

Implementation of Industrial Design Rights Registration of Bone Carving Handicrafts in Tampaksiring Tourism Village of Gianyar District

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ABSTRACT

The industrial design of bone carving crafts in Tampaksiring Tourism Village, Gianyar Regency, needs legal protection to safeguard the rights of designers, prevent misuse, and establish clear legal obligations. This aligns with Law Number 31 of 2000 on Industrial Design. However, not all bone carving designs have obtained protection due to limited registration. This study examines the implementation and effectiveness of industrial design rights registration for bone carving crafts in Tampaksiring Tourism Village. The research adopts an empirical legal method with qualitative analysis, using non-probability and purposive sampling techniques. Theories of legal effectiveness, legal position, legal authority, and legal protection frame the study. Two main issues are addressed: 1) How is the implementation of industrial design rights registration against bone carving crafts in Tampaksiring tourist village, Gianyar regency. 2) How is the effectiveness of legal protection of industrial design rights to bone carving crafts in Tampaksiring tourist village, Gianyar regency. Findings reveal that implementation is hindered by Law awareness among craftsmen about the importance of registering their designs. This is due to inadequate coordination and lack of socialization on the benefits of registration for legal protection. Many craftsmen believe registration is irrelevant to production, leading to unregistered designs that lack legal standing. Consequently, violations such as plagiarism cannot be legally addressed, leaving craftsmen vulnerable. The study concludes that the legal protection of industrial design rights for bone carving crafts in Tampaksiring is ineffective. The mindset of craftsmen, who perceive registration as unimportant and doubt its benefits, further exacerbates the problem. This lack of registration undermines the enforcement of legal protection and the recognition of exclusive rights. For effective protection, there is a need for increased awareness, better socialization, and improved coordination regarding industrial design registration.

Keywords: Legal Protection, Industrial Design, Bone Carving Crafts

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1. INTRODUCTION

Intellectual property is a right that is private and has its own privileges because it has an exclusive nature and also has economic value, therefore any party is

prohibited from copying, using, and using in trade an intellectual work without the permission of the creator.¹ In general, termination of employment occurs at the request of the employer, but it can also be

at the request of the worker / laborer. Even under certain conditions, termination of employment can occur against the wishes of both parties.

The rapid development of the global economy requires each country to be able to compete with each other so that its economic existence is not eliminated from the world economic community. One of the competitiveness is by utilizing the role of industrial design rights which is part of intellectual property rights. Article 1 point 1 of Law Number 31 Year 2000 on Industrial Design states that Industrial Design Right is a creation about the shape, configuration, or composition of lines or colors, or lines and colors, or a combination thereof in the form of three dimensions or two dimensions that give an aesthetic impression and can be realized in three-dimensional or two-dimensional patterns and can be used to produce a product, goods, industrial commodities, or handicrafts.² By registering an industrial design, the product automatically gets legal protection from plagiarism and can create healthy and honest competition. Now there is one of the new strategies in the tourism sector in packaging home handicrafts (home industry) as one of the indicators of supporting tourism, namely the development of Tourism Villages. With the natural wealth and diversity of art and culture of the Indonesian nation, the tourist village can be one of the tourism objects that can be uploaded. 1 One of the developing tourist villages is Tampaksiring Tourism Village located in Tampaksiring District, Gianyar Regency.

Tampaksiring tourist village has a variety of original cultural arts of the Tampaksiring village community, which is

also famous for its diverse home industry products, because there are indeed many home industries in Tampaksiring tourist village. This home industry produces a variety of souvenirs where one of the most popular is bone carving crafts as souvenirs for tourists.

The number of home industries has also increased the economic income of the community in Tampaksiring tourism village. In the future, of course, there will be many threats where one of them is the threat to these home craft products, and there are still many bone carving crafts that have not been registered for industrial design rights by the craftsmen. Of course, this can be a threat of infringement of intellectual property rights which can certainly harm the carving craftsmen themselves.

Researchers in this case will put forward 2 (two) problem formulations that are the subject of discussion in this study, namely, among others:

1. How is the implementation of industrial design rights registration against bone carving crafts in Tampaksiring tourist village, Gianyar Regency?
2. How is the effectiveness of legal protection of industrial design rights to bone carving crafts in the tourist village of Tampaksiring, Gianyar Regency?

This research uses several legal theories as an analysis of the formulation of the problems raised. The legal theories in question are the theory of legal effectiveness and the theory of legal position to analyze the formulation of the first problem, as well as the theory of legal

authority and the theory of legal protection to analyze the formulation of the second problem.

