

Standardizing Execution of Intellectual Property as Fiduciary Collateral: A Harmonization Approach

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Abstract

The legal problem addressed is the disharmony between Indonesia's Fiduciary Security Law and intellectual property (IP) statutes, which leaves no standardized mechanism to execute IP pledged as fiduciary collateral and creates legal uncertainty for creditors. This study aims to examine the harmonization needed between IP regulation and fiduciary security and to formulate an execution standard ensuring legal certainty. The research employs normative legal methods with statute, conceptual, and analytical approaches. Findings show that recognition of IP as collateral has not translated into practice because banks doubt valuation reliability and fear unclear execution pathways; consequently, IP remains underutilized as a productive asset. The paper proposes a five-stage execution framework: (1) verification of registration for the fiduciary deed and the pledged IP; (2) independent valuation by IP appraisers; (3) execution via commercial licensing or limited transfer of economic rights to preserve moral rights; (4) transparent auction under KPKNL supervision; and (5) explicit safeguards for moral rights. Institutional coordination among DJKI, notaries, KPKNL, and financial institutions is essential, alongside prompt issuance of a technical regulation by the Ministry of Law and Human Rights. Adopting this harmonized standard would enhance creditor protection, build lender confidence, widen access to finance, and support Indonesia's creative economy.

Keywords: Intellectual Property, Fiduciary Security, Legal Harmonization, Execution Standards, Creative Economy

Introduction

The utilization of Intellectual Property Rights (IPR) as fiduciary collateral has become an important strategy in supporting the growth of the creative economy in the modern era. As business actors' awareness of the economic value of IPR as highly commercialized assets increases, its use as collateral has been continuously developing (P. M. Sari, 2023). This trend aligns with the shift of the economy towards the creative economy sector, which has now become the backbone of sustainable development (Shabillia & Santoso, 2023). According to the Institute for Development of Economics and Finance, the creative economy includes various industries such as design, art, entertainment, and technology, which are now recognized as sectors capable of creating added value through the utilization of intellectual property, skills, and individual talents that are transformed into marketable products (Fadlilah et al., 2024; Kaunang et al., 2024). The value creation process in the creative economy heavily relies on the use and management of existing intellectual property (Noviriska, 2022). In this context, IPR not only serves as legal protection for works but also as a productive asset that can be utilized in financing schemes (Kansil & Harjanto, 2024). Therefore, the use of IPR as fiduciary collateral becomes a strategic step that allows business actors in the creative economy sector to more easily access the financial resources they need, while accelerating the growth of this sector, which is increasingly dominating the global economy (Jafar & Sari, 2023).

The Indonesian government defines the creative economy in Law Number 24 of 2019 on the Creative Economy as a form of value creation from intellectual property sourced from human creativity, which is rooted in cultural heritage, knowledge, and technology. However, in its implementation, there is still legal uncertainty, particularly regarding the execution mechanism if the debtor defaults. One of the crucial issues is the absence of a clear legal procedure for the registration and execution of IPR as collateral, especially copyright (Wardoyo et al., 2024). Government Regulation Number 24 of 2022 on the Creative Economy has yet to provide clarity on the procedure for the legal transfer of rights, both fully and partially through licensing, and does not regulate how auction minutes can be used as evidence of legal rights transfer. On the other hand, the execution of copyright is often hindered by the existence of moral rights, which cannot be

transferred (Lestari, 2019), as well as the limitations of legal norms in accommodating the principle of *droit de suite* in the context of fiduciary collateral (Hidayat et al., 2022).

Intellectual Property (IP) regulation and fiduciary collateral law play important roles in the modern economic legal system, especially in supporting the growth of the creative industry and providing legal protection for creditors and IPR holders. In Indonesia, IP regulations are governed by Law Number 28 of 2014 on Copyright (Copyright Law), while fiduciary collateral law is governed by Law Number 42 of 1999 on Fiduciary Collateral (Fiduciary Collateral Law). Regulations in Indonesia have opened up opportunities for IPR to be used as collateral for loans, as outlined in the Copyright Law and Law Number 13 of 2016 on Patents (Patent Law), which state that IPR can be used as collateral for debt. Artists have the opportunity to access loans from banks or other financial institutions by pledging their works. This provision is outlined in Article 16 paragraph (3) of the Copyright Law, which states that "Copyright can be used as fiduciary collateral." With this article, it is hoped that artists and creative industry actors can utilize the copyright on their works as collateral to obtain financing from banking institutions or non-bank institutions (Pertiwi, 2018).

