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Youtube Content as Fiduciary Guarantee In Banking

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ABSTRACT

This research examines the implementation of copyright over YouTube content as an object of fiduciary security in Indonesian banking. YouTube content has economic value and can conceptually serve as an object of fiduciary security under Law No. 28 of 2014 on Copyright and Law No. 42 of 1999 on Fiduciary Security. Using a descriptive-analytical method, this research finds that its implementation has not run optimally due to obstacles in ownership and the transfer of rights, given that YouTube accounts are subject to Google's policies, which do not allow full transferability. Nevertheless, its juridical and economic potential remains substantial, so regulatory reform and a digital registration system are needed so that YouTube content can be legally recognized as an object of fiduciary security in Indonesia's banking sector.

Keywords: *Intellectual Property (IP), Creative Econom, YouTube Content.*

INTRODUCTION

The rapid advancement of digital technology has driven new economic developments based on creativity and innovation. In this context, YouTube has become a significant platform. Its function is no longer limited to mere entertainment but also provides opportunities for users to gain economic benefits. New opportunities for utilizing digital assets have emerged with the advent of monetization mechanisms, which allow creators' content to generate economic value in the form of income. In line with these developments, a paradigm has emerged for viewing intellectual property, particularly digital content copyrighting. It is no longer viewed solely as the exclusive right of the creator but as an economic asset with the potential to be utilized in various economic activities, including as collateral for financing.

The recognition of the economic value of copyright is enshrined in Article 16, paragraph (3) of Law Number 28 of 2014 concerning Copyright (hereinafter referred to as the Copyright Law), which affirms the status of copyright as an intangible movable object and, therefore, can be used as the basis for fiduciary security.

Fiduciary rights can be defined as the transfer of ownership rights to an object based on trust between the parties, with the condition that control of the object remains with the party transferring the rights. (Kusumaningtyas, 2016) This provision recognizes the economic value of copyright, enabling creators to use it as collateral when applying for financing (Saidin, 2015).

This legal basis has been further strengthened by various national regulations, including the Copyright Law and Government Regulation No. 24 of 2022, both of which provide space for creators in the creative industry to utilize intellectual property as collateral for financing. However, the implementation of these provisions in bank financing practices has not been fully optimized yet. One contributing factor is the lack of full recognition of the economic value of copyrights by formal financial institutions. Most banks still view copyright as a high-risk asset because of the difficulty in objectively assessing its potential returns, income stability, and liquidity. Furthermore, various legal and technical obstacles related to the IPR valuation process remain a challenge. Although Indonesia already has IPR appraisers certified by the Ministry of

Finance, banking and financial institutions remain cautious about accepting intellectual property loan collateral. This situation demonstrates that the presence of intellectual property appraisers alone is not sufficient to encourage the optimal use of copyright as collateral for financing; it requires support from more comprehensive regulations and the readiness of financial institutions to implement them to be effective.

Another problem affecting the application of copyright as collateral is the low level of understanding and awareness among business actors and banking institutions regarding the economic value of intellectual property rights. Many creative economy players still do not realize that their works have economic value that can be utilized as assets and, therefore, have not registered or managed their copyrights optimally. Furthermore, most banking institutions lack internal mechanisms and financing products specifically designed to facilitate the use of copyrights as loan collateral. This creates structural barriers that must be addressed for copyright to function effectively as a financing instrument.

From a legal perspective, the use of copyright as collateral has a legal basis under Law Number 42 of 1999 concerning Fiduciary Guarantees (hereinafter referred to as the UUJF) and the UUHC. The Financial Transaction Law stipulates that fiduciary collateral can be movable property, both tangible and intangible, including intellectual property. Although copyright on YouTube content is legally recognized as an object that can be used as fiduciary collateral, no bank, either state-owned or private, has accepted YouTube content as collateral for financing. Furthermore, there is currently no official access from the government or banks to trace the practice of pledging YouTube content as an object of fiduciary collateral, as internal banking data and systems are confidential and can only be accessed by certain, authorized parties.

