

INTELLECTUAL PROPERTY MANAGEMENT POLICY RESULTING FROM THE DEVELOPMENT OF WETLAND-BASED TOURISM VILLAGES IN BARITO KUALA REGENCY, SOUTH KALIMANTAN

HELMI

Faculty of Law, Lambung Mangkurat University. Email : helmi@ulm.ac.id

RACHMADI USMAN

Faculty of Law, Lambung Mangkurat University.

AHMAD FIKRI HADIN

Faculty of Law, Lambung Mangkurat University. Doctoral Program in Law, Faculty of Law, Universitas Airlangga.

MUHAMMAD ERFA REDHANI

Faculty of Law, Lambung Mangkurat University. Doctoral Program in Law, Faculty of Law, Universitas Islam Indonesia.

Abstract

Barito Kuala Regency, as a long-established regional entity, certainly has a variety of intellectual property produced by the community and the local government that needs protection. One is a product made from the development of tourism villages that Barito Kuala Regency is intensifying. Public policy on intellectual property management in Barito Kuala Regency is essential, in addition to protection issues related to independence, which is the hope if intellectual property management is carried out correctly. This article examines the intellectual property management policy resulting from developing wetland-based tourism villages in Barito Regency, Kuala Kalimantan, South Kalimantan. Some of the problems studied are how the potential of intellectual property products results from the development of wetland-based tourism villages in Barito Kuala Regency and the urgency of regulation regarding intellectual property management in Barito Kuala Regency in the form of regional legal products. This is normative legal research supported by empirical data from interviews with relevant stakeholders, especially the Regional Government of Barito Kuala Regency. This study concludes that Barito Kuala Regency has enormous potential related to protecting and managing intellectual property rights. Barito Kuala Regency still needs to have a regional legal product in the form of a regional regulation, which regulates explicitly the facilities and management of intellectual property in the region based on the authority stipulated in the provisions of laws and regulations.

Keywords: Intellectual Property Rights, Tourism Villages, Wetlands.

INTRODUCTION

Intellectual property is the ability of humans to use thinking in the right direction and realm to achieve a goal without breaking the balance between people to create other riches, such as friendship and harmonious kinship. *Intellectual property* rights (IPR), abbreviated as 'IPR' or 'IPR', arise from the results of thought that produce a valuable product or process for humans. In essence, intellectual property rights are the right to enjoy economically the results of intellectual creativity.

The protection of intellectual property has an important role, in addition to protecting intellectual property itself, in economic improvement and growth. In the current conditions, Indonesia faces both external and internal challenges. External challenges are triggered by global economic conditions currently experiencing weakness and uncertainty. Geopolitical dynamics in various parts of the world, as well as the presence of different new technologies in the era of the Fourth Industrial Revolution that changed the global economic landscape, are uncertainties that limit the movement of the global economy.¹

Barito Kuala Regency, as a long-established regional entity, certainly has a variety of intellectual property, both produced by the community and the local government itself, that needs protection. One is a product made from the development of tourism villages that Barito Kuala Regency is intensifying.

The urgency of public policy on intellectual property management in Barito Kuala Regency is essential in addition to protection issues, also related to independence, which is the hope if intellectual property management is carried out correctly. Tourism villages are expected to be an economic driver in rural areas that have yet to be maximally explored. Local governments encourage welfare in rural areas through the establishment of tourism villages. This is important because the potential of tourism villages with their cultural and natural wealth that has yet to be explored becomes village wealth with its economic value. Barito Regency, Kuala South Kalimantan, is no exception. Barito Kuala Regency is one of the district governments located in the province of South Kalimantan, Indonesia. The idea of developing a tourism village in Barito Kuala Regency received a positive response from various circles. For example, the Minister of Tourism and Creative Economy, Sandiaga Uno, fully supports the development of Anjir Muara Tourism Village to become a quality and sustainable tourism icon in South Kalimantan.

