

Implementation of Copyright in Intellectual Property Law As A Credit Guarantee Object in Banks based on Government Regulation No. 24 of 2022

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Abstract. *Copyright as part of intellectual property law has an important role in supporting innovation and creativity. This article discusses the implementation of copyright as an object of credit collateral at banks. This research aims to analyze the mechanism for using copyright in banking transactions, as well as identifying obstacles and solutions that may arise. The research method used is literature study and normative legal analysis. The research results show that although copyright can be used as credit collateral, its implementation still faces various challenges, such as assessing the economic value of copyright and a lack of understanding from banks. This research also provides recommendations for increasing the use of copyright as an object of credit collateral, including the need for clearer regulations and increased outreach to related parties. In this way, it is hoped that a more effective and efficient system can be created in the use of copyright as credit collateral in Indonesia.*

Keywords: *Copyright; Credit; Guarante; Intellectual; Property.*

1. Introduction

Copyright is a form of intellectual property that provides legal protection to creators for their intellectual works. ¹Works protected by copyright encompass various fields, such as literature, art, and science. This protection aims to give creators exclusive rights to control the use and distribution of their works, thereby encouraging innovation and creativity. In the digital economy era, the economic value of intellectual property, including copyright, is increasingly recognized and becoming more significant. In Indonesia, the creative industry, which is based on intellectual property, has shown significant growth and contributed substantially to the national economy. However, creative industry players often face challenges in accessing financing. The traditional banking system tends to rely on physical assets, such as property and land, as collateral for loans. This is problematic for creative industry players who may not have sufficient physical assets but possess valuable intellectual

¹ Fallah, S. N., & Mulyati, E. (2019). Hak Kekayaan Intelektual dalam Perspektif Hukum Jaminan. *Jurnal Litigasi*, 20(2), p. 223–240.

property.²

Copyright as collateral for loans is a relatively new concept in Indonesia. This concept aims to broaden financing access for creative industry players by leveraging their intellectual property as collateral. In some developed countries, intellectual property is already recognized as an asset that can be pledged to obtain credit from banks. However, in Indonesia, the implementation of this concept still faces various challenges. One of the main challenges is assessing the economic value of copyright. Unlike physical assets, which have more easily measurable market values, the value of copyright can vary greatly and is difficult to assess objectively.³ Accurate valuation is crucial to determine the amount of credit that can be granted with copyright as collateral. Additionally, the lack of understanding and awareness among banks and copyright owners about the potential of copyright as loan collateral is a significant barrier. Many banks are still hesitant to accept copyright as collateral due to insufficient information and understanding about how to manage it.

Moreover, current regulations do not specifically address the use of copyright as loan collateral. Although there is a legal framework protecting copyright, there are no clear and comprehensive regulations governing its use as collateral. This legal uncertainty can hinder the implementation of copyright as collateral for loans in Indonesia. In this context, this research aims to analyze the mechanisms of using copyright as loan collateral at banks, identify the challenges faced in its implementation, and provide recommendations to overcome these challenges. This research is expected to contribute to the development of a more inclusive and innovative financial system in Indonesia and support the growth of the creative industry by providing broader financing access for its players.

In Indonesia, several regulations and laws govern copyright and intellectual property as well as their use as collateral for loans:

1. Law No. 28 of 2014 on Copyright: *This law regulates copyright protection in Indonesia, including the rights and obligations of creators and the protection mechanisms for copyrighted works.*

² Cahyaningrum, D. (2022). Kekayaan Intelektual Sebagai Jaminan Utang Pelaku Ekonomi Kreatif. *Kajian Singkat Terhadap Isu Aktual Dan Strategis*, p. 19–24.

³ Ayu, I., Kumala, R., Putu, A., & Astiti, S. (2024). Optimalisasi Kekayaan Intelektual (KI) Sebagai Jaminan Utang Dalam PP No . 24 Tahun 2022. 04(01), 242–253. <https://doi.org/10.36733/yusthima.v4i1>

2. Law No. 42 of 1999 on Fiduciary Security: *This law regulates fiduciary security, which includes movable assets, both tangible and intangible. Copyright as an intangible asset can fall under the scope of fiduciary security.*
3. Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 8 of 2016 on Electronic Registration of Fiduciary Security: *This regulation facilitates the registration process of fiduciary security, including for copyright and other intellectual property.*
4. Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 9 of 2019 on Procedures for Granting Credit with Intellectual Property Collateral: *This regulation provides guidelines on the procedures for granting credit using intellectual property as collateral, including copyright.*⁴

These regulations provide a legal framework that allows copyright and other forms of intellectual property to be used as collateral for loans, although the implementation of this practice still requires further development.

