

INTELLECTUAL PROPERTY COMMERCIALIZATION POLICY TO EXPAND FINANCING OPTIONS FOR INDONESIAN CREATIVE ECONOMY BUSINESSES

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ABSTRACT

This study aims to develop alternate strategies for completing the creative economy Intellectual Property collateral financing policy so that it may be implemented in Indonesia. The methods used descriptive qualitative research with SWOT analysis to analyze the implementation of Intellectual Property-based financing schemes' supporting and inhibiting factors. The preparation of alternative strategies based on the SWOT matrix produces nine strategies. The nine alternative strategies produced were evaluated and tested using four practical policy analysis criteria: Effectiveness, Efficiency, Legality, and Administrative Robustness. Three primary recommendations emerged from testing alternative approaches: first, a plan to fortify industry regulations related to financial services, which will serve as a model for financial institutions implementing credit provisions based on Intellectual Property collateral and expediting the realization of financing products backed by Intellectual Property Rights. Second, a plan to standard Intellectual Property valuation formula or economic value of Intellectual Property and establish an ecosystem for the Intellectual Property market to promote more consistent Intellectual Property valuations and third, managing credit risk through joint ventures with insurance companies, the debtor will pay the insurance costs that allow the Bank or Financial Institutions to transfer risks to third parties if the Intellectual Property value declines.

KEYWORDS *Creative Economy Business, Intellectual Property, Financing Scheme, SWOT Matrix, Policy Analysis, Implementation Strategy*



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INTRODUCTION

The expansion of Indonesia's creative economy sector has great promise for job creation, economic growth at the national level, and increased exports of goods and services (Rosyadi et al., 2021). According to data forum the Center of Data and

How to cite: Mahmudah, F. et al. (2024). Intellectual Property Commercialization Policy To Expand Financing Options For Indonesian Creative Economy Businesses. Journal Eduvest. 4(9): 8592-8603
E-ISSN: 2775-3727
Published by: <https://greenpublisher.id/>

Information Systems, Ministry of Tourism and Creative Economy, knowing that the Gross Domestic Product (GDP) of the creative economy is growing annually, the creative economy's exports reached US\$ 19.6 billion, or 11.9% of the country's export value. In comparison, the level of labor contributed 7.28% of the value, reaching 1,153.4 trillion rupiahs (Center of Data and Information System, 2021, p. 42).

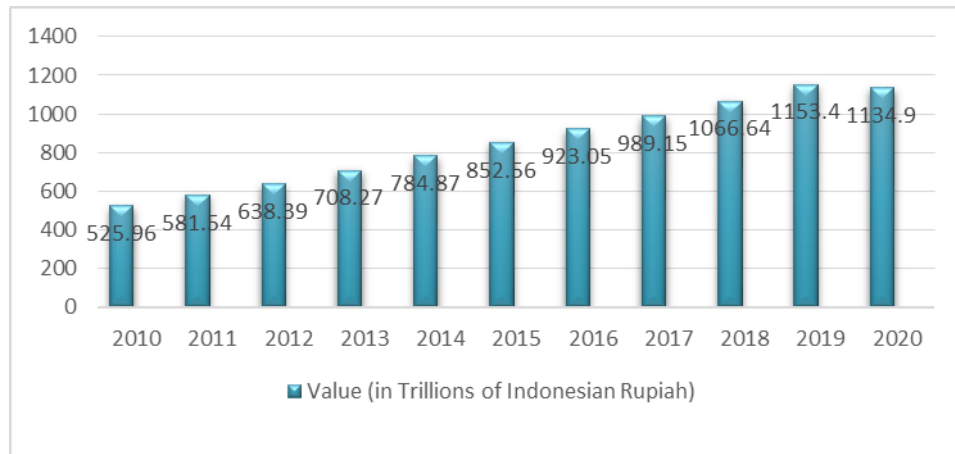


Figure 1. Development of Indonesia's creative economy GDP. 2010-2020

Source: (Center of Data and Information System, 2021)

