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### COPYRIGHT AS A GUARANTEE OF FIDUSIA IN THE EFFORTS TO ACCELERATE INDONESIA'S CREATIVE ECONOMIC GROWTH

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#### **ABSTRACT**

The intangible subsector creative industry financing scheme as stipulated in Article 16 paragraph (3) of the Copyright Law No. 28 of 2014, namely that copyright can be the object of fiduciary collateral, which is a solution to the constraints of creative entrepreneurs in terms of collateral requirements for obtaining bank credit, due to the exclusive rights of both economic rights and moral rights possessed by copyright owners. The guarantee is regulated by Law No. 42 of 1999 concerning Fiducia. However, in the implementation of these arrangements have not been effectively used. There are obstacles to the lack of concept and legal system based on the principle of legal certainty (*rechtmatigheid*), the principle of legal justice (*gerechtigheid*), and the principle of legal benefit (*zwechtigheid*). related to IPR assets as objects of bank credit guarantees is the main thing that banking financial institutions have not been able to accept copyrights as fiduciary objects for bank credit. This study aims to determine how Copyright can be used as an object of fiduciary security and how the implementation of Copyright as a fiduciary guarantee in an effort to accelerate Indonesia's economic growth. This study uses descriptive qualitative and analytical juridical research specifications with historical legal interpretation methods and legal construction. Data collection techniques carried out with the study of literature to collect and compile data related to the problem under study. Improvements to the Law No. 28 of 2014 concerning Copyright and Law No. 49 of 1999 concerning Fiduciary collateral and related Banking regulations as a copyright-regulated harbor as an object of fiduciary collateral that can be made as a comprehensive debt guarantee as an effort to accelerate creative economic growth.

## INTRODUCTION

The creative work which is one of the creative works that provides a major contribution to the acceleration of Indonesia's creative economic growth. The creator of the creative work is recognized by the public, protected by the government in the form of Intellectual Property Rights (IPR), so that the creator can master his rights with a beneficial purpose.

Crucial constraints of creative economy actors as copyright owners when developing their businesses, require investment funds and venture capital to create, produce and commercialize that are easily accessible and competitive (Mari Eka Pangestu, 2014, p278), considering that the creative process requires large funding to carry out research and development of inventive products or works, thus requiring loan funds, especially loans from financial banking institutions, moreover the data shows that 78.5% of financial sector assets are owned by banks (Santosa, 2018).

Bank Indonesia Regulation No. 14/26 / PBI / 2012 which requires the Bank to provide credit allocations for MSMEs, has been issued by Jo. Bank Indonesia Regulation (PBI) No. 9/6 / PBI / 2007 concerning Asset Quality Rating for Commercial Banks related to credit collateral is one, but creative entrepreneurs have collateral requirements from the Bank. Banks in Indonesia apply the precautionary principle considering banks as intermediary institutions that manage both as intermediary institutions that manage the majority of customer money, then in banking business practices, collateral is a means for banks to obtain debt payments and guarantees are used to encourage debtors to pay off immediately debt. If the debtor is unable to pay, the bank as a creditor will sell collateral

However, creative economic actors as creative industry groups whose outputs are intangible, such as design, film, music, video, information technology, interactive games, animation, visual arts, performance arts, research and development, and tv and radio, which are mostly from the budget it is used for production costs and honoraria. For example, the average budget for a commercial film production in Indonesia is 3 billion rupiah (Bobby Batara, 2010). so that the creative economy actors generally do not have land or buildings to be guaranteed because the biggest investment of a creative business is in the research and creativity of the creative person (Mari Eka Pangestu, 2014, p218).

