

Copyright as an Object of Fiduciary Guarantee from the Perspective of Law Number 42 Year 1999 on Fiduciary Guarantee



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ABSTRACT: Law Number 28 Year 2014 on Copyright brings legal reform, especially for holders of rights to Intellectual Property Rights, especially Copyright. Although juridically normative copyright can be used as an object of fiduciary guarantee, it does not necessarily make banks easily provide loans. Because, the arrangement in the Copyright Act, requires further elaboration of implementing regulations related to guarantees for the Bank (as a creditor) to obtain certainty of return of funds that have been loaned to the debtor. The research used is normative juridical legal research that focuses on the review or study of positive law. The research approach is a method or way to conduct a study so that researchers get information from various aspects to find the issues they are looking for answers to. In accordance with the type of research that is normative juridical, then the research approach used in this study is the Legislation Approach, Conceptual Approach, Conceptual Approach and Case Approach. The result of his research is that Copyright as an object of fiduciary security is in accordance with Law No. 42 of 1999 concerning Fiduciary Guarantees where Copyright can be encumbered by collateral in the form of fiduciary, but not on the object encumbered by the Copyright, but the economic value attached to the copyright. In addition, the Copyright must first be registered with the Directorate General of Intellectual Property of the Ministry of Law and Human Rights before it can be pledged. This is important because it is proof that the fiduciary is the holder of the Copyright. However, some provisions in the Fiduciary Guarantee Act are difficult to apply to fiduciary guarantees in the form of copyright.

KEYWORDS: Hak Cipta; Hak Ekonomi; Jaminan Fidusia; Objek Jaminan.

I. INTRODUCTION

Intellectual property comes from the creative activity of a human mind that is expressed to the general public in various forms, useful, useful to support life and has economic value. Intellectual property is a private right and has its own privileges because it has an exclusive nature and also has economic value, therefore any party is prohibited from copying, using, and using in trade an intellectual work without the permission of the creator. Intellectual Property Rights in the World Intellectual Property Organization (WIPO) is called "creation of the mind" which can be interpreted as a human work that is born with an outpouring of energy, passion, creation, time and money. (Widyastuti, 2010: 3) So it can be said that Intellectual Property Rights are "Product of Mind".¹

The characteristics of Intellectual Property Rights do not control physical wealth, but can only be controlled through claims or legal actions, which means that ownership is only recorded in a legal action, especially if there is a violation of these rights.² Intellectual Property Rights can generally be grouped into two types of rights. First, copyright, which includes copyright and other rights related to copyright (neighboring rights) Second, industrial property rights over industrial property (industrial propertyrights),³ which includes Patents, Trademarks and Geographical Indications, Plant Varieties, Industrial Designs, Integrated Circuit Layout Designs, and Trade Secrets. One form of Intellectual Property Rights that has the broadest scope of protected objects, because it covers science, art and literature (art and literary) and computer programs is Copyright.⁴

Copyright is the exclusive right of the creator that arises automatically based on the declarative principle after a work is realized in a tangible form without reducing the restrictions in accordance with the provisions of the legislation. Copyright is an exclusive right for the creator to publish or reproduce his/her creation in the fields of science, art and literature, which can consist

¹Lisa Widyastuti, "*Ide dan kekayaan Intelektual*", Media HKO-Buletin Indormasi dan Keragaman Hak, Vol. VII, No. 3, 2010, p. 3

²Rahayu Kartini, "*Kajian Implementasi Prinsip-Prinsip Perlindungan HaKi dalam Peraturan Per UU an Haki di Indonesia*", Humanity, Vol. 1, No. 1, 2005, p. 46.

³Anis Mashdurohaturun, 2013, *Hak Kekayaan Intelektual (HKI) dalam perspektif Sejarah Indonesia*, Semarang: SAPREES, p. 7.

⁴Anis Mashdurohaturun, "*Problematika Perlindungan Hak Cipta di Indonesia*", Yustisia Jurnal Hukum, Vol. 3, No. 2, 2012, p. 72.