The creative economy in Indonesia has much room to grow, but there are also a lot of difficult obstacles to its development. The results of identifying strategic issues that are challenging to the creative economy from the results of the 2020 Tourism Industry and Creative Economy survey, which was carried out in 34 provinces with a total research sample of 35,478 businesses or companies, obtained information that the majority of creative economy businesses face development of funding problem for new ideas, namely 64.98% of respondents stated that that matter. Most sources of funds for companies or Creative Economy businesses still rely on their capital, amounting to 95.49% (Pariwisata, 2021). Adequate funding was needed to pursue this creative industry business. Every economic endeavor needs capital. A range of investments and funding availability are the sources of the capital requirement (Tanwir S. H. & S. H., 2019). In line with the world conditions, the results of research and analysis of data on the world trends in the development of the creative industry and features of these processes in the economies in transition were carried out by Bilan (2019), providing access to finance is one of the crucial triggers in economies in transition that Government regulation should have an impact on.

The existence of financing institutions still needs to be more supportive of creative economy entrepreneurs (Mahmudah et al., 2024). Creative economy entrepreneurs need to improve their ability to obtain funding from financial institutions, particularly banks, due to banking rules about lending or financing to these actors (Robby et al., 2022). Businesses in the creative economy often depend heavily on intangible assets, such as Intellectual Property (IP), and have high-risk

and high-return profiles. They also usually have a range of business strategies, limited access to owned physical assurances and fluctuating financial cash flow (Mayana et al., 2022). It is the main reason creative economy entrepreneurs cannot obtain funding from official financial institutions since it is regarded as having very high-risk Intellectual Property and is unpredictable (Fadli et al., 2023).

The U.K.'s Creative Industries Task Force describes creative industries as activities that derive from individual creativity, skills, and talents and have the potential to generate wealth and employment through the creation and exploitation of intellectual property (Khoo, 2010). The creative industry uses Intellectual Property as "primary input" to produce goods and services (García Lorente, 2016). Creative products are intellectual experiences, and the degree to which consumers will be satisfied is highly subjective (Caves, 2003). It is challenging to forecast how customers will respond and make demands in the future (Boğa & Topcu, 2020). Finally, players or entrepreneurs in the creative economy require assistance to obtain reliable financing credit from banks or lenders. This is when there is a tension between the degree of bank confidence and the unpredictable nature of creativity; creative ideas can occasionally not be implemented or are not completed for lack of funding (Fraser & Lomax, 2011). The collateral requirements required to finance it must likewise be given top priority in Government policy in this context (Boğa & Topcu, 2020). Since intangible assets are far more complex to value than tangible items like vehicles, creative economy enterprises that wish to grow and find investors to support their expansion have a hurdle (Chung et al., 2018). One of the main obstacles to IP finance is the difficulty in valuing IP. Businesses worldwide may unlock the value locked in their IP with the help of a more robust banking system and a more stringent regulatory framework around IP protection (Mahmudah et al., 2024).

However, several countries in Asia (India, Hong Kong, China, and Taiwan), Europe, and the United States have succeeded in implementing policy innovations by commercializing Intellectual Property Rights (IPR) as an object of debt collateral through the implementation of the Intellectual Property - based financing policy (Nikitenko & Mesyats, 2019). Implementation in Russia demonstrates how the funding mechanism for intellectual property management can significantly speed up the development of an innovation system in expanding added value for business actors' products or services and economic growth (Nikitenko et al., 2017). A 2019 study by (Nikitenko & Mesyats, 2019) shows how widespread it is in the US and Europe, specifically in Austria, the UK, Spain, Italy, the Netherlands, and France, for loans secured by IPR as collateral. Trademarks, patents, and other Intellectual Property Rights, along with registration applications, can be used as collateral for loans, as the EU's experience demonstrates. However, due to the different legal and financial ramifications of carrying out collateral transactions involving IPR's intangible assets versus contracts involving tangible assets, particular attention must be given to these issues (Nikitenko & Mesyats, 2019; Schultz, 2004). The primary obstacle to expanding bank funding for Intellectual Property Rights pledges is valuing pledged assets as intangible assets (Nikitenko et al., 2017). According to a study on the advantages of IP protection on creative companies' investments in China, IP protection could lessen financing barriers, which would

help address the issue of underinvestment in innovative businesses and reduce the inefficiency of creative business investment (Chu & Gao, 2019).