Related to these obstacles, one of the government's positive breakthroughs as an effort to accelerate the improvement of Indonesia's creative economy is the adoption of the Copyright Act in 2014 to replace the Copyright Law No. 19/2002. This has a positive impact on the music industry, considering that copyright can switch back after 25 years for the case of buying and selling broken up, in addition to the creation of two types of institutions namely Collective Management for copyrights and rights to assemble and the establishment of a transparent information technology-based national music database system and neutral (Mari Eka Pangestu, 2014, p221)

Another positive breakthrough in the efforts to accelerate Indonesia's economic growth is that the publication of Copyright arrangements can be used as an object of Fiduciary Security, according to Article 16 paragraph (3) of Copyright Law No. 28 of 2014. This is one of the answers to problems related to financing regulations, namely the absence of creative industry financing schemes especially intangible subsectors such as music, video, research and development, animation, visual arts, interactive games, information technology and films (Mari Eka Pangestu, 2014, p218). Copyright as collateral for obtaining bank credit. This was supported in the 13th session of the United Nations Commission on International Trade Law (UNCITRAL) in 2008 with material on security rights in intellectual property, which stated that IPR would be used as collateral to obtain bank credit internationally (UNICITRAL, 2011).

The crucial issue is that Copyright as an object of Fiduciary Guarantee in Indonesia in accordance with Article 16 paragraph 3 of the Law on Copyright since promulgated on October 16, 2014 until now has not been effectively used in the banking world in Indonesia, there are various polemics among banking institutions in Indonesia related to the acceptance of copyright as objects of fiduciary collateral.

Whereas in some foreign countries, IPR ownership can be bankable which means it can be used as collateral for bank guarantees. In Singapore, for example, has created space to be able to use IPR as an object of banking collateral. According to the 2014 Singapore Brand Finance data stated by Tan Weizhen, 42% of the value of Singapore's state companies are intangible assets (Trias Palupi, 2017). Singapore has developed the concept / scheme of financing by providing infrastructure and facilitating the development of IPR including the provision of bank credit through The Intellectual Property Office of Singapore designating 3 (three) banks, namely DBS, OCBC, and UOB to provide banking loans (Trias Palupi, 2017.p 34).

Thailand has set up a credit procedure that uses intellectual property, trade secrets as collateral through the Thailand's Business Security Act B.E. 2558. Financial institutions that use IPR assets are SME Bank, Bangkok Bank, Government Saving Bank. The United Kingdom uses Copyright assets as objects of bank credit guarantees, through legal mortgages, fixed charges and floating charges. In financial transactions, registered copyrights take precedence because of their transferability. Transferability rights is one of the characteristics of intangible objects. IPR as an intangible object is very closely related to the nature of transferability that can strengthen the position of IPR as collateral (Trias Palufi, 2017, p35).

The Law on Copyright in 2014 has not been supplemented by implementing regulations that regulate more clearly the qualifications, conditions and criteria for the size of the collateral object values and the 1999 Fiduciary Security Law governing the procedures for implementation as well as related banking regulations that have not yet been fully regulated, these regulations only regulate the scope of the object in general. The incomprehensiveness and

unsynchronization of the material systems and principles of material as well as several related regulations governing fiduciary objects, especially in determining Copyright as the object of collateral, will make it difficult to enforce the fiduciary guarantee law when implemented.

It is necessary to pay attention to the "legal policy" (Seidman, 2012) which will bring consequences to the normative, philosophical, sociological perspective in accordance with the Social Engineering Theory "and the" Legal Culture Theory "from Lawrence M. Friedman, the role of law as to change business actors creative economy and banking institutions (social engineering by law) and "International" by paying attention to positive law in accordance with Seidman's theory (Seidman, 2012) in providing protection of order, justice, and legal certainty according to Marbun's concept. "Modern welfare state" (Marbun and Mahfud, 2006) and according to the utilitarianism of Jeremi Bentham "the greatest happiness for the greatest number of people (Jeremy Bentham, 1977) for copyright owners and financial institutions is an obstacle to efforts to accelerate economic improvement. creative Indonesia.

Based on the background description above, the issues that will be discussed in this paper are as follows. First, how is the arrangement of Copyright as the Object of Fiduciary Security According to Law No. 28 of 2014 concerning Copyright Jo. Law No. 49 of 1999 concerning Fiduciary Guarantees and secondly how the Implementation of Copyright as a Guarantee for Fiduciary Debt in Efforts to Accelerate Indonesian Cretan Economic Growth

### **THEORETICAL BASIS**

Copyright is the creator's exclusive rights in the form of "economical right", has an economic value equivalent to assets. Therefore Copyright as an asset is needed in financing, a legal breakthrough is needed to make copyright a credit guarantee, in line with Hans Kelsen, Gustav Radbruch said that the law must contain 3 (three) values of identity, namely the principle of legal certainty (*rechtmatigheid*), the principle of legal justice (*gerechtigheid*), and the principle of legal usefulness (*zwechtigheid*). As the bearer of the value of justice, law is a measure for the fair or unfair legal system (Satjipto Raharjo, 2000, p54).

