

LEGAL PROTECTION OF INTELLECTUAL PROPERTY RIGHTS IN GLOBAL BUSINESS

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ABSTRACT

Intellectual property rights (IPR) are an important asset for business people, both individuals and companies. IPR can protect intellectual works, such as copyrighted works, patents, brands and industrial designs. The aim of this research is to analyze the legal protection of IPR in global business. This research uses normative legal research methods. Research data was obtained through literature study. Research data was analyzed qualitatively in three stages, namely data reduction, data presentation and conclusion drawing. The research results show that legal protection for intellectual property rights in global business has actually been regulated in various legal sources such as conventions, one of which is regulated by Article 27 (2) Universal Declaration of Human Rights, the TRIPS Agreement (Agreement on Trade-Related Aspects of Intellectual Property) convention. Rights), Berne Convention for the Protection of Literary and Artistic Works, and Paris Convention for the Protection of Industrial Property. This regulation shows that intellectual property rights are part of human rights that must be protected, respected and fulfilled by the government.

KEYWORDS Legal Protection, Intellectual Property Rights, Global Business



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INTRODUCTION

Globalization brings dynamic changes to trade patterns, technology transfers, and international business relations. Increased connectivity and access to information also provide greater opportunities for the dissemination and use of intellectual creations worldwide. Intellectual Property (IP) is an exclusive right granted by the state to creators, inventors, designers, and authors concerning their intellectual creations (Pratomo, 2017). IP ownership takes two forms: Personal Ownership and Communal Ownership. Intellectual Property Rights (IPR) are crucial assets for business players, both individuals and companies. The protection of IPR has significant economic value and is classified as intangible assets. IPR encompasses

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various assets, such as copyrights, patents, trademarks, and trade secrets, collectively providing a competitive advantage to their owners (Kusumaningtyas et al., 2022).

This phenomenon also brings risks of intellectual theft, rights infringement, and the trade of counterfeit goods that can harm the rights owners. An incident involving copyright infringement of a logo by Grand Indonesia and the heirs of Henk Ngantung serves as an example. In this event, the Grand Indonesia mall used a logo and registered it with copyright claims. The logo bore a striking resemblance to the Selamat Datang Monument, a creation of Henk Ngantung. Despite Henk Ngantung's passing, his family still retained rights as heirs. Henk Ngantung's family objected to the shopping center's actions. After an investigation, it was revealed that the logo submitted by Grand Indonesia indeed resembled the sketch of the Selamat Datang Monument. Due to this oversight, Grand Indonesia lost the lawsuit and faced sanctions. The mall's management was considered incompetent for using the monument's sketch without permission. As a consequence of this copyright infringement, Grand Indonesia had to pay a fine of 1 billion and allocate the funds to Henk Ngantung's heirs as compensation (IBLAM, 2023).

This case illustrates the importance of intellectual property rights in both business and individual contexts. Intellectual Property Rights can serve as a legal mechanism providing protection for intellectual creations, including copyrights, patents, trademarks, and industrial designs. This protection aims to prevent unauthorized use or exploitation that could harm the rights owner. On a broader scale, within global business, challenges arise regarding differences in regulations and legal policies between countries (Sinaga, 2020).

Previous research by (Lazuardi & Gunawan, 2024) explored legal protection of intellectual property rights in the era of the fourth industrial revolution, showing that IP protection through Copyright Law also provides legal certainty for investors and creators, encouraging investment in the creative and industrial sectors. In this context, Copyright Law can be a key driver for fostering economic growth based on creativity and innovation in the Fourth Industrial Revolution era. On the other hand, IP protection through Copyright Law also plays a crucial role in ensuring justice for copyright owners, promoting fair and balanced international trade, and encouraging the dissemination of information and knowledge.

Another study by (Indriani, 2018) examined legal protection of copyright for musical works, revealing that the legal regulation of intellectual property rights for musical works is through Law No. 19 of 2002, which was updated to the new Copyright Law No. 28 of 2014. The provisions in the new law are seen to have more emphasis and legal certainty for creators of musical works. Efforts to protect the copyright of musical works include (1) Copyright Protection in the New Law (2) Complaint Delict and Copyright Protection (4) Authorized Courts Protecting Copyright from Disputes (5) Copyright Protection Through Socialization by the Directorate General of Intellectual Property.

The novelty of this research lies in its object of study, namely the legal protection of intellectual property rights in global business, which has not been investigated before. The practical implications of research on legal protection of intellectual property rights in global business are the existence of strong legal guidance

and foundations for business practitioners, researchers, and governments in managing and protecting intellectual property rights. The theoretical implication is an increased understanding of the role of intellectual property rights in global business and how it integrates with human rights and international norms. The objective of this research is to analyze the legal protection of intellectual property rights in global business.