The President of Indonesia signed Government Regulation Number 24 of 2022 regarding implementing The Creative Economy Law on July 12, 2022, after the Indonesian Government released it. This move aimed to encourage companies in the creative economy to look for funding sources from official financial institutions. This means creative economy entrepreneurs can use IPR to access financing or credit from banks. Even though this regulation is a breakthrough and legal innovation in the creative economy, it cannot guarantee easy access to funding in developing creative businesses because credit collateral is an intangible asset. Therefore, the Government needs to formulate an implementation strategy immediately and determine the stakeholders involved in pushing forward the implementation plan for the IP financing policy in the creative economy sector in Indonesia.

RESEARCH METHODS

This research employs a qualitative approach that combines literature studies and content analysis of policies. Its primary focus is on the implementation of the Indonesian Government Regulation Number 24 of 2022 related to intellectual property (IP)-based financing for the creative economy sector. The study aims to identify the factors that hinder and support the successful implementation of this policy (Pribadi & Chan, 2022)

The data sources for this research consist of primary and secondary sources. Primary sources include interviews with eight experts from various sectors, including government, financial institutions, academia, industry practitioners, and media. Secondary sources encompass policy documents, legislation, and scholarly publications relevant to the utilization and commercialization of IP. The selection of informants was purposive, based on their knowledge and experience related to the issues being studied (Nugroho, 2021).

To collect data, this research utilizes in-depth interviews, observations, and document studies. A questionnaire developed using a Likert scale of 1 to 6 was used to measure the informants' views on various factors influencing policy implementation. The obtained data were then analyzed using the SWOT method to map supporting and hindering factors (David & David, 2016). The results of the SWOT analysis will be used to formulate alternative strategies through the TOWS matrix, and weights and assessments of internal factors (IFAS) and external factors (EFAS) will be calculated to determine the strategic position within the Internal-External (IE) matrix. Thus, this research aims to produce effective strategies for enhancing the implementation of IP-based financing policies in the creative economy sector (Bardach & Patashnik, 2023)).

RESULT AND DISCUSSION

Analysis matrix SWOT quadrant

Analysis with the 4 Quadrant SWOT matrix using a diagram divided into four quadrants aims to determine the policy position of the IPR-collateral financing scheme for creative economy sectors and its development. The formula for

calculating the coordinate values on the X axis is Horizontal axis (X) = Sub total strengths - Sub total weaknesses = 1.5-1.8= -0.3. The formula for calculating the coordinate value on the Y axis is the vertical axis (Y) = Sub total opportunities – Sub total threats = 2.1-1.1= 1.0. Based on the results of the 4-quadrant SWOT analysis, the position of the Intellectual Property-based financing scheme policy for the creative economy sector is in quadrant III. Namely, the internal factor score was -0.32, and the external factor score was 0.9; this IP-based financing policy position in Indonesia can be successfully implemented considerably. However, it also experiences several internal obstacles or weaknesses in the Government's readiness regarding the instruments that must be met and regulations in the financial services sector. Hence, the IP financing policy is in quadrant III, with the strategy used to minimize internal problems and seize existing opportunities. The strategy in quadrant III or the consolidation strategy is similar (but not the same) to the WO Strategy (Mini–Maxi) in the Matrix TOWS.

