CLASSIFICATION, PRINCIPLES AND LEGAL BASIS OF INTELLECTUAL PROPERTY IN INDONESIA

Obie Persada Sitanggang

185100057P

Fakultas Komputer, 448757208
obiepersada.student@umitra.ac.id

Abstract

In the life of the state there are various norms that regulate life so that there is balance and order in life. When one of the norms is not properly implemented, there will be potential undesirable things to happen, and the wheel of life will stagnate.

There are several written and unwritten norms. One of the written norms is legal norms. Even though the law is a standard rule and must be followed, many parties still view the law as something that can be bought with money and power. This includes the law concerning the regulation of Intellectual Property Rights (IPR), which is currently increasingly being considered by the public. Because of the many claims and the increasing difficulty of the judicial process to follow up the claim if it does not have a strong law.

Intellectual Property Rights (IPR) are included in the right to intangible objects (such as patents, brands, and copyrights). Intellectual Property Rights are tangible, in the form of information, science, technology, art, literature, skills and so on which do not have a certain form.

Keywords: Haki and Intellectual.

A. INTRODUCTION

1. Definition of IPR

Intellectual Property Rights (HAKI) are the equivalent of the English Intellectual Property Right. The word "intellectual" is reflected in the object of intellectual property is intelligence, thinking power, or products of human thought (the Creations of the Human Mind) (WIPO, 1988: 3).

Intellectual Property Rights (IPR) are exclusive rights that are given a rule to a person or group of people for their work. In simple terms IPR includes Copyright, Patent Rights and Brand Rights. But if seen in more detail IPR is part of objects (Saidin: 1995), namely intangible objects (immaterial objects).

Intellectual Property Rights (IPR) are included in the right to intangible objects (such as patents, brands, and copyrights). Intellectual Property Rights are tangible, in the form of information, science, technology, art, literature, skills and so on which do not have a certain form.

2. Principles of Intellectual Property Rights

The following are the principles of Intellectual Property Rights:

- **Economic Principles**

The principle of economics is intellectual rights derived from creative activities a willingness of human thought expressed in various forms that will give benefits to the owner concerned.

- **Principles of Justice.**

The principle of justice is in creating a work or a person who works produces a result of intellectual abilities in

science, art, and literature that will get protection in their owners.

- **Principles of Culture.**

The principle of culture, namely the development of science, literature, and art to improve human life

- **Social Principles.**

The social principle (regulating human interests as citizens), means that rights recognized by law and given to individuals constitute a unity so protection is provided based on the balance of individual and community interests.

Every work that is born of brilliant thought that is useful to humans needs to be recognized and protected. For this reason, the IPR system is needed as a form of appreciation for the work.

Besides that the IPR system supports the establishment of a good documentation system for all forms of human creativity so that the possibility of producing the same technology or other works can be avoided or prevented.

With the support of good documentation, it is expected that the community can use it to the fullest for the needs of their lives or develop it further to provide higher added value. Now the community in submitting the application has not experienced any difficulties because the Government through DITJEN HAKI has carried out a lot of socialization both through the media and forums that have been formed. So that finally for the owner of the right not to worry about the loss caused by irresponsible people who want to take advantage of the popularity of the brand of a particular product.

3. Classification of Intellectual Property Rights

Based on WIPO intellectual property rights can be divided into two parts, namely:

a. Copyright (copyrights)

Exclusive rights granted by the state to the creator of a work (eg a work of art to announce, reproduce, or give permission for others to reproduce their creations without reducing the rights of the creator themselves).

UU no. 19 of 2002 concerning Copyright states that Copyright is the right to regulate intellectual work in the fields of science, art and literature which is set forth in a distinctive form and given to ideas, procedures, methods or concepts that have been set forth in a permanent form.

b. Industrial property rights

Rights that govern everything about industrial property, especially those that regulate legal protection. Industrial property rights based on Article 1 of the Paris Convention concerning the Protection of Industrial Property Rights in 1883 which was amended on October 2, 1979, covering

- a) Patents, namely exclusive rights granted by the state to creators in the field of technology
- b) Trademarks, works, or a set of letters, numbers, or images as a distinguishing power used by individuals or legal entities from the output of other parties.
- c) Industrial design rights, namely protection against two or three dimensional creations that have aesthetic value for a design and specification of an industrial process
- d) Integrated circuit layout design rights, namely protection of rights

to layout design in integrated circuits, which are miniaturized electronic components.

