

The Role of the Ministry of Law and Human Rights in the Field of Intellectual Property Rights

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ABSTRACT

Intellectual Property Rights (IPR) is a form of ownership of the results of individual thoughts and creativity that must be legally protected. Although various laws exist to protect IPR, such as the Law on Copyright, Patents, and Trademarks, adequate protection can only be realized if IPR is registered. The Ministry of Law and Human Rights (KemenKumHam) plays an important role in protecting IPR through the Directorate General of Intellectual Property Rights (DJKI) and the Regional Office of the Ministry of Law and Human Rights in each province. This study uses a normative juridical approach to examine the role of the Ministry of Law and Human Rights in protecting IPR, including guidance to the community, receipt of registration applications, implementation of law enforcement, communal intellectual property inventory, and socialization to increase public understanding of IPR. The study results show that the Regional Office of the Ministry of Law and Human Rights has a strategic function in increasing public awareness and understanding and providing the necessary legal protection for IPR owners in Indonesia. More intensive efforts in socialization and education to the public, especially for Micro, Small, and Medium Enterprises (MSMEs), are urgently needed to encourage IPR registration and prevent intellectual property violations.

Keywords: Intellectual Property Rights, Role, Regional Office of the Ministry of Law and Human Rights.

I. Introduction

Intellectual Property Rights, hereinafter abbreviated (IPR), according to KBBI Intellectual Property is intelligence or thought, while Rights indicate belonging and ownership owned by a person (KBBI). It can be interpreted that IPR is ownership of the wealth of results or fruits of the thoughts of individual human beings. However, the concrete meaning of IPR is a right that arises from the results of thoughts that become tangible from the results of thoughts. The result of this tangible thinking is what gives rise to the right to intellectual property. Therefore, it is necessary to protect the right to the results of creativity in someone's thoughts, which is called intellectual property (Rizkia & Ferdiansyah, 2022). Then the question arises: What rights are contained in this Intellectual Property? We see on social media that many systems quickly generate money or economy from social media, such as uploading YouTube videos, singing songs, etc. So, from the scope of social media alone, we know that Intellectual Property can produce Economic rights, and many other rights are contained in this Intellectual Property. Therefore, to maintain the right to intellectual property, it is necessary to have rules that can legally protect and bind this intellectual property in the eyes of the law. The rules that regulate this IP are very numerous, some of which are: Copyrights are protected by Law No. 19 of 2022 concerning Copyright, Patents are regulated in Law No. 14 of 2001 concerning patents, Trademarks are protected in Law

No. 15 of 2001 concerning Trademarks, Trade Secrets are protected by Law No. 30 of 2000 concerning Trade Secrets, Industrial Design is protected by Law No. 31 of 2000 concerning Industrial Design, Integrated Circuit Layout Design (Circuit Layout) is protected by Law No. 32 of 2000 concerning Integrated Circuit Layout Design, Plant Variety Protection is protected by Law No. 29 of 2000 concerning Plant Variety Protection. However, even though some rules or laws protect IPR, if this IPR is not registered first, then its rights cannot be protected, except for Copyright, so for other types of IPR, it is required to register its Intellectual Property to the Director General of IPR (which is under the auspices of the Ministry of Law and Human Rights) so that its IPR can be protected.

The Ministry of Law and Human Rights is one of the ministries engaged in law and human rights, as a ministry that is under the auspices and responsible to the President. The Ministry of Law and Human Rights then has an agency under it, namely the Regional Office of the Ministry of Law and Human Rights, which is located in every province in Indonesia; the Regional Office of the Ministry of Law and Human Rights is responsible for the Minister of Law and Human Rights. The Regional Office of the Ministry of Law and Human Rights is an extension of the Minister of Law and Human Rights's authority to coordinate each Province by the role and authority of the Regional Office of the Ministry of Law and Human Rights itself. The implementation and formulation of policies regarding IPR are indeed controlled by the Ministry of Law and Human Rights; more specifically, the Directorate General of Intellectual Property Rights, which is hereinafter abbreviated as (DJKI) is a unit under the Ministry of Law and Human Rights whose main task is to protect Intellectual Property. DJKI also gives authority to the Regional Office of the Ministry of Law and Human Rights related to IPR but has limited authority. Based on the description above, the author is interested in formulating the problem: What is the role of the Regional Office of the Ministry of Law and Human Rights in Intellectual Property Rights Protection?

