

The Regulatory Imperative for Trade Secret Valuation as Collateral to Enhance Financing Accessibility

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Abstract

Micro, small, and medium enterprises (MSMEs) play a pivotal role in Indonesia's national economic structure. Nevertheless, the dearth of comprehensive regulations and uniform valuation standards for trade secrets as collateral persists in impeding the effective implementation of intellectual property (IP)-based financing schemes. This legal gap is in direct opposition to the objectives of Sustainable Development Goals (SDGs) 9, particularly target 9.3, which emphasizes enhancing access to financial services for MSMEs to promote inclusive industrialization and innovation. The present study aims to analyze the application of Gustav Radbruch's Theory of *Rechtsidee* in shaping a regulatory framework for the valuation of trade secrets as collateral in Indonesia. This study contributes both theoretically, by offering insights into legal development, and practically, by providing recommendations for policymakers to establish regulations that support a robust, inclusive, and innovation-driven financing ecosystem. Employing a normative juridical method, the research utilizes statutory and conceptual approaches to examine the legal, economic, and philosophical dimensions of trade secret valuation as a secured transaction instrument. The results of the study indicate that while trade secrets possess considerable potential as a financing instrument, the absence of a standardized, transparent, and legally recognized valuation mechanism constitutes a significant normative obstacle. According to the Theory of *Rechtsidee*, the principles of legal certainty, justice, and expediency must serve as the foundation for a regulatory

framework that ensures legal effectiveness and equitable access to financing. The enhancement of trade secret valuation regulation in accordance with these principles not only fosters financial inclusion but also expedites the transition toward a sustainable and knowledge-based economy.

Keywords: Trade Secrets; Collateral Asset; Financing Access; Theory of Rechtsidee; SDGs

Introduction

Micro, small, and medium enterprises (MSMEs) play a strategic role in the structure of the national economy, with a significant contribution to gross domestic product (GDP) and job creation (Disemadi, 2022). According to data from the Ministry of Cooperatives and Small and Medium Enterprises, there are approximately 65.5 million MSME players in Indonesia, which contribute 61% to the national GDP and account for 97% of the total workforce (Limasento, 2023). However, MSMEs continue to encounter limitations in their access to formal financing. As of the second quarter of 2024, Bank Rakyat Indonesia (BRI) had disbursed loans amounting to Rp1,336.78 trillion, with 81.96% or Rp1,095.64 trillion allocated to the MSME segment. Despite the relatively high proportion of financing, not all MSME entities possess the capacity to access formal credit facilities. A primary contributing factor is the limited assets that can be utilized as collateral (Khaerunnisa, 2024).

In response to these challenges, one of the proposed solutions involves the strategic utilization of Intellectual Property Rights (IPR) as collateral (Fazri Elfikri et al., 2022). The Indonesian government has issued Government Regulation No. 24 of 2022 concerning Creative Economy, which establishes regulations for the utilization of IPR as collateral for debt obligations within the financial sector, encompassing the banking industry (Rizkiawan, 2022). Trade secrets represent a particular form of intellectual property that possesses economic value (Ayu et al., 2023). Trade secrets fulfill a strategic role as intellectual assets, which have the potential to enhance industrial competitiveness and promote knowledge-based economic growth (Timur, 2018). Trade secrets are defined as confidential information, including proprietary formulas, manufacturing processes, or business strategies, that provide a competitive advantage to the holder (Lamijan & Tohari, 2023). In such

instances, trade secrets function not only as a form of legal protection for business information, but also as a basis for consideration in financing provided by financial institutions.

The strategic employment of trade secrets as assets utilized for collateral purposes signifies an approach to address financing requirements while concurrently pursuing the realization of the Sustainable Development Goals (SDGs) and targets outlined in the 9th Agenda, particularly those pertaining to the promotion of innovation-driven industrialization. As stated in the SDGs Agenda 9, the importance of resilient infrastructure development, increased inclusive and sustainable industrialization, and encouragement of innovation as the main pillars of economic growth is emphasized. Achieving this objective hinges, in part, on the availability of broader and adaptive access to financing for the creative and technology-based industry sector, thereby facilitating sustainable development (Sampedro, 2021). However, in Indonesia, the absence of comprehensive regulations pertaining to the valuation of Intellectual Property Rights, particularly trade secrets, as collateral objects, persists as a significant impediment. While extant policies have furnished a legal foundation for the utilization of IPR as debt collateral, the ambiguity in the evaluation of economic value and the absence of uniform standards among financial institutions have impeded the effective implementation of this policy.