- e) Trade secrets, which are secrets owned by a company or individual in the production process
- f) Plant variety is a group of plants of a type or species that are characterized by plant shape, plant growth, leaves, flowers, fruit, seeds and expression of characteristic genotypes or a combination of genotypes that can distinguish from the same species or species that are equal by at least one characteristic that determines and if multiplied does not change. (Article 1, paragraph 3)

4. Legal Basis of Intellectual Property Rights in Indonesia

- Law Number 19 of 2002 concerning Copyright
- Law Number 6 Year 1982 concerning Copyright (Republic of Indonesia State Gazette Year 1982 Number 15)
- UU no. 29 of 2000 concerning Protection of Plant Varieties
- UU no. 30 of 2000 concerning Trade Secrets
- UU no. 31 of 2000 concerning Industrial Design
- UU no. 32 of 2000 concerning Design of Integrated Circuit Layout
- UU no. 14 of 2001 concerning Patents
- UU no. 15 of 2001 concerning Trademarks
- UU no. 19 of 2002 concerning Copyright
- UU no. 7 of 1994 concerning the Ratification of Trade Related

Aspects of Intellectual Property Rights (TRIPs)

5. Copyright

Copyright is a special right for creators to announce or reproduce their creations. Including protected creations is a creation in the fields of science, literature and art.

Based on Law Number 19 of 2002 Copyright is an exclusive right for the Creator or the recipient of the right to announce or reproduce his work or give permission for it by not reducing restrictions according to the applicable laws and regulations (Article 1 paragraph 1).

6. Patent Rights

Based on Law Number 14 of 2001:

Patent is an exclusive right granted by the State to the Inventor for the results of his invention in the field of technology, which for a certain period of time carries out his own invention or gives his consent to other parties to implement it (Article 1 Paragraph 1) in the field of technology, for a certain period of time carry out the invention itself or give approval to others to implement it (Article 1 of the Patent Law).

Patents are given within the scope of the technology field, namely science that is applied in industrial processes. Besides patents, also known as simple patents (utility models) which are almost the same as patents, but have simpler protection conditions. Simple patents and patents in Indonesia are regulated in the Patent Law (UUP).

Patents are only given by the state to inventors who have found a new invention in the field of technology. What is meant by discovery is the

activity of solving certain problems in the field of technology in the form of:

process;

production result;

process improvement and development;

improvement and development of production

7. Brand Rights

Based on Law Number 15 of 2001:

A mark is a sign in the form of an image, name, word, letters, numbers, arrangement of colors, or a combination of these elements which have distinguishing features and are used in the activity of trading goods or services. (Article 1 Paragraph 1)

A mark is a sign in the form of an image, name, word, letters, numbers, arrangement of colors or a combination of these elements which have distinguishing features and are used in the trading of goods or services (Article 1 of the Trademark Law).

Brand Terms:

Trademarks are brands that are used on goods traded by a person or several people jointly or a legal entity to differentiate from other similar items.

Service marks, namely brands used in services traded by a person or several people jointly or a legal entity to differentiate from other similar services.

Collective brands are brands that are used on goods or services with the same characteristics that are traded by several people or legal entities jointly to differentiate from other similar goods or services.

Brand rights are special rights granted by the state to brand owners registered in the General Register of Marks for a

certain period of time, use the brand themselves or give permission to someone or several people together or legal entities to use it.

8. Industrial Design

Based on Law Number 31 of 2000 concerning Industrial Design:

Industrial design is a creation of the shape, configuration, or composition of lines or colors, or lines and colors, or a combination of three-dimensional or two-dimensional shapes that give an aesthetic impression and can be realized in three-dimensional or two-dimensional patterns and can be used to produce a product, item, industrial commodity, or handicraft. (Article 1 Paragraph 1)

9. Trade Secrets

According to Law Number 30 Year 2000 Trade Secrets is information that is not known by the public in the field of technology and / or business, has economic value because it is useful in business activities, and is kept confidential by the owner of the Trade Secret.

B. CONCLUSION

Every work that is born of brilliant thought that is useful to humans needs to be recognized and protected. For this reason, the IPR system is needed as a form of appreciation for the work. So it can be concluded, HAKI is an intellectual property right which protects and respects one's intellectual creativity. The existence of the law of rights can limit the rampant system of piracy in Indonesia which is increasingly increasing. Even though

the existence of IPR, for a long time, that is in the era of Dutch colonialism. For this reason, as a good citizen, uphold HAKI by increasing the creativity of each individual so that each individual will compete to produce the best work that can be sold in the community, so indirectly piracy will disappear and each will appreciate the hard work someone creates something meaningful.

