

# Legal Strategies for Protecting Intellectual Property Rights in Business A Case Study Creative Industry in Indonesia

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## ABSTRACT

This research delves into the multifaceted landscape of intellectual property protection within the Indonesian creative industries. Through qualitative analysis, interviews with 10 key informants elucidated the challenges faced by businesses, including rampant piracy, inadequacies in legal frameworks, and enforcement issues. Businesses responded with diverse legal strategies, encompassing copyright protection, trademark registration, industry collaboration, and technological solutions. Case studies provided tangible examples, showcasing the effectiveness and challenges of these strategies. Recommendations for legislative reforms, strengthened enforcement mechanisms, industry collaboration, and technological innovation are proposed. This research contributes valuable insights into the dynamic interplay between legal challenges and strategic responses in safeguarding intellectual property within the vibrant Indonesian creative industries.

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## 1. INTRODUCTION

Indonesia's creative industries have emerged as a significant contributor to the country's economic landscape, reflecting the vibrant and diverse talents that exist in sectors such as film, music, literature, and visual arts. However, the exponential growth of this creative endeavor brings to the surface a very important issue - the protection of intellectual property rights (HAKI) [1]. The study by Martinelli and Rukmana highlights the legal protection enjoyed by copyright owners and the need for formal registration of works in the Copyright Register [2]. Additionally, Santoso's research emphasizes the lack of clear rules and regulations regarding intellectual property-based creative economy

financing, which may concern financial institutions when providing credit to creative economy actors [3]. These findings underscore the need for further regulation and coordination between government sectors to maximize the potential of Indonesia's creative economy [4]. Overall, the abstracts suggest that while Indonesia's creative industries have immense potential, there is a need for stronger legal protection and clearer regulations to support their growth and development.

Intellectual property rights, such as copyrights, trademarks, patents, and trade secrets, are essential to protect creative achievements and promote innovation, creativity, and economic development. As creative industries develop, the need to

protect intellectual works from infringement, piracy, and counterfeiting becomes increasingly important. These rights provide exclusivity and allow creators and inventors to recoup their investment by preventing others from copying or using their inventions or creations without permission [5]. Intellectual property rights also play an important role in preventing competitors from owning, using, selling, and monetising inventions and related creations, thus providing access to markets, networks, and venture capital [6]. Overall, intellectual property rights are essential to foster innovation, protect creative works, and promote economic growth.

Indonesia's creative economy, with its rich cultural heritage and growing industry, requires an effective legal strategy to protect intellectual property rights and promote creativity while ensuring fair compensation for creators [1], [3], [4], [7], [8]. Indonesia's legal system faces challenges in the transfer of intellectual property rights, including a complex and fragmented legal framework and bureaucratic inefficiencies. Copyright owners enjoy legal protection, but formal registration is required for verification. Disputes can be resolved through litigation or non-litigation methods, such as mediation and negotiation. The potential of the creative economy has not been fully realised due to a lack of awareness, coordination and implementation of intellectual property-based financing. The protection of intellectual property rights is recognised in Islamic law, and fatwas issued by MUI provide legal provisions for copyright protection. To attract more investment in the creative industries, Indonesia needs to update its investment regulations and create an enabling environment for the development of the creative economy.

This research delves into the heart of this complicated landscape, aiming to unravel the complexities surrounding the legal framework used by businesses in Indonesia's creative industries to protect their intellectual property. The research is motivated by a set of objectives designed to comprehensively understand the complicated relationship

between intellectual property and the creative industries in Indonesia: (1) Identifying Key Challenges: Uncover and analyse the key challenges faced by businesses operating within the creative industries in Indonesia regarding the protection of their intellectual property rights. (2) Exploring the Legal Framework: Examine the legal framework and strategies adopted by businesses to protect their intellectual property, with a focus on copyright, trademarks, patents and trade secrets. (3) Assessing Effectiveness: Evaluates the practical effectiveness of these legal strategies through in-depth case studies representing various creative sectors, explaining their successes and shortcomings. (4) Recommendations for Improvement: Provide appropriate recommendations to improve legal protection of intellectual property in Indonesia's creative industries, addressing shortcomings in the existing framework and proposing potential reforms.

## 2. LITERATURE REVIEW

### 2.1 *Intellectual Property Rights in Creative Industries*

The concept of intellectual property (IP) is vital to the creative industries as it provides a legal framework to protect intangible assets. Intellectual property takes various forms in the creative sector, including copyrights, trademarks, patents, and trade secrets. Copyright protects original works of authorship, trademarks protect brand identity, patents secure innovation, and trade secrets maintain confidentiality [9]. The symbiotic relationship between intellectual property and creative industries forms the basis for innovation, artistic expression, and economic prosperity [6], [10].