Copyright as an intangible asset has the potential to be used as collateral in bank loan transactions. Examples of copyrights that can be used as bank loan collateral include:

1. Music Copyright: *Copyright on musical compositions, song lyrics, or sound recordings can be used as collateral. The economic value of music copyright usually comes from royalties earned from sales, streaming, licensing, and other commercial uses.*
2. Book and Publication Copyright: *Copyright on written works such as books, scholarly articles, novels, and other publications also has economic value that can be used as collateral. Revenue from book sales, publishing rights, and adaptation to other media (such as films or TV series) can be sources of value.*
3. Film and Audio-Visual Content Copyright: *Copyright on films, videos, and other audio-visual content can also be used as collateral. Revenue from distribution, screening, streaming, and international licensing can be high-value collateral.*
4. Software Copyright: *Copyright on software and computer applications is an important asset in the technology industry. Licensing, sales, and software updates can generate significant and sustainable revenue.*
5. Art Copyright: *Visual artworks such as paintings, sculptures, photographs, and graphic designs have economic value that can be used as collateral. Original sales,*

⁴ Handayani, W. M. (2019). Keberlakuan Hukum Hak Cipta Sebagai Objek Jaminan Fidusia Berdasarkan Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta. *Jurnal Legislasi Indonesia*, 16(2), 220.

*reproductions, licenses for commercial use, and exhibitions are relevant sources of revenue.*⁵

In all these examples, accurate valuation and proper management of the copyright are essential to ensure that these assets can be used as effective and valuable loan collateral⁶. Banks and financial institutions need to have a good understanding of how to appraise and manage copyrights to maximize the value of the collateral provided.

2. Research Methods

This study employs a normative juridical research method. Normative juridical research adopts a literature study approach and analyzes legislation⁷. It involves inventory techniques to explore legal issues by recording, citing, and relating them to various legal documents and relevant literature.⁸ Literature study is used to deeply analyze the theoretical framework related to copyright, intellectual property law (IPR), and civil law aspects related to debt guarantees.

3. Results And Discussion

3.1 The Potential of Copyright as Fiduciary Collateral in Bank Loan Applications: Opportunities and Challenges for the Creative Economy

The enactment of Government Regulation No. 24 of 2022 on the Implementation of Law No. 24 of 2019 on the Creative Economy (PP No. 24 of 2022) supports economic activities, particularly for players in the creative economy industry. Article 9 states that the implementation of Intellectual Property-Based Financing Schemes allows financial institutions, both banks and non-banks, to use Intellectual Property as collateral for debt in the form of fiduciary guarantees over Intellectual Property, contracts in Creative Economy activities, and/or receivables in Creative Economy activities.

In the current creative economy era, copyright has become a highly valuable intellectual asset. Copyright protection is not only crucial for safeguarding the moral and economic rights of creators but can also be utilized in the economic sphere, one of which is as collateral for debt. Through this narrative, we will delve into how

⁵ Achmad Busro, *et.al. Quo Vadis Copyright as Fiduciary Guarantee in Indonesian Legal Agreement: Journal of Legal (Ethical and Regulatory Issues)*, Vol. 21, Issue 2, 2018

⁶ Lutfi Ullinuha. *Penggunaan Hak Cipta Sebagai Objek Jaminan Fidusia, Journal of Private and Commercial Law*, Vol. 1 No. 1, 2017

⁷ Mamudji, Sri, et al, 2005, *Metode Penelitian dan Penulisan Hukum*, Jakarta: Badan Penerbit Fakultas Hukum Universitas Indonesia.

⁸ Djulaeka, *Hak Kekayaan Intelektual: Teori Dan Prinsip-Prinsip Umum*, Malang, 2021 Setara Press

copyright can be used as collateral for debt based on relevant regulations and articles in Indonesia. The use of copyright as collateral for debt is governed by several main regulations, including the Copyright Law and Law No. 42 of 1999 on Fiduciary Security⁹. Article 16 of the Copyright Law explicitly states that copyright can be used as fiduciary collateral. Fiduciary security is a proprietary right over movable property that remains in the possession of the fiduciary giver but is used as collateral for the repayment of a specific debt, as explained in Article 1, paragraph (2) of the Fiduciary Security Law.¹⁰

Referring to the procedures and mechanisms of fiduciary security, the process of securing copyright as fiduciary collateral involves several important steps as follows:

1. Creation of Fiduciary Security Deed

The fiduciary giver and the fiduciary receiver must create a fiduciary security deed that includes information about the copyright used as collateral, its economic value, and other related provisions.

