



A Juridical Analysis of Intellectual Property Rights as Fiduciary Guarantees in Banking Institutions

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Abstract: This study aims to find out and analyze the mechanism for assessing intellectual property rights as fiduciary guarantees in banking institutions and the mechanism for implementing the execution of intellectual property if the debtor defaults. The results showed that the mechanism for assessing intellectual property rights as fiduciary guarantees in banking institutions involves several requirements, namely: first, sub-mission of applications for intellectual trust-based financing to financial or banking institutions by completing the following requirements: Financing proposals, having a creative economy business; Have an engagement related to creative economy IP; have a registration letter or IP certificate. Second: bank financial institutions or non-bank financial institutions in providing intellectual property-based financing carry out: verification of creative economy businesses; verification of registration letters or intellectual property certificates that are used as collateral that can be executed in the event of a dispute or non-dispute; valuation of intellectual property used as collateral; disbursement of funds to creative economy actors; and receipt of financing returns from Creative Economy Actors in accordance with the agreement.

Keywords: Intellectual Property, Fiduciary Assurance, Banking

1. Introduction

The existence of intellectual property rights (IPR) as fiduciary guarantees in banking institutions has promising prospects. IPR is an exclusive right given to the creator or rights holder of a copyrighted work or innovation, so that they can obtain economic benefits from the results of their intellectual creativity (Khoirunisa, Mayana, & Muchtar, n.d.), (Ramli, Sh, & Arb, 2021). IPR can consist of copyrights, patents, industrial designs, trademarks, and so on. The Government of Indonesia has issued Government Regulation Number 24 of 2022 concerning Creative Economy which regulates the use of IPR as an object of debt guarantee in the form of fiduciary guarantees in the financial sector, including banking (Rafli, Bachri, & Ramadan, 2023), (Saputra, Patuju, Harjoprawiro, & Haderi, 2023). Article 9 of this regulation states that bank and non-bank financial institutions can use IPR as debt collateral in the form of fiduciary guarantees. This is actually in some countries, ownership of bankable intellectual property rights can be used as bank guarantees. For example, Singapore, Malaysia, and Thailand have developed intangible asset-based credit (Dalimunthe & Wahyuni, 2023), (Kurnianingrum, 2017).

IPR that can be used as an object of debt guarantee includes IPR that has been recorded or registered with the Intellectual Property Directorate of the Ministry of Law and Human Rights (HAM) which organizes government affairs in the field of law, as well as IPR that has been managed either alone or transferred its rights to other parties (Manusia & Indonesia, 2021), (Tumbel, 2022). The use of IPR as a fiduciary guarantee is regulated in Article 10 of Government Regulation Number 24 of 2022. However, the application of IPR as a credit guarantee or loan to banks still has several challenges (Reskin, 2022), (Rochadiningsih, Nasution, Pardamean, & Amin, 2023).

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Arief Rachmat Pramana, Head of the Financial Services Sector Legal Research and Development Group from OJK revealed that the difficulty of implementing these provisions in the banking sector, banks tend to reject copyright as a fiduciary guarantee due to valuation issues in the form of money (RIDHO, 2024), (Istain, 2022). The bank is trying to provide credit so that the credit can be returned, if the intellectual property is how to assess it?" Another thing that is not yet clear is the mode of execution. "If the credit has a problem, how is the execution? (<https://law.ui.ac.id>) (Tajuddin, 2023), (Hafizh, 2022)

Although the use of IPR as a fiduciary guarantee is regulated, the application of IPR as a fiduciary guarantee in banking institutions is still problematic in practice, one of which is the unclear assessment mechanism for IPR which will be the object of fiduciary guarantee in banking institutions, which then causes IPR banking institutions not to take risks by using IPR as an object of fiduciary guarantee (Lukito, 2023), (Akram, 2023). This is reasonable because the institution prioritizes the principle of prudence in assessing various types of IPR that will be used as objects of Fiduciary guarantee (Chandrawulan, Ayu, & Amirulloh, 2021), (PRABOWO, n.d.). Departing from this, the main problem that will be studied in this paper is how is the mechanism for assessing intellectual property rights as fiduciary guarantees in banking institutions? (Sari & Patria, 2020), (Ali, 2023)

