

The Intellectual Property Rights (IPR) Protection as an Effort to Improve the Empowerment of Indonesian MSMEs in the Covid -19 Pandemic Situation

Nina Nurani*, Adhi Subhana, Putri Agus Siti Safaria
Widyatama University, Indonesia
*nina.nurani@widyatama.ac.id

Abstract

MSMEs are one of the sectors that have been drastically affected by the Covid-19 pandemic in Indonesia, however, MSMEs have potential creative works that can be protected by Intellectual Property Right (IPR) to overcome economic constraints due to the Covid-19 pandemic situation. Practice shows that this potential has not become a serious concern for MSMEs, as evidenced by the low number of IPR registration applications and the rampant IPR disputes. Therefore, this study aims to find out how important the legal protection of intellectual property rights by creative industries is to empower MSMEs in the Covid-19 pandemic situation and how the role of local governments in empowering MSMEs through the IPR protection model in the Covid-19 pandemic situation. This study uses a qualitative descriptive analysis and juridical research specification with the method of historical legal interpretation and legal construction. The data collection technique is done by using literature study to collect and compile data related to the problem under study. The results of the research show that in the Covid-19 pandemic situation, the protection of IPR for MSMEs is increasingly being realized, as a means of competitiveness for national / international businesses. Even though submissions for IPR registration are still low, in the current Covid-19 pandemic situation, there has been an increase in IPR registrants, which have an impact on increasing the competitiveness of MSMEs businesses. Therefore, we need a model of "Development of MSMEs Empowerment by synergizing political systems, cultural systems, social systems and economic systems, as an effort to empower MSMEs by using the IPR legal protection regime" in a comprehensive and effective manner in the Covid-19 pandemic situation.

Keywords: IPR, MSMEs, Covid-19 Pandemic Situation.

A. Introduction

In a crisis situation, MSMEs are one of the drivers of the domestic economy and absorbing labor has experienced shocks. "MSMEs have become the biggest absorbers of workforce in the last few decades. Referring to the 1997 economic crisis, MSMEs have even become the saviors of the community's economy¹." Associated with the current crisis situation is different

¹ Agus, Diagnosis Ekonomi Nasional Terhadap Kinerja UMKM di Pandemi COVID-19, 28 Juni 2020, Biro Kerja Sama, Hukum, dan Humas LIPI, lipi.go.id/siaranpress/diagnosis-ekonomi-nasional-terhadap-kinerja-umkm-di-pandemi-covid-19/22069

from the previous economic crisis. "The crisis that occurred in the current Covid-19 pandemic situation has not only distorted the demand side but also the supply side." MSMEs are one of the sectors that have been drastically affected in the Covid-19 pandemic in Indonesia. This is because the MSMEs business is daily in nature and relies a lot on direct interaction, so that the existence of Large-Scale Restrictions (PSBB) and Social distancing has an impact on demand to drop dramatically².

According to the data from the LIPI survey in May 2020 with the majority of respondents being on an ultra-micro and micro business scale having limited resources so that it will be seriously affected by the Covid-2019 pandemic situation. major namely the processing sector, provision of food and beverage accommodation and trade. Assessed from the production aspect, the biggest MSMEs pressure during the Covid-2019 pandemic situation comes from the increase in raw material costs in addition to efforts to maintain labor. With various efforts of MSMEs in the Covid-19 pandemic situation, almost 72.02 percent of MSMEs stated that they could not maintain their business until October 2020³.

A source from the Indonesian Chamber of Commerce and Industry stated that nationally in the Covid-2019 pandemic situation, there were 62.9 million MSMEs, 61.8 million of which were micro-businesses with an income below IDR 300 million per year. As many as 83 percent of MSMEs experienced a decline in sales and 17 percent maintained an income below 50 percent. A total of 52 million MSMEs were unable to continue their business with a potential unemployment of 99 million people or 37.7 percent of the population. The causative factor for 78 percent was due to falling demand and 21.2 percent due to raw materials and distribution factors⁴.

The use of masks, handsanitazers, spraying disinfectants and others is a health protocol that is increasingly becoming a daily culture. The presence of various Covid-19 pandemic situation prevention products raises an idea, an idea, creativity that has economic value⁵ for MSMEs business actors is one of the works of the creative industry, which in running its business will produce creative products. As a work of creativity, the creative economy product of MSMEs is intellectual property that needs to be rewarded as an intellectual work that has economic value and needs to obtain legal protection⁶. Legal protection for each product / work of the creative industry encourages MSMEs to obtain a certificate of intellectual property rights, considering that they are vulnerable to inviting irresponsible parties to imitate and claim rights.