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of books, computer programs, lectures, lectures, speeches, other similar creations, as well as rights related to Copyright. Sound recordings and / or images of performances of a performer (performer), is a related right protected by copyright.

Copyright is regulated in Law Number 28 of 2014 concerning Copyright hereinafter referred to as UUHC 2014, the regulation of Copyright in Indonesia itself has undergone several changes. Law Number 28 of 2014 Concerning Copyright is the result of changes from Law Number 19 of 2002 Concerning Copyright. While Law Number 19 of 2002 concerning Copyright is an amendment of Law Number 12 of 1997, while Law Number 12 of 1997 is an amendment of Law Number 7 of 1987. Meanwhile, Law No. 7 of 1987 on Copyright is a replacement for Law No. 6 of 1982 on Copyright which replaces the Copyright Act of 1912, the Copyright Act relics of the Dutch colonial government which during the Japanese colonization was declared still valid.⁵

The development of Copyright with the existence of Act No. 28 Year 2014 on Copyright provides legal protection for creators of copyrighted works, besides that Copyright can also be used as an object of Fiduciary Guarantee, it shows that Copyright is now very useful for creators of copyrighted works because with the results of creation can be used as collateral in obtaining debt.⁶ The provisions regarding Copyright can be used as a Fiduciary Guarantee are contained in Article 16 paragraph 3 UUHC 2014. This certainly means that creators of copyrighted works can access credit by pledging their works into the Fiduciary Guarantee.⁷

Fiduciary Guarantee comes from the word *fiduciar* or *fides*, which means trust, transfer of property rights to objects. The definition of Fiduciary Guarantee in Law Number 42 of 1999 concerning Fiduciary Guarantee, hereinafter referred to as UUFJ, is a guarantee of movable objects, both tangible and intangible, and immovable objects, especially buildings that cannot be encumbered by Mortgage Rights as referred to in Law Number 4 of 1996 concerning Mortgage Rights, which remains in the possession of the Fiduciary, as collateral for the repayment of certain debts, which gives priority to the Fiduciary recipient against other creditors.

The use of Copyright as a Fiduciary Guarantee cannot be separated from the characteristics of the object of the Fiduciary Guarantee. The characteristics of objects that can be pledged as objects of Fiduciary Guarantee are objects that have economic value in the sense that at any time if the debtor cannot pay off his debt the object can cover the debt. In relation to Copyright, Copyright has moral rights and economic rights so that it can be used as a Fiduciary Guarantee. Moral rights are rights that are eternally attached to the creator to keep his name on the copy in connection with the use of his creation for the public. Economic rights are the exclusive rights of the creator or Copyright holder to obtain economic benefits for the creation.

However, problems arise in the field of collateral law after the enactment of Law Number 28 Year 2014 on Copyright. There are legal norms contained in Article 16 related to the legal validity of copyright as an object of fiduciary security in Indonesia. The article states as follows:

1. Copyright is an intangible movable property.
2. Copyright may be transferred or assigned, either in whole or in part due to: a. inheritance; b. grant; c. waqf; d. will; e. written agreement; or f. other causes justified in accordance with the provisions of laws and regulations.
3. Copyright can be used as an object of fiduciary security.
4. Provisions regarding Copyright as an object of fiduciary guarantee as referred to in paragraph (3) shall be implemented in accordance with the provisions of laws and regulations.

If the article is linked to Law No. 42/1999 on Guarantees, Article 1 points (1) to (4) state as follows:

1. Fiduciary is the transfer of ownership rights of an object on the basis of trust with the provision that the object whose ownership rights are transferred remains in the possession of the owner of the object.
2. Fiduciary Guarantee is a security right over movable objects, both tangible and intangible, and immovable objects, especially buildings, which cannot be encumbered by a mortgage as referred to in Law Number 4 of 1996 concerning Mortgage Rights, which remains in the possession of the Fiduciary, as collateral for the repayment of certain debts, which gives the Fiduciary Recipient priority over other creditors.
3. Receivable is the right to receive payment.
4. Benda is anything that can be owned and transferred, whether tangible or intangible, registered or unregistered, movable or immovable that cannot be encumbered by a mortgage or mortgage.