2. Materials and Methods

This research approach will be prepared using a type of normative juridical research, which is research focused on examining the application of rules or norms in positive law. (Haryono, 2020). The data in this writing is secondary data, namely library materials that include official documents, library books, laws and regulations, scientific papers, articles, and documents related to research materials. The secondary legal material includes three parts, namely: primary legal material, secondary legal material and tertiary legal material. (Soekanto & Mahmudji, 2011: 13) Secondary data collection methods are obtained through document studies or literature studies on legal and non-legal literature in libraries, data centers in government institutions and agencies related to research objects and the internet, as well as relevant legislation. His data analysis used qualitative normative analysis.

3. Results and Discussion

3.1 *What are Intellectual Property Rights?*

Muhammad Syaifuddin, mentioned that intellectual property rights are material rights, rights to an object that comes from the work of reason and mind that is able to reason, which is immaterial (intangible), but has economic value and can be valued with money, because it contains benefits for society (public). For example, to find the composition of chemical levels contained in cough medicines and new technology to produce cough medicines, it takes human reason and mind that is able to reason. The work of the mind that is able to reason is then called "intellectuality" and people who are able to reason using their minds and minds are called "intellectuals" (Syaifuddin, 2017: 82)

IPR is basically a Material Right to an object that is immaterial or intangible originating from the creativity of the intellect and mind of intellectuals, producing creative, innovative work within the scope of science, art, literature and technology that is useful for humans, where everything requires energy, time and mind and costs, so it should be given exclusive rights by the state, namely the right to obtain economic benefits, and prohibit others from using it without permission". (Asma Karim, 2020: 244). In general, Intellectual Property Rights as referred to broadly include Copyrights, Industrial Property Rights consisting of Trademarks, Patents, Industrial Designs, Trade Secrets, Integrated Circuit Layout Design (DTLST), Plant Variety Protection and Communal Property Rights which include Geographical Indications, Traditional Cultural Expressions, Traditional Knowledge.

OK Saidin said intellectual property is an object of guarantee, especially fiduciary guarantees because of 2 things, namely: (Tarmizi, 2021: 100-101)

a. Intellectual Property as Property Rights

In Dutch property rights are called *zakelijk recht*. Property rights are *multlak* rights or absolute rights over an object where the right gives direct power over an object and can be defended against anyone. The main characteristics of property rights that distinguish them from other rights are: a) is an absolute right, defensible against anyone; b) Have *droit de suite* (rights that follow). This means that the right continues to follow the thing wherever and in the hands of whoever it is; c) Have the nature of *droit de preference*; d) The existence of what is called a material claim; e) The possibility of being able to transfer property rights can be fully exercised.

b. Copyright as Immaterial Property Rights

Immaterial property rights are property rights whose object of rights is intangible objects. Intangible objects which in this case can be used as objects of immaterial property rights such as billing rights, rights arising from the issuance of securities, lease rights and so on, thus all objects that cannot be seen or touched and can be used as objects of property rights are immaterial property rights. In the formulation of article 499 of the Civil Code (KUHPercivil), in the formulation of the article implicitly this article shows that intellectual property can be classified into immaterial property rights. Based on this opinion, thus all types of IPR can actually be used as objects of fiduciary guarantee.

3.2 What is a Fiduciary Guarantee?

Fiduciary comes from the word "*Fides*" which means trust, In accordance with the meaning of this word, the relationship (law) between debtors (power of attorney) and creditors (power of attorney) is a form of legal relationship based on trust. Juridically formally in Law of the Republic of Indonesia Number 42 of 1999 concerning Fiduciary Guarantee (UUJF) In the provisions of Article 1 paragraph 1 it is stated that Fiduciary is "the transfer of ownership rights of an object on the basis of trust provided that the object whose ownership rights are transferred remains in the control of the owner of the object".

