

MSME Development to Increase IPR Valuation

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ABSTRACT: This study discusses the protection of Intellectual Property Rights (IPR) in Indonesia, particularly in the context of Micro, Small, and Medium Enterprises (MSMEs). Indonesia has regulations that protect IPR through Law No. 21 of 1961 on Industrial and Trade Marks, and Law No. 20 of 2008 on MSMEs, which support business development. IPR protection is essential for MSMEs to enhance competitiveness and obtain legal recognition for their works. However, public awareness and understanding of the importance of IPR remain low, and there are various obstacles in the registration and management process of IPR. This research employs a normative juridical method by reviewing literature related to relevant theories, concepts, principles, and legal regulations. The results show that brand development and industrial design in MSMEs can provide significant added value, as well as the importance of patent protection to encourage innovation. It is hoped that the government can facilitate the registration process and socialization of IPR, and establish a specialized institution for IPR valuation to enhance the economic contribution of MSMEs in Indonesia.

KEYWORDS: Intellectual Property Rights; Micro, Small, and Medium Enterprises; Economic Contribution.

I. INTRODUCTION

Indonesia is a country that uses laws and regulations where there is control over various kinds of guarantees for motivation and thought framed through re-establishment and how much imagination is created and has financial value through various guidelines contained in laws related to licensing and freedom of innovation. Indonesia itself has regulations related to Intellectual Property Rights in Law Number 21 of 1961 concerning Industrial Brands and Trade Marks, which contains protection from trading with various kinds of objects that have labels and have advantages and provide guarantees for the quality and quantity they have (Munzir et al., 2016). This is very necessary considering that Indonesia has excellent creative abilities and has abundant natural energy sources. The rapid development of the business world, especially in Indonesia, has also encouraged the improvement of the community's economy. Where we can see an increase that comes from year to year filling and collecting many imaginative gifts both from the younger generation and the meeting of residents who participate in the entrepreneurial area.

One of the entrepreneurs that is currently developing and developing in Indonesia is MSMEs. The development of Small, Small and Medium Enterprises (MSMEs) is something that needs to be a concern and a development need in this case, on the grounds that there needs to be a decent place to open the door to employment for these residents and be able to understand progress in the economy and have a widely balanced salary. Some regions in the country certainly have their own salaries, this is related to the collection of salaries starting from business areas, products and organizations starting from citizen meetings.

An area in a country must have its own income, this is related to the carrying capacity of income collected from business areas, products and organizations in the local area. We can remember things related to this in the discussion that we know as Miniature, Small and Medium Enterprises (MSMEs). The presence of MSMEs is realized through several legal guidelines to encourage the progress of the business world, including Regulation No. 20 of 2008 concerning Small, Medium and Small Enterprises (MSME Regulation) which has been designed to make generosity an effort to work on the business. mastery and position as well as the foundation of Miniature, Small and Medium Enterprises in the community's economy. Paying attention to the prerequisites in Article 7 paragraph (1) of Regulation Number 20 of 2008 (MSME Regulation), from this article it is known that public authorities have taken actions and assessments on several views that support the progress. MSMEs through various strategies that are currently being thought out and carried out in detail (Dyah Permata Budi Asri, 2020).

It should be noted, many people are generally hesitant to settle down and find out more about the use of Licensed Freedom of Innovation (IPR) both in terms of registration pathways, organization as well as viewpoints and strategies for authorization and handling. IPR is something very common for some individuals because there is no data that can be obtained and known so that some individuals who want to take care of IPR registration will feel that this is very problematic and takes a whole day to complete. There

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are many perspectives and things that encourage individuals to think like this, one of which is the absence of data provided by public authorities and individuals who are capable in the field. So in essence, the implementation of IPR itself has many obstacles, including those related to administrative problems and even more so tax vulnerabilities (I Gusti Ngurah Dharma Laksana, 2023).

There are three things that can make it difficult and hesitant for individuals to register for Protected Freedom to Innovate. The first is the lack of clarity and straightforwardness regarding the registration fees of HK itself and the local environmental government. Second, there is an administrative cycle that is still confusing and gives the impression of a problem to the community, so that people are hesitant to register their goods. Third, there is no clarity about the foundation or association that manages and handles it as a reliable place to supervise the parts of IPR itself.