To the best of the author's knowledge, most previous research has limited itself to explaining that YouTube content can be used as fiduciary collateral in banking, with the elements of objects and the Fiduciary Guarantee Law. Previous research generally discusses the potential of YouTube content as an object of fiduciary collateral without delving into whether this has been optimally implemented in Indonesia.

The following are several previous studies relevant to this research topic, along with their differences from the author's research.

No	Name, Year, Publisher, Research Method	Title	Research Focus
1	Ahmad Bahyj Gunawan, Pandam Nurwulan, (2024), Proceedings of the Actual Law Seminar, normative jurisprudence	YouTube Content as an Object of Fiduciary Security in Intellectual Property Financing	Discusses the legal basis and criteria for authenticity of YouTube content as an object of fiduciary guarantee under Law No. 28 of 2014 concerning Copyright.
2	Fadhilah Muhammad Fajar, Rimba Supriatna, (2025), Bandung Conference Series: Law Studies, normative jurisprudence	Analysis of Legal Certainty of Copyright in YouTube Content as an Object of Fiduciary Security in the Creative Financing System in Indonesia	The legal status of copyright and eligibility for fiduciary guarantee are distinguished based on the presence or absence of advertising (AdSense) within the content.

Based on this, this study examines how copyright is implemented on YouTube content as an object of fiduciary guarantee in banking financing in Indonesia.

METHODOLOGY

This study employed a normative legal research method, focusing on relevant legal norms, principles, and doctrines, to analyze the use of intellectual property rights (IPR) as collateral in bank financing. A descriptive-analytical approach was applied to examine the legal regulations related to copyright as fiduciary security, while simultaneously identifying opportunities, constraints, and legal consequences arising in banking practices.

The second approach employed in this study was the policy approach. This approach was applied to analyze the roles of the Financial Services Authority (hereinafter referred to as OJK), the Ministry of Tourism and Creative Economy, and the Ministry of Finance in supporting the implementation of intellectual property-based financing for creative economy actors. For analytical purposes, this study draws on primary and secondary legal materials sourced from the following sources.

1. UUHC Number 28 of 2014, UUJF Number 42 of 1999, and PP Number 24 of 2022 concerning the Implementing Regulations of Law Number 24 of 2019 concerning the Creative Economy (hereinafter referred to as UUEK) are a number of laws and regulations used as primary legal materials, namely the main foundation for examining the issues that are the focus of this study.
2. This study uses a library research method to collect secondary legal materials. These sources included books, scientific journals, legal articles, previous research findings, and other relevant literature.

To gain in-depth knowledge of the issues studied and draw conclusions relevant to the research objectives, all collected legal materials were analyzed and interpreted qualitatively.

RESULT AND DISCUSSION

Settings on Procedures for Assessing The Value of Copyright as A Fiduciary Guarantee In Providing Bank Credit

Rapid economic development, supported by advances in information technology, has led to the development of various policies recognizing intellectual property as an economically valuable asset with the potential for financing. Compared to tangible assets, such as land and vehicles, whose valuations are relatively stable, the economic value of digital content tends to be volatile and can change with market conditions. (Disemadi & Kang, 2021)

Valuation is a mandatory component of financing that involves both tangible and intangible assets. According to the WIPO, valuation is the process of assessing an asset's economic value. Patents and copyrights are intangible assets with the potential to generate economic benefits. This recognition has been acknowledged through various regulations established by the government and the House of Representatives (DPR). This recognition allows IPR to be transferred as property rights, including their use to obtain credit facilities from financial institutions by making them the object of fiduciary collateral.

Among the various forms of copyright objects, digital content published on the YouTube platform is classified as one of the copyright objects that has the potential to have economic value as part of intellectual property. As an intellectual work, YouTube content has no physical form; therefore, it is legally categorized as an intangible asset that can receive legal protection under the Copyright Law and Government Regulation No. 24 of 2022. These two regulations provide clarity on intellectual work. Beyond providing legal certainty regarding copyright, these two regulations also demonstrate a broader function for digital industry creators to leverage their economic value to obtain financing from financial institutions and investors.