RESEARCH METHOD

This research employs the normative legal research method. The normative legal research method is an approach that focuses on the study of positive law, principles, and legal doctrines. This method does not involve the collection of primary data but uses literature or secondary data to analyze legal issues. Normative legal research aims to discover legal rules, legal principles, or legal doctrines to address the legal issues at hand (Efendi & Ibrahim, 2018). Research data is obtained through literature review. The data collection technique of literature review is a method where the researcher examines theories, opinions, and key thoughts related to the conducted research (Jailani, 2023). The research data is analyzed qualitatively through three stages: data reduction, data presentation, and drawing conclusions.

RESULT AND DISCUSSION

Competition in today's global business occurs amid the era of globalization and advancements in information technology. The boundaries between countries and regions are becoming increasingly blurred, allowing all types of transactions to be continuously monitored. As a result, competition has become an unavoidable element for business actors. They must compete to become market leaders, while the risk of being ousted in intense competition also looms (Priangani, 2023).

Phenomena in the context of this competition give rise to various issues such as piracy, counterfeiting, and misuse that clearly violate the law, carried out by manufacturers of goods or services without good intentions. Violations of intellectual property rights (IPR), especially those related to human creations produced through sacrifice and hard work, are often targeted by extensive piracy, imitation, and counterfeiting. The level of infringement and piracy not only exceeds the limits of normal human rationality but also endangers the lives of communities as a whole (Atmadja, 2015).

Piracy of well-known brands is often triggered by the desire of manufacturers to generate substantial profits in a relatively short time. This is because products with well-known brands tend to be more popular among consumers. Violations of brands generally occur through the unauthorized use or imitation of well-known brands to facilitate marketing. Brand piracy not only harms the brand owner and consumers but also has the potential to harm the country (Disemadi & Mustamin, 2020).

According to Nugroho (2022), legal protection of intellectual property rights (IPR) becomes crucial in the context of global business. IPR, abbreviated from Intellectual Property, is an asset that must be protected because it can be a means to

increase added value in the industry. In the business world, legal protection of IPR can help prevent rights violations and piracy, provide incentives for innovation, and create an environment that supports economic growth (Arika et al., 2023).

Intellectual Property Rights (IPR) refer to rights related to wealth arising from the intellectual ability of humans, such as works in the fields of technology, science, art, and literature. The concept of IPR is based on the understanding that intellectual works involve sacrifices of energy, time, and cost, making them economically valuable. These rights are outlined in Article 27(2) of the Universal Declaration of Human Rights, recognizing everyone's right to protection for moral and material benefits derived from their scientific, literary, or artistic creations.

The legal protection provided by copyright has positive impacts on business in several aspects. Firstly, copyright provides legal security to creators against unauthorized use of their works. According to Atmadja (2015), this includes the exclusive right to use, announce, reproduce, and distribute the work. With this protection, creators can prevent others from using their work without permission. Furthermore, copyright can also enhance the economic value of a business (Santoso & Sujatmiko, 2017). Copyrighted works have a higher economic value because of their exclusivity. Copyright owners can leverage this value by selling, leasing, or licensing their works, which, in turn, can provide economic benefits to the business.

Competitive advantages can also be gained through copyright, as unique and innovative copyrighted works can be a source of innovation and creativity for a business. Businesses that can produce copyrighted works that set them apart will find it easier to compete with rivals in the market (Sulistiyowati et al., 2020). Lastly, copyright can also help businesses expand their global market share. By providing legal protection abroad, businesses with copyright can more easily export and import their products or services, creating opportunities to reach new customers and markets internationally (Indaryani et al., 2020). Intellectual Property Rights (IPR) encompass various forms of intellectual property, as explained by (Hafsari, 2021):

1. **Trademark:** A trademark is a symbol involving graphic elements and a name, consisting of a combination of words, letters, and numbers, with the purpose of being a unique identifier in the trade of products or services. Its function is as a distinctive element that helps consumers identify and differentiate one product or service from another in the market. The trademark serves as a characteristic that assists consumers in identifying and distinguishing between products or services in commercial activities.
2. **Copyright:** Copyright is specifically granted to creators, giving them exclusive rights to announce or make copies of their copyrighted works. This right mainly pertains to creative works in the fields of science, art, and literature. Creators have full control over the use and distribution of their works, allowing them to determine how their works can be accessed and utilized by others. Copyright aims to protect the rights of creators and provide incentives for them to continue creating new works by offering legal certainty related to the exploitation of their creative outputs.
3. **Patent:** Patent rights are privileges granted to individuals or groups who successfully discover solutions to specific problems through the application of specific technology. This right provides exclusive power to patent holders

to use, make, and sell their inventions and prevent others from engaging in similar activities without permission. Through patent rights, creators or inventors are granted legal recognition and economic incentives as a form of reward for their innovative contributions to solving relevant technological problems. The goal of patent rights is to encourage innovation by providing security and incentives for patent holders to continue developing beneficial inventions.