This conception related to Intellectual Property Rights has terms including the existence of elements related to Rights, Wealth, and Intellectuals. These three elements are a unit that cannot be separated from the other, namely: a) Elements of Rights. This element is a right where there is a state grant to intelligent people who have selective work. This selective nature means that the work is a new work or an improvement of a work that has existed before, has a monetary value that can apply it in the modern world, has business value in it and can be used as a characteristic of a resource, b) Element of Wealth. This element means that something that can be appreciated through money, can be exchanged, and can be obtained or transferred. This makes the abundance component of the Protected Innovation Privilege financial, or at the very least, has a money-related value, and is claimed with direct freedom and is economically transferable, c) the Intellectual Element. Judging from the reference to Kata Besar Indonesian (KBBI), a scholar is a person who has common sense in relation to science, or who is highly knowledgeable (Syopiansyah Jaya Putra & Yusuf Durrachman, 2009).

Freedom-protected innovations can generally be grouped into two types of privileges. The first is that copyright has included copyright and other freedoms related to copyright relations (accompanying privileges). Second, Modern Property Freedom over Modern Property (modern property privileges) which includes Patents, Trademarks and Geographical Indications, Plant Varieties, Industrial Design, Integrated Circuit Layout Design, and Trade Secrets (Anis Mashdurohatun, 2013). IPR itself is a confidential right (ideal individual) for someone who has produced a scientific work. This individual has the choice of submitting an application or registering his scientific work or not. The elite freedom granted by the state to IPR holders (innovators, makers, originators, and so on) is expected to compensate for their work (inventiveness) and encourage others to develop it. In addition, all kinds of individual imagination that provide opportunities for the creation of an innovation or similar scientific work can be shunned or prevented. The documentation and registration of Licensed Innovation Privileges is believed to provide great benefits to the community in resilience or further progress in order to obtain higher awards in accordance with the Licensed innovations that have been delivered (Mohamad Sinal et al., 2023).

Protected Innovation Privileges (IPRs) are essentially the freedom of property that has financial value in a business environment, and this means that the rights can be transferred, exchanged, or leased. In general, this financial value is an abundant resource for investors who have the privilege of protected innovation. Creative companies and financial experts have greatly influenced the approach in understanding IPR, because nowadays IPR is not only considered as a moral recognition or traditional financial motivator for a job (Nabila Rosa, 2023). It is true that guaranteeing Licensed Innovation Privileges (IPR) is a difficult issue. Public awareness of the importance of obtaining legal guarantees for licensed innovations is still very low (Syafrialdi, 2013). They are personally rarely aware of the importance of registering licensed innovations, although the government itself has announced IPR-related guidelines such as copyrights, patents, trademarks, protection of plant varieties, trade secrets, industrial design, and integrated circuit layouts (Mohamad Sinal et al., 2023).

When a protected innovation itself is a path to competition and increased business in a region, widely and universally. Licensed Freedom of Innovation (IPR) provides advantages to protect organizations, but provides business security from violations of the law due to IPR violations. MSMEs themselves as financial entertainers certainly have each part of MSMEs that are still vital and valuable. In essence, this business activity can foster extraordinary job opportunities and provide extensive financial assistance to the people of Indonesia (I Gusti Ngurah Dharma Laksana, 2023).

II. RESEARCH METHOD

In the research we used this time, the type of data we used was normative juridical research (which is a method part of normative legal research). This normative juridical research method is a research method in law where the literature obtained is by conducting research from existing literature materials or secondary data (Soerjono Soekanto & Sri Mahmudji, 2003).

The research carried out is to obtain materials in the form of theories, concepts, legal principles and legal regulations that have a relationship with the discussion to be used. Based on Soerjono Soekanto, the scope of normative law is research conducted on the principles of law, research on the legal systematics that is contained in it, research on the level of legal synchronization carried out vertically and horizontally, legal comparison and legal history (Soerjono Soekanto & Sri Mahmudji, 2003). In this study, the scope we use is to draw legal principles, where there are written and unwritten positive laws.