This phenomenon stands in direct contrast to the aspirational essence of SDGS 9, which advocates for the financial infrastructure's capacity for adaption to the evolving dynamics of creativity and technology-based industries. The evaluation of the economic value of trade secrets as collateral objects remains an area of uncertainty within the Indonesian legal framework, as it is not yet sufficiently addressed by existing legal provisions. In contrast to tangible assets, which are subject to established valuation standards, trade secrets are inherently intangible and contextual, necessitating a specialized methodology that is legally recognized. In the absence of regulatory frameworks that delineate valuation parameters, such as the age of protection, the commercialization potential, or the level of confidentiality of the information, financial institutions often exhibit reluctance in accepting trade secrets as debt collateral. This lack of clarity not only

hinders access to financing for creative industry players but also undermines the recognition of trade secrets as a formally acknowledged asset within the economic structure. Therefore, the establishment of regulations governing valuation methods for trade secrets is imperative. Such regulations are needed to ensure legal certainty, accountability, and market confidence in these intellectual property assets.

In the seminal study by Wayan Nilandari & Aras Samsithawrati (2023), the primary focus was on the legal legitimacy and general mechanisms of IPR valuation, with a deliberate omission of any discussion of the intricacies involved in valuing trade secrets as collateral objects. Moreover, research conducted by Rizkiawan (2022) and Karjunapradja & Wahyuni (2024) underscored the pressing need to address the challenges inherent in the regulation and implementation of intellectual property as a form of guarantee. However, these two studies address IPR in general, without distinguishing between types of rights that vary in their assessment. Gusti et al. (2020) and Zulfikar Abdillah (2024) in their research examine specifically the intellectual property rights used for collateral, namely patents and copyrights.

This research makes a significant contribution to the field of legal studies by analyzing the mechanism for valuing trade secrets as objects of debt collateral through the lens of SDGS 9 and Gustav Radbruch's theory of legal mind. Contrary to the extant literature, which has predominantly addressed the validity of IPRs in general or concentrated on patents and copyrights, this research underscores the intricacies involved in ascertaining the economic value of unregistered and non-physical trade secrets. The study assesses the extent to which existing regulations reflect the principles of legal certainty, expediency, and fairness.

Moreover, the urgency of establishing trade secret valuation regulations is associated with SDGS goal 9, specifically in expanding access to financing to support innovation and sustainable industrialization. Theoretically, this research addresses a significant gap in the legal literature by providing an academic foundation for the formulation of IPR-based financing policies. This research makes a significant practical contribution by providing a foundation for the

development of trade secret valuation regulations that are in accordance with the theory of legal mind. The present research is limited to a normative juridical analysis of regulations in Indonesia, excluding the technical aspects of quantitative economic valuation and other studies.

Research Method

The research method employed in this study is normative juridical analysis, which focuses on the study of laws and regulations in Indonesia that regulate intellectual property rights, especially trade secrets as collateral in increasing access to financing. This analytical approach encompasses two primary methodologies: the statute approach and the conceptual approach (Tan, 2021). The statutory approach is a method of analyzing the applicable legal texts (Weley, Agustianto, Afdal, Dibah, & Ayunda, 2024). Concurrently, the conceptual approach is employed to examine the relationship between Gustav Radbruch's theory of legal ideals, namely justice, legal certainty, and expediency, and whether these ideals have been achieved with the applicable regulations. By employing two distinct approaches, the research endeavor aims to examine the extent to which extant regulations are capable of accommodating these foundational legal values.

The data employed in this study is of a secondary nature, with its provenance from a combination of primary, secondary, and non-legal sources. The primary legal materials encompass Law No. 30/2000 on Trade Secrets, Law No. 42/1999 on Fiduciary Guarantees, and Government Regulation No. 24/2022 on Creative Economy. Secondary legal materials, including books and journals on politics, economics, and statistical data, were utilized to support analysis related to the research topic (Ali, 2022; Yanova et al., 2023). In addition to legal materials, non-legal materials such as encyclopedias and dictionaries must be considered. Data collection techniques are carried out through literature review or document study, by exploring and organizing information related to the research topic from various legal sources, academic articles, books, and reports from competent institutions. Subsequent to the aggregation of data, the

analytical technique that is employed is descriptive qualitative analysis. The objective of this technique is to provide a comprehensive explanation regarding the applicable regulations and their implementation. This technique enables the author to present a more comprehensive and critical overview of the legal issues at hand (Disemadi, 2022; Jonandi Effendi, 2018).