⁵Sudaryat, *et.all*, 2010, *Hak Kekayaan Intelektual Memahami Prinsip Dasar. Cakupan dan Undang-Undang Yang Berlaku*, Bandung: Oase Media, p. 41.

⁶Ahmad Ramli, 2012, *Asset Hak Kekayaan Intelektual sebagai Kolateral dan Modal Ventura*, Jakarta: Genta Buana, p. 17.

⁷Pasal 16 Undang-undang Nomor 28 tahun 2014 tentang Hak Cipta.

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Based on the description above, juridically normative copyright can be used as an object of fiduciary guarantee, as stated in Article 16 paragraph (3) "Copyright can be used as an object of fiduciary guarantee". Unfortunately, the presence of Article 16 paragraph (3) of the Copyright Act does not necessarily make banks easily provide loans. Because, the arrangement in Article 16 paragraph (3) of the Copyright Law, requires further elaboration of implementing regulations related to guarantees for the Bank (as a creditor) to obtain certainty of the return of funds that have been loaned to the debtor.

Based on the description above, although it is considered to have brought legal reform, especially for holders of rights to Intellectual Property Rights (in this study, especially Copyright), it turns out that on the other hand there are obstacles. The concept of Intellectual Property Rights assets as banking collateral still reaps obstacles or constraints. This condition is certainly not in accordance with the concept of legal certainty and protection theory. So, the problem that will be discussed in this paper is about the use of copyright as an object of collateral in the fiduciary guarantee system.

II. RESEARCH METHOD

The research used is normative juridical legal research which focuses on the review or study of positive law. Normative juridical research is legal research that places the law as a building system of norms. The system of norms in question is about principles, norms, rules from laws and regulations, court decisions, and doctrines or teachings. The research approach is a method or way to conduct a study so that researchers get information from various aspects to find the issues they are looking for answers to. In accordance with the type of research, namely normative juridical, the research approach used in this research is the Normative/Statute Approach, Conceptual Approach, Conceptual Approach and Case Approach.

Because this research is normative juridical research, this research is more focused on library research to solve legal issues and at the same time provide a prescription of what should be, a type or source of legal material research is needed. The types of legal materials that will be used in this research are primary legal materials, which are legal materials that are authoritative, meaning that they have authority; secondary legal materials, which are legal materials that are supportive in order to provide explanations of primary legal materials; and tertiary legal materials, which are materials that provide guidance and explanations of primary and secondary legal materials, such as legal dictionaries, large Indonesian dictionaries, encyclopedias, bibliographies, cumulative indexes, and internet sites related to this research.

III. RESULT AND DISCUSSION

1. Economic Rights in Copyright as Collateral

To cover or guarantee the payment or repayment of certain debts, debtors are generally required to provide collateral in the form of collateral (certain objects) that can be valued in money, of high quality whose value is at least as much as the amount of debt given to them. For this reason, banks and other financial institutions or even individuals should request collateral with the intention that if the debtor is unable to repay his debt or is declared bankrupt, the collateral can be disbursed or cashed out to cover the repayment or return of the remaining money.

In relation to Intellectual Property as collateral, the Law of Guarantee can simply be interpreted as a law that regulates debt collateral, both in the form of material and personal guarantees. According to R. Subekti, collateral can be divided into material collateral and personal collateral. Personal guarantee is an agreement between a creditor and a third person who guarantees the fulfillment of the debtor's obligations. A personal guarantee agreement can even be held without the knowledge of the debtor. Material security can be held between the creditor and the debtor, or between the creditor and a third person who guarantees the fulfillment of the debtor's obligations.⁸

Intellectual Property as Fiduciary Security, in the process will definitely be appraised (appraisal, valuation). To do this, the valuation of intellectual property can make comparisons with various valuations carried out by banks including: (1) market value; (2) reproduction cost; (3) depreciated replacement cost; (4) liquidation value; (5) insurable value/actual cost value.⁹

To conduct an assessment of Intellectual Property, it can consider several asset valuation models developed today. There are three types of intangible assets, namely employee competence, internal structure, and external structure. Included in the type of internal structure are patents, concepts, models, and computer systems and administrative systems. Thus, copyright and intellectual property are also intangible assets, more specifically including the internal structure of a company.