4. Trade secrets: Trade secrets are rights involving information related to technology or business aspects, having economic value but not required to be disclosed to the public. In this case, information kept as a trade secret has significant economic interests, but the owner does not disclose it widely to the public. This right gives its owner a competitive advantage because the information kept as a secret is unknown to competitors or other parties, providing an advantage in specific business or technological fields. Trade secrets can include production methods, formulas, processes, or other critical business information that gives a valuable competitive edge.
5. Industrial design: Industrial design is the process of developing works that involve elements of form, color composition, and lines, with the aim of creating a specific impression on a product. In this context, industrial design involves efforts to create aesthetics, functionality, and visual characteristics that distinguish a product. This design plays a crucial role in providing visual identity, attraction, and user experience for a specific product, creating added value and competitiveness in the industrial market.

Legal protection of intellectual property rights (IPR) in the context of global business has been regulated through various international legal sources, one of which is the TRIPS Agreement (Agreement on Trade-Related Aspects of Intellectual Property Rights). The TRIPS Agreement, which is an agreement under the World Trade Organization (WTO), requires member countries to provide consistent protection for IPR in various fields such as copyright, patents, trademarks, industrial designs, and trade secrets. The high protection standards set by the TRIPS Agreement are an obligation for all WTO members. According to Suyud (2010) in (Sudjana, 2019), the TRIPS Agreement does not directly define intellectual property; however, in articles 1-2, it is outlined that intellectual property includes copyright, trademarks, geographical indications, industrial designs, patents, integrated circuit designs, trade secrets, and new plant variety trial data.

In addition to the TRIPS Agreement, there are other international agreements such as the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works. The Paris Convention regulates the protection of industrial property rights, including patents, trademarks, industrial designs, and trade secrets (Yanto, 2016). Meanwhile, the Berne Convention requires its member countries to provide equal protection for copyrights originating from other countries regardless of the nationality of the owner (Felano, 2021).

Enforcement of Intellectual Property Rights (IPR) in the context of global business is crucial to ensure effective IPR protection. Enforcement efforts for IPR can be carried out by governments and business actors collectively. Governments

play a vital role in enforcing IPR through law enforcement agencies such as the police, public prosecutor's offices, and the judiciary. They are responsible for following up on IPR violations and taking necessary legal steps to enforce regulations.

Every country has legislation that regulates IPR protection. In Indonesia, there are laws covering various aspects of IPR protection, such as Law Number 28 of 2014 concerning Copyright, Law Number 20 of 2016 concerning Trademarks and Geographical Indications, and Law Number 13 of 2016 concerning Patents. These regulations establish rights and obligations related to IPR and provide a legal basis for the enforcement of rights and sanctions for violations.

In addition to the government's role, business actors also play an active role in IPR enforcement. They can take independent steps, including filing legal claims against those who violate IPR. This may involve legal actions such as civil lawsuits to obtain compensation or through criminal legal processes if IPR violations involve criminal elements (Mendrofa, 2023). Here are some steps that businesses can take to secure Intellectual Property Rights (IPR) in the scope of global business:

1. Registering IPR: The IPR registration process is an important initial step to secure exclusive rights to your intellectual assets. By registering IPR, you gain stronger legal protection.
2. Understanding IPR law: It is essential to understand the IPR legal regulations applicable in the countries where business actors operate. This knowledge will help take appropriate and effective protection measures.
3. Taking preventive actions: To prevent potential IPR violations, take preventive actions such as adding watermarks to copyrighted works or securing your products with special security technology.
4. Collaborating with other businesses: Forming partnerships with other businesses with relevant IPR can strengthen collective protection. This cooperation may include the exchange of information and resources to combat IPR violations collectively.

Effective law enforcement efforts are expected to strengthen IPR protection, encourage innovation, and provide legal certainty for owners of intellectual property rights in global business. Furthermore, the realization of the goals of Article 28C paragraph (1) of the 1945 Constitution states that every individual has the right to develop themselves through the fulfillment of their basic needs, obtaining education, and benefiting from knowledge, arts, and culture. The purpose of this right is to improve the quality of life and the welfare of humanity. This right can be interpreted as a right acquired as a result of someone's intellectual thinking in the fields of science, arts, and culture, known as Intellectual Property (IP). IP owners have the right to be protected to utilize their creations. Existing regulations emphasize that intellectual property rights are an integral part of human rights that must be guaranteed protection, respect, and fulfillment by the government. The phenomenon of economic globalization is also accompanied by legal globalization, reflected through legal standardization and international conventions. This indicates that legal protection of intellectual property rights in the context of global business becomes an integral part of the dynamics of globalization. Therefore, a comprehensive and standardized legal framework is needed to protect these intellectual property rights on a global scale.

CONCLUSION

Legal protection of intellectual property rights in the context of global business has been regulated by various legal sources, including international conventions. These regulations include Article 27(2) of the Universal Declaration of Human Rights, the TRIPS Agreement, the Berne Convention for the Protection of Literary and Artistic Works, and the Paris Convention for the Protection of Industrial Property. The presence of these regulations illustrates intellectual property rights as an integral part of human rights that must receive protection, respect, and fulfillment from the government. The phenomenon of economic globalization is accompanied by legal globalization, manifested through legal standardization and international conventions. This indicates that legal protection of intellectual property rights in the realm of global business is an inseparable part of the dynamics of globalization, requiring a comprehensive and standardized legal framework to protect these rights.

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