This is because the high development of development has a positive and negative impact, especially at the insistence of developing countries with many traditional works with high cultural and economic values that have yet to be known to the work's creator. Since then, efforts began to be fought to protect Intellectual Property Rights in Indonesia. The results of tourism village management should impact the region and the village community by recognizing it in the form of intellectual property rights.

Therefore, this article examines the intellectual property management policy resulting from developing wetland-based tourism villages in Barito Regency, Kuala South Kalimantan. The formulation of the problem studied is: how is the potential of intellectual property products resulting from the development of wetland-based tourism villages in Barito Kuala Regency, and what is the urgency of regulating intellectual property management in Barito Kuala Regency in the form of regional legal products.

RESEARCH METHODS

This research is legal research with research types, research approaches, legal materials, legal material collection techniques, and legal material analysis as follows:

Types of Research

A study is an attempt to find, develop, and test the truth of knowledge.² It is called legal research because it is based on specific methods, systematics, and thinking, which aims to study one or several certain legal phenomena by analyzing them.³ For this type of research is normative legal research. Normative legal research is research that doctrinally examines the basis of rules and legislation.⁴ Through normative legal research, document studies will be carried out on primary legal materials, secondary legal materials, and tertiary legal materials relating to Intellectual Property Management Results from the Development of Wetland-Based Tourism Villages in Barito Regency, Kuala South Kalimantan.

Research Approach

The research approaches used by researchers in conducting normative legal research are:

- a) *The statutory* approach is carried out by reviewing all laws and regulations related to legal issues handled by researchers.⁵
- b) The conceptual *approach* is an approach that departs from the views and doctrines that develop in legal science to find ideas that give birth to relevant legal understandings, concepts, and principles as a basis for building a legal argument in solving the legal issues faced.⁶

Techniques for Collection and Processing of Legal Materials

The collection of legal materials is carried out by reviewing library materials relevant to research, namely literature, scientific papers (research results), laws and regulations, magazines, newspapers, scientific journals, and documentation from various agencies related to this research; this is intended to obtain a theoretical framework from the results of expert thinking then see its relevance to the legal issues studied.

Analysis of Legal Materials

Analysis was carried out with analytical descriptive techniques for primary, secondary, and tertiary legal materials used in this legal research. The study is carried out on primary, secondary, and tertiary legal materials so that the results of this analysis are a comprehensive analytical description.

RESULTS AND DISCUSSION

Potential Intellectual Property Products Results from the Development of Wetland-Based Tourism Villages in Barito Kuala Regency

According to David Bainbridge, intellectual property is "*that area of law which concerns legal rights associated with creatif effortor commercial reputation and goodwill.*" David's conception is close to the legal approach. This is logical because examining intellectual property issues will eventually lead to legal concepts, especially regarding efforts to protect intellectual works. At the same time, other opinions say that intellectual property

is the recognition and appreciation of a person or legal entity for the discovery or creation of their intellectual work by granting special social and economic rights to them^{7, 8}.

Intellectual Property (IP) is part of economic law and is one of the agenda of free trade liberalization in the *Agreement Establishing the World Trade Organization* (WTO). The above agenda is an agreement from the meeting in Morocco (*Marrakesh Agreement*) held on April 15, 1994, where one of the discussions was related to *Trade-Related Aspects of Intellectual Property Rights* (TRIPs).

In this regard, it is questionable why developing countries such as Indonesia agree to be bound by TRIPs in the⁹ WTO trade system and how TRIPs can provide such a positive contribution and opportunity to enhance economic and social development¹⁰.

Advances in science and information technology result in countries as if without partitions. Various developments in a country quickly spread and are easily accessible to humans in parts of the world. This condition is directly proportional to the product of intellectual property rights. Intellectual property rights are one of the main pillars of a country's economic growth.

Economic growth in¹¹ *knowledge-based intellectual property (knowledge-based economy)*. In the current era, the state is directly required to strengthen intellectual property rights with globalization and free markets. The flow of globalization and free markets can only be contained by establishing a system of intellectual property rights protection.¹² To deal with this, it is necessary to have a legal transplant as the most appropriate step¹³.

