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Analysing the Role of Intellectual Property Rights in Civil Law

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Abstrak

Hukum Perdata adalah salah satu cabang hukum yang mengatur hubungan antara individu atau entitas hukum dalam masyarakat. Salah satu aspek penting dalam Hukum Perdata adalah perlindungan terhadap hak-hak kepemilikan, termasuk hak kekayaan intelektual. Penelitian ini akan menganalisis peran HKI dalam Hukum Perdata, mengidentifikasi tantangan dan peluang yang dihadapi, serta memberikan rekomendasi untuk perbaikan dan pengembangan lebih lanjut dalam perlindungan HKI di masa depan. Penelitian ini bersifat kualitatif. Teknik yang digunakan untuk memperoleh informasi melibatkan pengamatan yang cermat dan pencatatan yang teliti, diikuti dengan prosedur analisis seperti reduksi data, visualisasi, dan kesimpulan. Studi ini tiba pada kesimpulan bahwa peran HKI dalam Hukum Perdata sangat penting dalam melindungi hak-hak kepemilikan intelektual dan mendorong inovasi. Meskipun tantangan yang dihadapi dalam perlindungan HKI, terdapat peluang untuk memperbaiki dan mengembangkan lebih lanjut sistem perlindungan HKI di masa depan.

Kata Kunci: *HKI, Hukum, Perdata*

Abstract

Civil Law is one of the branches of law that regulates relationships between individuals or legal entities in society. One important aspect of Civil Law is the protection of property rights, including intellectual property rights. This research will analyse the role of IPR in Civil Law, identify the challenges and opportunities faced, and provide recommendations for improvement and further development in the protection of IPR in the future. This research is qualitative in nature. The techniques used to obtain information involved careful observation and meticulous note-taking, followed by analytical procedures such as data reduction, visualisation, and inference. The study arrived at the conclusion that the role of IPRs in Civil Law is crucial in protecting intellectual property rights and encouraging innovation. Despite the challenges faced in IPR protection, there are opportunities to improve and further develop the IPR protection system in the future.

Keyword: *IPR, Law, Civil.*

INTRODUCTION

Civil Law is a branch of law that regulates relationships between individuals or legal entities in society. One important aspect of Civil Law is the protection of property rights, including intellectual property rights (Wulandari, 2022). Intellectual property rights (IPR) refer to the rights owned by individuals or legal entities over the intellectual works produced, such as copyrights, trademarks, patents, industrial designs, and trade secrets. IPR provides legal protection against the use, duplication, or utilisation of such intellectual works without the permission of the owner (Bhattacharya & Saha, 2011).

In the era of globalisation and advances in information technology, the role of IPR is increasingly important in protecting intellectual work and encouraging innovation (Sulistianingsih & Ilyasa, 2022). Adequate recognition and protection of IPRs is key to the economic, cultural, and scientific progress of a country. Therefore, an analysis of the role of IPR in Civil Law is important to understand its impact in protecting intellectual property rights. The analysis of the role of IPR in Civil Law will also discuss related legal aspects, such as the exclusive rights of IPR owners, restrictions on the use of intellectual work by other parties, the process of registration and protection of IPR, and dispute resolution related to IPR.

In addition, the role of IPR in Civil Law can also affect the relationship between IPR owners and other parties, including companies, consumers, and the general public. IPR

protection can encourage innovation and investment, but it can also create conflicts of interest between IPR owners and parties who want to use or access the intellectual work (Ezell & Cory, 2019).

By understanding the role of IPR in Civil Law, a better legal framework can be developed to protect intellectual property rights, promote innovation, and facilitate sustainable economic growth. Therefore, this research will analyse the role of IPR in Civil Law, identify the challenges and opportunities faced, and provide recommendations for improvement and further development in the protection of IPR in the future.

