisers who have adequate capabilities. Regarding the position of appraisal institutions in Indonesia, apart from fiduciary institutions, if you look closely, Indonesia actually also has a capable appraisal/appraisal institution, for example the Indonesian Appraisal Professional Society (MAPPI). The Indonesian Appraisal Professional Society (MAPPI) was formed in 1981 with the following organizational spirit:[14]

1. Increase the knowledge, skills and integrity of members, so that they are more competent and responsible in their profession;
2. foster professional ethics and service business entities by complying with existing provisions, in order to increase and develop the role and participation of the appraisal profession in economic development activities.
3. increasing professional development and appraisal services business entities at national and international levels.

Meanwhile, the Public Appraisal Services Office (KJPP) is an agency that has obtained permission from the Minister of Finance as a forum for public appraisers to provide their services as appraisers. The Public Appraisal Services Office (KJPP) has business entities in the form of partnerships and some are individuals.[15] Valuation of Intellectual Property Rights assets is included in the field of appraisal services carried out by appraisers/appraisers. Article 2 paragraph (3) letter e Regulation of the Minister of Finance of the Republic of Indonesia No. 125/PMK.01/2008 concerning Public Appraisal Services, states that one of the points in the field of business/enterprise appraisal services is intangible assets.

It is also necessary to think about what happens if an appraiser is appointed as a profession that assesses the economic value of Intellectual Property Rights in the future. This will be an important note that the appraiser who will be appointed not only knows his technical duties but also needs to know the applicable rules. For this reason, we may need some kind of assessment education in the form of a mandatory one that looks at how to value assets from Intellectual Property Rights. Apart from the several possible options put forward by the author, it will still be an important note for the author to be able to form an appraisal institution and create a way to calculate the economic value of each Intellectual Property Right.

By adding articles to Government Regulations or Sector Regulations regarding Guarantees for Intellectual Property Rights and creating an independent assessment agency, the problem of legal uncertainty regarding copyright as an object of fiduciary guarantee will be resolved. Therefore, with the increasing number of laws regarding Intellectual Property Rights, it will be important to add new government regulations and independent appraisers to be able to assess the economic value of Intellectual Property Rights, so that in the future there will be no doubt if banks make Intellectual Property Rights an object of fiduciary guarantees in banking.

#### 4. CONCLUSION

- 1) Intellectual Property Rights as intangible assets according to Law No. 28 of 2014 concerning copyright, where copyright can be used as an object of fiduciary security because: it includes movable objects in intangible form, has economic value (value) .
- 2) Even though this is explicitly stated in Law No. 28 of 2014 concerning Copyright, in reality, to date, no bank has been able to accept copyright as an object of fiduciary collateral. These problems and obstacles are caused by: (a) there is no support such as implementing regulations or sector regulations, related to Copyright as fiduciary collateral for banking credit which has been mandated in the Copyright Law, one of which is the existence of Bank Regulations regarding collateral/guarantees that used as a basis or foothold for the bank; (b) there are no clear rules regarding the regulation of examination and consideration of concepts regarding the assessment of the economic value of Copyright, (c) the intangible nature of Copyright, creates financial risks for the recipient of collateral, (d) there are no regulations on how to calculate specifically for assessing Intellectual Property Rights, especially Copyright, in accordance with the standard assessment rules applicable in Indonesia.

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