Protection of Intellectual Property Rights is one of the fundamental rights protected by the legal products of a country. Not only that, guarantees for Intellectual Property Rights are also included in various international documents and agreements.

The *Universal Declaration of Human Rights* (UDHR) in Article 27, paragraph (2) states that "Every human being has the right to protection, both morally and materially, resulting from the results of scientific works, literature, and art he makes." Indonesia itself also has a legal framework to guarantee Intellectual Property Rights. Among them are Law Number 28 of 2014 concerning Copyright and Law Number 13 of 2016 concerning Patents.

In this context, local governments have an essential role to ensure that intellectual property owned by communities in the regions can be economically valuable and provide benefits for the community and the regions. One of the objectives of implementing regional autonomy is accelerating community welfare by giving regional authority to regulate their regions within the framework of implementing autonomy and assistance duties.

Regional jurisdiction to make such arrangements must follow the norms, standards, procedures, and criteria set by local governments in determining regional policies, one of which is the establishment of regional regulations based on the provisions of Article 17

paragraph (1) of Law No. 23 of 2014, the aspect of regional authority becomes the primary consideration in determining regional policies.

Intellectual property protection has a vital role in increasing regional economic growth, among others:

- Increasing community income
- Absorbing local labor
- Empowering local resources
- Increasing gross regional domestic product
- Developing micro, small, and cooperative enterprises

To implement sustainable development and face the era of globalization, the Banjarmasin City Government needs to establish policies to encourage the realization of intellectual property protection.

Local governments, together with agencies or institutions, both private and government, must be further empowered, both in developing potential regional opportunities and in coordinating and promoting the field of intellectual property.

Local governments exercise the broadest autonomy to regulate and manage their intellectual property protection matters based on the principle of regional freedom and the task of assistance or deconcentration.

The urgency of regulation regarding intellectual property management in Barito Kuala Regency in the form of regional legal products

So far, based on the results of interviews, it has been concluded that protection efforts by local governments for intellectual property have not been able to be adequately implemented. So, there needs to be special regulations that protect intellectual property.

In Barito Kuala Regency, intellectual property protection is not sovereign and still has many shortcomings. Essential steps that local governments must take to safeguard intellectual property.

In this regard, the interview results show that there has yet to be a structured policy or effort from the Regional Government to protect intellectual property rights owned by the people of Barito Kuala Regency.

In practice so far, activities that lead to intellectual property protection have been carried out, for example, activities carried out by the Tourism Awareness Group (Pokdarwis) in the Barito Kuala Regency area.

The results of an interview at the Barito Kuala Regency Youth, Sports, Culture, and Tourism Office admitted that few products were registered with IPR.

People in Barito Kuala themselves still lack clarity on information about intellectual property rights, including how to report them so that many products have been produced but there are no intellectual property rights.¹⁴

In addition, the results of interviews at the Cooperatives, Industry and Trade Office of Barito Kuala Regency obtained information that the mini interlude, indeed, the Barito Kuala Regency Government still needs to have a program to facilitate the community in registering IPR. So far, people register their products as intellectual property in an independent way.¹⁵

One of the reasons for the need for more facilitation from local governments to register community products as intellectual property rights is that financing is needed to report them. So far, the local government still needs to allocate a budget. What is done by the local government is to facilitate the community to get halal certification because it is an obligation to own a product.

The South Kalimantan Provincial Government partly requests some of the products owned by Barito Kuala Regency. Based on the request, the Barito Kuala Regency Government registered sasirangan cloth and panting music.

Sasirangan Kabupaten Barito Kuala (Batola) is officially registered with the Ministry of Law and Human Rights (Kemenkumham) RI. The type of sasirangan written in the registration letter of creation is patterned with rice and purun.¹⁶

Based on the results of the interview, products from Barito Kuala Regency that have been registered for IPR are:

- a. sasirangan duan;
- b. panting;
- c. food products in rantau badauh;
- d. lake purun matting; dan
- e. sasirangan purun padi motif.