This award is increasingly needed in line with the increasing flow of trade in goods which will increase national economic growth. This is in line with the Reward theory, which states that a creator / creator needs to be given an award and recognition and protection for the success of his efforts in giving birth to new creations. Legal protection is needed for the works of MSMEs that have them, especially with the squeezing of the economy due to the Covid-2019 pandemic situation, which requires MSME players to increase innovation and

² Teten Masduki Menteri Koperasi dan Usaha Kecil Menengah, pada Latipah Nasution, Efektifitas HKI Sebagai Pelindung Industri Kreatif dan UMKM Di Tengah Pandemi Covid-19, Peneliti pada Pusat Studi Konstitusi Legislasi Nasional UIN Syarif Hidayatullah Jakarta <https://doi.org/10.15408/adalah.v4i1.16466>.

³ Ibid, Agus

⁴ Adib Auliawan Herlambang Editor : Adib Auliawan Herlambang, Artikel AyoSemarang.com, dengan Judul UMKM: Bertahan untuk Berkembang, pada URL <https://www.ayosemarang.com/read/2020/08/08/61724/umkm-bertahan-untuk-berkembang>, <https://www.ayosemarang.com/read/2020/08/08/61724/umkm-bertahan-untuk-berkembang>

⁵ Latifah Nasution, Efektifitas HKI Sebagai Pelindung Industri Kreatif dan UMKM Di Tengah Pandemi Covid-19, ADALAH, Buletin Hukum dan Pengadilan, ISSN: 2338 4638 Volume 4 Nomor 1 (2020). 16466-48558-1-PB.pdf

⁶ Dyah Permata Budi Asri, Perlindungan Hukum Hak Kekayaan Intelektual Bagi Produk Kreatif Usaha Kecil Menengah Di Yogyakarta, Jurnal Hukum Ius Quia Iustum, Volume 27 Issue 1, Januari 2020.pp 130-150. 13584-39197-2-PB.pdf

creativity in their efforts to fulfill their daily needs. The existence of a health protocol regulation obliges everyone in the Covid-19 zone to comply with these regulations. Referring to the Regulation of the Minister of Health Number 9 of 2020 concerning PSBB Guidelines, it contains restrictions on certain activities of a population in an area infected with in the Covid-19 pandemic situation, including restrictions on the movement of people and goods in a City / Regency in the context of preventing Covid-19 pandemic situation⁷.

Thus, protection of IPR to the work of MSMEs actors in the Covid-19 pandemic situation is very important. If it is related to the state of Indonesia which has great potential in the creative industry and abundant natural resources, then the support for IPR protection for MSMEs needs to be further optimized⁸. The rapid development of the creative industry in Indonesia is able to empower MSMEs in the Covid-19 pandemic situation.

The facts show that the market potential for creative works at home and abroad is very large and has a tendency to continue to grow. This further strengthens the reason for the importance of protecting intellectual property rights for creative economy products with the aim that the originators of creative ideas and innovations will get economic benefits for their intellectual works⁹. However, legal protection of IPR in Indonesia has not become a serious concern. This is evidenced by the low number of IPR registration applications and the rampant IPR disputes. The low level of public understanding of the importance of intellectual property rights in the creative industry which has an impact on violations of IPR causing losses to the state, inventors, society, also has an impact on economic, socio-cultural, legal relations and can even trigger political tensions between countries¹⁰ .

Data from the Ministry of Industry, through input from the Indonesian Society for Anti-Counterfeiting (MIAP), estimates that losses from the circulation of counterfeit goods and products reach a value of Rp. 65 trillion. The losses consisted of Rp. 13.39 trillion of food and beverage products, Rp. 41.58 trillion of clothing and leather goods, Rp. 6.5 trillion of medicinal and cosmetic products and Rp. 3.6 trillion of software and ink products¹¹ .

This is increasingly needed in line with the increasing flow of trade in goods which will increase national economic growth. This is in line with the Reward theory, which states that a creator / creator needs to be given an award and recognition and protection for the success of his efforts in giving birth to new creations. Legal protection is needed for the works of MSMEs that have them, especially with the squeezing of the economy due to the Covid-2019 pandemic situation, which requires MSMEs players to increase innovation and creativity in their efforts to fulfill their daily needs. The existence of a health protocol regulation obliges everyone in the Covid-19 zone to comply with these regulations. Referring to the Regulation of the Minister of Health Number of 2020 concerning PSBB Guidelines, it contains restrictions on certain activities of a population in an area infected with in the Covid-19 pandemic situation, including restrictions on the movement of people and goods in a City /

⁷ Pakpahan, 2020: 3 dalam Latifah

⁸ kominfo.go.id dalam ibid

⁹ opcit, Latifah 137

¹⁰ loc.cit pada ibid

¹¹ Sudjana, Kreatif Progresivitas Perlindungan Terhadap Pencipta dalam mendorong Ekonomi Di Indonesia, Jurnal Ilmiah Kebijakan Hukum, Volume 14, No. 2, Juli 2020; 183-200 e-ISSN : 2579-7425 (online) Kemenristekdikti: No: 34/E/KPT/2018 p-ISSN : 1978-2292

Regency in the context of preventing in the Covid-19 pandemic situation.