However, in practice, the implementation of this mechanism still faces various obstacles. The banking practices in Indonesia have not yet accepted IPR as fiduciary collateral (Hidayat et al., 2022). There is concern regarding the standardization of the credit value calculation of an intellectual asset, which is still questioned by various parties (Kaunang et al., 2024). Another challenge is the lack of a clear standard regarding the execution of IPR as fiduciary collateral (Indrawati, 2021). The Fiduciary Collateral Law generally regulates the execution of collateral but has not provided a specific mechanism for IPR, which differs from tangible assets. Unlike physical assets, which have fixed values and are easily transferable, the economic value of IPR heavily depends on aspects such as commercialization, licensing, and market competitiveness (Mughtar et al., 2021). This creates challenges in the execution process when the debtor defaults, as the mechanisms for auctioning or reselling IPR are still not fully integrated into the collateral legal system in Indonesia.

This research offers a novel approach in analyzing the legal gaps related to the execution standards of IPR as fiduciary collateral, which have not yet been comprehensively regulated in Indonesia. By analyzing the harmonization between IPR regulations and collateral law, this study proposes an effective and practical execution mechanism to provide legal certainty for creditors and IPR holders. In addition to boosting the confidence of financial institutions in accepting IPR as collateral, this study is also expected to address the shortcomings of previous studies that only highlighted the potential of IPR as collateral without offering concrete solutions regarding its execution (Hidayat et al., 2022; Kaunang et al., 2024; R. K. Sari, 2016). The focus of this research is limited to the context of regulations in Indonesia and the proposed ideal execution standards to encourage the optimal utilization of IPR and support the growth of the creative economy and financial inclusion. With clear execution standards and harmonized regulations between IPR and collateral law, it is expected that the use of IPR as fiduciary collateral can be more optimal, thus having a positive impact on the growth of the creative economy and financial inclusion in Indonesia.

This research is limited to analyzing the harmonization between IPR regulations and collateral law in Indonesia, as well as identifying the ideal execution standards, which may not encompass all the complexities of the issues in the field. Additionally, this research has not deeply examined the practical implementation of the recommendations proposed, such as challenges in applying execution standards in the diverse and dynamic creative economy sector. External factors, such as changes in economic policies or technological developments that affect the value of IPR, have also not been comprehensively analyzed, which could be important elements in improving the effectiveness of utilizing IPR as fiduciary collateral. Therefore, further research involving case studies or empirical data from the creative industry sector could provide a more holistic understanding of the challenges and potential solutions in the field.

This study addresses two key research questions: First, how can the harmonization between intellectual property regulations and collateral law be achieved in the context of utilizing Intellectual Property Rights (IPR) as fiduciary collateral? Second, what is the ideal execution standard to ensure legal certainty

in the execution of IPR objects used as fiduciary collateral? The objectives of this research are to analyze the harmonization between intellectual property regulations and collateral law regarding the use of IPR as fiduciary collateral and to identify the ideal execution standards that can provide legal certainty in the enforcement of IPR objects pledged as fiduciary collateral.

Research Method

This study employs a normative legal research method, which aims to outline the prevailing norms in Indonesia (Tan, 2021). This method was selected as it aligns with the research objectives, which focus on examining the synchronization of regulations (both vertical and horizontal) (Disemadi, 2022). The analytical approaches used in this research include the statute approach, the conceptual approach, and the analytical approach, which allow for an in-depth analysis of the legal substance and its practical application. The study refers to secondary data sources, starting with primary legal materials, which include Law Number 42 of 1999 on Fiduciary Collateral, Law Number 28 of 2014 on Copyright, Law Number 13 of 2016 on Patents, and Government Regulation Number 24 of 2022 on the Implementation of Law Number 24 of 2019 on the Creative Economy. Additionally, secondary legal materials are used, including journal articles and/or previous research findings, expert opinions in the relevant fields, and other related data released by research institutions. Data collection will be carried out through literature study, where written information is obtained from various widely published sources. From these sources, the analysis will employ a qualitative-descriptive method to examine and present the harmonization of regulations concerning Intellectual Property Rights as fiduciary collateral in a systematic manner.