2. METHODS

2.1 Types of Research

This type of research is empirical legal research where the research is based on the actual situation or the real situation in society with the intention of obtaining the facts of the data needed in the research, to identify each problem in order to find a solution to the problem.¹

The type of approach used in this research is a qualitative approach that produces descriptive data analysis.

This research uses legal materials sourced from interviews and literature studies, namely primary data in the form of data obtained directly from respondents when interviews are conducted and secondary data derived from legislation (rules of law) and books as well as scientific legal journals and sources derived from the internet relating to the protection of industrial design rights.

The technique of analyzing the data that has been collected is done by classifying, describing, interpreting, evaluating and arguing the data from the interview. The data that has been collected is then processed by conducting a process of collection, reduction, exposure, verification and then concluded based on the facts encountered in the field related to the issues raised by using the data analysis method and drawing conclusions based on the results of the analysis related to the data encountered in the field.

3. RESULT AND DISCUSSION

3.1 Implementation of Industrial Design Rights Registration against Bone Carving Crafts in Tampaksiring Tourism Village, Gianyar Regency.

In the general explanation of the Law of the Republic of Indonesia Number 31 of 2000 concerning Industrial Design, it is stated that Indonesia as a developing country needs to advance the industrial sector by increasing competitiveness. According to Dharmawan, et al “One of the competitiveness is by utilizing the role of industrial design which is part of intellectual property rights. Cultural diversity combined with efforts to participate in the globalization of trade, by also providing legal protection of industrial design will accelerate national industrial development.¹ Industrial Design Protection is obtained through a registration system, in this case it means that the Designer, namely a person or several people who produce new Industrial Design works will obtain legal protection for his work or will obtain Industrial Design Rights if he has registered his design work at the Directorate General of Intellectual Property Rights. So, the object/scope of Industrial Design is the result of intellectual work in the form of creations about shape, three-dimensional or two-dimensional, has aesthetic value, and can be realized in three-dimensional patterns and is able to produce industrial products or commodities or handicrafts, which in this case is in the form of bone carving crafts. While the subject of Industrial Design is the Designer or other parties who receive Design Rights from the Designer.

The principle of novelty in Industrial Design is distinguished from the principle

of originality in Copyright. The notion of New or "Novelty" is established by a first registration being filed and at the time the registration is filed, no other party can prove that the registration is not new or that there has been a previous disclosure/publication, either written or unwritten."

In order for industrial design to receive protection in accordance with Law Number 31 Year 2000 on Industrial Design Article 1 paragraph (3) confirms that: "Application is a request for registration of industrial design submitted to the Directorate General". Thus, the law requires registration before the design obtains legal protection. Registration is carried out at the Office of the Directorate General of Intellectual Property Rights and to process the application for registration, an examination is held in advance by officers at the Office of the Directorate General of Intellectual Property Rights. Tampaksiring Tourism Village has several residents who work in the field of one of them is the Industrial Design of bone

carving crafts, which is certainly expected to improve the economic welfare of the people in the village. For people in Tampaksiring tourism village, being a worker as an Industrial

Design designer is one of the means to increase competitiveness in the scope of national and international trade. Based on the Theory of Legal Effectiveness, where a law is expected to have a positive value, that those entitled by law can obtain their rights. So that every bone carving craftsman has the same rights in the registration of industrial design rights, where it is expected that the legal effectiveness of a legislation in protecting the rights of the craft industry so that if there is a violation of industrial design rights on bone carving work, then law enforcement can be implemented. Based on the results of research and interviews, it can be seen that the community of bone carving craftsmen in Tampaksiring Village has not registered their Industrial Design Rights to date, due to the lack of understanding and awareness of craftsmen.

Table I
Respondents

Total Number Bone Carving Craftsmen	Number of crafters who want to register their industrial design rights	Number of crafters who do not want to register their industrial design rights
28 groups crafters	8 groups	20 groups

Based on interviews conducted by researchers with Tampaksiring Perbekel Made Widana, it is found that most

craftsmen consider that registration of industrial design rights does not really affect the business and work done, where from the informants that researchers met,

each informant has been pursuing bone carving crafts for more than 15 years, from 28 existing craftsmen groups only 8 groups have the desire to register their industrial design rights but do not understand what the process is like.