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The methodology in this technique is sourced from primary legal materials and secondary legal materials. These articles aim to be important legal material and will be linked to legal guidelines. In secondary sources of legal materials, there is the use of books, scientific journals, essays by experts, and other scientific works that are disseminated in the form of paper and electronic media.

III. RESULT AND DISCUSSION

Brand-Related Developments in Micro, Small, and Medium Enterprises

In MSMEs, one of them provides examples of business development that can be patented, one of which is related to brands. Based on Article 46 paragraph (4) of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, it states that the government has the authority to register collective trademarks aimed at supporting the development of businesses and/or public services for MSMEs. Therefore, based on these provisions, the government is actually expected to provide convenience in providing facilities and convenience to MSMEs so that they can have patent brands (Hersugondo, 2022).

The main function of a brand is to allow customers to identify with a particular product or service that provides an offer in a company, so that they can differentiate between similar products or services offered by competitors or similar companies. This is in accordance with the regulations contained in Law Number 7 of 2014 and Government Regulation Number 80 of 2019 (Hersugondo, 2022). The brand itself also has several important functions, namely: 1) as an identity symbol to distinguish products from one company from another; 2) has a use as a means to promote products or services; 3) the use as a guarantee will provide the quality of products or services from the company, which is beneficial for both consumers and the company itself by providing confidence in product quality; and 4) the brand also reflects the origin of the product or service, whether it is from a region or a country (Iffan Alif Khoironi, 2013).

Every IPR in it, including patents and trademarks, must be registered, because this registration is a requirement in the law which is part of the recognition and legitimacy of intellectual property rights owned by a person by being shown through a registration certificate. Thus, registered brand owners will get legal protection. The same applies to brands owned by MSMEs, where registration will provide official legality and legal protection in accordance with the provisions of the Law if it has been registered with the Ministry of Law and Human Rights of the Republic of Indonesia (Hersugondo, 2022).

A brand is intellectual property in the form of an intangible asset. According to Article 1 number (5) of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, "trademark rights are exclusive rights granted by the state to the owner of a registered trademark for a certain period of time, which allows the owner to use the mark". Marked by something that is owned exclusively or gives permission to another party to use it (I Gede Agus Kurniawan, 2020).

For a company or business, brand reputation is crucial in maintaining business continuity. Therefore, entrepreneurs generally invest specialized resources to build a strong brand reputation. Creating a "good name" and becoming known by the public has significant benefits for brand owners. This level of brand popularity is reflected in what is seen as part of brand equity, which is an added value provided to a product or service based on a positive consumer response to the brand (Yulia Widiastuti Hayuningrum & Kholis Roisah, 2015).

Brands have a competitive advantage and are considered an ownership advantage because they are able to stimulate consumer demand and maintain loyalty to their products. Brands play an important role in differentiating between similar products or services, affirming the quality and reliability of the product. Building a positive image for a brand requires extra effort from the brand owner. While brands are not as direct a result of human thought processes as artwork, to make a brand strong and memorable, smart thinking is required. When a brand has been recognized by the public and has a good reputation, its economic value increases, allowing the brand to be sold, pledged, or transferred to other parties.

According to Rudi M. Safrudin, the purpose of ownership of a company or owner of Intellectual Property Rights (IPR) that conducts a brand assessment in Indonesia can be divided into two categories (Saiful M. Ruky & Rudi M. Safrudin, 2014):

1. In-Person Brand Assessment:

One of these purposes is to support brand transfer transactions, such as when transferring a brand to an affiliate company. In addition, these objectives are also included in tax planning considerations, such as the transfer of the koadas brand of affiliated companies to get an appropriate assessment related to brand value. In addition, in the context of corporate restructuring, brand valuation is necessary to obtain an accurate picture of value in an effort to change the company's structure.

2. Indirect Brand Assessment:

This brand assessment has the purpose of financial reporting purposes, especially related to the acquisition of a controller in compliance with the Financial Accounting Standards Guidelines (PSAK). In this context, the purchase price allocation process is carried out to obtain brand value.