Results and Discussions

Application of *Rechtsidee* by Gustav Radbruch in the Regulation of Trade Secret Valuation as Debt Collateral in Indonesia

The valuation of intellectual property (IP) as an object of debt collateral in Indonesia has been normatively regulated through Government Regulation No. 24 Year 2022 on Creative Economy (hereinafter - PP 24/2022). According to the provisions of Article 12 of PP 24/2022, the valuation of IP can be performed in several ways, including the cost, market, and income approach, as well as approaches that align with the established standards for valuation. This configuration demonstrates that the Indonesian legal system has established a framework that accommodates methodological flexibility in determining the economic value of IP, including trade secrets. These varied approaches are designed to address the unique characteristics inherent within each type of IP, which often defy measurement by a solitary method. Therefore, it is imperative to possess a comprehensive understanding of each approach to guarantee precision and equitable valuation outcomes (Chairunnisa, Sudirman, & Disemadi, 2024)

The cost approach is a valuation method that utilizes all costs associated with the creation or acquisition of intellectual property to determine its value. The pertinence of this approach lies in circumstances wherein market data is challenging to procure or when the IP is in its nascent stage of commercialization. The valuation of IP assets is typically conducted by considering various cost-based approaches, including historical, replacement, or reproduction costs. This methodological framework enables the estimation of the minimum value of an

IP asset (Sari, 2023). While acknowledging its conservative nature, the cost approach can offer an objective evaluation of the trade secret's investment value. Nevertheless, the approach outlined herein is limited in its capacity to account for the inherent variability in potential future revenues. Consequently, this methodology does not always accurately mirror the true economic value of IP.

As posited by Mumpuni (2020), the market approach quantifies the value of IP based on transactions or relevant market data for analogous assets. The valuation of a trade secret is determined through a comparative analysis with analogous transactions that have transpired within the market, whether through license sales or technology transfer (Sari, 2023). The primary strength of this method lies in its capacity to mirror the genuine market value, thereby providing a more realistic benchmark for financing institutions. Nevertheless, the primary challenge resides in the constrained accessibility of comparable transaction data, particularly concerning IP that is exclusive or not yet published. Consequently, the market approach is more effective when applied to sectors or industries with a high level of IP transparency and exchange.

The income approach is predicated on the assessment of IP based on the potential income that can be generated from its utilization in the future. In this approach, trade secrets are regarded as assets with the potential to generate cash flows or profits for the owner or license right holder (Fakhri Ali & Triono, 2021). This approach is particularly advantageous in the context of financing, as it more accurately reflects the economic value of IP over time. However, this revenue approach is predicated on financial projections that necessitate assumptions and estimates that are quite complex and prone to uncertainty. Therefore, the credibility and acceptability of valuation results to all interested parties is contingent upon the transparency and expertise of the valuator.

In addition to these three primary approaches, Article 12 of PP 24/2022 acknowledges the potential for the utilization of alternative valuation methods, provided they are consistent with prevailing valuation standards. This alternative approach permits the implementation of hybrid or combination methods, including the real options method or the relief from royalty method (Fakhri Ali & Triono, 2021). These methods are more adaptable to the dynamics of

intangible assets, such as trade secrets. The acknowledgement of alternative approaches exemplifies regulatory adaptability in addressing the emergence of increasingly sophisticated valuation methodologies. However, for this alternative approach to be effective, there is a need for clear implementation guidelines and strengthening the capacity of human resources in the field of IP valuation. This approach ensures that the valuation process remains consistent with the principles of justice, legal certainty, and expediency, as delineated by the national legal system.

Gustav Radbruch's Legal Concept Theory or *Rechtsidee*, which is characterized by the principles of "legal certainty, justice, and expediency," has been identified as a relevant framework in various regulatory contexts, including the valuation of trade secrets as collateral in the Indonesian financial system (Putri, 2024). The valuation of trade secrets as debt collateral must be anchored in legal certainty, ensured through the establishment of clear standards, guided by principles of justice, particularly in the form of proportional treatment of business actors, and driven by the objective of achieving expediency, notably through augmented access to credible financing. These three values function as the normative foundation for assessing the capacity of the prevailing policy to furnish adequate legal protection, promote equitable access to financing, and encourage innovation-driven economic growth. Consequently, the evaluation of trade secrets should encompass not only administrative aspects but also address the principles of distributive justice for MSMEs and creative industry participants. Consequently, an analysis of applicable regulations must consider whether these values have been accommodated in intangible asset-based financing policies.