Meanwhile, Fiduciary Guarantee is "the right of security for movable objects, both tangible and intangible, and immovable objects, especially buildings that cannot be encumbered with the right of dependent" as referred to in Law Number 4 of 1996 concerning Dependent Rights that remain in the control of the Fiduciary, as collateral for the repayment of certain debts, which gives priority to the Fiduciary Recipient over other creditors. The elements of fiduciary guarantee as stipulated include: 1) The existence of collateral rights; 2) The existence of objects, namely movable objects both tangible and immovable objects, especially buildings that are not burdened with the right of dependents, especially the imposition of flats guarantees; 3) The object of the guarantee remains in the possession of the fiduciary; 4) Give priority to creditors. (Tajuddin Noor & Suhaila Zulkifli, 2023: 665 – 682)

Furthermore, the object of fiduciary guarantee is explained in Article 1 numbers 2 and 4 and Article 5 of the UUJF, namely Article 1 point 2 Fiduciary guarantee is a security right to movable objects, both tangible and intangible, and immovable objects, especially buildings that cannot be encumbered with dependent rights as referred to in Law Number 4 of 1996 concerning Dependent Rights that remain in the control of the Fiduciary as collateral for debt repayment certain, which gives the Fiduciary Precedence over other creditors. It can be said that the object of a fiduciary guarantee is an object that is tangible or not, movable or immovable, with the condition that the object is not encumbered by mortgage rights as regulated in Law Number 4 of 1996 concerning Mortgage Rights as intended in article 314 of the Commercial Code. in accordance with Article 1162 of the Civil Code. Fiduciary is an additional agreement (*accessoir*) based on the main agreement, namely the provision of credit which is based on the provisions of Ar-

title 1313 of the Civil Code which regulates that "an agreement is an act by which one or more people remind themselves of one or more people (Soni Ramdani, 2019: 87).

3.3 Mechanism for Assessing Intellectual Property Rights as Fiduciary Collateral in Banking Institutions

Intellectual Property Rights (IPR) are exclusive rights granted to creators or rights holders of a work or innovation, so that they can obtain economic benefits from the results of their intellectual creativity. In general, IPR is divided into: Copyright; second: Industrial Property Rights which include: Brands, Patents, Industrial Designs, Integrated Circuit Layout Design (DTLST), Plant Variety Protection and Communal Property Rights in the form of Geographical Indications, as well as Communal Intellectual Property (KIK), including Traditional Cultural Expressions (EBT), Traditional Knowledge (PT), Genetic Resources (SDG) and Potential Geographical Indications.

Questioning the existence of IPR as fiduciary collateral for financial institutions, it actually has promising prospects, this is because IPR has quite rapid dynamics and also has high economic value, which in the current digital era, IPR has become one of the alternatives to be used as a debt collateral object, as if providing a breath of fresh air for Micro, Small and Medium Enterprises (MSMEs) and/or creative economy actors who want to develop their business but lack capital, their IPR certificate can be used to get an injection of funds from financial institutions, both banks and non-banks.

IPR as an object in fiduciary guarantees has previously been regulated in the Copyright Law and Patent Law. In the Copyright Law, for example, in article 16 paragraph (3) it is explained that copyright can be used as an object of fiduciary guarantee. The transfer of rights that occurs later is not all moral rights and economic rights but only economic rights which can be used as objects of fiduciary guarantees. Just like the Copyright Law, in the Patent Law, specifically Article 108 paragraph (1), it is explained that patents can be used as objects of fiduciary guarantees. Laws relating to other intellectual property do not explicitly state that it can be used as an object of collateral, but it can be transferred or assigned by written agreement or other reasons permitted by statutory regulations. (Tengku Habib Ihza Husny, 2023: 2338)