2. Registration at the Fiduciary Registration Office

The fiduciary security deed must be registered at the Fiduciary Registration Office to obtain a fiduciary security certificate. This registration is important to provide legal certainty and priority status to the fiduciary receiver.

Article 5 of the Fiduciary Security Law states that fiduciary security registration provides legal force against third parties and gives preferential status to the fiduciary receiver in the event of default by the fiduciary giver.

Benefits and Challenges of Using Copyright as Debt Collateral The use of copyright as debt collateral offers several advantages:

1. Increased Liquidity

Copyright owners can gain additional funding by using their copyright as loan collateral without having to sell or transfer ownership of the copyright.

2. Collateral Diversification

Providing an alternative to physical assets, increasing flexibility in obtaining financing.

⁹ Ananda Reynaldi Ruhiat, Ifa Hanifia Senjiati, & Arif Rijal Anshori. (2024). *Peluang dan Tantangan Penerapan Hak Kekayaan Intelektual sebagai Jaminan Utang pada Perbankan Syariah*. Bandung Conference Series: Sharia Economic Law, 4(1), 200–205. <https://doi.org/10.29313/bcssel.v4i1.12127>

¹⁰ Niniek Wahyuni. *Penerapan Prinsip 5C dalam Pemberian Kredit Sebagai Perlindungan Bank*, Vol. 1, No. 1, 2017

3. Support for the Creative Industry

Providing broader financing access for creative industry players who often have limited tangible assets.¹¹

However, there are several challenges in implementing copyright as debt collateral:

1. Valuation of Economic Value

Determining the economic value of copyright requires complex assessments that can vary depending on popularity, commercial potential, and related legal risks.

2. Legal Risks

Disputes over ownership or copyright infringement can affect the value and viability of copyright as debt collateral. Strong legal protection and a good understanding of regulations are necessary to mitigate these risks.

3. Implementation and Socialization Limitations

Although regulations exist, the understanding and implementation of fiduciary security for copyright require further socialization among copyright owners, financial institutions, and law enforcement.

Establishing a market for intellectual property (IP) as debt collateral is crucial to facilitate banks in executing collateral if the debtor defaults. Due to several factors, there are still difficulties and obstacles in its implementation. The short protection period of IP, lack of explanation regarding due diligence, and the absence of specific legal rules governing IP as collateral assets are challenges.¹² Article 10 of Government Regulation No. 24 of 2022 also explains the rules determining Intellectual Property that can be used as debt collateral, which includes:

A) intellectual Property that has been recorded or registered with the ministry responsible for legal affairs.

B) Intellectual Property that has been well-managed either by oneself or transferred to other parties.

Copyright as debt collateral is an important innovation in the utilization of intellectual assets in the creative economy era. Through clear regulations and

¹¹ Husny, T. H. I. (2023). Tantangan Dalam Implementasi Kekayaan Intelektual Sebagai Jaminan Pembiayaan Berdasarkan Peraturan Pemerintah Nomor 24 Tahun 2022. *Jurnal Ilmu Sosial Dan Pendidikan (JISIP)*, 7(3), 2340–2342. <https://doi.org/10.58258/jisip.v7i1.5339/http>

¹² Jaman, U. B. (2022). Prospek Hak Kekayaan Intelektual (HKI) sebagai Jaminan Utang. *Jurnal Hukum Dan HAM West Science*, 01(01), 15–20. <https://www.ojk.go.id/ojk-institute/id/capacitybuilding/upcoming/1110/prospek-hak-kekayaan-intelektual-hkisebagai-jaminan-utang>

structured procedures, as stipulated in the Copyright Law and the Fiduciary Security Law, copyright can be optimally used as collateral. Overcoming various challenges requires collaboration between the government, industry players, and financial institutions.¹³ Thus, copyright not only functions as legal protection for creators but also as an effective tool in economic activities and financing. A comprehensive approach regulating the specifics of Intellectual Property as debt collateral is necessary to simplify the process for banks. Banks and non-bank institutions need to conduct thorough checks to ensure the viability of Intellectual Property as collateral.