A. Legal Certainty (Rechtssicherheit)

The legal recognition of trade secrets as collateral for debt has been codified in Article 3, paragraph 3, and Article 5, paragraph 1 of Law Number 30 Year 2000 on Trade Secrets (hereinafter - Trade Secrets Law). These provisions stipulate that trade secrets, which possess an economic value, can be utilized as collateral for economic interests and can be transferred through specific legal mechanisms. Moreover, PP 24/2022 strengthens this recognition by

incorporating trade secrets as a component of intellectual property that can serve as an object of fiduciary guarantee. This indicates that, in principle, there exists a definitive legal foundation for the utilization of trade secrets as collateral in financing transactions.

According to paragraph 24/2022, the valuation of intellectual property is required to adhere to a cost, market, or income approach, or other methodologies that are in accordance with the prevailing valuation standards. In this context, the Indonesian Society of Appraisers (MAPPI) plays an instrumental role as an organization that oversees business valuation standards and training, including the development of Intellectual Property Valuation Standards (IPR SPI) to ensure IPR valuations are conducted professionally and consistently (Nugroho & Salam, 2024). Trade secrets are classified under the intellectual property category regulated by the IPR SPI, similar to patents. However, this SPI is descriptive and has not regulated in detail specific formulas or formulas for various types of trade secrets so that valuations can be carried out objectively.

The absence of detailed data poses a significant challenge, given the multifaceted nature of trade secrets and the challenges in conducting a quantitative assessment of such assets, necessitating a valuation approach that can adapt to these complexities. The dearth of concrete technical guidelines for the valuation of trade secrets as intangible assets has the potential to engender uncertainty and differences in interpretation in valuation practices, which ultimately hinders the recognition of trade secrets as credible collateral in the financing system. Consequently, despite the existence of fundamental regulations and standards, the necessity persists for the formulation of more comprehensive technical standards and precise methodologies. The valuation of trade secrets should adhere to the principle of legal certainty, thereby fortifying their role in fostering national industrial financing and innovation.

Jeffrey D. Dunn and Paul F. Seiler posit that the application of trade secrets as intangibles in warranty requires specific regulation (Dunn & Seiler, 2007), reinforced by valuation standards and guidelines that promote balance through transparent procedures and substantive protections. Given that trade secrets do not necessitate formal registration, a proportionate valuation should consider

unique aspects such as the degree of secrecy, market potential, and the period of economic benefit. The application of fair valuation methods to trade secrets as collateral objects necessitates an approach that is not only financially accurate but also responsive to the intangible, confidential, and dynamic characteristics of intellectual property.

The utilization of a combination approach, incorporating methodologies such as real options and relief from royalty, has the potential to yield a proportionate and balanced resolution. The Real Options Method provides a flexible valuation framework for the trade secret's future economic potential, taking into account market uncertainties as well as the strategic options the owner has in exploring the commercial value of the trade secret. On the other hand, the Relief from Royalty Method strengthens the objectivity dimension by calculating the value based on the estimated royalty fees that would have been paid if the company did not own the rights to the trade secret. Therefore, adopting this approach can mitigate the risk of undervaluation or overvaluation, which has historically impeded MSME players from accessing intellectual property-based financing. This underscores the necessity for a distinct regulatory framework pertaining to the valuation of trade secrets as collateral assets, as stipulated by the Directorate General of Intellectual Property of the Ministry of Law. It is imperative that this regulatory framework be implemented to ensure legal certainty.

B. Justice (Gerechtigkeit)

In accordance with the principles of the Legal Concept Theory, the valuation of trade secrets as objects of guarantee must be executed with fairness and impartiality. This concept of equal treatment entails the recognition of balanced rights and obligations, ensuring that no party is subjected to legal or economic disadvantage. The principle of fairness is evaluated based on the implementation process of the policy and the individuals it affects. In such a scenario, the proprietor of the trade secret, in their capacity as a debtor, is entitled to equitable protection of their property rights. Conversely, creditors may obtain guarantees commensurate with the risks assumed. Fairness also demands transparency in the valuation process so that all parties have an equal and accurate

understanding of the economic value, scope of confidentiality, and execution risk before making financial decisions. Consequently, the principle of fairness not only ensures a balance of interests, but also enhances trust in intellectual property-based financing transactions.