If you look at these problems and are associated with the Theory of Legal Position where legal position is a determinant of how legal subjects or legal objects can carry out activities that are allowed or not allowed. Where if bone carving craftsmen do not register their industrial design rights it will open up opportunities for unfair business competition, where the law does not have a definite position in protecting intellectual property in the form of industrial design so that it results in not getting legal protection. According to Article 10 of Law No. 31 of 2000 on industrial design states that industrial design rights are granted on the basis of an application, then Article 13 states that an application can only be submitted for one industrial design or several industrial designs which constitute one industrial design unit or which have the same class. Therefore, this is where the need to see the extent of legal effectiveness and legal position through the process of registration of industrial design rights in accordance with the requirements and regulations in force in the State of Indonesia, so that when there is a violation of industrial design rights, the presence of law has a definite legal position and certainly obtain protection from the law itself in accordance with Law number 31 of 2000 concerning industrial design.

3.2 Factors Affecting the Implementation of the Registration Process of Industrial Design Rights Against Bone Carving Crafts in Tampaksiring Tourism Village

Not all new industrial designs can be granted rights to industrial designs and legal protection, Article 4 of the Industrial Design Law Number 31 of 2000 concerning Industrial Design regulates industrial designs that conflict with applicable laws and regulations, public order, religion, and decency. In addition, new industrial design rights will be granted to industrial designs that are novelty (new) and have been registered.

It is known that the efforts of craftsmen in Tampaksiring Village in protecting the results of industrial design of bone crafts made from animal bones are legally craftsmen have not done protection in the sense that craftsmen have not registered their industrial designs. Even from the management of the tourist village to the local office there has been no socialization of industrial design rights, on the grounds that there is no budget and instructions from the center.

Based on the results of interviews with several craftsmen, almost all entrepreneurs or bone craftsmen in Tampaksiring Village do not have official legal protection from the Directorate General of IPR through registration at the Ministry of Law and Human Rights, especially in the field of Industrial Design. Many reasons why the craftsmen do not register their designs, most of the craftsmen in Tampaksiring Village have never heard and know about the term IPR, especially industrial design, because there is no socialization conducted by the industrial body, and many craftsmen are not too concerned about it because there is no time to take care of their industrial design registration and also due to cost factors. For them as long as the livelihood is obtained

every day and sufficiency for the family is enough. From the facts that researchers get in the field, it appears that the implementation of the process of registration of industrial design rights has not been running effectively due to the factors that researchers have described, this is evident from the many craftsmen in Tampaksiring Village who do not have individual awareness in registering their industrial designs.

3.3 Basis of Legal Protection of Industrial Design Rights

In the creation of a design, of course, this needs to get protection or regulation of legal protection of industrial design in order to protect the invention of the design itself from activities that can be detrimental. Industrial designs that have been granted exclusive rights have also automatically protected the interests of the public, because the public can distinguish by eye which goods have been protected with industrial design certificates.

It is necessary to be observed, in the facts developing in the community, that in a business competition, there has been an infringement, either secretly or openly against industrial designs owned by legal entities or individuals belonging to others. In reality, there is a copying or imitation of a certain form of goods, which is carried out by legal entities or individuals to seek profitable business opportunities by violating the ownership of designs that have been created by other entities or individuals before.

Legal protection against holders of industrial design rights, must first be proven and based on the existence of an industrial

design certificate issued by the Office of the Directorate General of Intellectual Property Rights through the Ministry of Law and Human Rights of the Republic of Indonesia, with the industrial design protection period is for 10 (ten) years.¹

Industrial design certificate is used to protect the subject and object of the exclusive right on industrial design. Imitation or plagiarism of an industrial design right must result in material losses, because industrial design rights are an intellectual property right that has business value, so that business people, especially the inventor of an industrial design that is expected to have a positive impact on the business side, will definitely apply for exclusive rights to an industrial design found to the government, with the hope that an industrial design that has been discovered is granted industrial design rights, so that later it can be protected by the state.

With the exclusive right, the designer/holder of industrial design right can defend his/her right to anyone who seeks to abuse and the designer has the widest possible right to use the right, for personal or company interests as long as it is not contrary to the public interest. Since the enactment of Law No. 5 of 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition and Law No. 31 of 2000 on Industrial Design, it is only a matter of how to optimize the effectiveness of the law. ¹ With the optimization of legal effectiveness, the interests of society become the only goal.