RESEARCH METHOD

This research utilises a desk-based (qualitative) research methodology, which involves the absence of primary data collection through direct field research by the researchers. To ensure the efficient conduct of the research, the researcher used a variety of reference materials for consultation. The relevant sources used for this research were obtained from digital media and scholarly databases through keyword-based searches relating to the themes outlined in the document. These topics include the analysis of intellectual property rights in civil law. The research methods used by the authors appear to be adaptive, which paves the way for the selection of relevant reference materials and does not require the authors to limit their searches to specific journals or digital platforms. As a result, the authors were able to save time. Our justification is supported by a number of different sources, some of which are journal websites such as ResearchGate, Elsevier, and Emerald Insight. The main focus of this paper is the analysis of intellectual property rights in civil law. The author's use of keyword emphasis aims to provide discourse boundaries and support logical consistency. This is achieved through the use of limiting phrases. The main focus of this research is on scholarly journals, essays, and publications that have been published from 2010 to date. During the search process, we used specific keywords to conduct searches across different publishing platforms. It is noteworthy that the papers, journals, and publications included in this research are exclusively those considered highly relevant to the topic of analysing intellectual property rights in civil law. Other papers, journals and publications were excluded as they were deemed unrelated to the subject matter. This scholarly article includes a total of 22 different sources that discuss in depth.

The ongoing inquiry has been classified as a form of qualitative research. The data collection process encompassed various methodologies, including active listening and comprehensive record-keeping of all relevant data points. The aforementioned methodologies were employed to facilitate the examination of the data, which was conducted through a process that encompassed data reduction, data presentation, and conclusion drawing. The main aim of this investigation was to gain a deeper understanding of the literature review conducted as a part of this research undertaking. In the stage commonly referred to as "data reduction," the acquired data was systematically arranged, classified, and refined to streamline the procedure of arriving at significant inferences and render the generation of noteworthy outcomes more feasible. Due to the intricate and diverse nature of the data, it was necessary to perform an analysis of them even during the reduction phase. The reduction phase aimed to determine the relevance of the information to the ultimate goal. Initially, a total of 40 distinct sources were gathered. The initial procedure led to the alteration of the numerical variable's value to 22. Furthermore, the information will be presented through visual aids in the form of graphs or charts. The present phase represents the subsequent stride in the data reduction procedure, wherein the dataset is methodically arranged in a structured format to enhance understanding and streamline the process of making inferences. The representation of data in this particular setting involves the utilization of written discourse, particularly in the form of field notes. The implementation of this methodology for data presentation has the potential to enhance efficiency in the categorization and structuring of data in relational configurations. The conclusive stage of the process involves the derivation of inferences from the gathered data, thereby rendering the process complete. The aforementioned step signifies the conclusion of the methodology utilized for the examination of qualitative data. In this phase, a thorough examination was conducted to verify that the results of data reduction and presentation aligned with the research's intended objectives. The aim of this phase is to extract significance from the acquired data through the identification of associations, resemblances, or disparities, with the purpose of developing remedies for previously recognized issues. The reliability of the results obtained from the utilized sources is considered to be high. The aim of this endeavor is to gather reliable and precise information, with the objective of augmenting understanding as a consequence.

RESULTS AND DISCUSSION

1. The Role of IPR in Civil Law

Intellectual Property Rights (IPRs) play an important role in Civil Law in the context of protection of intellectual property rights. The role of IPRs relates to the following aspects:

- a. **Protection of Exclusive Rights:** IPRs grant the owner exclusive rights over the intellectual work produced (Budiningsih, 2019). This means that the IPR owner has the right to control the use, reproduction, and utilisation of such intellectual work by other parties. These exclusive rights ensure that the creator or owner of the intellectual work gets economic benefits and recognition for his work.
- b. **Encouraging Innovation:** IPR protection can encourage innovation and creativity (Nurse, 2010). By granting exclusive rights to the creator or owner of an intellectual work, IPRs create incentives to invest in research and development, and encourage the development of new products and services. This contributes to economic growth and social progress.
- c. **Facilitates Trade and Investment:** IPR protection provides legal certainty for owners of intellectual works, which is important in creating a conducive investment climate (OECD, 2020). Companies and investors tend to invest in countries that have a strong IPR protection system. Moreover, IPRs also facilitate international trade through the protection of trademarks and industrial designs.