The absence of valuation standards for trade secrets as collateral reflects the weak guarantee of the principle of substantive justice in the practice of intellectual property-based financing. In circumstances where objective and quantifiable parameters are lacking, the valuation process frequently relies on the subjective evaluation of financing institutions or independent appraisers. This practice often favors the interests of parties with significant economic bargaining capabilities. This situation presents a significant challenge, potentially leading to disadvantages for small and medium-sized enterprises that lack equitable access to legal safeguards and negotiating leverage. Consequently, the economic value of their innovations is not commensurate with their efforts. From the perspective of justice according to Gustav Radbruch, the law's failure to ensure fair treatment for all legal subjects, particularly those in a more vulnerable economic position, indicates a deficiency in its role as a means to ensure fair treatment for all.

Moreover, the absence of a standardized valuation of trade secrets engenders complications in the recovery of proportional losses in the event of a dispute over the subject of the guarantee. In practice, the lack of clarity in reference to value renders the dispute resolution process ineffective and vulnerable to injustice. Judges frequently encounter a paucity of normative instruments at their disposal, compelling them to rely on expert testimony that may be susceptible to bias or influenced by extraneous interests. Therefore, the decision may fail to ensure equitable protection, particularly for parties in a disadvantaged economic situation. In such contexts, the enforcement of a trade secret warranty can result in the transference of economic rights without the implementation of a balanced compensation mechanism. This situation demonstrates not only the absence of legal certainty, but also the failure of the legal system to ensure fairness and accountability in the legal protection of trade secrets.

C. *Expediency (Zweckmassigkeit)*

Expediency is defined as the principles of effectiveness and efficiency in regulation to achieve broader objectives. This concept necessitates that regulations are not merely formal in nature but also contribute meaningfully to economic growth. The expediency aspect of trade secret valuation as collateral is normatively governed by PP 24/2022, which explicitly recognizes the economic value of intellectual property and opens opportunities for its use in financing. This regulatory framework aims to achieve tangible benefits by fostering more extensive and inclusive financial access, notably for business entities that possess intangible assets of significant economic worth. This is indicative of the government's recognition of the pivotal function of trade secrets in promoting knowledge-based economic growth. Thus, the principle of expediency provides a robust foundation for establishing a financing ecosystem that is responsive to the dynamic needs of business actors.

Despite the normative acknowledgement of expediency, the practical realization of this approach is still faced with various obstacles that hinder the optimal benefits of using trade secrets as loan collateral. The extant regulations do not adequately delineate the technical mechanisms and assessment procedures that would ensure effective benefits for all stakeholders, particularly with regard to facilitating access to financing and minimizing transaction costs. Hence, enhancing expediency hinges not solely on normative recognition but also on the formulation of supporting instruments and policies that can address the practical requirements of business actors and financial institutions.

A normative analysis of the regulation on trade secret valuation as collateral indicates that the principles of legal certainty, justice, and expediency serve as essential foundations for the implementation of intellectual property-based financing policies. First, the aspect of legal certainty (juridical) regarding the status of trade secrets as collateral has been explicitly recognized through the Trade Secret Law and Government Regulation No. 24 of 2022. Nonetheless, the paucity of objective and standardized valuation regulation concerning trade secrets as collateral continues to create a regulatory void. Second, the philosophical aspect of justice demands proportional and transparent treatment for all parties, particularly MSMEs, in order to establish a healthy and inclusive

financing environment. However, this philosophical principle of justice remains unfulfilled due to the lack of proportional and transparent technical standards, especially in terms of objective valuation, adequate protection for MSME debtors, and fair enforcement mechanisms. This condition engenders a discrepancy in the allocation of treatment within the financing system, particularly among small-scale business actors. Thirdly, the sociological aspect of expediency must be realized through regulatory frameworks that are not only normative but also applicable. These frameworks must demonstrate a capacity to address the practical needs of business actors and financial institutions.