The theory of legal certainty proposed by Hans Kelsen, defines law as a norm that emphasizes the "should" or *das sollen* aspects. Roscoe Pound argues that law is a social engineering tool (law as a tool of social engineering). Human interest is a demand that is protected and fulfilled. Roscoe Pound divides state interests as a juridical body, guardians of social interests and personal interests, Bernard L. Tanya, 2010, 154. Copyright, can be used as collateral for debt in accordance with Article 16 paragraph (3) and (4) of Law No. . 28 of 2014 stated that, "Copyright can be used as an object of Fiduciary Guarantee in accordance with the Copyright object at this time it can be used as a debt guarantee through the Fiduciary scheme in accordance with Law No. 42 of 1999.

Government's breakthrough efforts by establishing an intellectual property-based financing scheme for financial institutions through Article 16 of the

Copyright Law No. 28 of 2014 encourages banking financial institutions and creative economic actors to work together in an effort to increase the growth of Indonesia's creative economy as a social fact (Mariana Molnar Gabor, 2012). Therefore, the provisions of the creative industry and banking institutions (law in books and law in action) should be prioritized.

The applied law must be in accordance with the principles of banking prudence, justice, order and legal certainty for banking financial institutions. The law is used as a means to direct and foster changes in business people, namely the law is not passive but must be able to be used to change the circumstances and conditions of the creative economy and banking institutions in the direction of the goal namely increasing the growth of Indonesia's creative economy (Saiful Anam, 2013). pay attention to "legal policy" (Seidman, 2012) which examines four perspectives namely juridical normative, philosophical, sociological "and" International ", (Nina Nurani, 2014), according to Roscoe Pound with " Social Engineering Theory "and" Legal Culture Theory "from Lawrence M. Friedman.

The role of law to change the creative economy business people and banking institutions (social engineering by law) that the law is not a static state but a process (Saiful Anam, 2013) in an effort to increase the growth of Indonesia's creative economy. This also supports the UNCITRAL "International" factor, in which copyright as an object of collateral to obtain bank credit internationally, legislation in each country that is willing to regulate especially the substance of the loading, binding, and registration of the right to guarantee in intellectual property.

Therefore it is necessary to make legal reform in the form of improvements to Law No. 28 years 2014 Copyright and Law No. 49 of 1999 concerning Fiduciary Guarantees are harmonized so that harmonization can be implemented "effectively" (Mariana Molnar Gabor, 2012), "progressive", "uniform", "universal" (Sajipto Rahardjo, 2010) to meet the characteristics of the modern legal system, according to "Development Law Theory" Mochtar Kusumaatmadja that the renewal of these laws must be used as "Community Development Tools". According to Sunaryati Hartono in the "Theory of Legal Development" states the improvement of the legislation is done by holding something that did not yet exist (Sunaryati Hartono, 1991).

## **RESEARCH METHODS**

This study uses descriptive qualitative and analytical juridical research specifications with historical legal interpretation methods and legal construction. Data collection techniques are carried out with a literature study to collect and compile data related to the problem under study, referring to secondary and tertiary data sources as supporting data.

This research is expected to be able to examine juridical support in the form of banking-related regulations including Bank Indonesia Regulation No. 14/26 / PBI / 2012, which requires banks to provide credit allocations for MSMEs, has been issued, Law No. 28 of 2014 concerning Copyright and Law No. 42 of

1999 concerning Fiduciary and related IPR assets as objects of bank credit guarantees or revision of Bank Indonesia Regulation (PBI) No. 9/6 / PBI / 2007 concerning Asset Quality Rating for Commercial Banks related to credit collateral is one of the main factors why banks have not been able to accept IPRs as objects of bank credit guarantees as well as the existence of copyright appraisal institutions in Indonesia.

