

The Role of the State in Protecting Intellectual Property Rights through Policies and Legal Mechanisms in Indonesia

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Intellectual Property Rights constitute a strategic legal instrument for fostering creativity, innovation, and sustainable economic development. The state plays a pivotal role in ensuring effective protection of Intellectual Property Rights through coherent policies and enforceable legal mechanisms. This study aims to examine the role of the state in protecting Intellectual Property Rights in Indonesia by analyzing existing legal frameworks and policy approaches. The research employs a normative juridical method with statutory and conceptual approaches, relying on an examination of national regulations and relevant legal literature. The findings indicate that the state functions as a regulator, facilitator, and law enforcer in the protection of Intellectual Property Rights through regulatory formulation, administrative registration systems, and civil, criminal, and administrative enforcement mechanisms. Nevertheless, the effectiveness of such protection remains constrained by limited public legal awareness and challenges in law enforcement implementation. Strengthening legal policies, enhancing public literacy on Intellectual Property Rights, and improving institutional coordination are therefore essential to achieve comprehensive, effective, and equitable protection.

Keywords: Role Of The State, Intellectual Property Rights, Legal Policy, Legal Mechanisms, Legal Protection

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1. Introduction

Within the framework of state life, Indonesia places the protection of the results of human creativity, feeling, and initiative as part of the responsibility of the state in realizing social justice as enshrined in Pancasila, particularly the second and fifth principles. Intellectual works not only reflect the expression of national culture but also serve as a pillar of national economic progress in the era of global competition [1]. Therefore, the state is required to present a legal system capable of providing appreciation, protection, and legal certainty for every citizen who produces intellectual works.

The Indonesian Constitution, through Article twenty eight C paragraph one and Article twenty eight D paragraph one of the Constitution of the Republic of Indonesia of nineteen forty five, guarantees the right of every person to develop themselves through science and to obtain fair legal protection [2]. This constitutional guarantee is then operationalized through the enactment of various laws in the field of Intellectual Property Rights, such as Law Number twenty eight of two thousand fourteen concerning Copyright, Law Number thirteen of two thousand sixteen concerning Patents, Law Number twenty of two thousand sixteen concerning Trademarks and Geographical Indications, and other related regulations [3]. The existence of these regulations demonstrates that the state performs both regulatory and protective functions in ensuring that the moral rights and economic rights of creators and holders of intellectual property rights are comprehensively protected.

Nevertheless, various previous studies still indicate the existence of serious challenges in the implementation of intellectual property protection in Indonesia. Simona Bustani, for instance, highlights the ineffective enforcement of the Copyright Law due to the persistent prevalence of violations such as piracy and unauthorized use. Ahmad Mahyani also emphasizes that criminal liability for copyright infringement by corporations has not been applied consistently [4]. On the other hand, Sri Mulyani reveals that the utilization of intellectual property as credit collateral has not been optimal due to weak legal infrastructure and low public literacy regarding its economic value [5]. These findings illustrate that there remains a gap between policy formulation and the actual implementation of intellectual property protection in practice.

In addition, the challenges of globalization and the development of digital technology increase the complexity of intellectual property issues [6]. Creative products can be disseminated rapidly without national boundaries, thereby requiring responsive and adaptive legal mechanisms. Asri B.P.D. even shows that many Micro, Small, and Medium Enterprises still do not understand the importance of intellectual property registration as a form of legal protection for their innovations [7]. This indicates that, in addition to building a strong legal framework, the state must also carry out an educational and facilitative role for the community so that intellectual property protection is not merely normative but can truly be accessed and its benefits felt.

These problems demonstrate that the role of the state is not sufficient if it stops at the level of policy formulation alone, but must also encompass effective mechanisms of implementation, supervision, and law enforcement [8]. The state must be able to ensure that intellectual property rights holders obtain real protection from the threat of infringement, both in national and international contexts. Therefore, a study on how the state formulates and implements intellectual property policies and how the legal mechanisms are applied becomes important to be examined in depth.

Based on this reality, the author is interested in raising this issue in the form of a scientific study entitled "The Role of the State in Protecting Intellectual Property Rights through Policies and Legal Mechanisms in Indonesia" as an effort to comprehensively understand how the state carries out its obligations in providing effective, fair, and sustainable protection of Intellectual Property Rights in Indonesia [9].