Results and Discussions

Harmonization between Intellectual Property Regulations and Collateral Law in the Context of Using Intellectual Property Rights as Fiduciary Collateral

Intellectual Property Rights (IPR) represent the rights over the results of human creative activities and inventions. These works are expressed in various forms, such as writing, music, designs, or technologies, which hold both functional benefits and high economic value in society (Rongiyati, 2018). In the context of the creative economy, IPR is not only a symbol of legal protection for works but is also positioned as a productive asset with commercialization potential. Therefore, legal recognition of IPR as collateral is essential to expand access to financing for creative industry actors. Normatively, the legal basis for using IPR as fiduciary collateral has been reinforced in several regulations, including Law Number 28 of 2014 on Copyright and Law Number 13 of 2016 on Patents. More specifically, Article 16, paragraph (3) of the Copyright Law explicitly states that copyright can be used as fiduciary collateral (Nilandari & Samsithawrati, 2023). This provision indicates that the state recognizes IPR not only as a tool for legal protection but also as part of the economic system that supports the flow of capital and investment. With the reinforcement of such norms, IPR has the potential to become a strategic instrument in building an inclusive and innovation-based financing ecosystem.

Although the legal foundation for fiduciary collateral is normatively comprehensive, including the regulation of encumbrance of intellectual property assets as collateral, its implementation on the ground still faces significant obstacles. One of the main barriers is the misalignment of norms in the regulations, leading to gaps in the technical and procedural execution mechanisms for IPR collateral. These issues include the lack of a standardized registration procedure and insufficient legal protection for creditors in the event of default (Wulandari et al., 2024). As a result, many financial institutions are hesitant to accept IPR as collateral, making it difficult for creative industry actors to access financing that could otherwise be obtained through the use of IPR. This creates an imbalance between the economic potential of the creative sector and

access to formal financing. In fact, with harmonized regulations, IPR could become an alternative financial instrument that drives the growth of the non-conventional economy sector. Therefore, harmonizing regulations between intellectual property law and collateral law is an urgent step to create legal certainty and enhance the credibility of IPR as collateral. This effort is not only crucial from a juridical standpoint but also strategically important in supporting the development of an inclusive and sustainable creative economy.

Law Number 42 of 1999 on Fiduciary Collateral (Fiduciary Collateral Law) defines fiduciary as the transfer of ownership rights of an object based on trust, with the condition that the object remains in the possession of the owner (Paparang, 2014). According to Article 1, paragraph (2), fiduciary collateral includes both movable objects, whether tangible or intangible, and immovable objects that cannot be encumbered by mortgage rights. The core of this system is the principle of trust (*fiducia*), which places the legal relationship between the grantor and the recipient of fiduciary on the foundation of trust, as emphasized in Article 1, paragraph (1) of the law. However, the development of digital economic needs and the creative industry challenges the application of conventional fiduciary principles, especially when the collateral objects are intangible, such as Intellectual Property Rights (IPR). The intangible nature of IPR complicates the transfer and physical control, unlike conventional collateral that involves tangible assets that can be physically transferred. This creates a normative gap between intellectual property law and collateral law because the fiduciary system has not fully accommodated the reality of digital and creative assets. The issue becomes more complex because, in the context of copyright, there are moral rights that cannot be transferred and are permanently attached to the creator, as stated in Article 5, paragraph (2) of the Copyright Law. This provision directly contradicts the principle of ownership transfer in fiduciary collateral, creating an urgent need to adjust regulations to align with the evolving types of collateral objects in the present.

To date, there is a significant disharmony between the Fiduciary Collateral Law and intellectual property regulations. The Fiduciary Collateral Law currently does not explicitly accommodate intangible movable objects as

collateral, although such assets are becoming more dominant in the digital and creative economies (Aspan, 2024). On the other hand, various intellectual property regulations recognize that IPR holds economic value and can be transferred, licensed, or used as collateral. However, the technical provisions regarding the encumbrance, registration, and execution of IPR as fiduciary collateral have not been adequately elaborated in existing regulations (Noor & Zulkifli, 2023). The absence of specific procedures creates legal uncertainty that harms all parties, particularly creative industry actors and financial institutions who wish to use IPR as collateral. Without clear regulations, legal and administrative risks become high, hindering the implementation of IPR-based financing. Therefore, technical regulations that harmonize the provisions in the Fiduciary Collateral Law and intellectual property laws are urgently needed to close the existing legal gaps. This harmonization is an essential requirement for enabling the use of IPR as a legitimate, safe, and effective financing instrument.