Normative jurisdiction, which is to trace, examine, and study the object through its legal principles through national and international legislation harmonized to be harmonized to support the acceleration of creative economic growth. The descriptive research specification is a qualitative juridical analysis with the interpretation of historical, sociological, and legal construction methods referring to principles, national and international legal norms, as secondary primary data and reviewing library data. Primary data clarifies the study of secondary data.

### *Copyright as an Object of Fiduciary Guarantee*

Bank Indonesia Regulation No. 14/26 / PBI / 2012 requires bank financial institutions to provide credit allocations for MSMEs, but the guarantee requirements of bank financial institutions that are difficult to fulfill by MSME entrepreneurs are an obstacle, given the lack of land and building assets as collateral objects, because the investment is the most the magnitude of a creative endeavor lies in the research and creativity of the creative person (Mari Eka, 2014, p218).

Banks as financial institutions apply the precautionary principle considering that banks as intermediary institutions manage the majority of customers' money, so in banking business practices, collateral is a means for banks to obtain debt payments and guarantees are used to encourage debtors to pay off debts immediately. If the debtor is unable to pay, the bank as a creditor will sell collateral.

To meet the demands of the needs of the community and business people, the government has renewed Act Number 19 of 2002 with Act Number 28 of 2014 concerning Copyright. In Article 16 paragraph (3) the latest Copyright law expressly states that copyright can be used as a fiduciary guarantee and article 16 paragraph 1 states that copyright is an intangible movable object. Therefore, the legal requirement for copyright as a Fiduciary guarantee refers to Law No. 49 of 1999 concerning Fiduciary Guarantees.

Copyright is the exclusive right of the creator that arises automatically based on the declarative principle after a work is realized in real form without reducing restrictions in accordance with statutory provisions, according to article 1 paragraph 1 of Copyright Law No. 28 of 2014. As an exclusive right, copyright can be used as an object of fiduciary security. The exclusive right in the form of "economic right" has economic value. Economic value is obtained by the creator / copyright holder from the use of economic rights over the object of his creation, for example getting rewards for the use of the object of

his creation or getting royalties if a contract / license agreement occurs. Thus the party that has the right to guarantee the rights of his creation is the creator or copyright holder.

Copyright has fulfilled one of the conditions as a fiduciary object, that is, an object that can be transferred. According to Article 1 paragraph 4 of the 1999 Fiduciary Act, copyrights may be transferred or transferred in whole or in part through inheritance, grants, endowments, wills, written agreements or other justified reasons in accordance with statutory provisions stipulated in articles 16 to Article 18 of the 2014 Copyright Law. Article 18 of the 2014 Copyright Law states that "Book Creations, and / or all other written works, songs and / or music with or without text transferred in broken sale agreements and / or transfers without deadline. Copyright returns to the Author when the agreement reaches a period of 25 (twenty-five) years. " What is then explained in the Elucidation of Article 18, "that" sell off "is an agreement that requires the Author to surrender his Work through payment in full by the buyer so that the economic rights over the Work are transferred entirely to the buyer indefinitely, or in practice known as sold flat. " Thus the article protects the creator from the sold flat system.

Copyright as one of the collateral objects should be transferred and have a sale value (economic), because if the debtor defaults (continued) followed by the creditor to execute the collateral for the purpose of paying off the debtor's debt, but it turns out if the collateral is not guaranteed can be transferred and does not have a sale value, it will be detrimental to the creditor. " (J. Satrio, 2000 p 13).

What cannot be transferred in a copyright is a moral right, because the singular nature attached to the work even though it has been transferred in various transitional ways regulated in the Act. The Elucidation of Article 16 paragraph (2) of the 2014 Copyright Law states that what is meant by "transferable or transferable" is only economic rights, while moral rights remain inherent in the Creator. Transfer of Copyright must be made clearly and in writing both with or without a notarial deed. Vollmar wrote, "for surrender of immovable objects can be given in real terms, while for immovable objects surrender is done by registration certificate." (Saidin, 2013 p 66) This applies to Copyright, Copyright can not be surrendered clearly because of its sole nature with the creator and is intangible even though it is a movable object, so the submission can only be done through a registration certificate. (Article 16 paragraph (1) of the 2014 Copyright Law).