2. Challenges Faced in the Protection of IPR in Civil Law

Despite the important role of IPR, there are several challenges faced in the protection of IPR in Civil Law. Some of these challenges include:

- a. **Infringement and Counterfeiting:** Infringement and counterfeiting of intellectual work is a serious challenge in the protection of IPR (J. Chen et al., 2023). The circulation of counterfeit goods, illegal reproduction, and copyright infringement is a difficult problem to tackle. The development of digital technology and the internet has also complicated efforts against IPR infringement.
- b. **Legal Harmonisation and Coordination:** IPR is governed by various complex laws and regulations (Atikah et al., 2022). Harmonisation and coordination of laws between different countries and jurisdictions is a challenge. Differences in IPR protection systems, international recognition, and differences in legal interpretation

can make it difficult for IPR owners to protect their rights in different countries.

- c. Limited Access to IPR Protection: Limited understanding and access to the IPR protection system is a challenge in some countries, especially in developing countries (Muehlfeld & Wang, 2022). Limited access to information, high registration fees, and weaknesses in the legal system can discourage potential owners from protecting their intellectual property rights. This can hamper innovation and economic growth in such countries.
- d. Technological Change: Technological advancements continue to evolve at a rapid pace, and the challenges related to IPR protection are increasingly complex (Dwivedi et al., 2022). Technological changes such as the Internet of Things (IoT), artificial intelligence (AI), and blockchain bring new challenges in identifying, tracking, and protecting intellectual property rights in the digital age. Rapid legal adaptation is required to address these changes.

3. Opportunities in IPR Protection in Civil Law

Despite the challenges faced in IPR protection, there are opportunities that can be explored to improve and further develop the IPR protection system in the future. Some of these opportunities include:

- a. International Co-operation: Cooperation between countries in terms of IPR protection is key in overcoming the challenges of legal harmonisation (Utomo, 2018). Countries can share experiences, information, and best policies with each other to develop best practices in IPR protection. The development of strong international agreements and frameworks can also facilitate effective IPR protection at the global level.
- b. Education and Awareness: Increased understanding and awareness about the importance of IPR protection can make a positive contribution in addressing infringement and counterfeiting of intellectual works (Lusita, 2012). Effective public education programmes and awareness campaigns can help increase understanding of intellectual property rights, as well as encourage respect for intellectual works.
- c. Legal and Administrative Reform: Challenges in the legal and administrative system should be addressed through comprehensive reforms (Danar et al., 2020). Efforts should be made to simplify registration procedures, reduce costs, increase efficiency in dispute handling, and improve enforcement against IPR infringement. Proper

legal reforms will provide a solid foundation for effective IPR protection.

- d. **Development of Technology and Safety Devices:** Technological advancements can also be utilised to enhance IPR protection. The development of blockchain technology, unique identification systems, and other safeguards can help track and protect intellectual works more effectively (Habib et al., 2022). Collaboration between IPR holders, technology developers, and the government in developing innovative technological solutions will help address the challenges faced in IPR protection.
- e. **Multidisciplinary Approach:** IPR protection can also be enhanced through a multidisciplinary approach involving various stakeholders, including academia, industry, government, and civil society (Neaga et al., 2008). This cross-sector collaboration can lead to holistic and comprehensive solutions in protecting intellectual property rights. Discussions, knowledge exchange, and interdisciplinary co-operation will enrich the understanding of the role of IPR in Civil Law.

4. Recommendations for Improvement and Further Development

In order to improve IPR protection in Civil Law and deal with the challenges faced, the following are some recommendations that can be considered:

- a. **Harmonisation and Standardisation of Laws:** Countries need to work together to achieve harmonisation and standardisation of laws in IPR protection. Adopting consistent and supportive international treaties, as well as developing similar frameworks for IPR protection, will make it easier for IPR owners to protect their rights across multiple jurisdictions.
- b. **Improvement of Registration and Administration System:** Efforts are needed to simplify IPR registration procedures, reduce costs, and improve efficiency in administration. The government should strengthen administrative infrastructure and resources to support IPR owners in protecting and managing their rights more effectively.
- c. **Strengthening Law Enforcement:** It is important to improve law enforcement against IPR infringement. Increased cooperation between law enforcement agencies, IPR owners, and the private sector will strengthen the ability to uncover and crack down on IPR infringement. Strict and effective sanctions should be applied against IPR infringers to build compliance with IPR protection rules.