To generate revenue, YouTube content must first register its account for monetization purposes. Successfully monetized accounts then receive AdSense. With AdSense revenue, the YouTube account has an economic value. In the practice of intellectual property valuation, determining economic value can be based not only on revenue from digital platform monetization but also on officially recorded royalty flows. Conceptually, the mechanism for utilizing IPR as a fiduciary guarantee consists of several stages:

a. Certainty of Copyright Ownership and Legal Status
   Creators must prove that the YouTube content is theirs and, ideally, has been registered with the Directorate General of Intellectual Property (hereinafter referred to as DJKI). Furthermore, copyright must be ensured to be free from disputes with other parties.
b. IPR Valuation
   Conducted by an IPR appraiser or public appraiser by assessing the economic potential of the content, such as AdSense revenue, royalties, number of subscribers, views, engagement, and commercial partnerships.
c. Creditworthiness Assessment by Banks:
   Banks assess financing eligibility using two main pillars: the principle of prudence and the 5Cs (Character, Capacity, Capital, Collateral, and Condition of Economy). This considers economic value, legal certainty, and associated risks.
d. Preparation and Registration of a Notarial Fiduciary Guarantee Deed:

If the financing application has been approved by the bank, the next step is to prepare a Fiduciary Guarantee Deed before a notary, as stipulated in Article paragraph (1) of the UUJF. The deed covers several matters, including the identities of the parties, the object of the fiduciary guarantee, the value of the guarantee, and the rights and obligations of each party. The next step is to register the deed with the Fiduciary Registration Office. Once registration is complete, a certificate is issued, which is legally valid proof that the copyright can be encumbered with a fiduciary guarantee. Issuing a fiduciary guarantee certificate provides legal certainty for creditors and debtors and serves as official proof of the encumbrance of fiduciary guarantees under applicable Indonesian law (Akbar & Soemadji, 2021).

Obstacles In Implementing Digital Content Guarantee Policies In The Fiduciary Financing System

In Indonesia, policies recognizing intellectual property (IP) as a basis for financing are in place, but their implementation in banking practices remains suboptimal. Assessing economic value remains a major challenge in implementing digital content as collateral. Unlike tangible assets, such as land and vehicles, which generally have relatively stable valuation indicators, the economic value of digital content is dynamic and influenced by market conditions and content performance. Changes in viewership, engagement levels, advertising revenue, subscriber numbers, and commercial partnerships can occur within a relatively short period. These characteristics complicate banks' risk assessments, collateral valuations, and the assessment of digital content as lending collateral.

Referring to practices in several developed countries, intellectual property is recognized as playing a crucial role in driving innovation and economic growth. In comparison, Singapore has developed a risk management mechanism for IP-based financing through an intellectual property insurance scheme that provides protection in the event of a default.

In China, copyrights, trademarks, and patents can be secured through a pledge mechanism, offering the potential for use as collateral in financing schemes. The amount and term of financing are determined by mutual agreement in accordance with applicable collateral laws, thus providing flexibility in utilizing intellectual property as a financing instrument (Mardiana et al., 2020).

In South Korea, the use of intellectual property in financing is supported through various programs, including an intellectual property-backed loan scheme organized by the Korea Development Bank (KDB). This policy demonstrates the government's commitment to encouraging the use of intellectual property as an economic asset. (Fauzan & Budhisulistyawati, 2022)

To support the implementation of financing utilizing intellectual property as a basis, Indonesia has established a legal framework through the Intellectual Property Rights Law (UUHC) and Government Regulation No. 24 of 2022, which serves as the implementing regulation for UUEK No. 24 of 2019. (Kumala & Padmawati, 2024). With the enactment of these regulations, the use of IPR has a clear and legal basis. Furthermore, the government provides support through intellectual property appraisers who have obtained competency certifications from the Ministry of Finance. These appraisers play a role in objectively determining the economic value of intellectual property, thus providing a basis for financial institutions to assess the feasibility of financing. In addition to regulatory support, implementing IP-based financing requires policy support from various institutions. The Financial Services Authority (OJK), through Regulation Number 11 of 2024, strengthened the Financial Information Services System (SLIK) to provide more comprehensive debtor information, including information on guarantees and risk management. Furthermore, POJK Number 22 of 2023, concerning Consumer Protection in the Financial Services Sector, provides legal certainty in financing operations.