### 2.2 *Intellectual Property Rights in Indonesia*

A critical analysis of the intellectual property landscape in Indonesia reveals the challenges and opportunities faced by businesses in the creative sectors. The Copyright Law governs the protection of

literary, artistic, and scientific works, outlining the rights and limitations of creators [11]. The Trademark Law regulates the registration and protection of trademarks, crucial for establishing brand identity and market presence [1]. The Patent Law focuses on safeguarding inventions and technological advancements [12]. These laws form the legal backbone for intellectual property protection in Indonesia, and understanding their nuances, enforcement mechanisms, and any shortcomings is essential for businesses operating in the country's creative sectors. Understanding these legal frameworks is paramount to assessing their efficacy and addressing potential gaps.

### 2.3 *Challenges in Protecting Intellectual Property in Indonesian Creative Industries*

Indonesia's burgeoning creative industries face challenges in protecting their intellectual property due to piracy and counterfeiting, inadequate legal frameworks, and problems with law enforcement mechanisms. The emergence of digital platforms and the borderless nature of the internet has further exacerbated these challenges. Businesses in the creative industries need to innovate not only in their creative efforts but also in the legal strategies used to protect their intellectual property [1], [3], [8], [13]. Understanding these challenges is essential for crafting effective legal strategies, as it provides a nuanced perspective on the hurdles faced by businesses operating within the Indonesian creative landscape.

## 3. METHODS

This study uses a qualitative research approach to investigate the legal tactics used by companies in Indonesia's creative sectors to safeguard their intellectual property rights. A thorough grasp of the complexities of intellectual property protection is made

possible by the qualitative method, which also permits a detailed investigation of legal frameworks and their application in real-world situations. To choose important informants with pertinent experience and knowledge of Indonesia's creative industries, the sampling technique uses purposive sampling. Ten informants will be chosen, guaranteeing participation from a variety of industries, including music, literature, visual arts, cinema and television, and digital media. Those having substantial expertise managing intellectual property, solicitors specialising in intellectual property law, and public servants tasked with overseeing and upholding intellectual property laws are among the selection criteria.

### 3.1 *Data Collection*

Semi-structured interviews will be used to gather primary data, giving the informants a chance to have open-ended conversations. In-person or virtual platforms will be used for the interviews, depending on the informants' interests and availability. Because the interviews are semi-structured, there is freedom to examine emerging themes and gain an in-depth understanding of the legal tactics used by companies.

The interview questions will be crafted to encompass a variety of subjects, such as the difficulties encountered by enterprises, the legal structures employed, the experiences encountered during enforcement, and the opinions held regarding the efficacy of these approaches. Furthermore, secondary data will be gathered from court cases, legal documents, and industry reports to validate and enhance the information gleaned from the interviews.

### 3.2 *Data Analysis*

We will use a thematic analysis approach to examine the interview-derived qualitative data. Finding recurrent themes, patterns, and trends in legal tactics for intellectual property protection is part of the analysis. The themes will

be arranged methodically to give readers a thorough grasp of the various strategies used by companies in Indonesia's creative industries. All participants will have given their informed consent, and the study will abide by ethical rules. Throughout the study, participants will be kept anonymous and confidential, and they will be free to leave at any time without facing any consequences. The confidentiality and rights of the informants shall be respected at all times during the research process.

#### 4. RESULTS AND DISCUSSION

##### 4.1 *Challenges Faced by Businesses in Indonesian Creative Industries*

The outcomes of in-depth interviews with key informants illuminated the complex issues related to intellectual property protection that companies in Indonesia's creative industries face. The vast and varied insights gained from these conversations revealed themes that were shared by many different creative industries.

All interviewees agreed that widespread and all-encompassing issues in the creative industry are piracy and counterfeiting. The digital age has increased the threat of unauthorised copying and dissemination while simultaneously providing previously unheard-of opportunities for content distribution. An experienced professional in the music industry who was one of the informants revealed personal accounts of her struggles with music piracy on digital streaming services. This poses a threat to the viability of the creative environment in addition to affecting the income earned by artists. The interviews indicate that the fight against piracy extends beyond the music industry. Film producers, authors, and visual artists have expressed worries regarding

unapproved replication and dissemination, which could lead to a reduction in the monetary worth of their artistic creations. The interviews emphasised how urgent it is to implement strong legislative defences against piracy and safeguard the financial interests of creative industries.

The interviews shed light on the difficulties caused by shortcomings in Indonesia's current intellectual property laws. Recurrent themes in statutes like the Copyright Law, Trademark Law, and Patent Law were vagueness, antiquated language, and legislative gaps. During the interviews, an intellectual property lawyer underlined how urgently legislative improvements are needed. They contended that because the legal system is out of step with the quickly changing nature of the creative industries, firms are left open to abuse. The significance of a legal framework with current, well-defined terminology and efficient enforcement procedures was emphasised by the interviewees. Inadequate legal frameworks have consequences that go beyond specific companies; they affect the creative industries' general well-being and expansion, impeding their capacity to boost the economy of the country.