3.2 Implementation of Copyright as Debt Collateral in Light of Regulation PP No. 24 of 2022

Copyright (Hak Cipta) is a form of intellectual property right that grants the creator of an original work exclusive rights over its use and distribution. It protects various types of creative works such as literary, artistic, musical, and dramatic works. On the other hand, Intellectual Property Rights (IPR) or Hak Kekayaan Intelektual encompass a broader spectrum of rights including copyrights, patents, trademarks, industrial designs, and trade secrets. One important aspect of copyright is its potential as collateral for debt. This means that rights associated with copyrighted works can be used as collateral when obtaining loans or credit.¹⁴ By using copyright as collateral, creators or owners of copyrighted works can access financing options and leverage their intellectual property assets to secure funding.

The implementation of copyright as debt collateral in Indonesia has seen significant development, particularly with the introduction of detailed regulations through Government Regulation (PP) No. 24 of 2022. This regulation provides a clear legal framework and structured procedures to facilitate the use of copyright in the context of financing. Copyright is an intellectual asset with high economic value. According to Law No. 28 of 2014 on Copyright, copyright includes moral and economic rights that can be transferred and used as collateral. Through PP No. 24 of 2022, the government aims to ensure that copyright can be optimally utilized as debt collateral, providing legal protection for both creditors and debtors.

This regulation addresses several key aspects related to the use of copyright as debt collateral. First, the registration of copyright used as collateral at the Directorate General of Intellectual Property (DGIP) is a mandatory step. This ensures legal

¹³ Qurniasari, A. N., & Santoso, B. (2023). Kekayaan Intelektual Sebagai Aset Bisnis dan Jaminan Kredit Perbankan di Era Ekonomi Kreatif. *Jurnal Notarius*, 16(3), 1376–1391. <https://doi.org/10.14710/nts.v16i3.41408>

¹⁴ Reskin, G. W. K., & Wirdyaningsih. (2022). Pengaturan Hak Kekayaan Intelektual Sebagai Jaminan Utang Menurut Pp Nomor 24 Tahun 2022. *Jurnal Palar (Pakuan Law Review)*, 8(4), 193–206.

certainty and transparency for all parties involved. Article 15 of PP No. 24 of 2022 emphasizes the importance of this registration as the initial step in the fiduciary guarantee process. Next, the economic value of the copyright must be assessed by an independent appraiser registered with the DGIP. This process is stipulated in Article 16 of PP No. 24 of 2022 to ensure that the value of the copyright used as collateral reflects fair market value. Accurate and objective valuation is crucial to maintain trust between debtors and creditors and to prevent potential disputes in the future.

In the event of default by the debtor, Article 17 of PP No. 24 of 2022 outlines that the copyright used as collateral can be transferred to the creditor through a process specified in the fiduciary guarantee agreement. This provides a clear resolution mechanism and protects the rights of creditors while ensuring that debtors understand the consequences of failing to meet their debt obligations¹⁵. The procedure for implementing copyright as debt collateral involves several important steps. First, the copyright owner must engage an independent appraiser to determine the economic value of the copyright to be used as collateral. Then, a fiduciary guarantee agreement must be carefully drafted, encompassing all relevant terms and conditions related to the rights and obligations of both parties. The registration of the fiduciary guarantee agreement and the copyright used as collateral with the DGIP is the next step, providing legal force against third parties.

Implementing copyright as debt collateral offers various advantages. It provides broader access to financing for copyright owners, allowing them to leverage their intellectual assets without having to sell them. Additionally, using copyright as debt collateral supports the growth of the creative economy by offering an alternative to physical asset collateral.¹⁶

However, there are also challenges to be addressed. The process of valuing the economic value of copyright requires specialized expertise and can be subjective¹⁷. A deep understanding of the regulations is also necessary among copyright owners and financial institutions. Furthermore, potential disputes related to copyright can impact the value and security of the collateral, necessitating strong legal protection. Overall, PP No. 24 of 2022 strengthens the legal framework for using copyright as

¹⁵ Witanto, D.Y. *Hukum Jaminan Fidusia Dalam Perjanjian Pembiayaan Konsumen, Aspek Perikatan, Pendaftaran, Dan Eksekusi*, Bandung: CV Mandar Maju, 2015.