The valuation of IPR in Indonesia still faces significant practical challenges. The economic value of IPR is heavily influenced by external factors such as licenses, market conditions, popularity, and commercial competitiveness, which are dynamic and difficult to predict. The instability of these variables makes the process of valuing IPR complex and not yet standardized. Unfortunately, Indonesia does not yet have an independent institution or a national standard that can objectively and consistently assess the value of IPR. As a result, financial institutions are still hesitant to accept IPR as collateral due to difficulties in assessing risks and determining its appropriate value. Although Government Regulation Number 24 of 2022 on the Implementation of the Creative Economy Law (Creative Economy Regulation) has provided a legal opportunity for utilizing IPR as fiduciary collateral, its implementation remains limited due to the lack of a clear and credible valuation mechanism (P. M. Sari, 2023). To overcome these obstacles, it is necessary to establish an independent IPR valuation institution with legal authority and develop a widely accepted valuation standard within the industry and financial sectors. The presence of such an institution and standard would enhance financial institutions'

confidence in accepting IPR as a legitimate and valuable collateral asset within the fiduciary legal system (Wulandari et al., 2024).

The Creative Economy Regulation marks the beginning of the Indonesian government's commitment to supporting the use of IPR as fiduciary collateral. This regulation opens legal opportunities for creative economy actors to use registered IPR as collateral in accessing formal financing. However, in practice, the implementation of this policy still faces various obstacles, particularly due to the lack of detailed technical guidelines on the mechanisms for encumbrance, valuation, and execution of IPR as collateral. The absence of operational guidelines has led financial institutions to exercise caution and tend to reject IPR as collateral due to difficulties in assessing its value objectively and legally. This situation demonstrates that normative recognition alone is not sufficient unless it is followed by concrete and applicable legal instruments. Therefore, synchronizing the Fiduciary Collateral Law, intellectual property laws, and other implementing regulations is necessary to create legal certainty and uniform procedures. This synchronization aims not only to protect creditors and debtors but also to strengthen the national financing system's confidence in intangible assets. In this context, the formulation of structured and consistent implementation standards is crucial to ensure legal protection for all parties involved in IPR-based transactions (Wulandari et al., 2024).

The misalignment between intellectual property regulations and collateral law directly impacts the financing process, especially for creditors and creative industry actors (Jafar & Sari, 2023). One of the most apparent consequences is the lack of legal clarity regarding the status of IPR as collateral, which makes financial institutions hesitant to accept it in fiduciary schemes. This hesitation arises due to the absence of technical mechanisms to ensure the value, status, and execution procedures of IPR in the event of default (Fattikha, 2023). This uncertainty creates a grey area in the legal relationship between creditors and debtors, which risks generating disputes and harming both parties. As a result, creative industry actors, who could potentially drive national economic growth, face obstacles in accessing adequate financing. In fact, if IPR could be definitively integrated into the fiduciary collateral system, creative entrepreneurs would have broader and

more flexible funding opportunities. Therefore, harmonizing regulations between intellectual property law and collateral law is necessary to ensure legal certainty, facilitate access to financing, and promote the growth of the creative economy in Indonesia in a more inclusive manner (Febriani & Sarjana, 2024). This harmonization will serve as an important foundation in creating a financing system that is adaptive to the development of an economy based on creativity and innovation.

In civil law relationships such as fiduciary, legal certainty is a fundamental element that provides security and protection for creditors. The fiduciary system is based on the principle of trust, where creditors acquire collateral rights over a debtor's property without having to directly control it. Therefore, the execution power of fiduciary documents becomes critical, as it serves as the sole legal basis for creditors to enforce their rights in the event of default (Paparang, 2014). However, to date, there is no clear, detailed, and uniform procedure for executing IPR as fiduciary collateral. This procedural uncertainty generates legitimate concerns among financing institutions, particularly regarding the validity, valuation, and mechanism for the transfer of rights in the event of contract breaches. Without guaranteed legal security in the execution process, financial institutions are reluctant to accept IPR as collateral due to concerns about difficulties in legally enforcing their rights (Febriani & Sarjana, 2024). As a result, IPR, which has high economic value and potential as a productive asset, is not optimally utilized in the financing sector. This shows that without comprehensive legal certainty, normative regulations on IPR-based collateral will remain symbolic and non-operational in practice.