⁸Junaidi Akhmad dan Muhammad Joni "Pemanfaatan Sertifikat HKI Sebagai Collateral Kredit", Jurnal Hukum, Vol. 6, No. 1, 2011, p. 133.

⁹*Ibid.*, p. 135.

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According to Sri Mulyani, there are several approaches to valuing Intellectual Property as an object of collateral. The determination of the economic value of a creation can be seen from several approaches. The first approach is the market approach. The market approach provides a systematic framework for estimating the value of intangible assets based on an analysis of actual sales and/or tangible license transactions comparable to the object. The second is the income approach. The income approach provides a systematic framework for estimating the value of intangible assets based on the capitalization of economic income or present or future value. The economic income value will come from the use, license or lease of the intangible. Third, the cost approach. The cost approach provides a systematic framework for estimating the value of intangible assets based on the economic principle of substitution commensurate with the costs that will be incurred as a comparable replacement as the utility function.¹⁰

In relation to Copyright as an object of Fiduciary Guarantee, the economic value of a work affects the category of Fiduciary Guarantee. The encumbrance of objects using fiduciary must contain: (1) the identity of the fiduciary grantor and recipient; (2) data on the principal agreement guaranteed by the fiduciary; (3) a description of the object of the Fiduciary Guarantee; (4) the value of the guarantor; and (5) the value of the guarantor and the value of the object of the Fiduciary Guarantee.

Copyrighted works as objects of Fiduciary Guarantee copyrighted works fall into the category of an immaterial object as previously described. The economic value of a copyrighted work raises the conception that the copyrighted work can be used as an object of collateral. In the economic framework of the birth of a copyrighted work has so involved labor, time and cost. If these factors are converted into numbers, then all of it will show the value of the work because of the usefulness or economic value of a copyrighted work.

When viewed from the needs of the State to realize the order of economic life, still give respect to the rights of individuals in balance with the interests of society. Based on this, a creation is a product of human thought that has value, and is considered as intangible property.¹¹ The economic value that exists in Copyright can be calculated with several models as described above. Of course, banks or financial institutions have a special appraisal team to determine the value of objects that will be used as objects of collateral in banking or financial institutions that accept intangible movable objects such as copyright. The economic value of a work determines the amount of collateral value, the higher the value of the work, the higher the value of the guarantee that will be obtained by the debtor or fiduciary. The economic value of a work is also influenced by the moral rights of the creator, the more famous the creator, the higher the economic value obtained.

2. The Conformity of Copyright as an Object of Fiduciary Guarantee with Law Number 42 Year 1999 on Fiduciary Guarantee

Intellectual Property Rights or better known as IPR is an official term used for rights granted to certain works of human thought that have economic value. Basically, the definition of IPR is difficult to do because IPR covers a very broad object of protection which has different characteristics and ways of protection or is not exactly the same between one field of IPR and another. Legal protection is given to individuals who produce intellectual creations. IPR was born from the western legal system because customary law does not recognize protection. law against economic rights to human intellectual creations. IPR is a form of property right. The right holder in IPR is similar to property rights in objects in Book II of the Civil Code, in the sense that the owner of the right is an individual and not a community.¹² Because IPR is a form of property right that has commercial (economic) value, then if IPR is classified as property, IPR will fall into the category of movable but intangible property.

In Indonesia, the regulation of IPR as an object of banking collateral is contained in Law No. 28 of 2014 concerning Copyright. The law states that copyright is an intangible movable object, which can be transferred or transferred in whole or in part through inheritance, grants, endowments, wills, written agreements, other causes justified in accordance with the provisions of laws and regulations. Furthermore, Article 16 paragraph (3) of the Copyright Law expressly states that "Copyright can be used as an object of Fiduciary Guarantee".