According to Gustav Radbruch's correction to the priority of legal values, justice should take precedence over certainty and expediency. The dearth of objective and proportional regulations for trade secret valuation has resulted in a discrepancy in bargaining power between creditors and debtors (particularly MSMEs). Consequently, the potential of trade secrets as a form of intellectual property with strategic economic value has yet to be fully optimized to enhance access to financing, especially for MSMEs that often lack conventional collateral. Hence, a particular implementing regulation promulgated by the Directorate General of Intellectual Property under the auspices of the Ministry of Law—concerning the valuation of trade secrets as collateral through the application of methodologies such as the real options method and the relief-from-royalty method—plays a pivotal role in the realization of sustainable and equitable innovation financing in Indonesia.

The Contribution of Trade Secrets as Collateral to Financing Access in Achieving SDGS 9

Sustainable Development Goals 9 (hereinafter – SDGs 9) places significant emphasis on the importance of robust infrastructure, inclusive and sustainable industrialization, and the promotion of innovation as the foundational element for sustained economic growth (Sampedro, 2021). This objective underscores the pivotal function of robust infrastructure as a cornerstone of economic advancement and enhanced quality of life. In developing countries, access to

adequate technology and industrial facilities remains a significant challenge. Therefore, the ninth Sustainable Development Goal advocates for the enhancement of the capacity of local industries, particularly small and medium-sized enterprises (SMEs), to compete in global markets. Innovation is identified as a pivotal component of this objective, as it is intrinsically linked to productivity, efficiency, and economic resilience. The accomplishment of SDGS 9 is contingent upon the establishment of regulatory frameworks that integrate technology, financing, and equitable access to development resources.

Specifically, Target 9.3 emphasizes the significance of enhancing SMEs' access to financial services (Singh & Ru, 2023), encompassing affordable credit, as a deliberate measure to promote inclusive and sustainable economic growth. This access to financing is crucial given that SMEs form the backbone of the economy in many developing countries, including Indonesia, and possess significant potential to drive innovation and job creation (Hamidaturrahim et al., 2023). Nevertheless, the dearth of conventional collateral frequently acts as a significant impediment for SMEs in obtaining formal financing from financial institutions (Supriyanto, 2024). In this context, intellectual property—particularly trade secrets—exhibits considerable potential as an alternative form of collateral to enhance SME credibility and access to funding sources. The utilization of intellectual property as collateral not only fosters innovation but also fortifies the position of SMEs within a knowledge-based economic ecosystem.

The legal recognition of trade secrets as collateral within regulatory frameworks provides a robust legal foundation for financial institutions to accept such assets as part of financing mechanisms. The Trade Secrets Law affirms that trade secrets possessing economic value may serve as collateral and may be transferred through specific legal mechanisms. Moreover, Government Regulation No. 24 of 2022 further reinforces this recognition by accommodating trade secrets as a form of intellectual property that can be utilized as collateral for financial transactions. Accordingly, a clear and robust normative legal foundation exists that enables the utilization of trade secrets as security in financing transactions. This legal basis is of paramount importance in

ensuring legal certainty in credit provision practices, particularly for small and medium-sized enterprises (SMEs).

The recognition of trade secrets as intangible assets has the potential to expand financing access for SMEs (SMEs are small- and medium-sized enterprises; Qurniasari & Santoso, 2023), which have traditionally faced capital access limitations due to a lack of physical collateral. This development signifies a paradigm shift in the realm of financing, transitioning from a reliance on physical assets to a focus on knowledge-based assets (Syafri et al., 2023). Furthermore, this acknowledgement has been identified as a catalyst for fostering innovation-based industries, a key objective of SDGS 9. The regulation that acknowledges trade secrets as collateral also fosters economic transformation toward a more contemporary, knowledge-based paradigm by reinforcing the legal framework for intellectual property-based financing. Indeed, this recognition has the potential to enhance financing access and accelerate industrialization that is responsive to technological and innovative progress. The integration of inclusive financial policies and the development of innovative industries are pivotal to achieving sustainable and equitable economic growth in accordance with the spirit of SDGS 9.

While the recognition of trade secrets as collateral offers considerable potential for broadening access to financing and promoting innovation-driven industrialization, its implementation is encumbered by several substantial challenges. A significant concern is the absence of technical regulations that clearly define objective and standardized valuation mechanisms for trade secrets, employing suitable approaches. According to the Rechtsidee, the principle of justice—being the foremost priority—must be reflected in fair and transparent valuation mechanisms. The absence of this element compromises the realization of legal certainty and expediency.