B. ACKNOWLEDGEMENT

University Of Indonesia
University Of Mitra Indonesia
Telkom University
University Of Melbourne
Saitama University

D. REFERENCE (Based ISO 690)

- [1] A. S. Putra And O. M. Febriani, "Knowledge Management Online Application In Pdam Lampung Province," In *Prosiding International Conference On Information Technology And Business (Icibt)*, 2018, Pp. 181–187.
- [2] A. S. Putra, O. M. Febriani, And B. Bachry, "Implementasi Genetic Fuzzy System Untuk Mengidentifikasi Hasil Curian Kendaraan Bermotor Di Polda Lampung," *J. Sist. Inf. Dan Manaj. Basis Data*, Vol. 1, No. 1, Pp. 21–30, 2018.
- [3] O. M. Febriani And A. S. Putra, "Sistem Informasi Monitoring Inventori Barang Pada Balai Riset Standardisasi Industri Bandar Lampung," *J. Inform.*, Vol. 13, No. 1, Pp. 90–98, 2014.

- [4] Putra, Arie Setya. "2018 Artikel Struktur Data, Audit Dan Jaringan Komputer." (2018).
- [5] Putra, A. S. (2018, July 17). Paperplain Fundamental Create Application With Borland Delphi 7.0 University Of Mitra Indonesia. Retrieved From Osf.io/Pbrn9.

E. REFERENCE (Based APA)

Putra, A. S., Aryanti, D. R., & Hartati, I. (2018, November). Metode SAW (Simple Additive Weighting) sebagai Sistem Pendukung Keputusan Guru Berprestasi (Studi Kasus: SMK Global Surya). In *Prosiding Seminar Nasional Darmajaya* (Vol. 1, No. 1, pp. 85-97).

Sari, D. P., Febriani, O. M., & Putra, A. S. (2018, November). Perancangan Sistem Informasi SDM Berprestasi pada SD Global Surya. In *Prosiding Seminar Nasional Darmajaya* (Vol. 1, No. 1, pp. 289-294).

Putra, A. S. (2018). Paperplain: Execution Fundamental Create Application With Borland Delphi 7.0 University Of Mitra Indonesia.

Putra, A. S., Sukri, H., & Zuhri, K. Sistem Monitoring Realtime Jaringan Irigasi Desa (JIDES) Dengan Konsep Jaringan Sensor Nirkabel. *IJEIS (Indonesian Journal of Electronics and Instrumentation Systems)*, 8(2), 221-232.

Darmawan, A., Yuliawati, D., Marcella, O., & Firmandala, R. (2016). Sistem Absensi dan Pelaporan

Berbasis Fingerprint dan SMS Gateway. *EXPLORE*, 7(1).

Febriani, O. M., Wahyuni, T., & Yusuf, S. (2017). DESIGN OF WEBSITE-BASED INFORMATION SYSTEM FOR EDOCUMENT ADMINISTRASI IN THE COMMUNITY SERVICE UNIT (A Case Study at Rajabasa District). *INTERNATIONAL JOURNAL OF COMPUTERS & TECHNOLOGY*, 16(7), 7010-7020.

Febriani, O. M., & Wahyuni, T. (2017, October). PERANCANGAN SISTEM E-DOCUMENT ADMINISTRASI LOGBOOK PENELITIAN PADA UNIT LAYANAN DI BANDAR LAMPUNG. In *Prosiding Seminar Nasional Darmajaya* (Vol. 1, No. 1, pp. 187-194).

Febriani, O. M., & Permadi, A. B. (2017). Implementasi Sistem Aplikasi Data Bimbingan dan Pelanggaran Siswa pada Sekolah Menengah Atas di Lampung Tengah dengan Metode Analisis dan Desain Sistem Terdistribusi (SSAD). *EXPERT*, 7(1).

Febriani, O. M., & Ambarwati, L. (2015). PERANCANGAN APLIKASI PENGOLAHAN DATA PENJUALAN UKM KELANTING KHAS TELO DESA SIDOHARJO KECAMATAN JATI AGUNG KABUPATEN LAMPUNG SELATAN. *Jurnal Teknologi Informasi dan Bisnis Pengabdian Masyarakat Darmajaya*, 1(1), 77-95.

Febriani, O. M. (2015). Rancang Bangun Aplikasi E-

commercemenggunakan Freewebstore
pada UKM Kelanting di Desa
Sidoharjo Lampung Selatan. *Prosiding
Sembistek 2014*, 1(02), 446-458.