Based on the above provisions, Copyright both tangible and intangible, can be used as an object of Fiduciary Guarantee and if at any time the Copyright Holder needs a loan from the Bank then the Copyright Holder can make Copyright as debt collateral to the Bank. The enactment of Copyright as an object of Fiduciary Guarantee in Indonesia as stated in Article 16

¹⁰ Sri Mulyani, 2012, *Pengembangan Hak Kekayaan Intelektual Sebagai Collateral (Agunan) Untuk Mendapatkan Kredit Perbankan di Indonesia*, Semarang: FH Untag, p. 573.

¹¹ Suyud Margono, 2010, *Hukum Hak Cipta Indonesia*, Bogor : Ghalia Indonesia, p. 26-27.

¹² C. Ria Budiningsih, 2015, *Pengertian Pokok dan Sejarah Hak Kekayaan Intelektual*, Bandung: Universitas Katolik Parahyangan, p. 1.

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paragraph 3 of the Law on Copyright is not without cause. When referring to some foreign countries, IPR ownership can be bankable which means it can be used as collateral for bank guarantees.

Admittedly some of the above becomes one of the factors constraints can not be accepted copyright as an object of debt collateral by banking institutions. But if examined further, that there are other problems as a cause of the difficulty of acceptance of copyright as debt collateral, namely, the absence of qualification of copyright objects, which can be used as debt collateral (fiduciary guarantee). When referred to Act No. 28 Year 2014 on Copyright, the Act has classified the types of protected creations and which are not protected in practice, as well as stating that copyright has economic value, but the Copyright Act has not yet provided a clear statement or description of the qualification of the work that has been classified, which is like what and which qualify as what, which later can be used as debt collateral (Fiduciary Guarantee).

The current development of Copyright with the issuance of UUHC Year 2014 provides legal certainty regarding Copyright can be used as a Fiduciary Guarantee. The provisions regarding this matter are stipulated in Article 16 paragraph 3 UUHC Year 2014. The use of Copyright as an object of Fiduciary Guarantee itself cannot be separated from the law of the agreement. The principle of agreement law that uses Copyright as an object of Fiduciary Guarantee is the principle of freedom of contract, *pacta sunt servanda*, and good faith.

The provisions regarding Copyright can be used as an object of Fiduciary Guarantee cannot be separated from the legal provisions on Copyright which says that Copyright is an intangible movable object this is regulated in Article 16 paragraph 1 UUHC Year 2014. In addition, Copyright also has moral rights and economic rights in the creation and has protection under the Copyright regime. The provisions regarding objects and economic value in a creation make Copyright can be used as an object of Fiduciary Guarantee.

The encumbrance of Copyright as an object of Fiduciary Guarantee must be based on an agreement made by the creator or holder of Copyright with the lender on the basis of freedom of contract. The agreement that has been made by the parties is binding because it must be obeyed (*pacta sunt servanda* principle). Furthermore, both parties (creators or Copyright holders with lenders) must have good faith, in the sense of implementing the agreement in accordance with what has been agreed.

The principles of the law of the agreement of freedom of contract is the beginning or basis of the agreement. When associated with the Fiduciary Guarantee, freedom of contract is the initial meeting for the giver and receiver of fiduciary. The application of the principle of freedom of contract relates to the freedom of the debtor (fiduciary grantor) and creditor (fiduciary beneficiary) to enter into an agreement. However, after the agreement is concluded, it acts as a law for the parties, so it must be obeyed (*pacta sunt servanda* principle). Adherence to the agreement relates to the element of trust that the fiduciary will perform its obligations as agreed, including maintaining the collateral and repaying the debt.

On the other hand, the fiduciary promises to return juridical control to the fiduciary giver after the debt is repaid. The agreement must be carried out in good faith (the principle of good faith), in the sense that the fiduciary grantor and fiduciary recipient are obliged to carry out the agreement without any intention to commit fraud, for example, if the debtor defaults, the creditor can only execute the collateral. then if there is an excess price of the auctioned goods, it must be returned to the debtor (fiduciary grantor).