From this explanation, the authors are interested in examining the importance of protecting the intellectual property rights of the creative industry as the empowerment of MSMEs in the pandemic-19 pandemic situation so that they can maintain their workforce, sources of income and welfare and how the role of local governments is in the empowerment of MSMEs through the IPR protection model in pandemic situations-19. This study aims to determine the importance of protecting intellectual property rights by creative industries as the empowerment of MSMEs in the covid-19 pandemic situation and how the role of local governments in the empowerment of MSMEs through the IPR protection model in the Covid-19 pandemic situation.

B. Theoretical Review

Legal protection is an effort to organize various interests in society so that there is no collision between interests and can enjoy all the rights provided by law¹². Legal protection is related to legal protection of IPR for the products of the creative industry of MSMEs in accordance with the provisions of the IPR legislation in Indonesia. If SMEs already have legal protection for their products, it will provide legal certainty for efforts to fight for their rights as parties who have rights to these products.

Protection of IPR for the products of the creative industry of MSMEs has implications for the use of economic rights for their owners, so that rights owners can enjoy benefits to improve their welfare. This is a motivation for the right owner to produce original and new creations (independent works not imitation results) that are more optimal. Legal protection for IPR refers to the following¹³: (1) Reward Theory, that a creator in the fields of science, art and literature is given an award and recognition as well as protection for the success of his efforts in producing the new creation; (2) Recovery Theory, that due to the efforts of the creator and inventor who has spent a lot of energy, thought, time and money, he is given the exclusive right to exploit KI in order to recover what he has issued; (3) Incentive theory, that incentives are given to stimulate creativity and efforts to create new works in the fields of science, art and literature; (4) Public Benefit Theory, that IP is a tool to achieve and develop the economy. (5) Economic growth stimulus theory which recognizes that protection of IP is a tool of economic development preliminary

This demands the role of the government to take sides with MSMEs, this is in line with the concept of the "modern welfare state" Marbun "that the task of the government must be active in the welfare of society, according to Jeremy Bentham, in the flow of utilitarianism is" the greatest happiness for the greatest number of people.

Whereas Chambliss and Seidman in their theory Theory of Law Work in Society¹⁴ answered efforts to empower the community, in this case MSMEs actors in the Pandemic-2019 situation, as the basis for the ineffective implementation of law in this case. IPR protection regulations for the creative works of SMEs in the field in practice illustrate that the operation of law in society is influenced by the strength of relations between subjects. These subjects

¹² Satjipto Raharjo, 2020 dalam Latifah

¹³ Adrieansjah Soeparman, Hak Desain Industri Berdasarkan Penilaian Kebaruan Desain Industri Bandung: PT Alumni, 2013

¹⁴ Rocher Guy, Talcott Parsons, dalam Tutut Ferdiana Mahita Paksi, Suteki, Tity Wahyu Setiawati, Rekonstruksi Kebijakan Publik Tentang izin Pinjam Pakai Kawasan Hutan yang berbasis Sustainable Development, Dipenogoro L. Journal, Volume 6, No. 3, 2017, <https://ejournal3.undip.ac.id/index.php/dlr>

are the relationship between regulatory agencies, regulatory enforcement agencies, and stakeholders. Each subject acts interconnected and influences each other so that they move as a whole system of law implementation. Each of these institutions is influenced by other social and personal factors. These other social and personal factors are described using Talcott Parsons' Cybernetics Theory analysis.

Parsons states that law is one of the sub-systems in a larger social system. In other words, law is part of other social systems that have different logic and functions. The sub-systems in question include culture, politics and economics. Apart from being a reality inherent in society, the four sub-systems are challenges that must be faced by each unit of social life. The sustainability of society is determined by the function of each sub-system according to their respective duties. The position of law is so central that it must be able to destroy the other sub-systems in order to run synergistically without colliding with each other.

C. Research Methods

This study is conducted through a qualitative approach, namely research that aims to gain a deep understanding of human and social problems, including law (copyright) and economics (creative). This study uses a qualitative descriptive analysis and juridical research specification with the method of historical legal interpretation and legal construction.

Data collection techniques are carried out by library research to collect and compile secondary data related to the problem under study referring to primary, secondary and tertiary legal materials as supporting data. Primary legal materials are legal materials that have binding legal force such as IPR legislation, secondary legal materials, namely materials that provide an explanation of primary legal materials, including literature and scientific works related to IPR, MSMEs, Creative Economy, the Covid-19 pandemic situation.