Intellectual Property Registration, especially in some fields that require registration to obtain legal protection for its creators, is very important (Wiga Maulana Baihaqi, 2021). In maintaining the protection of Intellectual Property, Intellectual Property registration is very important to ensure legal protection for intellectual works that have been created. For MSME actors who want to secure their Intellectual Property rights, the registration process is a step that must be taken. Some types of Intellectual Property, such as Trademarks, Patents, Industrial Designs, Integrated Circuit Layout Designs, Trade Secrets, and Plant Variety Protection,

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require registration to obtain clear legal protection and certainty. This principle forms the basis for intellectual property laws around the world, and provides an affirmation that the owner of unregistered intellectual property cannot bring a claim against an individual who is suspected of having used their intellectual property illegally (Dyah Permata Budi Asri, 2020).

In the context of increasing business competition, each of these business activities is expected to provide income in the form of new creations and innovations, which when it is their turn this will provide an impetus in the development of knowledge and various researches, which will eventually produce intellectual property. Intellectual Property Rights (IPR) are considered intangible assets, which although they do not have a physical form, the owner has exclusive rights to them, which can be transferred through sale, gift, or inheritance to other parties. Therefore, there are intangible rights in IPR such as copyrights, trademark rights, patent rights, and others, which have economic value as intangible assets (Nurhidayati, 2023).

Intellectual property has become valuable when it comes to obtaining legal protection. In this case, creative actors need to register their intellectual property rights through submitting an application to the Directorate General of Intellectual Property. After obtaining proof of registration and the existence of an Intellectual Property Rights certificate, the IPR can have benefits in business activities. Intellectual Property Rights Registration is considered an investment in a business that can increase economic benefits and provide benefits for the owner. IPR protects the products of human mind and/or intelligence whose value can be more valuable than other assets protected by legal entities.

It is hoped that with Intellectual Property Rights, the public will be more motivated to continuously create the best innovative works. As John Howkins puts it, "Intellectual Property Rights are the basic currency of the creative economy, allowing individuals to declare ownership, control use, and set prices" (John Howkins, 2013).

Micro, Small and Medium Enterprises (MSMEs) are an important component in national economic development. Although MSMEs have shown their contribution to the national economy in recent years, they are still faced with a number of challenges and obstacles, both from within and outside, related to production and processing, marketing, human resources, design and technology, capital, and business climate, including legality issues related to these MSMEs (Andrew Shandy Utama & Dewi Sartika, 2017). Therefore, involving various parties in efforts to empower MSMEs is highly expected by MSME actors as a step to overcome the challenges faced (Taupiqurrahman, 2023).

There are several advantages of Intellectual Property Rights (IPR) in the development of MSME businesses, as will be described below. The explanation of IPR benefits will focus on the most commonly applied IPR benefits concepts for MSME development, including the protection of trademarks, industrial designs, copyrights, and patents.

1. The benefits of brand protection, especially for MSMEs. Through the use of this brand, it is hoped that business people can maintain and guarantee the quality of the goods and services they offer, can prevent unfair competition practices and the existence of unscrupulous competitors when trying to take advantage of their reputation. Brands function as marketing and advertising tools that provide consumers with certain information regarding the products or services offered by business people. With the support of advertising media, brands allow businesses to stimulate consumer-owned demand and maintain consumer-owned loyalty to the products or services they produce (Rahmi Jened, 2015).

2. Benefits of industrial design protection for MSMEs. Industrial design adds value to a particular product, making it more attractive and arouses consumer interest, which is unique in sales. An example is when MSMEs in the culinary and packaged food sales sectors can create a packaging design that is interesting and unique. Meanwhile, MSMEs in the field of handicrafts in the form of weaving, carving, and the like, can use an industrial design protection system to protect their product designs. Therefore, the protection of valuable designs is an important consideration in any designer's business strategy (Ranggalawe Suryasaladin, 2020).

3. Benefits of copyright protection for MSMEs. Copyright has provided protection for intellectual works in various fields, such as science, art, and literature, so that it can be used by companies or MSMEs to protect various things. For example, this includes product catalogs, product advertising materials, MSME business websites, designs or logos on product packaging, product advertising songs or jingles, instructions related to the operation of a product, and information about products or guidelines for consumers produced by MSMEs. This copyright plays an important role in preventing misuse or imitation of works protected by such rights (Ranggalawe Suryasaladin, 2020).