The sociological aspect of expediency is evident in the potential of trade secrets to enhance access to financing. By fostering a financial ecosystem that supports innovative funding mechanisms, SDGS 9 directly contributes to improving the productivity of the business sector, particularly micro, small, and medium enterprises (MSMEs). This utility is reflected not only in the expansion

of financing access through the utilization of intangible assets, such as intellectual property, but also in the sustainable value creation driven by the creative and technology-based industries. Conversely, the realization of SDGS 9 can promote equitable economic development through financial inclusion, thereby enabling entrepreneurs across diverse social strata to have equal opportunities for growth. Additionally, with reinforced support for innovation and technology, nations will possess a more robust ability to navigate global economic disruptions and attain a heightened level of competitiveness in the international market.

The success of implementing trade secrets as collateral in realizing SDGS 9 is contingent upon the state's capacity to devise policies that ensure the fulfillment of all legal principles in a balanced manner. In order to optimize the role of trade secrets as collateral to support the achievement of SDGS 9, it is necessary to establish derivative regulations that govern the technical mechanisms of valuation and enforcement in a proportional and transparent way. A comprehensive resolution to this issue can be found in the formulation of technical standards for the valuation of trade secrets. The aforementioned valuation should be based on methods that are conducive to the characteristics of intellectual property. Such methods may be illustrated by the combination of the Real Options Method and the Relief from Royalty Method. Furthermore, it is imperative to establish implementation guidelines that ensure legal certainty for financial institutions and equitable protection for MSME debtors. Furthermore, the coordination across various sectors, such as the Ministry of Law, the Financial Services Authority, and other technical stakeholders, is imperative to guarantee that regulatory frameworks and financing practices are congruent with the overarching economic ecosystem.

When standards and guidelines are integrated, the value of trade secrets can be measured objectively. As a result, financial institutions may be more confident in extending credit. This is imperative to establish inclusive financing opportunities, encourage MSMEs to develop innovation, and strengthen their competitiveness in the market. Furthermore, enhancing literacy among business actors and law enforcement officers regarding the use of intellectual property—particularly trade secrets—as collateral should be accorded equal importance.

These efforts have the potential to transform trade secrets into a crucial instrument that propels both financial inclusion and industrialization driven by innovation, aligning closely with the substantial and sustainable objectives outlined in SDGS 9.

Conclusion

Trade secrets have strategic potential as alternative collateral to enhance MSMEs' access to financing. The present study utilizes a normative analysis employing Gustav Radbruch's Legal Concept Theory (Rechtsidee) to ascertain the foundational elements underpinning the design of financing regulations based on intellectual property. The legal validity of trade secrets as collateral has been affirmed by the Trade Secret Law and Government Regulation Number 24 of 2022, which normatively recognizes trade secrets as objects of collateral. However, the dearth of standardized valuation regulations for trade secrets as intangible assets engenders a legal void, thereby undermining legal certainty. The existence of this regulatory gap hinders the realization of justice and weakens the bargaining position of MSMEs in utilizing trade secrets as collateral. Therefore, it can be concluded that the potential of trade secrets as a source of financial resources has yet to be thoroughly realized. The establishment of objective and standardized valuation mechanisms necessitates the issuance of derivative regulations by the Directorate General of Intellectual Property under The Ministry of Law. The implementation of a multifaceted approach, encompassing methodologies such as the Real Options Method and the Relief from Royalty Method, constitutes a strategic framework for the realization of an innovative, inclusive, sustainable, and justice-oriented financing system in Indonesia.

In order to achieve SDGs 9, particularly target 9.3, there is a necessity for the implementation of policies that broaden access to financing for MSMEs through innovative, intellectual property-based approaches. The practice of utilizing trade secrets as collateral for debt financing signifies a shift in the financial system towards a paradigm that is aligned with the principles of inclusive and sustainable industrialization, as it is based on knowledge. To ensure its substantive contribution to SDGS 9, it is imperative that derivative

regulations govern technical standards for valuation and financing mechanisms that are fair, proportional, and practically applicable. Therefore, the enhancement of regulations grounded in Gustav Radbruch's theory has the dual capacity of promoting financial inclusion and catalytically advancing the transition towards a sustainable and equitable, knowledge-based economy, in accordance with the fundamental principles of SDGs 9.

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Competing Interest

The authors declare that there are no competing interests.

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