However, in practice this has not been implemented in banking institutions, this is because there are several challenges faced when making IPR as an object of fiduciary guarantee, including: a) The type of engagement required is not clearly determined and required; b) There is no standardization of IPR assessment methods that can be used as a basis for assessing bank guarantees, so it is necessary to assess and set guidelines for assessing economic value by various parties who have expertise in the field of IPR; c) Because currently there is no assessment institution that specifically assesses IPR as a reference for banks, it is necessary to establish an assessment institution for the economic value related to IPR; d) Establish a process for enforcing intellectual property rights and an organization that assists this process for rights used as collateral. (Ujang Badru Jaman, 2022: 18)

This is also the background for the birth of the 2019 Creative Economy Law and PP no. 24 of 2022. In this regard, Government Regulation Number 24 of 2022 concerning the Creative Economy (PP No. 22) then regulates the use of IPR as an object of debt collateral in the form of fiduciary guarantees in the financial sector, including banking. Article 9 of PP no. 22 states that bank and non-bank financial institutions can use IPR as debt collateral in the form of fiduciary guarantees. Furthermore, IPR as a fiduciary guarantee in Article 10 PP No. 24 of 2022 states that Intellectual Property that can be used as an object of debt collateral is first: Intellectual Property that has been recorded or registered with the ministry that handles government affairs in the legal sector; and second: Intellectual Property that has been managed either independently and/or the rights have been transferred to another party. However, the provisions in Article 10 will be used as

the object of fiduciary guarantees for bank and non-bank financial institutions through the following mechanism: (a) Submit an application for intellectual property-based financing to a financial or banking institution by completing the following requirements: a) Financing proposal; Having a creative economy business; c) Have engagements related to creative economy IP; d) Have a registration letter or IP certificate. (b) Bank financial institutions or non-bank financial institutions in providing Intellectual Property-based financing carry out: (Article 8 of Government Regulation Number 24 of 2022 concerning the Creative Economy), namely a) verification of Creative Economy businesses; b) verification of the registration letter or Intellectual Property certificate which is used as collateral which can be executed in the event of a dispute or non-dispute; c) assessment of Intellectual Property used as collateral; d) disbursement of funds to Creative Economy Actors; and e) receipt of financing returns from Creative Economy Actors according to the agreement.

Intellectual Property that can be used as an object of debt collateral can be in the form of: a) Intellectual Property that has been recorded or registered with the ministry that handles government affairs in the legal sector; b) Intellectual Property that has been managed either independently and/or the rights have been transferred to another party. (Article 8 Government Regulation Number 24 of 2022 concerning Creative Economy). For the purposes of verifying registration documents or Intellectual Property certificates which are used as collateral by financial or banking institutions which can be executed in the event of a dispute or non-dispute, the ministry which carries out government affairs in the legal sector provides access to data on Intellectual Property which is used as an object of debt collateral to financial institutions, banks or non-bank financial institutions and the public. (Article 11 Government Regulation Number 24 of 2022 concerning Creative Economy)