II. Research Method

Research is one of the stages in data collection and systematic data assessment used to achieve the goal (Sukmadinata, 2005). According to Sugiyono (2009), research methods are scientific ways to obtain valid data to find, develop, and prove specific knowledge so that, in turn, it can be used to understand, solve, and anticipate problems. It can be concluded that the legal research method is a way to analyze data and solve problems in order to achieve results, goals, and new knowledge. Legal research is a study that uses unique scientific methods, systematics, and thinking to identify the impact of a particular law and find ways to solve the consequences of that legal problem. In conducting this research, the author uses a normative juridical research approach. According to Soerjono Soekanto, normative juridical research is legal research conducted by examining literature or secondary data as a basis for research by searching for regulations and literature related to the problem being studied (Soerjono & Mamudji, 1989). This normative juridical research consists of the word "juridical," which means that a law is seen from the norm or positive law, also known as *das sollen* because in discussing the problem, this research uses legal materials (both written and unwritten laws or both primary and secondary legal materials). Then, there is the word "normative," which generally means a general standard or provision. It can be concluded simply that this research is carried out by inferring data and materials to solve the problem by relying on the literature and applicable norms and based on favorable laws in Indonesia.

The author chose to research at the Regional Office of the Ministry of Law and Human Rights, located at Jl. Putri Hijau. The author chose the Regional Office of the Ministry of Law and Human Rights as the location of his research to find out how IPR in the region is managed and which intellectual parties in the area are far from the center of the Director General of IP. Hence, the author chose the Regional Office of the Ministry of Law and Human Rights to provide factual information and further knowledge about the role and use of the Regional Office of the Ministry of Law and Human Rights in the Field of IPR.

III. Result and Discussion

3.1. The Role of the Regional Office of the Ministry of Law and Human Rights in the Field of Legal Protection of Intellectual Property Rights

Legal protection is an indicator of the improvement of the aspect of law enforcement in a country (H Dimiyati, 2014). Intellectual property rights are one of the most important aspects that the government or state must protect. The state, through the Ministry, namely the Ministry of Law and Human Rights, is one agency authorized to protect intellectual property rights in Indonesia. The Ministry of Law and Human Rights, as a state agency under the auspices and responsibility to the President, has an important role in the field of Intellectual Property Rights (hereinafter abbreviated as IPR) in Indonesia; many roles and authorities of the Ministry of Law and Human Rights in the field of IPR that the general public may not know much. The Ministry of Law and Human Rights is a vertical agency, which means that it has a multi-level organizational structure. Because of this vertical nature, the Ministry of Law and Human Rights has an organizational structure with the Director General of Intellectual Property Rights (hereinafter abbreviated DJKI). DJKI is one of the expert staff in the Ministry of Law and Human Rights structure. The DJKI is assigned and responsible to the Minister of Law and Human Rights. This DJKI office is the only one in Indonesia located on Jl: Jakarta, South Jakarta City, Special Capital Region of Jakarta. The DJKI is different from the Directorate General of General Legal Administration, Immigration, and Procurement in the Regional Office (hereinafter abbreviated as the Regional Office) of the Ministry of Law and Human Rights; the DJKI is not included as a division but is classified in the Legal and Human Rights Services Division. The Intellectual Property Section at the Regional Office level of the Ministry of Law and Human Rights is positioned as a Subdivision within the Legal and Human Rights Services Division.

The Regional Office of the Ministry of Law and Human Rights is an internal organ of the Ministry of Law and Human Rights which is at the bottom of the structure of the Ministry of Law and Human Rights of the Republic of Indonesia, the Regional Office of the Ministry of Law and Human Rights is located in every province in Indonesia, meaning that the institution is responsible for carrying out the tasks of the Ministry of Law and Human Rights at the Provincial or Regional level. The above has explained a little about the position of the Intellectual Property field in the Ministry of Law and Human Rights to the Regional Office of the Ministry of Law and Human Rights. The Regional Office of the Ministry of Law and Human Rights plays a vital role in the implementation and legal services in the field of intellectual property, especially in the Indonesian provinces, which means that it has duties and functions in the field of intellectual property.