The interviews explored the difficulties in upholding intellectual property rights and exposed a variety of problems, from resource shortages in law enforcement organisations to delays in court cases. These difficulties were acknowledged by a government official who actively participates in intellectual property regulation. They emphasised the necessity of an enforcement mechanism that is more streamlined and effective in order to enable prompt and successful legal actions against infringements. The practical challenges that firms encounter when

pursuing legal remedies for infringements of intellectual property were highlighted by the interviews. One major barrier was found to be the length of court procedures, which reduced the effectiveness of legal tactics. Other important barriers included delays in court proceedings. Proactive and strong enforcement was further mentioned as being hampered by the lack of resources within law enforcement organisations.

#### ***4.2 Legal Strategies Employed by Businesses***

Drawing from key informant interviews in the Indonesian creative industries, this part explores the various legal tactics used by companies to safeguard their intellectual property rights in the face of the obstacles mentioned.

Interviews showed that companies regularly use copyright protection techniques, especially those in the music and film industries. One of the main components of these tactics became licencing agreements, which gave companies the ability to manage how their intellectual property was used. An independent musician talked about her experiences signing licencing contracts both locally and abroad, emphasising the value of these agreements in promoting collaborations, safeguarding intellectual property, and extending an artist's reach overseas. The interviews underlined the significance of timely copyright registration in addition to licencing. Informants acknowledged that registering copyrights proactively improves their legal standing and makes it easier for them to be enforced more successfully in the case of infringement. Because the music and film industries are dynamic, it is necessary to navigate digital distribution channels with agility.

Copyright protection techniques are essential for keeping up with these changes.

Informants emphasised the need of trademark registration and thorough brand management strategies in the visual arts and digital media industries. One of the interviewees, a graphic designer, discussed the difficulties associated with unapproved usage of design components and emphasised the significance of trademarking in order to create and safeguard a distinctive visual identity. One proactive way to fight counterfeiting and safeguard brand components that contribute to market difference was to register a trademark. The interviews shed light on the vital function that trademarks play in protecting the creative works' economic worth and creating a unique brand identity that appeals to customers.

In reaction to issues with intellectual property protection, industrial cooperation has become a crucial tactic. The establishment and fortification of industrial alliances and groups was emphasised by informants as a crucial factor in consolidating resources and promoting more robust legislative safeguards. A representative of a music business association gave examples of successful group efforts to combat piracy, such as coordinated lobbying efforts and public awareness initiatives. The interviews emphasised how effective group campaigning may be in creating a more encouraging legal climate. Creative industries businesses discovered strength in numbers, influencing public opinion and legislative reforms by pooling resources and voices. The efficacy of industry alliances demonstrated the possible influence of cooperative endeavours on the comprehensive

safeguarding of intellectual property rights.

Enterprises, especially those involved in digital media, have been resorting more and more to technological remedies to tackle the obstacles presented by piracy. Systems for digital rights management, or DRM, have been found to be useful for limiting who can access and distribute digital content. One of the interviewees, an IT specialist, underlined the ongoing necessity for technological innovation to keep up with infringement actions in the quickly changing digital context. The interviews revealed that companies understood the fundamental connection between intellectual property protection and technology advancements. Businesses want to improve the security and transparency of the digital ecosystem while simultaneously safeguarding their intellectual property by utilising state-of-the-art solutions like blockchain technology and DRM systems.

#### 4.3 Effectiveness of Legal Strategies: Case Studies

Case studies are given in this part to give concrete instances of how enterprises in Indonesia's creative industries have used the law to preserve their intellectual property rights. The case studies provide an inside look at actual situations, highlighting both profitable results and obstacles that companies must overcome.

##### a. Case Study: Music Industry

An independent musician illustrated how licencing agreements work to protect intellectual property by using copyright protection techniques. Through proactive participation in domestic and international licencing arrangements, the artist

enhanced their global visibility while safeguarding their music. Through strategic collaboration with other artists and industry partners, the artist was able to maintain control over how their creative works were used. The capacity to successfully traverse the digital terrain demonstrated how flexible copyright protection tactics are in the music business.

##### b. Case Study: Making Movies

In a similar vein, a movie production business shown how successful copyright defence tactics can be. By means of careful licencing contracts and prompt copyright filings, the company managed to get the rights to its films and also built a strong basis for making money. The film industry's practical impact of proactive copyright protection was proved by the capacity to traverse intricate distribution networks and negotiate licencing agreements.