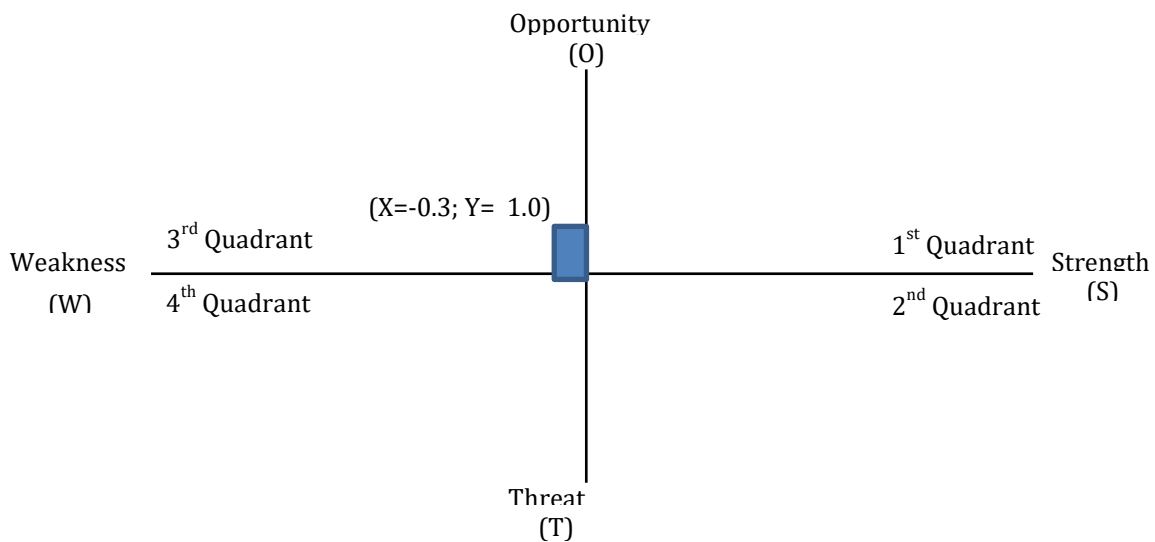


Figure 2. SWOT Matrix Quadrant

Construction of alternatives TOWS matrix strategy

SWOT factors are then used to develop alternative strategies using the TOWS matrix. Strategy formation is an essential part of the planning process for any company or institution (Bambang Prayogo, 2018; Oreski, 2012).

Table 1. TOWS matrix alternative SO and WO strategies

	Internal Factors	Strengths	Weaknesses
	External Factors		1. Applicability of Laws and Policies IP-Based Financing
		2. Binding or Ownership of IPR to creative economy players or entrepreneurs	2. IP Valuation and Appraiser
			3. Volatility of IP Value
Opportunities		S-O Strategy Score	W-O Strategy Score
1. Development of IPR Commercialization	SO1:	Encourage the Ministry of Law and Human Rights to make database infrastructure containing guaranteed IPR data accessible and integrated. This will avoid IPR being collateralized by several financing credits for which the receivables resolution is still pending, confirm the purpose of the collateral, and assist in ensuring that guaranteed IPRs are fiducially bonded.	WO1 : Create and promote relevant financial services regulations to expedite the realization of a financing product based on IPR collateral.
	2. Technological Development	SO2:	IP optimization is used to secure access to financing. Financial institutions must ensure that IPR has been wholly secured or can be used as fiduciary collateral, such as Copyrights and Patents, which can currently be used as fiduciary collateral.
			WO3 : Collaborating with insurance institutions, the collateralized IPR is insured for the collateral binding period, and the debtor will pay the insurance costs. This allows the Bank to share the risk with other parties if the value of the IPR used as collateral declines.

Table 5. TOWS matrix alternative ST and WT strategies

Internal Factors	Strengths	Weaknesses
	4. Applicability of Laws and Policies IP-Based Financing	1. Collateral Regulations from the Financial Institutions and Banking sector
External Factors	5. Binding or Ownership of IPR to creative economy players or entrepreneurs	2. IP Valuation and Appraiser
		6. The Volatility of IP Value
Threats	S-T Strategy Score	W-T Strategy Score
1. Secondary Market (IP Market)	ST1 : a. Promote the establishment of a Public Service Entity (BLU) to help with an IP-based financing scheme and an IP-based creative economy product marketing system; commercialize and support the expansion of creative content; create organizations or bodies tasked with valuing IPR, purchasing and selling IPR, resolving IPR disputes; and putting together a guarantee and financing scheme for banks. b. Creating a market and marketing system for IP-based creative economy products is carried out through licensing, franchising, technology transfer, joint brands, transfer of rights, and other forms of partnership (GR Number 24 of 2022 Article 18)	WT1 : Development of alternative creative economy financing sources: Information technology-based joint funding services, offering securities through information technology-based crowdfunding services
2. Execution of IPR Guarantees in The Event of Default	ST2: Encourage the establishment of collateral execution methods and institutions that execute IPR collateral when debtors cannot pay their loans.	WT2: Prepare a recording system for financing facilities for creative economy entrepreneurs