There is an urgent need to amend the Fiduciary Collateral Law to explicitly include intellectual property as an intangible asset eligible for collateral. Although Article 1, paragraph (2) of the Fiduciary Collateral Law states that collateral objects can be movable, whether tangible or intangible, this provision is still general and does not specifically mention intellectual property. This lack of clarity leads to legal interpretation issues on the ground, where IPR is not yet considered a standard asset for fiduciary collateral by financial institutions. In practice, the registration and execution of fiduciary collateral still focus on

tangible assets such as motor vehicles, receivables, or inventories, while provisions for intangible assets like IPR have not been technically established. This creates legal uncertainty that can harm creditors, as there are no clear execution procedures or legal protections in case of default. Therefore, harmonizing regulations is necessary not only to normatively recognize IPR but also to establish mechanisms for encumbrance, registration, and execution that can be practically applied. This update should also include legal protections for all parties, including recognizing the non-transferable moral rights of the creator. Such regulatory adjustments will provide a strong legal foundation and enhance the confidence of the financial sector in using IPR as a legitimate, credible, and secure financing instrument.

In analyzing the urgency of harmonizing intellectual property and collateral law, Gustav Radbruch's theory of legal certainty provides a relevant conceptual foundation. Radbruch stated that law must meet three fundamental values: justice (*gerechtigkeit*), utility (*zweckmäßigkeit*), and legal certainty (*rechtssicherheit*), meaning that law must not only be fair and useful but also consistently applied and predictable (Radbruch, 1946). In the context of Indonesia, the disharmony between regulations governing intellectual property and collateral law, particularly regarding the execution mechanism of IPR as fiduciary collateral, has created significant legal uncertainty. The absence of technical procedures in the execution process has left creditors without legal certainty about their rights, creating doubt about using IPR as collateral. This aligns with the view of Wulandari et al. (2024), who argue that the lack of execution provisions for IPR directly impacts the low trust of financial institutions. Given this situation, the value of legal certainty in Radbruch's theory becomes crucial as a benchmark for the need for regulatory updates. Harmonizing regulations will not only create legal certainty but also ensure that the principles of justice and utility in law can function in balance. Therefore, the development of integrated execution standards is an urgent legal requirement in the IPR-based financing system.

As the starting point for integrating IPR into the fiduciary collateral system, regulatory harmonization must be viewed as a legal transformation

process that is adaptive to the dynamics of the modern economy. It is not enough to merely align norms formally but to adjust them to the actual needs of business actors and financing institutions. In the digital era and creative economy, the existence of intangible assets like IPR requires a more progressive and contextual legal approach. The harmonization must bridge the legal differences between tangible assets in the fiduciary system and the special characteristics of IPR, which contain moral rights. A cross-sectoral approach involving the Ministry of Law and Human Rights, the Directorate General of Intellectual Property (DJKI), and creative industry associations is essential in crafting an applicable legal framework. Joint guidelines between institutions are also necessary to clarify the administrative procedures from registration to the recording of collateral. Additionally, legal literacy on IPR as financing assets must be expanded to build trust and willingness to utilize them. Regulatory harmonization not only functions to eliminate legal gaps but also opens opportunities for creating a more inclusive and innovative financing system. Therefore, formulating rules that unite the principles of justice, certainty, and utility is a must to support the future of IPR-based financing.

Ideal Execution Standards to Ensure Legal Certainty in the Execution of Intellectual Property Rights Used as Fiduciary Collateral

One of the main challenges in using Intellectual Property Rights (IPR) as fiduciary collateral is the absence of a standardized and specific execution mechanism. This contrasts with conventional collateral objects such as vehicles or machinery, which have clear and standardized execution procedures as regulated in the Fiduciary Collateral Law. IPR, as an intangible asset, presents its own complexities because it cannot be physically possessed and contains moral rights that cannot be transferred. These moral rights, such as the right to attribute the creator's name or maintain the integrity of the work, are inseparable from the creator and cannot be fully transferred through an execution process. Consequently, mechanisms like auctioning or transferring the economic rights of

IPR are limited and require special treatment to avoid contradicting intellectual property law principles. The lack of technical regulation on this matter creates ongoing legal uncertainty. This uncertainty directly affects financial institutions' reluctance to accept IPR as legally secure collateral. Creative economy actors seeking to use IPR as a financing source find it difficult to access capital effectively. Therefore, having a clear and structured execution mechanism is a prerequisite for integrating IPR functionally into the fiduciary collateral system in Indonesia (Rafla et al., 2023).