On the other hand, the Directorate General of Intellectual Property (DJKI) emphasizes that IP intended to be used as collateral must have a clear legal status and be able to demonstrate the economic value obtained through management or commercialization. Despite this legal basis and policy support, financing implementation in Indonesia has not been optimal. In practice, banks tend to be cautious in accepting copyrights, particularly digital content uploaded through the YouTube platform, as collateral for financing. One reason is the fluctuating economic value of digital content, which is influenced by viewership, engagement levels, subscriber count, advertising revenue, platform policies, and market trends, which can change at any time. As a result, banks face difficulties in assessing the stability of an asset's economic value, determining its collateral value, and estimating financing risk.

In addition to its dynamic economic value, the process of valuing copyright on YouTube content is more complex than valuing tangible assets. The value of digital content is influenced not only by current revenue generation but also by the creator's continued activity, changes in platform algorithms, and audience preferences. This situation can lead to valuation results being subject to change within a relatively short period, increasing the risks for banking institutions.

Another challenge relates to the legal aspects and enforcement mechanisms. The economic value of YouTube content is highly dependent on continued monetization determined by platform policies. If a channel loses monetization rights, is blocked, or is disabled due to a violation of platform terms, the economic value of the copyright may decrease or even disappear. This situation creates uncertainty for banks in enforcing collateral in the event of a debtor default (Agustianto et al., 2023).

This issue indicates a persistent policy gap in implementing IP-based financing. Despite legal recognition through the Copyright Law and Government Regulation No. 24 of 2022, its implementation in the banking sector faces various obstacles. First, there is no national standard for intellectual property valuation methods that can be uniformly applied by all banking institutions. Second, there are no technical guidelines governing risk analysis, collateral value monitoring, or IPR enforcement mechanisms in the event of a debtor's default. Third, data integration among the Directorate General of Intellectual Property (DGIP), Financial Services Authority (OJK), Ministry of Finance, and banking sector remains suboptimal, hindering the integrated verification of intellectual property ownership, legal status, and commercialization history. These conditions have led banks to continue to apply the prudential banking principle strictly when assessing intellectual property-based financing (Akbar, 2021).

Uncertainty regarding economic value, the high risk of changes in asset value, and the unclear enforcement mechanism in the event of a debtor's default have prevented banks from having sufficient confidence in accepting copyrights, particularly YouTube digital content, as fiduciary collateral. (Kurniasih & Permana, 2020). Consequently, banks still prefer conventional assets, which have a more stable value, are easier to assess, and are supported by enforcement mechanisms that provide legal certainty to creditors.

To support this implementation, technical regulations must be strengthened to provide certainty for banking institutions in accepting intellectual property as fiduciary collateral. The Financial Services Authority (OJK) must develop guidelines regarding valuation standards, risk management, and enforcement mechanisms, while the Directorate General of Intellectual Property Rights (DJIP), the Ministry of Finance, and the banking sector must strengthen data integration and intellectual property ownership verification systems. Furthermore, the establishment of risk mitigation or guarantee schemes should be considered to increase banking confidence in IPR-based financing. Thus, the primary obstacle to implementing copyright-based financing no longer lies in the lack of a legal basis but rather in the suboptimal support system that provides certainty of economic value, risk management, and execution mechanisms. This allows banks to have greater confidence in making copyrights fiduciary securities.

CONCLUSION

This study concludes that while Indonesia has established a legal framework and supporting instruments for recognizing intellectual property as a form of fiduciary collateral, the actual implementation of financing YouTube content as collateral has yet to materialize. Consequently, YouTube creators are unable to leverage their content as collateral to obtain financing. Furthermore, to this day, no banks, whether state-owned or private, are willing to accept YouTube content as a collateral. The lack of a standardized valuation system and the uncertainties surrounding the execution of collateral mechanisms are key factors contributing to banks' hesitance in accepting these digital assets as collateral for credit.

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