Selection of the criteria and deciding the priority of alternative strategies

From the TOWS matrix which produces nine strategy formulations, 4 criteria and strategy assessment weights were determined through interview results and average ratings from respondents, consisting of: a) Effectiveness (recommended alternative solutions must solve the problem, not make the problem worse) has an Intellectual Property weight of 25 % because the element of policy effectiveness is

quite an essential element in inclusive economic development in the face of a global recession; b) Efficiency (the recommended alternative solution must be as economical as possible with a weight of 15% because in the IP-based financing scheme piloting project, budget support from the Government is quite essential to realize policy implementation, c) Legal suitability (the recommended alternative solution is in accordance with regulations and does not violate the provisions which applies) is very important, having Intellectual Property weighing 30% because Intellectual Property machines and IP-based financing schemes are innovations in the development of the creative economy, but in implementation they must comply with applicable regulations, namely the aspect of Bank prudence in providing credit to avoid market failure, d) Administrative Robustness and Improvability have a weight of 30%, the strategies results are a significant prerequisite for closing an IP financing scheme, even though the implementation of an IP-based financing scheme is exceedingly difficult because the collateral guaranteed is an intangible asset.

Table 2. Grid Analysis of Alternative Strategies for Implementing The IP-Based Creative Economy Financing Scheme

Strategy Alternatives based on the TOWS Matrix	Strategy Description	Criteria				Score Total
		Effectiveness	Efficiency	Legality	Administrative Robustness and Improvability	
Weight of Criteria		25%	15%	30%	30%	
SO1 Strategy	Encourage the Ministry of Law and Human Rights to make database infrastructure containing guaranteed IPR data accessible and integrated. This will prevent IPR from being collateralized by several financing credits for which the receivables resolution is still pending, confirm the purpose of the collateral, and assist in ensuring that guaranteed IPRs are fiducially bonded.	7 (1.75)	7 (1.05)	6 (1.8)	8 (2.4)	7
SO2 Strategy	IP optimization as security for access to financing Banks or Financial Institutions must be able to guarantee that IP has been fully bound or is suitable for use as fiduciary collateral.	7 (1.75)	7 (1.05)	9 (2.7)	6 (1.8)	7.3
WO1 Strategy	To hasten the development of a financing product based on IPR collateral, appropriate financial services rules should be developed and promoted.	9 (2.25)	7 (1.05)	9 (2.7)	8 (2.4)	8.4

	Regulations pertaining to the financial services sector, including fiduciary assurances for intellectual property, must be developed by OJK.					
WO2 Strategy	Standardizing the process and formula for determining the economic worth of intellectual property can reduce the possibility that an evaluation will be completed that is either too high or too low. Establishment and appointment of an IP asset assessment agency Facilitate increasing the professional competency of IP appraisers by collaborating with the World Intellectual Property Organization (WIPO), which can be coordinated by the Ministry of Tourism and Creative Economy and the Ministry of Law and Human Rights to be able to carry out IP assessments.	9 (2.25)	9 (1.35)	7 (2.1)	8 (2.4)	8.1
WO3 Strategy	Collaborating with insurance institutions, insured for the collateral binding period, and the debtor will pay the insurance costs. This allows the Bank to share the risk with other parties if the value of the Intellectual.	9 (2.25)	8 (1.2)	7 (2.1)	8 (2.4)	7.95
ST1 Strategy	Promote the establishment of a Public Service Entity (BLU) to help with IP-based financing schemes and an IP-based creative economy product marketing system; commercialize and support the expansion of creative content; create organizations or bodies tasked with valuing IPR, purchasing and selling IPR, resolving IPR disputes; and putting together a guarantee and financing scheme for banks. Creating a Market and Marketing System for IP-Based Creative Economy Products is carried out through licensing, franchising, technology transfer, joint brands, transfer of rights, and other forms of partnership.	8 (2.00)	8 (1.20)	7 (2.1)	8 (2.4)	7.7