Given the unique characteristics of IPR as intangible, fluctuating in value, and inherently connected to the creator's moral rights, the execution standards must differ from those applied to tangible movable collateral. The execution of IPR as fiduciary collateral should start with verifying the legality and registration status of the collateralized IPR to ensure the ownership and validity of the collateral (Agustianto et al., 2023). Next, valuation or economic assessment of the IPR should be conducted by specialized appraisal institutions familiar with the dynamics of the IPR market. An ideal execution mechanism should not only involve the transfer of rights but could also take the form of limited licensing to maintain its commercial value. The auction process should be conducted transparently, accountably, and allow participation from relevant industry actors (Wulandari et al., 2024). Moreover, the protection of the creator's moral rights should be maintained throughout the execution process to prevent violations of the integrity and reputation of the creator. With these standards, creditors' interests are protected without undermining the rights and dignity of IPR owners (R. K. Sari, 2016).

The execution of fiduciary collateral on copyrights should ideally consist of five main stages that ensure legal certainty, precautionary principles, and protection of moral rights. First, verification of the legality and registration of the fiduciary deed is necessary to ensure the legitimacy of the object and the legal position of the creditor. Second, economic valuation by IPR appraisal institutions is required to prevent loss due to inaccurate value assessment. Third, execution should ideally take the form of commercial licensing or the limited transfer of economic rights, ensuring that the creator's moral rights remain

protected, as guaranteed in Article 5 of the Copyright Law. Fourth, auctions should be conducted transparently and accountably, for example, through the State Property and Auction Service Office (KPKNL) in accordance with Article 29 of the Fiduciary Collateral Law to ensure price transparency and fairness. Fifth, the protection of the creator's moral rights must be ensured through a recognition clause in the execution contract. These five stages form the framework for an ideal execution standard that guarantees legal certainty and balances the legal interests of all parties involved in IPR-based collateral practice.

The execution of IPR as fiduciary collateral cannot be optimally implemented without adequate institutional support. The Directorate General of Intellectual Property (DJKI) plays a central role in the registration, verification, and oversight of the transfer of IPR. Notaries and Land Deed Officials (PPAT) have an essential function in legalizing the collateral deed, which serves as the legal basis for IPR collateral transactions. On the other hand, financial institutions like banks and cooperatives, which accept collateral, must have a deep understanding of risk assessment regarding these intangible assets. To support the execution process for intangible objects like IPR, the auction process can be conducted professionally and transparently by state auction institutions like KPKNL or by establishing specialized auction institutions or units under the supervision of DJKI. Synergy among these institutions is crucial to ensure that the execution of IPR as fiduciary collateral can proceed in line with the principles of legal certainty and protection of rights (Maranatha & Hartono, 2023; Marthasari, 2024).

The absence of clear execution standards for IPR as fiduciary collateral creates legal uncertainty for both creditors and IPR owners. This uncertainty arises from the lack of official procedures on how IPR can be executed if the debtor defaults, whether through auction, rights transfer, or limited licensing. In practice, financial institutions require certainty in value and clear execution processes so that the collateral they receive provides legal protection. Without this certainty, IPR is considered a high-risk collateral, leading financial institutions to hesitate in accepting it for credit purposes. However, the economic potential of the creative sector is vast and can be optimized if IPR is recognized as a productive asset suitable for collateral. If execution regulations can be established, IPR will

not only be a legal protection tool but also a legitimate and secure financing tool. A structured execution standard will clarify the rights and obligations of all parties and reduce potential disputes. This will provide a concrete solution to the regulatory disharmony that has previously been the primary issue (Fitria, 2022).

To date, Indonesia lacks technical regulations that specifically govern the stages and procedures for executing IPR as fiduciary collateral. The absence of such technical regulations has caused confusion among financial institutions, creative economy actors, and legal officials regarding the execution mechanisms when a debtor defaults. Therefore, the preparation of implementing regulations in the form of Ministerial Regulations or DJKI Head Regulations is a strategic step that needs to be undertaken immediately. These regulations could contain operational guidelines on the registration of IPR collateral, valuation methods, protection of moral rights, and the procedure for auctioning intangible assets. With technical regulations aligned with the Copyright Law and Fiduciary Collateral Law, the execution of IPR collateral will have a strong legal foundation and can increase financial institutions' confidence in accepting IPR as collateral. Moreover, this will serve as a concrete manifestation of the regulatory harmonization that has previously been a major issue in IPR collateral practices in Indonesia (Hentriawan et al., 2024; Putri et al., 2024).