The copyright that is used as the object of the guarantee must be registered with the Fiduciary Registration Office, Article 11ayat 1 Jo. Article 12 paragraph 1UUNo. 42 of 1999 concerning Fiduciary Guarantees so that guarantee holders and copyright holders receive protection in the form of Fiduciary deeds as proof of legal certainty guarantees for holders of guaranteed objects, namely to have preferential rights, prior to payment if the fiduciary provider defaults or bankrupt and is easy in carrying out the

execution of the economic value of the rights copyright can be done through the parate executie agency.

***Implementation of Copyright as a Fiduciary Credit Guarantee in Efforts to Accelerate Indonesia's Creative Economic Growth.***

Copyright Law No. 28 of 2014 as a legal system that regulates copyrights as fiduciary credit guarantees to date has not been effectively used by banking institutions in Indonesia, so it has not been effectively used as a solution to the problems of the public, business people related to intangible subsector creative industry financing schemes. In line with Friedman's opinion that the legal system is said to be effective if it can solve "social problems" (Seidman, 2012) that is able to solve the problem of order, justice, assurance of legal certainty so that it can be used as an effort to increase Indonesia's creative economic growth. In Friedman's opinion that the legal system has not functioned as a result of not fulfilling three important elements namely (Mariana Molnar Gabor, 2012); first, the substance of the law is the law that lives in society; second; legal system structure and third; legal culture as a driver of the effectiveness of the legal system.

First the "legal substance" in question is the regulation of Law No. 28 of 2014 concerning Copyright is seen by financial institutions as not yet comprehensive in protecting it, partly due to:

1. Not yet set the qualifications and conditions of copyright objects as fiduciary collateral that can be used as collateral for debt. The law only regulates the classification of types of creation.
2. Copyright as intangible collateral will be difficult to measure and estimate its economic value through market prices unlike intangible objects.
3. There are no regulations regarding the registration of Copyright guaranteed through fiduciary, because there are no instruments that support the implementation of these regulations, such as procedures for carrying out measurements of economic value and procedures for execution of copyrights.

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there are no instruments that support the implementation of these regulations, such as procedures for carrying out measurements of economic value and procedures for execution of copyrights.

Second, the "institutional structure", namely the need for a third party as an appraisal guarantee agency / appraisal of the economic value of copyright, according to Seidman, Seidman and Abeysekere need to pay attention to the objective factors in the form of "processes" that underlie the decisions of banking institutions and business actors to be willing to implement (Seidman, 2012) Copyrights as credit guarantees are in accordance with "capacity," (Seidman, 2012), namely the ability of implementing related institutions as supporters, especially the Collective Management Institution (LMK) established by the Director General of Intellectual Rights at the Ministry of Law and Human Rights as an institution that provides appraisal / assessment of The economic value of the object of copyright guarantees includes regulating the income of commercial artists, providing data on appraisal institutions for the performing rights of creators / copyright holders, collecting royalties from the users of the works of musicians / singers who are members of each LMK. Examples of LMK in Indonesia include: Karya Cipta Indonesia (KCI), Royalty Anugerah Indonesia (RAI), and Wahana Musik Indonesia (WAMI).

At this time, the LMKN do not yet have a standard assessment standard. Therefore in the management of royalties and the calculation of the percentage of royalties still not uniform and transparent. Likewise, to date LMK has not yet audited. Therefore, the establishment of the National Collective Management Institute (LMKN) as a higher body than the LMK is expected to play an auditor role. At present LMKN does not have optimal performance because the system is still not fully developed, for example how to calculate the amount of royalties for creators, singers, producers, and all parties involved in the work that are representative and fair, so that LMKN is able to realize the welfare of musicians related to royalties, but does not burden users of works from talented Indonesian musicians. Therefore we need synergy between LMK and LMKN so that an attractive institution is formed to distribute royalties.

Third, the "legal culture" as a driver of the effectiveness of the legal system in efforts to prevent and overcome problems according to Seidman categorized as "subjective" factors in the form of "ideology", namely values and attitudes (Seidman, 2012) financial institutions and other stakeholders including the notary profession do not know and understand well regarding:

1. Intellectual property systems and how to value intellectual property, because banking regulations do not explicitly state that intellectual property can be used as an object of collateral.
2. Intellectual Property Market (IP Market) which can be a reference for valuation as a solution in the event of default. IP Market for film, for example, is shaded by the AKATARA institution.