This research is expected to be able to examine juridical support related to IPR legislation, social and economic both in the form of related regulations. The data analysis technique used is that data has been collected and analyzed normatively qualitatively, namely in the form of regular, logical coherent, non-overlapping and effective sentences, then discussion is carried out, so that it is hoped that from this information an explanation of the progression of legal norms contained in copyright which can encourage the creative economy in Indonesia. Normative juridical, namely tracing, researching, and studying these objects through legal principles through national and international legislation to be harmonized to support the empowerment of creative works of MSMEs as creative industrial works in the Covid-19 pandemic situation.

D. The Importance of Legal Protection for Intellectual Property Rights for Creative Industries as Empowerment of MSMEs in the Covid-19 Pandemic Situation

PR is the result of a process of human thinking ability that is incarnated in a creation or discovery. The creation or discovery is an ownership of it because it comes from human reason¹⁵ IPR is a right that comes from the results of human thought or creation which ultimately results in a product or process that is useful for humans.

IPR can be interpreted as the right to enjoy economically the result of an intellectual creativity. Intellectual Property is the key to competition and the development of a business.

¹⁵ Budi Asri, 2020:134 dalam Latifah

The definition of IPR is not only about protecting business, but also to protect a business from disputes over IPR.

MSMEs is a creative industry that produces creative products. As a creative work, the resulting product is in the form of intellectual work that needs to be rewarded with economic value so that legal protection is needed. The creative economy industry has different characteristics from the industry in the general public. This type of industry has an attachment in the process of creating a product that comes from an idea or idea (Intellectual Property). The creative industry of MSMEs has high economic value for the welfare and employment of the community and has been proven to increase the economic growth of a country¹⁶ Protection of IPR has been guaranteed in Article 27 paragraph (2) of the Universal Declaration of Human Rights: "everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author."

In the current Covid-19 pandemic situation, IPR for MSMEs is increasingly an important part of individual competency in the national / international context. The change in the function of IPR, which started from protection, became part of a national development strategy or the development of the creative industry for SMEs in order to survive. Protection of IPR is manifested in the form of laws and regulations relating to IPR in the 2000s. Indonesia's participation as a country that is a member of the WTO has consequences for implementing the provisions of the Agreement on trade related aspects of intellectual property rights (TRIPs approval, in accordance with the provisions of law Number 7 of 1994 concerning Ratification of the Agreement Establishing the World Trade Organization world trade)¹⁷.

Indonesia as a country that is a member of the WTO requires the inclusion of various international treaties in conventions that have been ratified. Various regulations in the IPR sector have been implemented in the business community, but the implementation of these laws is still low, even though the Indonesian state has great potential which, if developed, can generate benefits for the state ¹⁸ as well as for creative industries MSMEs. The participation of various agencies and institutions both in the public and private sector, as well as better coordination among all parties is absolutely necessary in order to achieve the results of the effective implementation of the intellectual property rights system. The scope of IPR includes: 1. Copyright and related rights, 2. Industrial property rights (brands, geographical indications, industrial designs, integrated circuit layout designs, patents, trade secrets)¹⁹.

The Director General of Intellectual Property of the Ministry of Law and Human Rights of the Republic of Indonesia is the central government in charge of realizing the protection of IPRs to the public and providing socialization of the importance of IPR in economic growth, especially in empowering MSMEs The Department of Trade and Industry and the Office of MSMEs also need to promote legal awareness of the community on IPR protection.

The fundamental problem of the low implementation is not only knowing and understanding, but how to build public awareness to register in order to protect intellectual property rights, which then become the full right of safe intellectual property results. Efforts to build public awareness are positive steps in which legal arrangement, law formation and legal effectiveness actually run according to their function in society.

Faced during the Covid-19 Pandemic period, IPR registration is increasingly important for

¹⁶ Menteri Perdagangan RI, 2008 dalam ibid

¹⁷ Menteri Perdagangan RI tahun 2007p 3dalam ibid

¹⁸ Yanto, et al. 2020 p242 dalam ibid

¹⁹ Sembiring, 2002: 15 dalam ibid

MSMEs, IPR registration can boost competitiveness in addition to increasing MSME income. Data shows that the registration of IPR by MSMEs has an impact, namely that the income of MSMEs increases by 60 percent, especially in the food and beverage sector. However, on the other hand, if registration is ignored, the intellectual property rights of MSMEs will be claimed by national business actors as well as by business actors in other countries, causing a dispute. Therefore, the Ministry of Cooperatives and SMEs is increasingly encouraging the intellectual property rights of Cooperative and MSMEs products through the facilitation program for trademark registration, copyright, industrial design, and geographical indication of MSMEs products. Intellectual Property Rights (IPR) certificates can boost the competitiveness of Micro, Small, Medium Enterprises (MSMEs) during the Covid-19 pandemic situation. During the Covid-19 pandemic situation, applicants who registered for IPR experienced an increase. All brand registrants from January to June 2020 reached 42,501 brands. "Applicants for new brands have increased from a total of 33,000 to 39,500²⁰