The execution of IPR as fiduciary collateral still faces numerous challenges on the ground. One of the primary issues is the lack of experts who can accurately assess the economic value of IPR. Meanwhile, financial institutions do not fully understand the potential of IPR as collateral, and the legal and technological infrastructure is not yet fully ready to support the execution process. To address this, the first step should be to provide education and socialization to banks, creative business actors, and law enforcement officers so they understand the procedures and benefits of IPR-based collateral. In addition, the Ministry of Law and Human Rights should immediately issue temporary technical guidelines to serve as a reference while waiting for the development of more comprehensive and aligned legal regulations. For the execution standards to function effectively and provide legal certainty, support is needed from regulatory frameworks, expert personnel, and adequate infrastructure. Therefore, the effectiveness of

execution standards is determined not only by written regulations but also by the readiness of human resources and supporting infrastructure in various sectors.

The absence of execution standards in the use of IPR as collateral brings real legal and practical risks. First, financial institutions often reject IPR as collateral because the execution mechanisms are unclear and valuation processes lack standardized guidelines. This leads to potential legal disputes regarding the transfer of economic and moral rights of the creation. Without clear execution guidelines, when a debtor defaults, the lender may face difficulties converting IPR assets into funds, resulting in reputational and legal losses (Ginting & Yetniwati, 2020). Second, intense conflicts between copyright holders and creditors are likely to occur. For example, a musician who uses the copyright of their song as collateral may refuse execution by the bank on the grounds that the use of the work harms the artistic integrity and violates the moral rights, which, according to the Copyright Law (Article 16, paragraph 3), cannot be transferred (Suhartini & Rudy, 2021). In such a scheme, without clear standards regarding value, procedures, or executing institutions, creditors face great uncertainty in executing IPR, while creators feel their moral rights are threatened. Therefore, regulations that integrate valuation guidelines, execution mechanisms, and moral rights protection are necessary to ensure legal certainty and the legitimacy of executing IPR as collateral.

Japan and South Korea can serve as models for formulating balanced IPR execution mechanisms that consider both creditors' legal interests and the protection of creators' moral rights. In Japan, the execution of IPR as collateral is subject to a precautionary principle through a strict registration system and the involvement of professional institutions, such as the Japan Patent Office (JPO), which ensures the legality and economic value of IPR objects (Hara & Haga, 2020). In case of default, creditors do not automatically acquire ownership of IPR but can execute it through a limited licensing system or official auctions supervised by the state, while still respecting the creator's moral rights, as outlined in the Japanese Copyright Act, Articles 113 and 116. Similarly, South Korea, through the Korea Intellectual Property Office (KIPO), implements an appraisal and registration system based on IPR fiduciary collateral, combined with legal

recognition of creators' moral rights in the transfer of economic rights (Rohendi et al., 2023). The execution process is carried out through the granting of exclusive licenses to third parties, not total rights transfer, to maintain the integrity of the work and the creator's reputation. These practices show high legal awareness that IPR is not just an economic asset but also a moral entity that must be protected. From the practices of these two countries, Indonesia can learn the importance of precise technical regulations, the presence of independent valuation institutions, and the use of limited licensing mechanisms in executing IPR to ensure legal certainty while balancing the protection of both moral and economic rights.

In the legal context, the principle of legal certainty is the foundation for building trust between the parties involved in a civil relationship, including fiduciary agreements. This article specifically addresses the critical issue of the need for harmonization between intellectual property regulations and collateral law, especially in the context of using IPR as fiduciary collateral. Without a clear and standardized execution mechanism, the parties do not have a strong legal basis to claim or fulfill their rights if a default occurs (Nilandari & Samsithawrati, 2023). Such uncertainty increases legal risks and directly affects creditors' trust in the value and security of IPR as collateral. This proves that the mere existence of regulations is not enough if they are not accompanied by a legal framework that can be consistently applied. Therefore, formulating execution standards for IPR as fiduciary collateral is crucial as an instrument to strengthen legal certainty. These standards are not only technical but also reflect the state's responsibility to ensure legal protection and create a healthy and transparent financing climate. Without these standards, the potential for disputes and legal uncertainty will continue to grow, hampering innovation and investment in intellectual property-based economic sectors (Setiady, 2014).