Observing these problems, faced with efforts to accelerate the growth of the creative economy in Indonesia, it is necessary to reform the legal system of human security in Russia which is currently regulated in Law No. Fiduciary Guarantee. 49 of 1999 to harmonize with Copyright Law No. 28 of 2014 which dynamically changes as a breakthrough in the efforts to accelerate the growth of Indonesia's creative economy by paying attention to "legal policy" (Seidman, 2012), namely examining four perspectives namely juridical normative, philosophical, sociological "and" International ", (Nina Nurani, 2014 ) by paying attention to positive law and customary law in accordance with Seidman's theory (Seidman, 2012) the need to preserve cultural values and revitalization of customary law and local wisdom as creative works that have strategic potential in efforts to increase the acceleration of Indonesia's creative economic growth.

The first factor is "juridical normative", which is binding as follows:

1. Improvements to Law No. 28 of 2014 Copyright and updates to Law No. 49 of 1999 concerning Fiduciary Guarantees and harmonized with the issuance of relevant banking laws and regulations so as to create harmonization governing the qualifications and conditions of Copyright objects as fiduciary guarantees that can be used as debt guarantees.
2. It is necessary to issue implementing regulations which regulate in detail the implementation of Copyright registration as an object of fiduciary security, including the regulation of procedures for implementing and evaluating the economic value of Copyright as well as how to execute Copyright.
3. Clear regulations must be issued and comprehensive duties of the National Collective Management Institute (LMKN) as the highest institution related to the guarantee appraisal can be credible and accountable in harmonizing musicians' expectations with regard to royalty without without burdening users of the work.

Second, the "institutional structure", namely the need for a third party as an appraisal guarantee agency / appraisal of the economic value of copyright, according to Seidman, Seidman and Abeysekere need to pay attention to the objective factors in the form of "processes" that underlie the decisions of banking institutions and business actors to be willing to implement (Seidman, 2012) Copyrights as credit guarantees are in accordance with "capacity," (Seidman, 2012), namely the ability of implementing related institutions as supporters, especially the Collective Management Institution (LMK) established by the Director General of Intellectual Rights at the Ministry of Law and Human Rights as an institution that provides appraisal / assessment of The economic value of the object of copyright guarantees includes regulating the income of commercial artists, providing data on appraisal institutions for the performing rights of creators / copyright holders, collecting royalties from the users of the works of musicians / singers who are members of each LMK. Examples of LMK in Indonesia include: Karya Cipta Indonesia (KCI), Royalty Anugerah Indonesia (RAI), and Wahana Musik Indonesia (WAMI).

The three "sociological" factors are reviewing Copyright as an object of fiduciary collateral that can be used as a debt guarantee needs to be protected by legal certainty if registered (Nina Nurani, 2014), has clear arrangements regarding qualifications, conditions, measure of collateral value and manner of execution, if debtor defaults, according to Roscoe Pound with "Social Engineering Theory" and "Legal Culture Theory" from Lawrence M. Friedman, the role of law as to change the creative economy business people and banking institutions (social engineering by law) that law is not a static state but a process (Saiful Anam, 2013) in an effort to increase the growth of Indonesia's creative economy.

Government's breakthrough efforts by establishing an intellectual property-based financing scheme for financial institutions through Article 16 of the Copyright Law No. 28 of 2014 encourages banking financial institutions and creative economic actors both in their interpretation and application to work together in an effort to increase Indonesia's creative economic growth as a social fact (Mariana Molnar Gabor, 2012). Therefore, what needs to be prioritized is how to implement these provisions by creative industry business people and banking institutions (law in books with law in action). The applied law must be in accordance with the principles of banking prudence, justice, order and legal certainty for banking financial institutions. The law is used as a means to direct and foster changes in business people, namely the law is not passive but must be able to be used to change the circumstances and conditions of the creative economy and banking institutions in the intended direction of increasing the growth of Indonesia's creative economy (Saiful Anam, 2013).