2. Literature Review And Problem Statement

State

The state is fundamentally understood as an organization of power that holds the highest authority to regulate social life within a defined territory [10]. In modern legal thought, the state is not merely a power holder but a legal institution grounded in normative rules that bind both the government and citizens. Its essential elements include territory, population, and a sovereign government, all of which must be supported by social legitimacy [11]. The primary objectives of the state encompass maintaining order, ensuring justice, and promoting public welfare. In a modern legal system, the state is also responsible for governing based on legality, accountability, and respect for human rights, thereby ensuring legal certainty and the protection of citizens' rights.

Legal Protection

Legal protection represents the state's obligation to guarantee legal certainty, security, and fairness for citizens [12]. It functions not only as a means of social control but also as a safeguard against arbitrariness and abuse of power. Legal protection requires the existence of protective legal norms, effective law enforcement institutions, and accessible dispute resolution mechanisms [13]. It operates through both preventive measures, aimed at preventing violations, and repressive measures, focused on dispute

settlement and sanctions. Ultimately, legal protection seeks to ensure justice, order, and equality before the law, serving as a key indicator of a state governed by the rule of law.

Intellectual Property Rights

Intellectual Property Rights refer to exclusive rights granted by the state to creators or owners over their intellectual creations [14]. These rights are immaterial in nature but possess moral and economic value and are legally recognized as transferable assets. A defining characteristic of intellectual property is exclusivity, which allows rights holders to control the use and commercialization of their creations [15]. The primary purpose of intellectual property protection is to reward creativity, encourage innovation, and prevent unfair practices such as piracy and plagiarism. Furthermore, intellectual property protection contributes to legal certainty in economic activities, strengthens national competitiveness, and supports sustainable, creativity-based economic development.

State Policy

State policy consists of decisions, actions, and strategic directions established by the government to achieve public objectives [16]. Such policies are legally binding, systematic, and adaptive to social and economic dynamics. State policies are formulated through structured processes that include problem identification, goal setting, implementation, and evaluation. Their main purpose is to provide legal certainty, resolve public issues, and maintain social order while balancing individual, societal, and governmental interests [17]. In addition, effective state policies enhance governmental legitimacy by promoting accountability, transparency, and adherence to the rule of law, reflecting the core values of justice and public welfare.

3. Method

This study employs a normative juridical research method, as the primary objective is to examine legal norms governing the protection of Intellectual Property Rights and to analyze the role of the state in formulating and implementing relevant policies and legal mechanisms in Indonesia. Normative legal research is considered appropriate because the focus of this study lies in understanding the coherence, substance, and orientation of legal rules rather than measuring social behavior or empirical compliance. Through this approach, the research seeks to interpret law as a system of norms that reflects state responsibility in safeguarding intellectual creations.

The research is conducted using a statutory approach, which involves a systematic examination of laws and regulations related to Intellectual Property Rights. These include constitutional provisions, national legislation, and implementing regulations governing copyright, patents, trademarks, and other forms of intellectual property. By analyzing these legal instruments, the study aims to identify how state policies are designed to provide protection, legal certainty, and recognition of both moral and economic rights of rights holders.

In addition to the statutory approach, a conceptual approach is applied to explore key legal concepts and doctrines relevant to the study. Concepts such as the role of the state, legal protection, legal certainty, and exclusive rights are examined through legal theories and scholarly opinions. This approach allows the research to place positive law within a broader theoretical framework, thereby strengthening the analytical depth and ensuring that legal norms are interpreted consistently with established legal principles.

The sources of legal materials used in this study are divided into primary and secondary legal materials. Primary legal materials consist of binding legal sources, including the constitution, statutes, and official regulations related to Intellectual Property Rights. Secondary legal materials include textbooks, journal articles, academic commentaries, and previous research that discuss intellectual property protection, state

policy, and law enforcement. These materials provide interpretative support and critical perspectives on the application of legal norms.

Data collection is carried out through library research, focusing on a careful and comprehensive review of relevant legal documents and scholarly literature. All legal materials are collected, classified, and systematically organized according to the research issues. This process ensures that the analysis is based on authoritative sources and that the arguments developed in the study are grounded in credible legal reasoning.

The analysis of legal materials is conducted using qualitative descriptive analysis. Legal norms are interpreted through logical reasoning and legal interpretation methods to explain their meaning, scope, and implications. The analysis does not rely on numerical measurement but emphasizes coherence, consistency, and relevance between legal provisions, state policies, and the objectives of Intellectual Property Rights protection.