The morphological form of Barito Kuala Regency is a lowland with an altitude of 0.2 to 3 meters above sea level. Because it is a lowland, almost in all sub-districts, galam forests grow, which are used as building materials, and purun, which is used for woven mats, baskets, and so on.¹⁷

So far, the role of local governments has been to encourage the community to register their products as intellectual property. There is no structured policy either in the form of regulations or programs.

Therefore, by not having a regional legal product that regulates intellectual property management, the Barito Kuala Regency Government does not have a lawful basis through legal products in Barito Kuala Regency to facilitate regional intellectual property management following the provisions of laws and regulations.

The absence of a legal umbrella in Barito Kuala Regency that regulates the authority of the Barito Kuala Regency Government to carry out intellectual property management results in the community not getting the right to be fostered by the Regional Government

through regional policies that favor community creativity that produces intellectual property that can be useful for regional interests.

So, the role of the Barito Kuala Regency Government is needed in the management of intellectual property in Barito Kuala Regency, namely:

1. Through Policy

The government has the authority to regulate and organize its citizens, in this case, regulate how to obtain intellectual rights;

2. Legal Policy

Local governments must be willing to enforce the rules consistently and firmly, and there must be no selective logging. This means that law enforcement dares to arrest or examine those with power materially and politically.

3. Economic Policy

Intellectual property rights are more widely known by the public related to the economic field because it is denied or not the work created is more commercialized. Seeing this phenomenon, local governments are the only parties that seem incompetent to sustain intellectual property rights. It is characterized by the passivity of local governments to monopolies carried out by parties who commercialize intellectual property works.

Asan authority-based regional policy, based on the provisions of Article 282 paragraph (1) of Law No. 23 of 2014, states that "The implementation of Government Affairs under the Regional Authority is funded from and at the expense of the Regional Budget.

"The fulfillment sourced from the Banjarmasin City Regional Budget can be allocated through spending following the provisions regulated in Government Regulation Number 12 of 2019 concerning Regional Financial Management.

CONCLUSION

1. Barito Kuala Regency has enormous potential concerning protecting and managing intellectual property rights.
2. Barito Kuala Regency still needs to have a regional legal product in the form of a regional regulation that specifically regulates Intellectual Property Management in the region. Based on the authority stipulated in the provisions of laws and regulations, the Barito Kuala Regency Government facilitates the management of intellectual property with the assistance of community participation following the requirements of rules and regulations.

Foot Notes

- 1) Academic Paper of the Job Creation Bill
- 2) Ronny Hanitijo Soemitro. 1982. Metodologi Penelitian Hukum. Jakarta: Ghalia Indonesia, hlm. 2.
- 3) Soerjono Soekanto. 2007. Pengantar Penelitian Hukum. Cet. 3. Jakarta: UI Pers, hlm. 43.

- 4) Ade Saptomo. 2007. *Metodologi Penelitian Hukum*. Surabaya: Unesa University Perss, hlm. 29.
- 5) Peter Mahmud Marzuki. 2014. *Legal Research*. Cet. 8. Jakarta: Prenada Media Group, p. 133.
- 6) Peter Mahmud Marzuki. *Op. Cit.*, p. 93.
- 7) David Bainbridge. 1999. *Intellectual Property*. England: Finacial Times Pitman Publishing, p. 3.
- 8) Ismael Saleh. 1990. *Hukum dan Ekonomi*. Jakarta: Gramedia Pustaka Utama, hlm. 45.
- 9) Dwi Martini, Hayyanul Haq and Budi Sutrisno. 2017. Legal Protection of Traditional Medicine Knowledge in Indonesia's Intellectual Property Rights (IPR) Regime (Study on Sasak Traditional Society), *ll Journal of Law and Justice* 6, no. 1 (March 2017): 69, doi:10.25216/JHP.6.1, p. 67-90.
- 10) *Jurnal Legislasi Indonesia* Vol. 14 No. 03 – September 201: 357 – 368.
- 11) Mahmuda Pancawisma Febriharini. 2016. *The Existence of Intellectual Property Rights to Cyberlaw*. Semarang: Serat Acitya 5, p. 15.
- 12) Slamet Yuswanto. 2017. *Analysis of Intellectual Property-Based Business Development*. Jakarta: Lingkar Widayaiswara 4, no. 4, p. 10.
- 13) Andi Yusron. 2019. *Geographical indications as communal property and their protection: An Islamic legal perspective*. Purwokerto: IAIN Purwokerto, p. 1.
- 14) Results of Interview at the Barito Kuala Regency Youth, Sports, Culture and Tourism Office on August 21, 2023
- 15) Results of Interview at the Cooperatives, Industry and Trade Office of Barito Kuala Regency on August 21, 2023
- 16) <https://kalselpos.com/2020/03/30/sasirangan-batola-miliki-sertifikat-hak-cipta/> retrieved September 10, 2023
- 17) <https://diskominfo.baritokualakab.go.id/geografis/>.