4. Benefits of patent protection for MSMEs. Patents give exclusive rights to inventors, who are expected to encourage their creativity by providing recognition as well as material rewards related to inventions that they can market. This encourages innovation that contributes to improving the quality of human life. In return, the inventor must disclose his invention to the public which causes others to gain new knowledge and develop the technology. The patent system can also be used by MSMEs in developing or creating a new tool, machine, or innovation, or making modifications to existing technology. In several community service activities, MSMEs have succeeded in developing new machines or tools that are innovative and useful, so that this can be protected by the existing patent system (Ranggalawe Suryasaladin, 2020).

To increase the value of a business, elements such as business, innovation, capital, and intellectual property rights (IPR) are important. The form of IPR such as creative ideas based on innovation has the potential to provide economic value directly or as capital for business development. IPR is an important asset for startups and traditional businesses because it gives economic rights to the creator or inventor who owns it. Because it can be licensed, sold, or used as collateral to obtain additional capital for business

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development, IPR can be a solution for companies in difficult financial situations. Already from the beginning, it is very important for companies to inventory products that have the potential to get IPR protection because this can help if the company makes progress in the future. As businesses grow, protecting IPR is considered too late because it can lead to problems with IPR abuse (Mieke Yustia Ayu Ratna Sari & Riza Yudha Patria, 2020).

Regarding patents, There are several commonly used methods in the valuation or valuation of intellectual property, including the Cost-Based Approach, the Market-Based Approach, and the Revenue-Based Approach. As explained below (Helitha Novianty Muchtar, 2021):

1. Cost Based Approach Method

The cost-based approach expects to survey the value of IP resources (licensed innovations) by calculating the cost of creating comparable (or equivalent) IP resources through internal and external processes. This approach means estimating the value of IP (intellectual property) resources at a given time by combining the existing costs and opportunity costs associated with the event, as well as considering the deterioration of IP (intellectual property) resources.

2. Market Based Approach Method

The methodology prepared in the market depends on a comparison made with the original cost to be paid to the comparative IP (intellectual property) resources under the same circumstances. In utilizing this technique, it is necessary to have a permit to enter a functioning business sector that provides data on costs. In addition, there must be IP (intellectual property) resources that cannot provide a difference or perhaps a collection of IP (intellectual property) resources that are almost identical or comparative that can meet these criteria. If the IP (intellectual property) resources are not the same, the factors that control the difference should be considered.

3. Income Based Approach Method

Payment-based strategies describe the value of IP (intellectual property) resources in view of the expected financial payment streams generated by IP (intellectual property) resources, which are then used to make introductions related to awards. This approach is one of the strategies that is often used in conducting IP (intellectual property) resource assessments. To determine monetary benefits, the steps taken include projections of revenue streams or cost reserve funds that have been generated by IP (intellectual property) resources during their overlife. This is then contrasted with costs that are directly related to intellectual property resources, for example, the cost of work, natural materials, the required venture capital, and a comparison of capital costs. Then, the risk is surveyed to limit the salary amount to the present value, using the appropriate rebate rate or rate of return.

With the approach that has been taken in this article, the government has the potential to establish rules related to the valuation of intellectual property, especially patents, through legal instruments such as presidential regulations or regulations of the minister of finance. This rule will then be a guide for appraisal institutions in assessing the value of intellectual assets. The purpose of patent valuation itself is to revive the economic role of patents, with the hope that this improvement in economic functions will make a positive contribution to overall financial well-being.

Challenges of IPR Valuation on MSMEs

The limited capital owned by MSMEs provides challenges in the form of difficulties in marketing and the availability of raw materials they need, as well as a lack of knowledge about the world, especially in the business field, limitations in mastering the technology they have, lack of quality of community resources who take formal education leading to a lack of quality in human resource work, poor or poor financial management causing the valuation they do not run, and the lack of explanation related to the division of business goals are some of the common obstacles that will be faced by MSME owners (T. Tambunan, 2002).