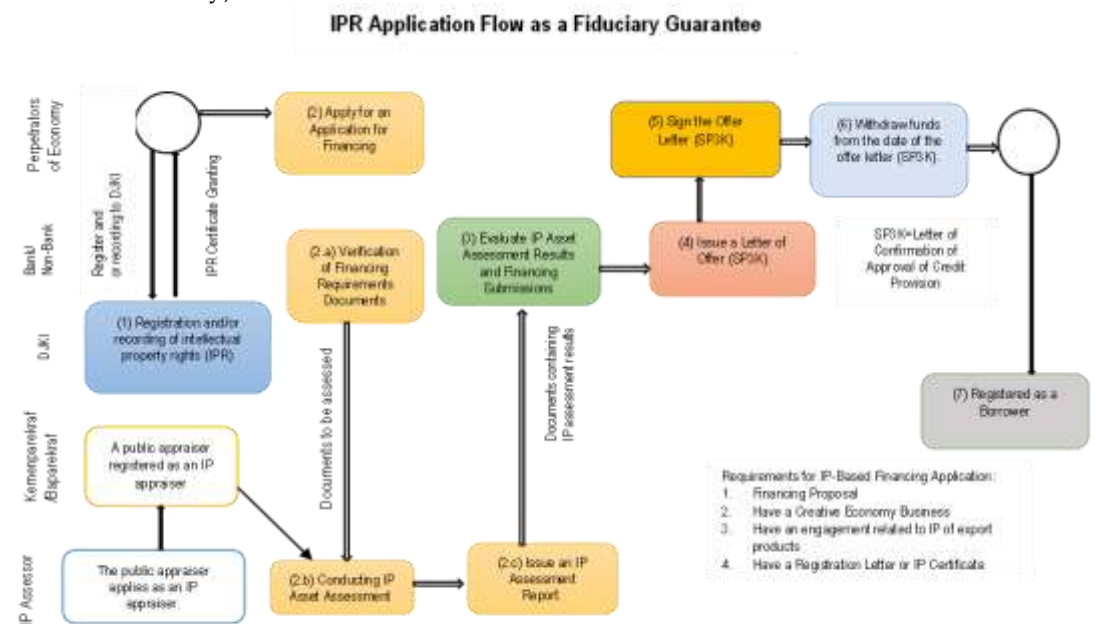
Furthermore, regarding the assessment of Intellectual Property as fiduciary collateral using 3 types of approaches, namely: a) cost approach; b) market approach; c) income approach; d) other assessment approaches in accordance with applicable assessment standards. Shannon P. Pratt and Alina V. Naculit in their article entitled "Valuing a Business the Analysis and Appraisal of Closely Held Companies" explain this type of approach as follows: (Maulida Anggun Nur Rahmi and Aminah, 2023: 23) (a) Market Approach or Market Approach; This approach is based on sales analysis and licensing transactions. The results of the analysis of this approach are comparable to the value of IPR which is used as the object of fiduciary collateral. (b) Income Approach or Income Approach; This approach is intended to analyze and estimate the asset value of IPR obtained from the capitalization of economic income, namely the current value and the value in the future. To obtain value from economic income, it is necessary to first know the value of the proceeds from licensing, using or leasing the IPR. (c) Cost Approach; Obtaining the value of IPR through this approach is carried out by estimating the value of the IPR according to the economic principle of substitution which states that the value spent for the utility of making the IPR is commensurate with the value of the IPR. Copyright creators need to calculate the amount of expenditure used to create an intellectual work so that they can estimate the value of an IPR by measuring the value above the amount spent on creating the IPR.

The Intellectual Property assessment as intended is carried out by an Intellectual Property appraiser and/or panel of assessors. The Intellectual Property Appraiser as referred to must meet the following criteria: a) have a public appraiser permit from the ministry that handles government affairs in the field of state finance; b) have competence in the field of Intellectual Property assessment; c) registered with the ministry that carries out government duties in the field of creative economy. (Article 12 Government Regulation Number 24 of 2022 concerning Creative Economy)

Competence in the field of Intellectual Property assessment as intended is obtained through competency certification which is carried out in accordance with the provisions

of statutory regulations. The Intellectual Property Appraiser as referred to in the following has the task of: a) assessing the Intellectual Property that will be used as collateral; b) conduct a market analysis of the Intellectual Property that will be used as collateral; c) review the analysis report on the use of Intellectual Property that has been used in industry. (Article 12 Government Regulation Number 24 of 2022 concerning Creative Economy)

The assessment panel as intended is a group of people appointed by the financial institution. The Panel assesses Intellectual Property that is not assessed by the Intellectual Property appraiser for Creative Economy Actors who apply for Financing. If necessary, the assessment panel at the financial institution can jointly carry out an Intellectual Property assessment with an Intellectual Property appraiser. Creative Economy Actors must record the financing provided by bank financial institutions or non-bank financial institutions in the recording system for facilitating the Financing of Creative Economy Actors. The recording system for facilitating financing for Creative Economy Actors as referred to is organized by the ministry that carries out government duties in the field of Creative Economy. (Article 13 Government Regulation Number 24 of 2022 concerning Creative Economy).