Overlapping industrial design registration still often occurs in Indonesia either with copyright or patent even trademark. This is

evidenced by the number of lawsuits to cancel the registration of industrial designs in the Commercial Court by parties who feel harmed by their industrial design rights. The lack of firmness of the provisions in the Industrial Design Act has not been able to optimize the effectiveness of the law to assess the element of novelty and often leads to conflicts in determining indicators of novelty of industrial designs. Therefore, in practice, the interpretation of the provisions of the article is left to the judge in court in the event of a dispute. However, in cases of invalidation of registered industrial designs, the judges only examine based on the formal truth alone in the industrial design certificate.

Here it can be seen that the protection of industrial design rights is still not effective enough to be carried out considering the occurrence of several cases as the author described earlier, plus if the bone carving craftsmen do not register their industrial design rights, of course this results in the absence of legal authority in protecting the industrial design rights. Where based on the Theory of Legal Authority, authority has a very important position in the study of administrative law, where authority is what is called formal power, namely the power granted by law.

If it is related to the case that the author encountered in Tampaksiring tourism village related to industrial design rights of bone carving craftsmen, based on the data obtained by the author, there is one case where the industrial design of a carving craftsman was duplicated and traded freely in several stalls of the Sukawati art market by unknown persons at a cheaper price.

From the problems that researchers encountered, here the legal authority in

protecting industrial design rights is not able to run effectively so that it cannot protect the industrial design rights of the craftsmen. This happens because the craftsmen do not register their industrial design rights in accordance with the provisions of Law Number 31 of 2000 concerning Industrial Design.

The case shows how important it is to register industrial design rights. By registering industrial design rights, bone carving craftsmen will get benefits in the form of legal legality, preventing counterfeiting/duplicate craft products, increasing commercial value, resaleable designs and creating healthy competition.

3.5 Effectiveness of Legal Protection of Industrial Design Rights of Bone Carving Crafts in Tampaksiring Tourism Village

Related to the legal protection of industrial design rights on bone carving in Tampaksiring tourism village, where an industrial design right can be protected by law if the industrial design has been registered and has legal legality, so that the law has definite authority when there is an act of violation of industrial design rights. That is where the legal protection of industrial design rights of bone carving crafts can run more effectively. In fact, from the research conducted, it turns out that violations in the field of industrial design have very often occurred and befall the carving craftsmen, while the law cannot protect because the industrial design is not registered, so the law does not have the authority to take action against the perpetrators of plagiarism or who deliberately duplicate the industrial design rights of bone carving crafts in

Tampaksiring tourism village because there is no legal legality related to the registration of industrial design rights of bone carving crafts in Tampaksiring tourism village.

Based on these problems, it can be said that the effectiveness of legal protection of industrial design rights to bone carving crafts in Tampaksiring tourist village has not been effectively realized. This is because most craftsmen do not have an individual desire to register the industrial design rights of the products they produce, this is due to the point of view that considers that the process of registering industrial designs is very difficult and long and spends a lot of money for those who are still engaged in MSMEs, the lack of information that is socialized regarding the importance of registration of industrial design rights is also another factor that affects the understanding of industrial design among bone carving craftsmen in Tampaksiring tourist village.

Although Indonesia already has a legal regulation in the field of Industrial Design, in practice the regulation has not been able to fully support the development of creative industries in Indonesia. So it can be concluded that the understanding of craftsmen and even those who have become large companies about Industrial Design Rights and the importance of the registration process is still Law. This is evident from the many craftsmen in Tampaksiring Village who do not register their industrial designs.

4. CONCLUSIONS

Based on the research that has been conducted, the researcher can conclude, among others:

1. The implementation of industrial design registration of bone carving crafts in

Tampaksiring tourist village of Gianyar Regency is evident from the small awareness of individual craftsmen to register industrial design rights of craft products produced, factors affecting the implementation of industrial design registration in the bone craft industry in Tampaksiring tourist village of Gianyar Regency due to lack of awareness of craftsmen and lack of coordination and socialization regarding the importance of registration of industrial design rights to obtain legal protection.

2. The effectiveness of legal protection of industrial design rights to bone carving crafts in Tampaksiring tourist village is not effective and optimal. It is caused by the mindset of craftsmen who think the process of registering industrial design rights is not too important and does not really affect the production of crafts produced, so that when a problem arises related to violations of industrial design rights in this case plagiarism of bone carving designs, the law does not have the authority to take action against these violations and legal protection of the carved crafts cannot be realized because the bone carving crafts do not have legal legality. Bone Carving Craftsmen in Tampaksiring Village, Gianyar Regency assume that the Certificate of Industrial Design Rights has not guaranteed legal protection for holders of industrial design rights which are their exclusive rights so that there are still many doubts of craftsmen who think that registration of industrial design rights is not too important to do.

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