The transfer of objects that are the object of the Fiduciary Guarantee in the form of Copyright can be in the form of a written agreement in which case the agreement must adhere to the legal requirements of the agreement Article 1320 of the Civil Code. The fiduciary grantor can transfer the inventory object that is the object of the Fiduciary Guarantee in a manner and procedure commonly carried out in the trade business. This provision does not apply, if there has been a breach of promise by the debtor and/or third party fiduciary. This provision can also be applied to Fiduciary Guarantees in the form of Copyright, because Copyright as a property right has characteristics, one of which is *droit de suit*, meaning that the Copyright Holder continues to follow in the hands of whoever the Copyright attached to the object is.

The provisions of Article 25 through Article 26 of the UUJF regulate the termination of the Fiduciary Guarantee. The Fiduciary Guarantee is extinguished due to the extinguishment of the debt secured by the fiduciary, the relinquishment of the right to the Fiduciary Guarantee by the fiduciary beneficiary, or the destruction of the object of the Fiduciary Guarantee. The destruction of the object of the Fiduciary Guarantee does not eliminate the insurance claim if the object is a tangible movable object, if the object is a copyright, the copyright cannot be abolished because the Copyright remains attached to the creator. Furthermore, the fiduciary notifies the Fiduciary Registration Office of the abolition of the Fiduciary Guarantee by attaching a statement regarding the abolition of the debt, relinquishment of rights, or destruction of the object of the Fiduciary Guarantee. With the abolishment of the Fiduciary Guarantee, the Fiduciary Registration Office crosses out the recording of the Fiduciary Guarantee from the Fiduciary Register Book and issues a certificate stating that the relevant Fiduciary Guarantee Certificate is no longer valid.

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The provisions on the execution of the Fiduciary Guarantee are regulated in Articles 29 through 34 of the UUJF. If the debtor or fiduciary is in default, the execution of the object of the Fiduciary Guarantee can be carried out by: (1) execution of the executorial title by the fiduciary; (2) sale of the object of the Fiduciary Guarantee at the fiduciary's own authority through a public auction and taking repayment of the debt from the proceeds of the sale; (3) sale under the hands carried out based on the agreement of the grantor and the fiduciary if in this way the highest price can be obtained which is favorable to the parties. The sale shall be conducted after one month has passed since it was notified in writing by the grantor and the fiduciary to the interested parties and announced in at least two newspapers circulating in the area concerned.

The fiduciary grantor is obliged to surrender the object of the Fiduciary Guarantee in order to execute the Fiduciary Guarantee. In the event that the object of the fiduciary guarantee consists of trade objects or securities that can be sold in the market or on the stock exchange, the sale can be carried out in these places in accordance with the applicable laws and regulations. Any promise to execute the object of the Fiduciary Guarantee in a manner contrary to the provisions is null and void. Any promise that authorizes the fiduciary recipient to take possession of the object of the Fiduciary Guarantee if the debtor is in default is null and void. In the event that the execution proceeds exceed the guarantee value, the fiduciary is obliged to return the excess to the fiduciary grantor. If the execution proceeds are insufficient for debt repayment, the debtor is still responsible for the unpaid debt.

Copyright cannot be confiscated because it is attached to the Copyright holder. This means that the law protects a person's ownership in accordance with the theory of natural law that appreciates and respects human intellectual work. In addition, Copyright protection is not addressed to the object, but to the Copyright on the object. Thus, the execution of the Copyright cannot be done as a basis for recognizing human rights. What might be done is to execute the economic value of the Copyright or the sale of the economic value that is the object of the Fiduciary Guarantee at the fiduciary's own power through a public auction and take repayment of the debt from the proceeds of the sale, or a sale under the hand carried out based on the agreement of the grantor and the fiduciary, using a written agreement as a rule of transfer of Copyright in Article 16 paragraph 2 UUHC Year 2014 so that later the fiduciary recipient can get the highest price that is favorable to the parties. So that the provisions in the UUHC Year 2014 regarding the use of Copyright can be used as an object of Fiduciary Guarantee is in accordance with the UUJF.