References

- 1) Ronny Hanitijo Soemitro. 1982. *Metodologi Penelitian Hukum*. Jakarta: Ghalia Indonesia
- 2) Soerjono Soekanto. 2007. *Pengantar Penelitian Hukum*. Cet. 3. Jakarta: UI Pers
- 3) Ade Saptomo. 2007. *Metodologi Penelitian Hukum*. Surabaya: Unesa University Perss
- 4) Peter Mahmud Marzuki. 2014. *Penelitian Hukum*. Cet. 8. Jakarta: Prenada Media Group
- 5) David Bainbridge. 1999. *Intellectual Property*. England: Finacial Times Pitman Publishing
- 6) Ismael Saleh. 1990. *Hukum dan Ekonomi*. Jakarta: Gramedia Pustaka Utama
- 7) Dwi Martini, Hayyanul Haq and Budi Sutrisno. 2017. *Perlindungan Hukum Terhadap Pengetahuan Obat-Obatan Tradisional Dalam Rezim Hak Kekayaan Intelektual (Hki) Indonesia (Studi Pada Masyarakat Tradisional Sasak)*,*ll Jurnal Hukum Dan Peradilan* 6, no. 1 (March 2017): 69, doi:10.25216/JHP.6.1
- 8) Mahmuda Pancawisma Febriharini. 2016. *Eksistensi Hak Atas Kekayaan Intelektual Terhadap Hukum Siber*. Semarang: Serat Acitya 5
- 9) Slamet Yuswanto. 2017. *Analisis Pengembangan Usaha Berbasis Kekayaan Intelektual*. Jakarta: Lingkar Widayaiswara 4, no. 4, hlm. 10.
- 10) Andi Yusron. 2019. *Indikasi Geografis Sebagai Hak Milik Komunal Beserta Perlindungannya: Perspektif Hukum Islam*. Purwokerto: IAIN Purwokerto, hlm. 1.

Laws and Regulations

- 1) Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta (Lembaran Negara Republik Indonesia Tahun 2014 Nomor 266, Tambahan Lembaran Negara Republik Indonesia Nomor 5599);
- 2) Undang-Undang Nomor 13 Tahun 2016 tentang Paten (Lembaran Negara Republik Indonesia Tahun 2016 Nomor 176, Tambahan Lembaran Negara Republik Indonesia Nomor 5922);
- 3) Undang-Undang Nomor 20 Tahun 2016 tentang Merek dan Indikasi Geografis (Lembaran Negara Republik Indonesia Tahun 2016 Nomor 252, Tambahan Lembaran Negara Republik Indonesia Nomor 5953);

Website and Interviews

- 1) Interview at the Barito Kuala Regency Youth, Sports, Culture and Tourism Office on August 21, 2023
- 2) Interview at the Cooperatives, Industry and Trade Office of Barito Kuala Regency on August 21, 2023
- 3) <https://kalselpos.com/2020/03/30/sasirangan-batola-miliki-sertifikat-hak-cipta/> retrieved September 10, 2023