The four "International" factors are UNCITRAL. With the 13th session of UNICITRAL held on 19-23 May 2008 Working Group VI on Security Interest in New York. Copyright as an object of collateral in intellectual property will be used as collateral to obtain bank credit internationally. To realize this legal concept, legislation is needed in each country that is willing to regulate especially the substance of loading, binding, and registration of rights to guarantees in intellectual property.

Therefore it is necessary to make legal reform in the form of improvements to Law No. 28 of 2014 Copyright and updates to Law No. 49 of 1999 concerning Fiduciary Guarantees Bank Indonesia Regulation No. 14/26 / PBI / 2012 which requires the Bank to provide credit allocations for MSME Jo. Bank Indonesia Regulation (PBI) No. 9/6 / PBI / 2007 concerning Asset Quality Rating for Commercial Banks, harmonized with the issuance of related banking laws and regulations so that harmonization is realized and that the regulation can be implemented "effectively" (Mariana Molnar Gabor, 2012), "progressive", "uniform", "Universal" (Sajipto Rahardjo, 2010) fulfills the characteristics of the modern legal system, it is necessary to develop institutional valuation guarantees and other stakeholders and optimize professionalism, be able to solve" social problems "ie creative economic actors in obtaining loans based on intellectual property guarantees will have an impact on the realization of increasing creative economic growth.

The legal reform not only prioritizes rules but also behavior (Mariana Molnar Gabor, 2012) by directing the "mind set" of banking financial institutions from the "mind set" of a guarantee institution based on conventional collateral objects with tangible collateral objects towards "mind set" intangible guarantees in modern democratic societies to realize increased creative economic growth. Therefore, in line with the "Development Law Theory" according to Mochtar Kusumaatmadja that the reform of the law must be used as "Community Development Tools". According to Sunaryati Hartono in the "Theory of Legal Development" states the improvement of the legislation is done by holding something that did not yet exist (Sunaryati Hartono, 1991). Likewise with regard to the regulation of the Copyright Law, there needs to be an improvement in the substance of the rules as described above, so that it becomes more adequate to guarantee legal certainty for business actors, banking financial institutions and all other stakeholders with guaranteed rights.

## CONCLUSIONS AND SUGGESTIONS

### CONCLUSION

a. Copyright is an exclusive right to have economic value (economical right) fulfilling the object of the object Fiduciary Guarantee can be transferred must be registered with the Fiduciary Registration Office, so that the guarantee holder and the copyright owner get protection, in the form of Fiducia deed as proof of legal certainty guarantee for the holder of the object guaranteed, namely has preferential rights, the payment is prioritized if the fiduciary provider is defaulted or bankrupt. When the execution of economic value is carried out through parate executies obtained.

b. Copyright as an object of fiduciary security hasnot been effectively used by banking institutions in Indonesia as a means of financing solutions for intangible subsector creative industry financing as a solution for creators who need loan funds in an effort to improve the creative economy. The related obstacle is that the qualifications and conditions of copyright object have not been regulated, the criteria for measuring the economic value of the collateral object and the absence of rules for implementing copyright registration procedures, valuation of the economic value of copyright, and procedures for executing copyright when debtors default.

### SUGGESTION

a. Required improvement of the legal system governing Law No. 28 of 2014 concerning Copyright Jo. Law No. 49 of 1999 concerning Fiduciary guarantees and Bank Indonesia Regulation No. 14/26 / PBI / 2012 which requires Banks to provide credit allocations for MSMEs as well as Bank Indonesia Regulation (PBI) No. 9/6 / PBI / 2007 concerning Asset Quality Rating for Commercial Banks to harmonize and synchronize the requirements of copyright objects as fiduciary guarantees that can be used as debt guarantees based on the principle of legal certainty (*rechtmatigheid*), the

principle of legal justice (gerechtigheid), and the principle of legal benefit (legality zwechtigheid).

b. Implementation regulations need to be issued which regulate in detail the implementation of copyright registration as a collateral object through fiduciary in the form of regulations related to the procedure of its implementation, valuation of the economic value of copyright along with how to execute copyright. Comprehensive regulations need to be issued regulating appraisal institutions with guarantees of copyright as objects of credit guarantees, among others, the regulation of the National Collective Management Institute (LMKN) as an effort to accelerate the growth of Indonesia's creative economy.

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