¹⁶ Rizkiawan, T. (2022). Kekayaan Intelektual Sebagai Objek Jaminan Kredit Perbankan: Prospek dan Kendala. *Jurnal Lex Renaissance*, 7(4), 883–894. <https://doi.org/10.20885/jlr.vol7.iss4.art13>

¹⁷ Saidin, Ok. *Aspek Hukum Hak Kekayaan Intelektual (intellectual Property Right)*, Jakarta: PT.RajaGrafindo Persada, 2015

debt collateral in Indonesia. With this regulation, it is hoped that copyright can be optimally utilized as an economic asset, significantly contributing to the development of the creative economy in Indonesia. Despite the challenges, with good collaboration between the government, copyright owners, and financial institutions, the implementation of copyright as debt collateral can be effective and efficient, providing real benefits to all parties involved. Government Regulation No. 24 of 2022 on Creative Economy provides hope to creative economy actors to obtain easier financing or credit from financial institutions using Intellectual Property (IP) as collateral. The government supports the use of IP as debt collateral by both bank and non-bank financial institutions, enabling creative economy actors and micro, small enterprises (MSEs) with intellectual property to grow and become a pillar of national economic growth. Creative economy actors seeking IP-based financing must meet the requirements set out in Article 7, including having a creative economy business financing proposal, agreements related to the intellectual property of products, and an IP registration or certificate.

Both bank and non-bank financial institutions will verify the business and IP of creative economy actors and assess the IP to be used as collateral. This process includes verification of the creative economy business, IP registration or certification, IP valuation as collateral, disbursement of funds to creative economy actors, and repayment of financing as agreed. Lenders will assess the value of the intellectual property used as collateral; the higher the value and economic potential of the copyright, trademark, or patent, the larger the loan that can be provided. Additionally, for intellectual property to be used as debt collateral, it must be registered with the DJKI of the Ministry of Law and Human Rights and properly managed by the owner or transferred to another party. The application of copyright as collateral has its challenges. The economic value assessment process requires specialized expertise and can be subjective. Understanding the regulations thoroughly is essential among copyright owners and financial institutions¹⁸. Moreover, potential disputes related to copyright can impact the value and security of the collateral, necessitating strong legal protection. Overall, Government Regulation No. 24 of 2022 reinforces the legal foundation for the use of copyright as debt collateral in Indonesia. By having this regulation, it is expected that copyright can be optimally utilized as an economic asset, significantly contributing to the development of the creative economy in Indonesia. Despite the challenges, with good collaboration between the government, copyright owners, and financial institutions, the implementation of copyright as debt collateral can be effective and efficient, providing real benefits to all parties involved.

¹⁸ Muhamad Djumhana. 2018. *Hukum Perbankan Di Indonesia*. Bandung : Penerbit PT Citra Aditya Baktii

The application of copyright as collateral in debt transactions is crucial as it provides legal protection for intellectual works produced by individuals or institutions. Copyright grants the owner exclusive rights to control the use, reproduction, and distribution of their work, which impacts the economic value of the work, making it a valuable asset in financial transactions such as debt collateral. Government Regulation No. 24 of 2022 serves as a legal foundation governing the application of copyright as collateral in debt transactions in Indonesia, detailing procedures and mechanisms for protecting intellectual works used as collateral. With clear regulations like Government Regulation No. 24 of 2022, it is hoped that economic growth will be encouraged through enhanced protection of intellectual property rights. Additionally, applying copyright as collateral can increase investor confidence in financial transactions conducted in Indonesia. The implementation of copyright as debt collateral under Government Regulation No. 24 of 2022 involves several crucial steps, such as identifying the copyright object, assessing its economic value, registration and legal protection, drafting guarantee agreements, and dispute resolution in accordance with applicable laws. The application of copyright as debt collateral based on this regulation provides a solid legal foundation for creative economy actors to access financing more easily using their intellectual assets as collateral. Furthermore, applying copyright in debt collateral is a significant step toward protecting intellectual property and supporting economic growth in Indonesia.

4. Conclusion

This implementation offers several significant advantages. First, it facilitates access to financing for creative economy players, allowing them to use their intellectual works as valuable assets that can be collateralized. Second, it enhances the economic value of copyright, enabling it to be optimally utilized in economic activities. Third, it provides strong legal certainty for both creditors and debtors, thereby reducing the risk of disputes and increasing trust between the parties. However, the application of copyright as credit collateral also faces challenges, such as the need for accurate and objective value assessment, as well as a deep understanding of regulations among copyright owners and financial institutions. Efforts in socialization and education regarding the applicable regulations and procedures are crucial to ensure that all parties understand and can effectively utilize this legal framework.

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