IV. CONCLUSIONS

Intellectual Property as Fiduciary Security, in the process will definitely be appraised (appraisal, valuation). To do this, the valuation of intellectual property can make comparisons with various valuations carried out by banks including: (1) market value; (2) reproduction cost; (3) depreciated replacement cost; (4) liquidation value; (5) insurable value/actual cost value. To conduct an assessment of Intellectual Property, it can consider several asset valuation models developed today. There are three types of intangible assets, namely employee competence, internal structure, and external structure. Included in the type of internal structure are patents, concepts, models, and computer systems and administrative systems. Thus, copyright and intellectual property are also intangible assets, more specifically including the internal structure of a company.

Copyright as an object of fiduciary security is in accordance with Law No. 42 Year 1999 on Fiduciary Guarantee where Copyright can be encumbered by collateral in the form of fiduciary, but not on the object encumbered by the Copyright, but the economic value attached to the copyright. In addition, the Copyright must first be registered with the Directorate General of Intellectual Property of the Ministry of Law and Human Rights before it can be pledged. This is important because it is proof that the fiduciary is the holder of the Copyright. However, some provisions in the Fiduciary Guarantee Act are difficult to apply to fiduciary guarantees in the form of copyright. Determination of the economic value of Copyright can be calculated by several models of calculation of immaterial objects, of course, the bank or financial institution that receives Copyright as an object of Fiduciary Guarantee has a special team to assess the amount of economic value in a creation. Economic value will be determined by the knowledge and confidence of appraisal officials assigned by the bank to appraise or assess Copyright. As with fiduciary guarantees, which prioritize the aspect of trust between the debtor (Copyright owner) and the creditor.

REFERENCES

- 1) Ahmad Ramli, 2012, *Asset Hak Kekayaan Intelektual sebagai Kolateral dan Modal Ventura*, Jakarta: Genta Buana.
- 2) Anis Mashdurohatun, 2013, *Hak Kekayaan Intelektual (HKI) dalam perspektif Sejarah Indonesia*, Semarang: SAPREES.
- 3) Anis Mashdurohatun, "Problematika Perlindungan Hak Cipta di Indonesia", *Yustisia Jurnal Hukum*, Vol. 3, No. 2, 2012.
- 4) C. Ria Budiningsih, 2015, *Pengertian Pokok dan Sejarah Hak Kekayaan Intelektual*, Bandung: Universitas Katolik Parahyangan.

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- 5) Junaidi Akhmad dan Muhammad Joni "Pemanfaatan Sertifikat HKI Sebagai Collateral Kredit", Jurnal Hukum, Vol. 6, No. 1, 2011.
- 6) Lisa Widyastuti, "Ide dan kekayaan Intelektual", Media HKO-Buletin Indormasi dan Keragaman Hak, Vol. VII, No. 3, 2010.
- 7) Rahayu Kartini, "Kajian Implementasi Prinsip-Prinsip Perlindungan HaKi dalam Peraturan Per UU an Haki di Indonesia" , Humanity, Vol. 1, No. 1, 2005.
- 8) Sri Mulyani, 2012, *Pengembangan Hak Kekayaan Intelektual Sebagai Collateral (Agunan) Untuk Mendapatkan Kredit Perbankan di Indonesia*, Semarang: FH Untag.
- 9) Sudaryat, *et.all*, 2010, *Hak Kekayaan Intelektual Memahami Prinsip Dasar, Cakupan dan Undang-Undang Yang Berlaku*, Bandung: Oase Media.
- 10) Suyud Margono, 2010, *Hukum Hak Cipta Indonesia*, Bogor : Ghalia Indonesia.
- 11) Undang-undang Nomor 28 tahun 2014 tentang Hak Cipta.



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