The implementation of the concept above is in line with the theory put forward by Laurance M Friedman in the legal component that three elements are needed²¹. First, structure; namely agencies or institutions created by the legal system with various functions in order to support their functions. The second is the component of the substance; In terms of the output of the legal system, in this sense, it includes the norms and regulations that arise from this system. Third, culture; is a legal culture in the form of a set and values that will determine when, where, why people come to law or government. In this case, it can be in the form of behavior related to the legal system.

The theory of the legal system above states that in the implementation of law related to IPR protection, the first element regarding the legal substance of IPR in the form of legal protection for IPR is qualified in prevention and prosecution efforts. As for the prevention of IPR regulation, there are various laws and regulations: Law No. 30 of 2000 concerning Trade Secrets, Law No. 31 of 2000 concerning Industrial Designs, Law No. 32 of 2000 concerning Layout Designs. Integrated Circuit, Law Number 29 of 2000 concerning Protection of Plant Varieties. Alignment of laws and regulations in the IPR sector based on the TRIPs agreement, in 2001 the enactment of Law No. 14 of 2001 concerning Patents and Law Number 15 of 2001 concerning Marks which was later amended into Law No. 20 of 2016 concerning Marks. and Geographical Indication. These two laws replaced previous laws in the related field. In mid-2002, Law No. 19 of 2002 concerning Copyright replaced the old law and became effective one year from its promulgation. Repressive legal measures are found in the regulation of criminal acts in the provisions of laws and regulations²².

When the above indicators have been met, it can be said that the degree of legal awareness of the community is high, and vice versa. The high level of legal awareness of the community has a positive impact on legal compliance with applicable legal provisions. There is a tendency at every level of society to have the potential to have problems with the law, such as committing crimes, violating the law, abuse of authority, abuse of position, etc. Therefore, the community needs to be used as an object of legal education. Given the provision of understanding of an applicable legal rule, legal awareness will arise in the community itself. The goal of protection with the concept of government responsibility is to protect all its people, this has been explicitly regulated in the 1945 Constitution, which has provided

²⁰Reynas Abdila, 2020, Menteri Teten Nilai Sertifikat HKI Bisa Dongkrak Daya Saing UMKM,tribun.com , <https://www.tribunnews.com/bisnis/2020/07/17/menteri-teten-nilai-sertifikat-hki-bisa-dongkrak-daya-saing-umkm>

²¹ Yunus, 2016, p6, dalam Sujana

²² Kusumastuti, p 2010 dalam Latifah

protection and promotion of the people's welfare²³.

E. The Role of Local Government in Empowering MSMEs through IPR Protection in The Covid -19 Pandemic Situations

Various policies for MSMEs in Indonesia have been implemented through a number of laws and regulations, in order to foster a business climate. Among them are Law Number 20 of 2008 concerning Micro, Small and Medium Enterprises (MSMEs regulation) which was drafted with the intention of increasing the capacity and role of institutional participation.

The participation of local governments in the context of fostering a business climate is stated in Article 7 of the SME Law in the form of stipulation of laws and policies covering the following aspects: (1) funding; (2) facilities and infrastructure; (3) business information; (4) partnership; (5) business licensing; (6) business opportunity; (7) trade promotion; and (8) institutional support. In addition, the Government and Regional Governments are also instructed by the SMEs regulation to facilitate business development in the fields of: (1) production and processing; (2) marketing; (3) human resources; and (4) design and technology. Then in Article 14 paragraph (1) letter d and Article 20 letter e of the MSME Law, the Government and Local Government are also mandated to facilitate ownership of intellectual property rights.

Facilitating the ownership of intellectual property rights must adjust the interests of the local community, given the variety of products and cultural assets of the community, the potential to support the development of the regional creative economy is important in an effort to increase the empowerment of the potential of Indonesian MSMEs workforce in the 2019 Pandemic situation, providing opportunities for MSME business actors. to stay afloat in carrying out its business activities and advance in the field of technology so as to be able to compete globally.