The Regional Office of the Ministry of Law and Human Rights in the field of intellectual property acts as an extension of authority by the Director General of Intellectual Property of Indonesia by the vertical structure of the Ministry of Law and Human Rights, based on Law No. 30 of 2018, There are several duties of the Regional Office of the Ministry of Law and Human Rights based on Law No. 30 of 2018 Article 45 paragraph (2) which reads, "The Intellectual Property Services Subdivision, has the task of preparing coaching materials and controlling the implementation of technical tasks, cooperation, monitoring, evaluation, and preparation of reports on the implementation of technical tasks in the field of receiving applications for registration, socialization, implementation of law enforcement in the field of intellectual property and communal intellectual property inventory." (BPK Regulation). From this article, there are several tasks carried out by the regional office of the Ministry of Law and Human Rights in the field of Intellectual Property;

- Coaching in the great dictionary of the Indonesian language (KBBI) is a process, effort, development, or fostering. In this case, the regional office of the Ministry of Law and Human Rights is in charge of guiding the community and business actors or parties with intellectual property. Indonesian people, in reality, have very little understanding of Intellectual Property, especially in marginalized communities as well as MSMEs who still do not understand the system and what intellectual property rights are. This is evidenced by previous research, which stated that the statistical data on registration of the Directorate General of IP showed that during the period 2016-April 2018, the registration of

Non-MSME Brands dominated by 91.45%, while for MSME brands, it was only 8.55%. The lack of public understanding of the importance of IPR has resulted in many violations of intellectual property rights; of course, preventive efforts are needed to avoid the occurrence of rights violations due to the lack of public understanding of IPR. Coaching is one of the preventive and preventive efforts. The North Sumatra Regional Office of the Ministry of Law and Human Rights has carried out a lot of guidance or updates to the (more effective) IPR system in the community of North Sumatra Province, such as the Technical Consultation activity in the Context of Commercialization of Copyrighted Works for the Welfare of Stakeholders in the Region, Tuesday (1/10/24) which was held.

- Recipients of registration applications and acceptance of intellectual property registration services applications. This authority is a form of repressive legal protection carried out by the regional office of the Ministry of Law and Human Rights. The acceptance of this registration application is intended as evidence and data for the regional office of the Ministry of Law and Human Rights in providing legal protection for intellectual property rights holders. In copyright intellectual property, registration is a way to obtain copyright protection. However, it is not an obligation, but to ensure legal certainty, it is recommended to register the copyright (Rizkia & Ferdiansyah, 2022). In industrial intellectual property and brands, registering a trademark is helpful for the certainty of the trademark ownership status to the first person who registers the trademark (Ni Luh Putu Medie et al., 2023). It can be concluded that the authority to accept registration applications is a tangible form of the role of the regional office of the Ministry of Law and Human Rights in protecting intellectual property rights in Indonesia.
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- Socialization: The socialization of Intellectual Property authority is a form of preventive protection carried out by the regional office of the Ministry of Law and Human Rights. The socialization aims to increase understanding and knowledge of the community, especially MSMEs (Prasetyo Utomo et al., 2024).

Through this task, the regional office of the Ministry of Law and Human Rights of North Sumatra (hereinafter abbreviated as North Sumatra) performs many of its functions as an agency that implements the protection of IPR, as well as carrying out intellectual property socialization, in order to encourage intellectual property in North Sumatra—serving applications for IPR registration in North Sumatra and providing information and documentation related to intellectual property. Of course, this function and task do not just run like that; other regulations underlie this function; in the field of Intellectual Property Patents, there is Law No. 14 of 2001 concerning Patents, which is the basis of Chapter III regulating the application process where the Director General of Intellectual Property as the agency that serves this application. Law No. 15 of 2001 concerning Trademarks, Law No. 19 of 2002 concerning Copyright, and Laws.

IV. Conclusion

Legal protection, especially in the aspect of Intellectual Property Rights (IPR), is an important indicator in law enforcement in Indonesia. The Ministry of Law and Human Rights (KemenKumHam) is central to protecting IPR, which is implemented through a vertical organizational structure, including the Directorate General of Intellectual Property Rights (DJKI). The Ministry of Law and Human Rights is responsible for various tasks, such as community development, receipt of registration applications, law enforcement, communal intellectual property inventory, and socialization to increase public understanding of the importance of IPR. Through these tasks, the Ministry of Law and Human Rights strives to provide adequate legal protection and encourage awareness of IPR throughout Indonesia, especially among business actors and the general public.

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