ST2 Strategy	Encourage the establishment of collateral execution methods and institutions that execute IPR collateral when the debtor defaults, the debtor cannot pay the loan	9 (2.25)	9 (1.35)	6 (1.8)	6 (1.8)	7.2
WT1 Strategy	Development of Alternative Creative Economy Financing Sources: - Information technology-based joint funding services - Offering securities through information technology-based crowdfunding services, C.S.R., bonds, equity	7 (1.4)	7 (1.4)	6 (1.8)	6 (1.8)	6.4
WT2 Strategy	Prepare a system for recording financing facilities for creative actors, registration, recording transactions, and guaranteeing IPR	8 (2)	7 (1.05)	6 (1.8)	6 (1.8)	6.65

Score = Weight x Assessment Rating

CONCLUSION

To successfully implement Intellectual Property (IP)-based funding for creative economy businesses in Indonesia, the government and relevant stakeholders need to adopt nine strategies derived from TOWS analysis. The primary recommended strategy is to create an IP market ecosystem, strengthen regulations in the financial services sector, and promote a consistent valuation of IP to facilitate its trade as collateral. Additionally, risk management through collaboration with insurance institutions is crucial to mitigate the risk of declining IP value. By implementing these strategies, effective IP-based funding can be realized, providing guidance for financial institutions in executing wealth-based lending practices and accelerating the development of financing products secured by IP. Future researchers are also encouraged to explore different policy analysis criteria and involve a larger pool of respondents in their studies.

REFERENCES

- Bambang Prayogo. (2018). *Journal of Public Administration Studies Corporate Values*. 3(1), 1–4.
- Bardach, E., & Patashnik, E. M. (2023). *A practical guide for policy analysis: The eightfold path to more effective problem solving*. CQ press.
- Bilan, Y., Vasilyeva, T., Kryklii, O., & Shilimbetova, G. (2019). THE CREATIVE INDUSTRY AS A FACTOR IN THE DEVELOPMENT OF THE ECONOMY: DISSEMINATION OF EUROPEAN EXPERIENCE IN THE COUNTRIES WITH ECONOMIES IN TRANSITION. *Creativity Studies*, 12(1), 75–101. <https://doi.org/10.3846/cs.2019.7453>