The challenges that will be faced for MSMEs are related to the process of patent registration. This challenge is divided into two parts, including the role of the government and the role of the community which is carried out directly. The role of the government is very important when a patent registration process is carried out. The local government itself does not pay enough attention to IPR, especially the patent registration section for MSMEs. As a result, MSMEs are happy to be able to register the results of their innovations. In addition to the problem of limited human resources and lack of socialization, the problem of MSME registration is also a problem in itself. For example, the community directly faces challenges from business actors' initiatives. An inventor refused to register his invention because he believed that there was no need for legal recognition of his invention. There is not much awareness where inventors and business actors do not need to get legal recognition for their findings, which is an obstacle for elements of society (Izmed Bayu Hastardi, 2017).

Another challenge is the absence of an institution that specifically has the function of providing valuation calculations for IPR. According to academics, namely Henny Marlyna from the Department of Civil Law, Faculty of Law Indonesia, and Desrezka Guntu Larasati from the Indonesian IP Academy and the Institute for Legal Studies of Technology FH UI argue that a special institution is needed that has a function in handling IPR valuations so that the valuation can run in a coordinated manner and not soradiated (Indra Rahmatullah, 2015).

SWOT Analysis on the Implementation of the Patent Economic Value Valuation System in Indonesia (Muhammad Charis Marzuqi, 2019):

1. Internal Factors

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- a. Strengths
 - 1) Legality of the Patent Law
 - 2) The number of capital institutions in Indonesia
 - 3) There are many patents registered in Indonesia
 - 4) There are already many experts in the field of economics in Indonesia
 - b. Weaknesses
 - 1) There is no institution to assess intellectual property rights (patent rights).
 - 2) This difficult procedure in carrying out registration as a guarantee
 - 3) Limited period of protection and ownership
 - 4) Lack of socialization provided to the community.
2. External factors
- a. Opportunities
 - 1) The establishment of the Sepura institution in terms of valuation.
 - 2) There is an interest of the patent holder to obtain capital.
 - 3) There is already a safety agency, especially in the financial sector, namely the Financial Services Authority (OJK).
 - 4) High market related to patents (technology field)
 - b. Threats
 - 1) Absence of security-related mechanisms in patents.
 - 2) There is no mechanism if there has been a default in the agreement.
 - 3) Competition for financing from the provision of competitive capital.
 - 4) Very long bureaucratic procedures.

Indonesia is part of a developing country and is making efforts in modernizing the law, especially Intellectual Property Rights. Seen from the sociological side, according to Arif Syamsudi, he gave a statement that institutionally/institutionally, the implementation of IPR valuation in Indonesia has not been implemented, but the community itself has begun to have awareness of its relevance in the existence of several facts that have been disclosed in IPR valuation and have been carried out in practice even though this nature is still amateur and only carried out civilly. An example that can be given is a business related to Batik Fracta which is a type of batik business originating from Bandung by combining art tips and mathematical algorithms that can produce batik patterns that are rumored to be valued by a company in Europe with an intangible asset value that will reach one trillion rupiah. In this case, we can know that the existence of a condition where is part of a very important point to increase its usefulness and make a legal rule, so if there is a time when the community will need such an arrangement. This practice of valuing IPR assets results in it becoming a law that will live and be in the midst of society (the living law) (Nur Amelia Pertiwi, 2018).

CONCLUSIONS

The purpose of patent valuation itself is to provide a return to the economic role that is a patent, so that it is expected to increase related to economic functions and make improvements for the welfare of MSMEs. Patent valuation itself can be used through three methods that are generally carried out through the assessment or valuation of intellectual property, including the Cost-Based Approach, Market-Based Approach, and Income-Based Approach.

The challenges faced by MSMEs themselves related to the valuation of IPR are related to the process of registering patents. The challenge is divided into two parts: where there is a role of the government and the role of the community that is carried out directly. The role of the government is an important role that has a great influence on the process of patent registration. When there is a lack of government role in paying attention to IPR, especially in the part of patent registration for MSMEs. The result is that MSMEs will not like it when registering their innovations. Other problems also arise with limitations in human resources and lack of socialization related to patent registration, which causes problems of their own. Another challenge faced is the absence of institutions in Indonesia that can calculate IPR valuations.

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