Intellectual property rights are a work that carries the risk of other parties using them illegally. This demands an increasingly important role of the state / central and regional government to strengthen IPR regulations which are in favor of creative industry players, played by MSMEs in general to maintain the MSMEs workforce in the Covid-19 pandemic situation, according to the concept of "modern welfare state" Marbun " that the task of the government must be active in the welfare of society according to Jeremy Bentham in the flow of utilitarianism is "the greatest happiness for the greatest number of people". especially during the covid-19 pandemic.

There are two government agencies involved in an effort to increase the potential of the MSME workforce, namely the Ministry of Cooperatives and SMEs²⁴ (KemkopUKM) and the Ministry of Industry (Kemenperin), which have designed strategies to help MSMEs. The Kemenrian koperasi-UKM has provided three stimuli for MSMEs during the Covid-19 pandemic so that the continuity of MSMEs activities is an effort to maintain the MSME workforce, namely: leniency in loan payments, six months MSMEs tax relief, and cash transfers for micro-scale businesses²⁵. The Ministry of Industry designs to provide loans with low interest rates (lower than the interest rate for micro-businesses) to MSMEs businesses, connecting businesses with online technology store marketplaces to help market product sales in marketplaces (Tokopedia, Shopee, Blibli), collaborating with local industries providing raw materials for the needs of MSMEs, and collaborating with the Ministry of Foreign

²³ Yanto, et al, 2020 p 242.dalam ibid

²⁴ Kementrian Koperasi dan UKM dalam Latifah

²⁵ thejakartapost.com dalam ibid

Affairs and industrial attaches abroad to continue to conduct trade negotiations to continue export activities of products produced by Indonesian MSMEs²⁶ with protected products IPR through registration,

The correlation of IPR legal protection in the context of empowering MSMEs is legal protection during the Covid-19 pandemic, IPR can be used as power to be distributed to craftsmen / creators / innovators in the face of competitiveness, increase the economic value of handicrafts and encourage creativity. In the face of competitiveness, copyright can be used to protect creative ideas according to the Reward Theory theory, that creators in the fields of science, art and literature are given an award and recognition and protection for the success of their efforts in giving birth to new creations²⁷ expends an amount of energy, thought, time and money, to him given the exclusive right to exploit intellectual property rights to recover what he has issued in line with the Incentive Theory, that incentives are given to stimulate creativity and efforts to create new works in the field of science knowledge, arts and literature.²⁸

Protection of objects of intellectual property rights, such as copyright for a longer period of 70 years, has implications for the utilization of the creator's economic rights, so that the creator can enjoy greater benefits to improve his welfare. This will motivate creators to produce more original creations (independent works not imitation results) because they feel protected, this is in line with the theory that underlies legal protection of Intellectual Property Rights, namely Public Benefit Theory, intellectual property rights are a tool for reach and develop the economy. Economic growth stimulus theory which recognizes that protection of intellectual property rights is a tool of economic development²⁹; as an effort to empower MSMEs in maintaining their workforce in the Covid-19 pandemic situation. Protection of ideas aims so that creators can get moral rights and economic rights. Moral rights may include the inclusion of the author's name and economic rights in the form of economic use of the creation to announce and / or reproduce and / or sell the copyright³⁰.

Thus, the protection of intellectual property rights can encourage creativity, in accordance with the principle of justice, intellectual property rights provide rewards to creators, both material and immaterial (economic rights and moral rights). Rewards to creators will encourage creators to create creative ideas that can be protected by IPR.

In an effort to empower MSMEs in order to maintain workforce in the Covid-19 pandemic situation, Talcott Parsons stated that there are four functions a system must have in order to survive, namely including the economic subsystem, political subsystem, social subsystem, and cultural subsystem. By using the IPR legal protection regime, it is necessary to study the factors from the four subsystems that cause comprehensive protection against intellectual property rights is not implemented effectively.

Chambliss and Seidman in their theory of "Theory of Law Work in Society" provides an analysis of the ineffectiveness of law implementation in reality. The effectiveness of IPR protection policies in efforts to empower MSMEs so that they can maintain workforce in the Covid-19 pandemic situation, it can be seen that the operation of law in society is influenced by the strength of relations between subjects. These subjects are the relationship between

²⁶ Tempo.co dalam ibid

²⁷ Dadan, 2016 dalam Sudjana

²⁸ Adrieansjah S, 2013; 29

²⁹ ibid

³⁰ Adrieansjah Soeparman, Hak Desain Industri Berdasarkan Penilaian Kebaruan Desain Industri (Bandung: PT Alumni, 2013), 29.

regulatory agencies, regulatory enforcement agencies, and stakeholders. Each subject acts interconnected and influences each other so that it moves as a whole system of law implementation. Each of these institutions is influenced by other social and personal factors. These other social and personal factors are described using Talcott Parsons' Cybernetics Theory analysis. Parsons states that law is one of the sub-systems in a larger social system. In other words, law is part of the social system. Besides the law, there are other sub-systems that have different logic and functions. The sub-systems in question include cultural, political, social and economic aspects.