Source : Presentation of Creative Economy Financing Support with Intellectual Property Guarantee by Mrs. Nia Niscaya, Deputy for Strategic Policy of the Ministry of Tourism and Creative Economy 2022

The provisions in the Creative Economy PP as intended basically seek to offer intellectual property-based financial assistance to creative economy actors whose intellectual property can be used as fiduciary collateral. This method allows financial institutions or banks to consider intellectual property as debt collateral, so that the financial services industry can finance creative economy players and encourage innovation in the creation of creative industry-based services and goods. However, there are still several things that need to be addressed as a group so that IPR can be used as collateral for credit/financing, namely:

The expansion of intellectual property rights makes competition in the industry increasingly fierce. It may be difficult for SMEs that rely on IPR to enter the market and obtain external financing.

In terms of financial system stability, intellectual property rights are still often seen as a sector with low productivity, variable returns and high value. As a result, it is cate-

gorized as a contributor to stability risk, which requires banks to set aside larger reserves when providing IPR-based financing.

Because it is considered less vulnerable to changes in interest rates, the investment component of intangible assets and relatively small amounts supported by bank loans has the potential to damage the monetary policy transmission channel.

The existence of cost dispersion, and the rate of new discoveries in the creative industries as well as sector leaders and trends all influence how well the economies of scale of IPR-based businesses perform. (Kusmantini, Gusaptono, & Haryanto, 2018)

These provisions regulate how IPR can be used as fiduciary collateral in financing schemes provided by financial institutions, especially in this case banks. The following are several things that need to be considered regarding the mechanism for assessing IPR as fiduciary collateral in banking institutions: (a) Categories of IPR: IPR includes various types, such as copyrights, patents, trademarks, industrial designs, and trade secrets. Each type of IPR has different characteristics and assessment procedures. (b) Value Assessment: The IPR value assessment is carried out by a competent party, such as an independent appraiser or registered appraisal institution. This assessment involves several approaches, namely the cost approach, market approach and income approach. (c) IPR Registration: IPR that will be used as collateral must be registered and have a valid certificate. The registration must ensure the legality and enforceability of IPR as an object of fiduciary guarantee. (c) fiduciary Agreement: The banking institution and the borrower enter into a fiduciary agreement that regulates the rights and obligations of each party regarding IPR collateral. The agreement in question must comply with the terms and conditions of the applicable laws and regulations. (c) Authority Supervision: The Financial Services Authority (OJK) supervises financing schemes with IPR guarantees. Banking institutions should submit and comply with the provisions and procedures issued by the Financial Services Authority (OJK). (d) Prospects and Constraints: The prospect of using IPR as credit collateral through a fiduciary mechanism is increasing awareness of the importance of IPR protection and the potential for economic growth through creative industries. However, there are still various other obstacles, one of which is that the Banking Law itself does not yet regulate the assessment of IPR assets as fiduciary collateral, so the Law should be immediately revised, especially regarding the mechanism for assessing IPR assets and including IPR assessment institutions in Indonesia. (Teguh Rizkiawan, 2022: 883-894)

To prevent problems in the future, the Bank's assessment to provide approval to provide guarantees is carried out based on the 5C (five credit) principles, namely Character, Capacity, Capital, Economic Conditions, and Collateral. Several approaches can be used to assess the economic value of an object, including the following: a) Market Approach, this approach is used to compare the company being assessed with comparison companies; b) Income Approach, this approach functions to estimate the value that will be returned by a copyrighted object in the future; and c) Asset Approach, which is an approach used to obtain invested capital, the net value of a company's assets, and the company's capital structure (Hermanto, 2022:36)

When approving the imposition of fiduciary guarantees, several documents must be taken into account by the debtor as a requirement from the financing company, because various documents must be present during the financing process as a customer, from the beginning of the funding period until the loan is repaid, including several documents as follows: a) Documents consumer eligibility, this document can determine and assess whether consumers can and deserve to receive funds or not; b) Agreement Document, namely a document that serves as authentic evidence of agreement between parties in the consumer financing process; c) Document of ownership of the financing object, namely a document that functions as proof of ownership of an item which is financed with financing funds from the consumer; d) Collateral ownership documents, namely documents related to ownership guarantees to fulfill things that must be fulfilled by prospec-

tive debtors, such as BPKB documents, land certificates, certificate sheets and so on (Kumalawati & Amrulloh, 2021).