- d. Education and Awareness: Investment in education programmes and public awareness campaigns on the importance of IPR protection should be increased. Improving the public's understanding of intellectual property rights will help reduce infringement and counterfeiting, and create an environment that favours innovation and creativity (Suryansyah, 2019).
- e. Law Reform to Deal with Technological Change: Rapid technological changes require relevant legal updates (Bennett Moses, 2007) and (Marchant, 2011). The government should adopt policies and regulations that are responsive to technological change, including the use of blockchain technology, artificial intelligence, and others.
- f. Industry and Government Collaboration: Collaboration between the industry and the government is crucial in addressing the challenges of IPR protection. The government should involve industry stakeholders in the policy-making process to ensure their interests are properly accommodated. Consultation forums and mechanisms that facilitate dialogue between the public and private sectors should be encouraged.
- g. IPR Protection in the Digital Age: The development of digital technology complicates IPR protection (H. Chen, 2022). Therefore, special measures are required to protect intellectual works in the digital environment. This may involve the development of advanced technologies such as digital identification, digital rights management (DRM) systems, and effective protection mechanisms to counter IPR infringement in cyberspace.
- h. IPR Protection for Traditional Innovations: In addition to protecting modern innovations, IPR protection must also take into account traditional innovations or local knowledge held by indigenous peoples. The government needs to develop policies that recognise and protect the intellectual rights of indigenous peoples with regard to their traditional knowledge.
- i. Encourage International Co-operation: Stronger international co-operation is needed when it comes to IPR protection (Forero-Pineda, 2006) and (Cui et al., 2022). Countries can share experiences and resources and build a more solid framework to combat IPR infringement globally. International agreements such as the TRIPS (Trade-Related Aspects of Intellectual Property Rights) Agreement should be strengthened and effectively implemented.

- j. Continued Research and Development: Research and development in the field of IPR protection should continue. This includes legal, economic, and technological research aimed at understanding and addressing new challenges that arise in IPR protection. These measures will help generate innovations and better policies in improving the IPR protection system in the future.

CONCLUSION

The role of IPR in Civil Law is crucial in protecting intellectual property rights and encouraging innovation. Despite the challenges faced in IPR protection, there are opportunities to improve and further develop the IPR protection system in the future. International collaboration, legal reforms, awareness raising, technology development, and co-operation between industry and government are some of the recommendations that can be taken to strengthen IPR protection. With these measures, we can create a conducive environment for innovation, protect intellectual property rights, and promote sustainable economic growth.

The suggestions that can be given when referring to all the explanations above are as follows: First, harmonisation of international law. Countries need to work together to achieve legal harmonisation and standardisation in IPR protection, including the adoption of consistent international treaties. Second, improving the efficiency of registration and administrative systems. Efforts should be made to simplify IPR registration procedures, reduce costs, and improve administrative efficiency. Third, strengthening law enforcement. It is necessary to improve law enforcement against IPR infringement through cooperation between law enforcement agencies, IPR owners, and the private sector. Fourth, improving education and awareness: It is necessary to invest in educational programmes and public awareness campaigns to increase understanding of the importance of IPR protection and encourage respect for intellectual works. Fifth, legal reforms to deal with technological changes: The government should adopt policies and regulations that are responsive to technological change, including blockchain technology, artificial intelligence, and others. Finally, co-operation between industry and government: Close collaboration between the industry and the government is necessary to address the challenges in IPR protection and ensure the interests of all stakeholders are accommodated. By implementing these suggestions, it is possible to strengthen IPR protection in Civil Law, promote innovation, protect intellectual property rights, and

foster sustainable economic growth.

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