Apart from being a reality that is inherent in society, the four sub-systems are simultaneously challenges that must be faced by each unit of social life. The survival of a community, in this case MSMEs, is determined whether or not the function of each sub-system is according to their respective duties. The position of law is so central that it must be able to tame the other sub-systems in order to run synergistically without colliding with each other.

The influence of the economic, cultural and political sub-systems in the operation of a law in society. Apart from sticking to this explanation, Talcott Parsons also explained the form of integration between sub-sub systems in the following form: Each sub-system has a different logic, mechanism and purpose. The description of the relationship between the modification of the theory of law work in society and the cybernetic theory of Talcott Parsons is described in the model of "Empowering MSMEs in the Covid-19 Pandemic Situation through IPR Protection" as follows:

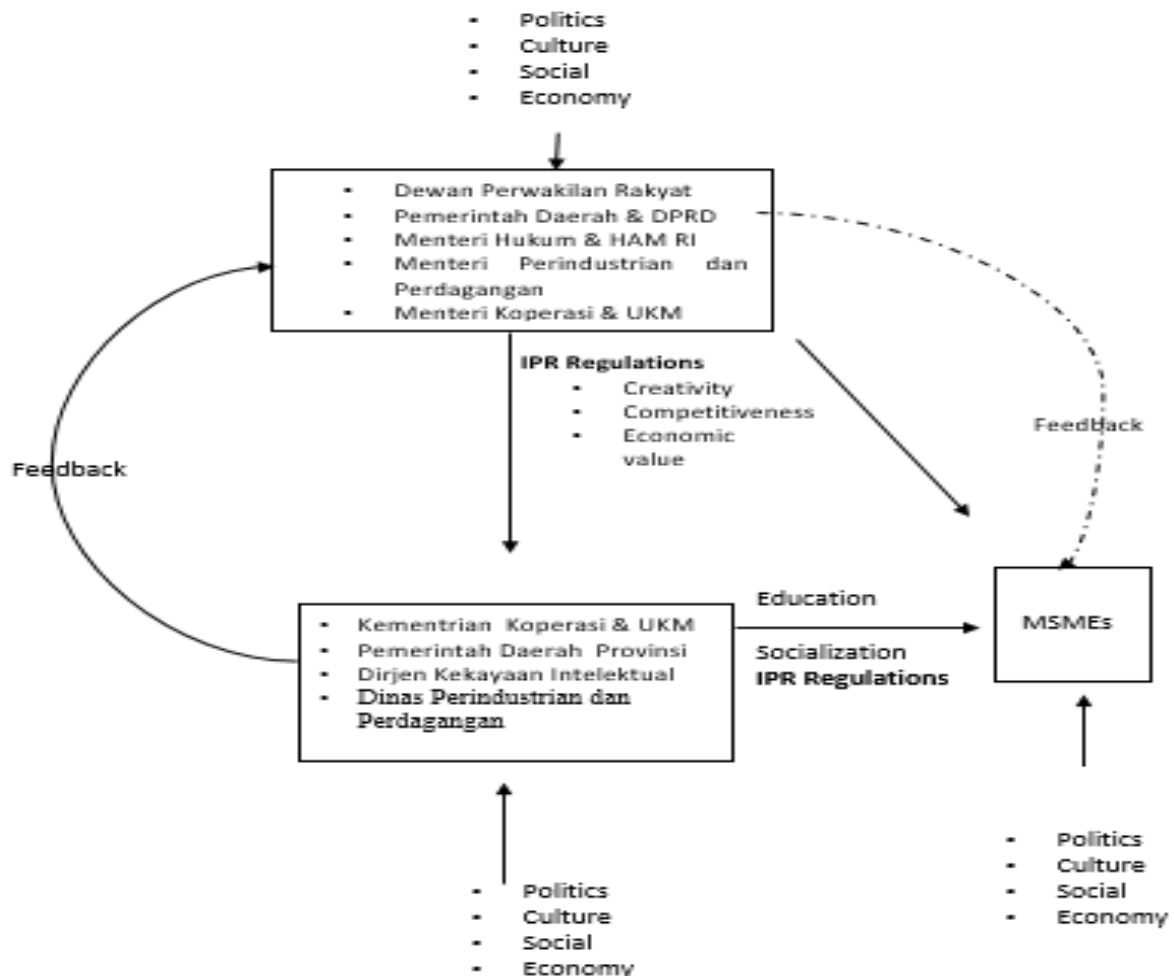


Figure 1: Model of MSMEs Empowerment through IPR Protection in the Covid-19 Pandemic Situations

By knowing the factors of the four subsystems that cause the IPR legal protection system to be ineffective, the formulation of the MSMEs Empowerment model in the Covid-19 pandemic situations will be more effectively implemented. In this model of MSMEs empowerment, there will be harmony between government policies and MSMEs as part of the economic community, so that there is no conflict of interest between the government and the community (MSMEs). Alignment can be built by communicating about problem determination, strategies for handling them and taking action, jointly between cooperatives, MSMEs and the government. In addition, the process of extension and provision of legal protection facilities can be carried out jointly between cooperatives and the government.