For example, for the object of IPR collateral in the form of copyright, several indicators can be used as a fiduciary charge as credit collateral, including: a) Copyright must be registered with the Directorate General of Intellectual Property Rights of the Ministry of Law and Human Rights; b) Copyright must have an estimated economic value that can be accounted for; c) The copyright has been managed by a collective management institution, so that the royalty value can be known; d) Intellectual property rights certificates are included in the types of collateral permitted in bank credit financing; If necessary, other guarantees are provided in the form of a personal guarantee or borgtocht from the company that oversees the copyrighted work. ((Erika Natalia Br Ginting and Yetniwati, 2020: 398-399). Guaranteeing song copyright as an object of collateral by banks has several types of indicators that must be met, namely as follows: (a) Has economic value, The most important indicator before guaranteeing material collateral is because the material can be cashed in. Therefore, the material being pledged as collateral must have economic value. The creation of a piece of music or song which is used as an object of fiduciary collateral, to calculate it, of course the bank when providing a loan or credit looks at several things, namely: a) Whether or not the song creation is played (performing rights); b) How popularly the song creation is played, in the world of entertainment and digital music channels such as: Joox, Spotify, iTunes and others; c) Calculation of the amount of disbursement on websites such as Google, YouTube; d) The popularity of the songwriter. (b) Registered with the Director General of Intellectual Property Rights and in accordance with the provisions of the Fiduciary Guarantee Law. The song copyright is submitted as an object of Fiduciary Guarantee, which has previously been registered with the Indonesian Ministry of Law and Human Rights and the Directorate General of Intellectual Property Rights to obtain legal certainty. (c) Still within the protection period, the song creation is under protection to be included in the general register of works. (d) Private Property, According to Fuady, the principle of Fiduciary Security objects is that the object must be an object belonging to the fiduciary giver, not an object that is in someone else's ownership status. Because, the person who controls the object will be considered the owner. (e) Can be switched or redirected, The bank can of course transfer it in whole or in part, if the copyright of a song will be used as an object of fiduciary collateral. This is in accordance with Article 1 Number 4 of Law Number 42 of 1999 concerning fiduciary guarantees "The transfer of song copyright must be carried out clearly and in writing, either with or without a notarial deed", as stated in the explanation of Article 16 paragraph (2) of the Law -Copyright Law in conjunction with Article 5 of Law Number Fiduciary Guarantee Law. (Komang Febri Berliana et.all, 2020: 266)

Therefore, the main factor in IPR that can be guaranteed is that it has high economic value so that the creation to be guaranteed can be accepted by the credit granting institution (creditor). The higher the sale value of the copyright, the creator can guarantee his copyright for a high nominal amount which can then be processed by a law enforcement notary to make an authentic deed for the procurement of the guaranteed copyright. (Raden Handiriono et all, 2023: 95) Based on the description above, the author tries to formulate several IPRs that have the potential to be used as objects of fiduciary collateral in banking institutions, through various processes. Types of Intellectual Property Rights that have Great Potential to be used as Fiduciary Collateral in Banking Institutions which require assessment procedures to be financed.

N	Types of	For	Value	Evaluation	Evaluati	IPR Value of the	Fulfill
o.	IPR	example	Considerations	IPR	on	Collateral Object	Terms
			IPR Economics	Appraiser	Bank	dan Royalti nya	&
							Condit