- Boğa, S., & Topcu, M. (2020). Creative Economy: A Literature Review on Relational Dimensions, Challenges, and Policy Implications. *ECONOMICS*, 8(2), 149–169. <https://doi.org/10.2478/eoik-2020-0014>
- Caves, R. E. (2003). Contracts Between Art and Commerce. *Journal of Economic Perspectives*, 17(2), 73–83. <https://doi.org/10.1257/089533003765888430>
- Chu, S., & Gao, C. (2019). Intellectual property protection and creative enterprises' investment efficiency: alleviating financing constraints or inhibiting agency problem? *Asia-Pacific Journal of Accounting & Economics*, 26(6), 747–766. <https://doi.org/10.1080/16081625.2019.1566010>
- Chung, C., Yang, L., & Cauldwell-French, E. (2018). *Growing the UK's creative industries: what creative enterprises need to thrive and grow*.
- David, F. R., & David, F. R. (2016). Manajemen strategik: Suatu pendekatan keunggulan bersaing. *Jakarta: Salemba Empat*.
- Fadli, M. A., Muhammad Pravest Hamidi, Farhan Azzahra Edwin, & Rayyan Gustio Kevin Aritonang. (2023). Let's Play Content as a Fiduciary Collateral under Indonesian Law: Potential Challenges. *Yuridika*, 38(3), 481–498. <https://doi.org/10.20473/ydk.v38i3.44756>
- Fraser, S., & Lomax, S. (2011). Access to finance for creative industry businesses. *Department for Business and Innovation & Skills (BIS) and Media and Sport (Dcms) and Department for Culture (Final Report May 2011)*.
- García Lorente, J. (2016). The creative economy: The new El Dorado that Europe and Latin America want to lead. *IE University*.
- Khoo, O. (2010). Intellectual Property and the Creative Industries in Asia (China and Singapore). *Asia Pacific Law Review*, 18(1), 151–170. <https://doi.org/10.1080/10192557.2010.11788230>
- Mahmudah, F., Alexandri, M. B., & Sugandi, Y. S. (2024). Scenario Planning of IP-Based Financing Scheme Implementation Study on the Animation Creative Industry. *Eduvest-Journal of Universal Studies*, 4(7), 6075–6093.
- Mayana, R. F., Santika, T., & Cintana, Z. (2022). Skema Pembiayaan Berbasis Kekayaan Intelektual: Peluang, Tantangan dan Solusi Potensial Terkait Implementasinya (Intellectual Property-Based Financing Scheme: Opportunity, Challenge and Potential Solutions). *Das Soll. J. Kaji. Kontemporer Huk. Dan Masy*, 1, 1.
- Nikitenko, S. M., & Mesyats, M. A. (2019). Intellectual property rights as the resource for innovative economy development. *IOP Conference Series: Earth and Environmental Science*, 377, 012012. <https://doi.org/10.1088/1755-1315/377/1/012012>
- Nikitenko, S. M., Mesyats, M. A., & Pakhomova, E. O. (2017). Intellectual property as instrument for implementation of innovative technologies. *Proceedings of the International Conference on Trends of Technologies and Innovations in Economic and Social Studies 2017*. <https://doi.org/10.2991/ttiess-17.2017.78>
- Nugroho, G. K. (2021). Applying Bardach and Patashnik's Policy Concept to Educational Leadership Development Effort in the Developing World. *Studia Philosophica et Theologica*, 21(1), 114–127.
- Oreski, D. (2012). Strategy development by using SWOT-AHP. *TEM Journal*, 1(4), 283–291.

- Pariwisata, K. (2021). Statistik Industri Pariwisata dan Ekonomi Kreatif 2020. *Pusat Data Dan Sistem Informasi Kementerian Pariwisata Dan Ekonomi Kreatif/Badan Pariwisata Dan Ekonomi Kreatif*.
- Pribadi, K. S., & Chan, T.-K. (2022). Indonesia and National Development Planning. In *Construction in Indonesia* (pp. 1–18). Routledge.
- Robby, M. A., Mulyati, E., & Harrieti, N. (2022). Optimalisasi Pembiayaan Perusahaan Modal Ventura Terhadap Pelaku Usaha Kecil Berbasis Ekonomi Kreatif Yang Berkeadilan. *Pagaruyuang Law Journal*, 6(1), 26–51. <https://doi.org/10.31869/plj.v0i0.3821>
- Rosyadi, S., Sabiq, A., Ahmad, A. A., & Yamin, M. (2021). The Cross-Sector Collaboration for Development Policy of Rural Creative Economy: The Case of Bengkoang Creative Hub. *Journal of Governance and Public Policy*, 8(1), 10–21.
- Schultz, M. P. (2004). An International Experience. *NASNewsletter*, 19(1), 13–13. <https://doi.org/10.1177/104747570401900103>
- Tanwir S. H., M. H. , Dr. R. F. M., & S. H., M. Hum. , M. Kn. , D. H. (2019). ALTERNATIVE RESOLUTION OF INTELLECTUAL PROPERTY DISPUTES AS PART OF INVESTMENT IN THE CREATIVE INDUSTRY SECTOR UNDER INDONESIAN LAW. *Humanities & Social Sciences Reviews*, 7(5), 93–97. <https://doi.org/10.18510/hssr.2019.7512>