Furthermore, according to Talcott Parsons, each institution is full of the influence of external and internal factors of the institution that cause the implementation of the law to be effective. The three sub-systems in Cybernetics Theory, namely the economic, cultural, social and political sub-systems have an impact on the implementation of existing regulations. These four factors can be explained as follows:

1. Political factors;

The government, apart from making regulations in the field of intellectual property rights, also provides counseling on intellectual property rights, especially regarding registration,

however the government does not require MSMEs to register this, so the number of MSMEs that register is still not optimal. In the Covid-19 pandemic situation, the Ministry of Cooperatives and SMEs encourages the intellectual property of Cooperative and MSMEs products through facilitation programs for registration by brands, copyright, industrial design, geographic indication of MSME products. Intellectual Property Rights (IPR) certificates can boost the competitiveness of Micro, Small and Medium Enterprises (MSMEs) during the Covid-19 pandemic situation. Therefore, applicants who register for IPR have increased, for example in January to June 2020 the registration has reached 42,501 brands, "Application for brands has increased from 33,000 to 39,500."³¹

2. Cultural factors;

Regarding copyright, most MSMEs craftsmen think that imitating people's crafts is not an important problem, there needs to be a change in the "mind set" of MSMEs by directing the "mind set" of traditional communal society towards the "mind set" of modern society in the form of education / awareness about the importance of recognizing, respecting and protecting the intellectual property rights of MSMEs actors. This communication is an effort to increase understanding of various information regarding the urgency of registration, steps and registration fees as well as steps to file cases and the amount of fees.

3. Social Factors:

Some MSMEs do not feel disadvantaged if their aspirations are imitated by others, some Indonesian MSMEs still hold the philosophy "knowledge that is shared will be more beneficial to others and become a matter of pride if many of the knowledge they have are imitating". This is one of the reasons for the low level of public awareness of the importance of registering IPR for the protection of their ideas or works

4. Economic factors;

Regarding copyright and brand rights, MSMEs are more interested in producing works in accordance with market demand, are not so interested in producing works that meet substantive requirements so that they receive IPR legal protection in the form of originality, creativity, and fixation, so they are reluctant to give a mark as a differentiator for registration of rights. Brand.

F. CONCLUSION

Conclusion

- a. In the current in the Covid-19 pandemic situation, the more urgent protection of IPR for MSMEs is an important part of the competence of MSMEs in the national / international context. The change in the function of IPR, which starts from protection, becomes part of the strategy for empowering the creative industry of MSMEs to survive, is the key to competition and business development. Protection of IPR laws in Indonesia has not become a serious concern by some MSMEs. This is evidenced by the low number of applications for IPR registration and the rampant disputes against IPR. In addition, the community's low understanding of the importance of IPR in the creative industry. However, with intensive outreach to MSMEs regarding the importance of IPR as a means of competitiveness by related institutions in the current Covid-19 pandemic situation,

³¹ Freddy, Tribun New.com 2020

there has been an increase in IPR registrants, especially brand rights, which have a further impact on increasing MSMEs income.

- b. In line with Talcott Parsons' opinion, there are four functions that a system must have in order to survive, namely including the economic subsystem, political subsystem, social subsystem, and cultural subsystem. By using the IPR legal protection regime, it is necessary to study the factors from the four subsystems that cause the implementation of IPR legal protection in a comprehensive and effective manner through the "MSMEs Empowerment Development Model".

Suggestions

- a. More intensive and comprehensive socialization of Indonesian MSMEs is needed by related institutions.

This is an effort to increase public understanding of the importance of protecting IPR for their work in the creative industry, especially during the Pandemic-19 situation as a means of local and global competitiveness.

- b. It is necessary to implement the model of "Development of IPREmpowerment by using the IPR legal protection regime" by related institutions, namely the Central and Local Governments, the Ministry of Industry and Trade, the Ministry of Cooperatives and Small and Medium Enterprises (MSMEs) so that they can synergize the factors of the four subsystems, namely the political system, cultural system, social system and economic system, resulting in synergy in the form of harmonization of the four subsystems as a means of protecting intellectual property rights as an effort to empower MSMEs comprehensively and effectively in the Covid-19 pandemic situation.

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