							ons
Copyrig ht	- Music & Song - YouTube, Tiktok, In-stagram content - Drama & Movies - Computer Program Applicatio n - etc.	- Commercialized Music & Song works, example, used as backounds, film soundtracks, played on various streaming music applications, recovered by other singers, etc., which still have commercial value to be used as fiduciary guarantees; - YouTube, Tiktok, Instagram content with many subscribers & Followers has enough commercial value if used as fiduciary collateral - Drama series & movies shown on streaming applications are often paid so that they have enough commercial value if used as	- Commercialized Music & Song works, example, used as backounds, film soundtracks, played on various streaming music applications, recovered by other singers, etc., which still have commercial value to be used as fiduciary guarantees; - YouTube, Tiktok, Instagram content with many subscribers & Followers has enough commercial value if used as fiduciary collateral - Drama series & movies shown on streaming applications are often paid so that they have enough commercial value if used as	Independent Appraisers: Independent appraisers who have certification related to IPR can conduct an assessment or valuation of the value of IPR. This appraiser must have the competence and expertise in valuing various types of IPR, such as Copyright, Trademark, Patent, Industrial Design and other types of IPR.	Internal Bank Apprais ers: Financia l instituti ons such as banks can also have a team of internal appraise rs who have knowled ge of IPR and can conduct an assessm ent of the value of IPR submitte d as an object of fiduciar y guarante e.	- Market Approach - Income Approach - Cost Approach	- Meets / does not meet

		fiduciary collateral
		- Computer program applications are often widely used in various electronic devices, of course, it has enough commercial value if it is used as a fiduciary guarantee
Brand	Brands with Famous Brand category	Already has its own market share and class almost all over the world
Patents	- Patent -Simple Patent	Invention in the field of technology that is used in industry and thus has sufficient commercial value to be used as a fiduciary guarantee
Industrial Design	Design on products that have artistic, aesthetic value & are used in industry	Often used in a product with a unique and attractive appearance, so it has enough commercial value if used as fiduciary collateral

Source: Data processed by the author in 2024

Based on this, further efforts need to be made to develop IPR as an object of fiduciary collateral in credit agreements in banking, including:

a. Strengthening Legal Substance

Amendment to Law no. 42 of 1999, to accommodate fiduciary guarantees in the form of IPR, apart from the age of the Fiduciary Guarantee Law, it is more than 20 years old in line with current developments, especially in the era of globalization and the industrial revolution 4.0, especially regarding procedures for registration, implementation and transfer of IPR guarantee rights, among the provisions of Article 1 and Article 5, Articles 11, 12, 15, Article 29 of the Fiduciary Guarantee Law. Apart from that, there are changes to the provisions of Article 6 of the Minister of Finance Regulation Number 27/PMK.06/2016 concerning Guidelines for Implementing Auctions. This is also a legal consequence of the Constitutional Court Decision Number 18/PUU-XVII/2019 regarding the Execution of Fiduciary Objects Due to Default; along with other relevant laws and regulations relating to Intellectual Property, Fiduciary, as well as Banking or Finance.

b. Establishment of the IPR Appraisal/Appraisal Services Profession

DJKI's big vision is to achieve "The Best IP Office in the World" which is based on the spirit of clean bureaucratic reform and serving through the preparation of the DJKI Strategic Plan for the 2020-2024 period. To make DJKI a public servant in the field of Intellectual Property, it has a vital role in the National Creative Ecosystem. Creative industries and business actors have shifted in understanding IP. Now IPR is not only seen conventionally as a form of moral recognition or as an economic incentive for a work. The IC optimization paradigm is as working capital. In the context of optimizing IC as working capital, IC is a collateral instrument used to guarantee debt.

4. Conclusion

That basically IPR can be used as an object of fiduciary collateral, but to do so it must go through an assessment procedure including through expert assessment and assessment from the bank itself. The mechanism for assessing IPR as a fiduciary guarantee for banking institutions is through several requirements, namely: First, submitting an application for intellectual property-based financing to a financial or banking institution by completing the requirements: Financing proposal, having a creative economic business; Having engagements related to creative economic IPR; Have a registration letter or IPR certificate. Second: Bank financial institutions or non-bank financial institutions in providing Intellectual Property-based financing carry out: verification of Creative Economy businesses; verification of the registration letter or Intellectual Property certificate which is used as collateral that can be executed in the event of a dispute or non-dispute; assessment of Intellectual Property used as collateral; disbursement of funds to Creative Economy Actors; and receipt of financing returns from Creative Economy Actors according to the agreement.

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