4. Results And Discussion

The Role of the State in Formulating and Implementing Intellectual Property Protection Policies

The role of the state in formulating policies for the protection of Intellectual Property Rights is rooted in constitutional mandates that guarantee the right of individuals to develop themselves through knowledge and to obtain fair legal protection. Intellectual works are recognized not merely as individual creative outputs but as part of fundamental human rights that must be safeguarded by the state. In line with the values of social justice embodied in Pancasila, Indonesia positions intellectual property protection as a core responsibility of the state, requiring a legal system that ensures recognition, legal certainty, and protection of creative works.

This constitutional responsibility is implemented through the state's regulatory function by enacting comprehensive intellectual property legislation, including laws on copyright, patents, and trademarks. These legal instruments are designed to protect both the moral and economic rights of creators, reflecting the state's recognition of intellectual property as a cultural asset and an economic driver of national development. Strong regulatory frameworks are therefore essential to enhance national competitiveness in a globalized economy.

Beyond policy formulation, the state plays a crucial role in policy implementation through administrative mechanisms. The Directorate General of Intellectual Property is responsible for providing accessible, transparent, and efficient registration systems that serve as the foundation for legal recognition. Although digitalization and public information systems have improved service delivery, limited public awareness and bureaucratic constraints continue to hinder effective implementation, particularly among small and medium enterprises.

The state also exercises a protective function through law enforcement. Intellectual property laws provide civil, criminal, and administrative sanctions against infringement, requiring competent and committed law enforcement institutions. However, enforcement remains uneven, as violations persist due to weak supervision and inconsistent application of corporate liability. In addition, the state must perform an educational and promotional role by increasing public literacy on the economic value of intellectual property. Strengthening coordination between regulation, enforcement, education, and supervision is therefore essential to ensure effective, equitable, and sustainable intellectual property protection in Indonesia.

Legal Mechanisms Implemented by the State in Providing Protection for Intellectual Property Rights in Indonesia

The legal mechanisms implemented by the state to protect Intellectual Property Rights in Indonesia are structured as a comprehensive and multi-tiered system, beginning with constitutional foundations and extending to sectoral legislation and administrative policies. Constitutional provisions guaranteeing the right to develop science, technology, art, and culture serve as the normative basis for intellectual property protection. These principles are operationalized through a series of laws governing copyright, patents, trademarks and geographical indications, industrial designs, plant variety protection, and trade secrets, which collectively regulate the scope of rights, registration procedures, duration of protection, enforcement mechanisms, and dispute resolution.

The initial stage of protection is realized through registration mechanisms administered by the Directorate General of Intellectual Property. For constitutive rights such as patents, trademarks, industrial designs, and plant varieties, registration is a prerequisite for the emergence of exclusive rights. In contrast, copyright protection arises automatically upon the creation of a work, although the state provides a declarative recording system to strengthen evidentiary certainty. These administrative mechanisms ensure standardized and legally valid recognition of intellectual property rights.

Following registration, protection is reinforced through enforcement mechanisms encompassing administrative, civil, and criminal remedies. Rights holders may seek civil compensation, injunctions, or seizure of infringing goods through the commercial courts, while serious infringements may result in criminal sanctions. Law enforcement involves police investigators, specialized civil servant investigators, prosecutors, and judicial institutions. In addition, the state facilitates alternative dispute resolution mechanisms such as mediation and arbitration, as well as community-based protection for geographical indications. Indonesia's intellectual property protection system is also aligned with international standards following its accession to the TRIPS Agreement.

5. Conclusion

This study concludes that the protection of Intellectual Property Rights in Indonesia reflects a clear commitment by the state to uphold constitutional values, promote social justice, and support national development. The state plays a central role not only in recognizing intellectual creations as legal rights, but also in ensuring that these rights are protected through coherent policies and effective legal mechanisms. The existing legal framework demonstrates that Indonesia has established a comprehensive system of intellectual property protection that integrates regulatory, administrative, judicial, and enforcement functions. The formulation of intellectual property policies is grounded in constitutional guarantees and translated into sectoral legislation that protects both the moral and economic interests of rights holders. At the implementation level, the state provides administrative mechanisms for registration and recognition, as well as multiple enforcement pathways to address violations. These mechanisms indicate that intellectual property protection is designed to function as an integral part of the national legal system and economic governance. However, this study also finds that challenges remain in the practical application of intellectual property protection. Limitations in law enforcement capacity, uneven public awareness, and the rapid development of digital technology continue to affect the effectiveness of protection. Therefore, strengthening institutional coordination, improving public legal literacy, and enhancing enforcement consistency are essential. By addressing these challenges, intellectual property protection can function more effectively as a foundation for innovation, legal certainty, and sustainable economic growth in Indonesia.

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