Moreover, the harmonization of intellectual property regulations and collateral law is not only necessary for technical reasons but also represents the country's commitment to creating an integrated and adaptive legal ecosystem. In many cases, IPR holds significant economic value and can be a potential alternative source of financing for business actors. However, without clear and structured regulations, IPR risks being underutilized and could lead to legal and

economic losses for its owners (Wulandari et al., 2024). Therefore, it is crucial for policymakers to integrate IPR into the national collateral system while considering the protection of rights holders and certainty for creditors. This integration will increase the confidence of financial institutions and open broader financing access for the creative economy sector. Furthermore, the establishment of adequate execution standards is not just an administrative matter but part of the state's responsibility to ensure legal certainty and foster an inclusive financing system. In the context of globalization and rapid technological developments, the state must design regulations that are responsive, relevant, and capable of anticipating the evolving legal dynamics. Thus, harmonizing intellectual property regulations and collateral law becomes a strategic step to create a legal system that supports the growth of an innovation-based economy.

Considering the various normative and practical challenges outlined, the formulation of execution standards for IPR as fiduciary collateral is a need that cannot be postponed. The lack of clear procedures not only creates legal uncertainty but also represents a real obstacle to utilizing IPR as a productive asset in the financing system. Without firm guidelines, financial institutions will continue to hesitate to accept IPR as collateral, despite its significant economic potential. The ideal execution standards should include technical regulations on registration, valuation, execution mechanisms, and protection of creators' moral rights. With detailed and uniform provisions, fiduciary collateral based on IPR will be more transparent and measurable. This will provide certainty for creditors, fairness for IPR owners, and foster a legal ecosystem that encourages innovation. The state has a responsibility to ensure legal certainty through clear, operational, and time-relevant regulations. In addition to ensuring legal protection, these regulations can act as a catalyst for the growth of alternative financing based on intangible assets. Therefore, regulatory harmonization, along with the formation of responsive execution standards, is not just a normative solution but also a legal strategy to support the sustainable growth of the creative economy.

Conclusion

Based on the discussion above, it can be concluded that although normative regulations regarding the use of Intellectual Property Rights (IPR) as fiduciary collateral have been acknowledged, their implementation still faces significant challenges. The disharmony between the Fiduciary Collateral Law and intellectual property regulations creates legal uncertainty that hinders the utilization of IPR as legitimate collateral. The lack of technical procedures for registration, valuation, and execution of IPR is a major obstacle in realizing the economic value of IPR within financing schemes. In fact, with aligned regulations, IPR can function as a strategic asset to drive the growth of the creative economy. Other challenges also arise from the intangible nature of IPR and the presence of moral rights that cannot be transferred, which complicates its application within the conventional fiduciary system. The weak infrastructure for valuation and the absence of an IPR valuation institution further exacerbate the skepticism in the banking sector. Therefore, a comprehensive harmonization between the Fiduciary Collateral Law, the Copyright Law, and their implementing regulations is necessary to create effective legal certainty. This harmonization must be accompanied by the establishment of measurable technical mechanisms and legal protection for all parties. This step is not only important from a legal standpoint but also strategically essential in opening alternative financing access based on intangible assets like IPR.

Furthermore, to address the technical issues arising from this disharmony, clear, measurable execution standards that accommodate the unique characteristics of IPR as an intangible asset are required. Unlike conventional fiduciary objects, IPR requires more careful legal treatment due to the existence of non-transferable moral rights. The irregularities in the execution mechanism create legal uncertainty that directly impacts the low trust of financial institutions in accepting IPR as collateral. To resolve this, the development of execution standards that include stages for legality, specific valuation, alternative execution forms such as limited licensing, and protection of the creator's moral rights is essential. Institutional support from the Directorate General of Intellectual Property (DJKI), notaries, the State Property and Auction Service Office (KPKNL), and financial institutions is vital to realizing an accountable and

operational execution system. In addition, technical regulations as derivatives of the Fiduciary Collateral Law and the Copyright Law must be promptly established to provide legal clarity for all parties. By learning from practices in Japan and South Korea, Indonesia can adopt an execution system that balances the interests of creditors with the protection of creators. Thus, the execution standards for IPR will not only be a technical instrument but also a reflection of the country's commitment to building an inclusive and just creative financing ecosystem. This step will lay an important foundation for ensuring legal certainty in future intellectual property-based transactions.

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Competing Interest

The authors declare that there are no competing interests.

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