##### c. Visual Arts Case Study

On the other hand, trademark protection presented difficulties for a graphic design company, underscoring the difficulty of preserving visual components. The studio faced instances of counterfeiting and unauthorised use of its brand characteristics even after taking proactive steps to register their trademark. The limitations of conventional trademark protection tactics in the visual arts industry were made clear by this case study. The difficulties encountered highlighted the necessity of stricter brand management policies and vigorous enforcement in order to successfully prevent counterfeiting.

**d. Case Study: Association of Film Producers**

An association of film producers served as an example of the effectiveness of group action against piracy. The association successfully fought for legislative improvements that benefited intellectual property protection by actively participating in industry alliances and associations. Collective actions, such as coordinated lobbying and public awareness campaigns, shaped public opinion and governmental regulations. This case study demonstrated the usefulness of industry cooperation in creating a legal framework that is more accommodating to companies operating in the creative industries.

**e. Music Industry Association Case Study**

An organisation representing the music business underlined once more how successful group efforts are in combating piracy. Through bringing together industry players, the association conducted public awareness campaigns to inform consumers about the effects of piracy on artists and the music industry overall. Increased public support for intellectual property protection is the outcome of this cooperative effort, which has an impact on consumer behaviour and governmental regulations. The case study demonstrated how industry coalitions might be revolutionary in tackling the problems caused by piracy.

**f. Case Study: Online Media Firm**

The efficacy of adopting technical solutions, in particular Digital Rights Management (DRM) systems, was exhibited by

a digital media company. Strong DRM measures were put in place by the business to efficiently manage distribution and access to digital content. The company's unwavering dedication to staying ahead of infringement activities in the quickly changing digital arena was demonstrated by its ongoing investment in technological innovation. The usefulness of technology solutions in safeguarding intellectual property in the digital age was emphasised by this case study.

**4.4 Recommendations for Improvement**

The present study proposes recommendations to strengthen the legal protection of intellectual property in the creative industries of Indonesia, based on observations and findings from interviews and case studies. These suggestions focus on the following important areas that were determined to need improvement:

Comprehensive legislative amendments are advised in order to solve the shortcomings in the current intellectual property laws. In order to keep up with the dynamic nature of the creative industries, it is necessary to review and update the laws pertaining to copyright, trademarks, and patents. Specifically, definitions should be made clear, gaps should be filled, and rules that take digital improvements into account should be included. Lawmakers, legal professionals, and business stakeholders must work together to develop law that offers a strong basis for intellectual property protection.

Increasing funding for law enforcement organizations and speeding up court procedures are necessary to improve the efficacy of enforcement mechanisms. The appropriate authorities in charge of protecting intellectual property rights

should be provided with sufficient resources, including money, staff, and training. To expedite legal proceedings and guarantee the prompt resolution of intellectual property issues, it is also advised that specialized courts for the intellectual property be established. A more timely and effective enforcement system requires improving coordination between the judicial and law enforcement authorities.

Fostering industrial collaboration is essential for shared resources and group lobbying. To help firms work together effectively to address shared difficulties, industry alliances and groups should be actively promoted. Initiatives by the government to support and honour business ties can amplify their influence. Establishing regular conversation and coordination platforms among government agencies, legal experts, and industry players can promote a collaborative and mutually supportive culture.

It is imperative to continuously invest in research and development of technical solutions due to the digital nature of the creative industries. To improve the security of intellectual property, businesses should actively participate in the development and application of cutting-edge technologies like blockchain and Digital Rights Management (DRM) systems. Working together, technology developers, legal professionals, and creative industry stakeholders can hasten the adoption of innovative solutions meant to counteract the problems associated with piracy and unauthorised use.

#### 4.5 Implications for Academia and Policy

The research's conclusions have important ramifications for academics, business professionals, and legislators. Future research orientations can be informed by a stronger grasp of real difficulties, which can be beneficial to academia. Industry practitioners can improve their intellectual property protection strategy by taking advice and insights from successful case studies. These proposals can be used by legislators to create more inventive and creative legal frameworks.

### 5. CONCLUSION

The complex processes of intellectual property protection in Indonesia's creative sectors are finally revealed by this study. The difficulties—which range from piracy to inadequate legal frameworks—highlight the pressing need for all-encompassing solutions. Companies demonstrated flexibility by implementing a range of legal tactics, each with its subtleties and consequences. Case studies emphasized difficulties as well as achievements, highlighting the necessity for a balanced strategy. Enhancing intellectual property protection can be achieved through industry collaboration, strong enforcement procedures, technical innovation, and legislative reforms. Businesses, legislators, and scholars can gain a deeper knowledge of the opportunities and challenges present in the Indonesian creative landscape by utilizing this research, which is a significant resource. In the end, strengthening intellectual property protection is not only required by law but also serves as a stimulant for innovation, creativity, and long-term expansion in Indonesia's thriving creative sectors.

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