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THE STRATEGY FOR IMPROVING THE PRODUCTIVITY OF CREATIVE INDUSTRY BATIK EXPRESSION OF TRADITIONAL CULTURAL LEVEL LEGAL PROTECTION

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ABSTRACT

National Strategic Research Institutions make deliberate changes through the development of economic systems that provide opportunities for small businesses in the national economy to encourage the growth of entrepreneurial economy that will further encourage the emergence of new ventures. Small businesses absorb large amounts of labor. Strategy for Increasing Productivity of Creative Industry Batik Expression of Tradisoanal Culture Realization of Legal Protection through Development of Community Based Green Entrepreneurship. Problem formulation: Is the condition of traditional batik handicraft industry currently still quite potential to be developed and how the protection of law of traditional batik creative industry when it can increase industrial productivity community-based resource management efforts and cultural expression of the form of legal protection? Indonesia regulates traditional cultural expression under the scope of copyright law, under the Copyright Act of 2014; the period of protection of traditional cultural expression takes place indefinitely. The copyright of traditional cultural expression in Indonesia is held by the state. Batik as a traditional cultural heritage associated with batik there are two important things namely Batik Making and Batik Motif, both of these are cultural heritage that has been handed down by generations known by the people of Indonesia.

Keywords: *Traditional Cultural Expression*

INTRODUCTION

Indonesia is one of the countries governing the protection of traditional cultural expressions under the scope of copyright laws. In addition to Indonesia, several other countries such as Australia, Nigeria, Congo, and Ghana also manage traditional cultural expressions as part of copyright [Paul Kuruk, 1999]¹. Basically traditional cultural expression is not exactly protected under the scope of copyright laws. Copyright law fails to provide adequate protection for traditional cultural expressions. This is due to some of the focus of copyright protection contrary to the nature of protection of traditional cultural expressions. In 2014, UUHC 2002 was repealed and replaced by [Law no. 28 of 2014]² on Copyright (UUHC 2014). In the Explanation of Article 38 UUHC 2014 stated: The meaning of "traditional cultural expression" includes one or a combination of forms of expression as follows: textual verbal, both oral and written, in the form of prose and poetry, in various themes and content of messages, in the form of literary works or informative narratives; music, including, inter alia, vocals, instrumental, or any combination thereof; motion, including among others, dance; theater, including among others, puppet shows and folk plays; art, both in the form of two dimensions and three dimensions made of various materials such as leather, wood, bamboo, metal, stone, ceramic, paper, textile, etc. or any combination thereof; and traditional

ceremonies. Criteria for Regional Superior Product according to (Regulation of the Minister of Home Affairs No. 9 year 2014) ³ Socio-cultural elements in creating, producing and developing regional superior products are using talents and community institutions built and developed on the basis of local wisdom derived from the characteristics and hereditary cultural heritage as well as local socio-cultural conditions. The expression of Indonesian traditional culture has promising economic potential especially related to tourism industry and creative economy industry. In the field of tourism industry based tourism industry Traditional Cultural Expression has a very large contribution as a source of regional economic income. In the field of creative economy industry especially handicraft products based on Traditional Cultural Expression of batik handicraft is a product that has a substantial contribution to contribute to the country's foreign exchange. The problem occurs in traditional cultural expression or Traditional Cultural Expressions (Expressions of Folklore) as one form of traditional intellectual property.

Traditional cultural expression certainly cannot be protected with a limited period of copyright protection. If the protection of traditional cultural expressions is limited by time then there will be a great deal of traditional cultural expression that cannot be protected and fall into the public domain. If traditional cultural expressions are in the public domain then free traditional cultural expressions are used by everyone and are very easy to exploit commercially and are vulnerable to being exploited improperly (Lorie Graham and Stephen McJohn, 2005)⁴. Copyright entails the fixation of creation in material form. Fixation requirements will prevent traditional cultural expressions from obtaining copyright protection because traditionally traditional cultural expressions are inherited instead of written or tangible. On the other hand, because it is inherited in descending way, the expression of traditional culture is not original (original), while a work can obtain copyright if it is original work and it is clear who is the creator (Spangler, Stephanie, 2010) ⁵. Traditional cultural expressions (in a broader sense, popular and popular folk culture) are group-oriented creations based on the traditions of groups or individuals that reflect community expectations as an expression of their culture and social identity and are generally transmitted or orally transmitted through imitation or by other means, (Michael Blakeney, 2000) ⁶.

National Strategic Research Institutions deliberate efforts to change through the development of an economic system that provides opportunities for small businesses to take part in the national economy will encourage the growth of entrepreneurial economy which will further encourage the emergence of new ventures. Small businesses absorb large amounts of labor. Strategy for Increasing Productivity of Creative Industry Batik Expression of Tradisoanal Culture of Legal Protection.

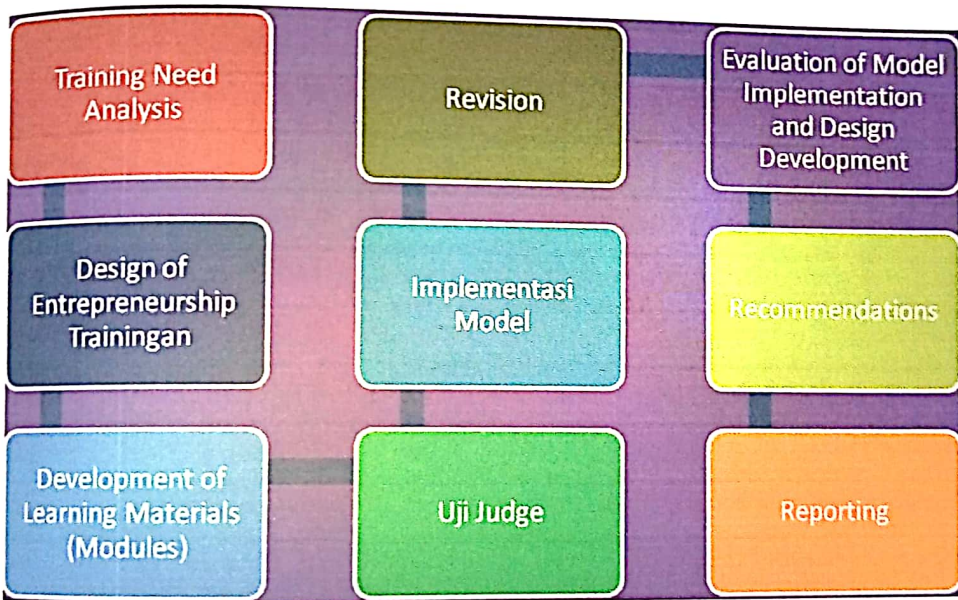
RESEARCH METHODS

The approach method used in this research is empirical juridical, that is the way or procedure used to solve the research problem by researching the secondary data first to then proceed with researching the primary data in the field. Primary data is data obtained directly from the community. So the empirical juridical approach is a study that examines the rules of law which are then linked with data and behavior that live in the midst of direct society. Specifications the research used in the National Strategic Research Institution is descriptive analytical, meaning that the results of this study attempt to provide a thorough, comprehensive overview of a condition or symptoms studied. This research is descriptive because with this research is expected to get a picture that is comprehensive and systematic about protection of traditional batik motif especially batik, then conducted an analysis to data obtained and finally got problem solving. The type of data used in this study is primary data and secondary data. Primary data is data obtained from the research location. Primary data sources are obtained from: Head of Program Bureau of the Office of Industry and Trade and Head of Department of Cooperatives and SMEs of Sragen Regency. Head of Sub Division of Legal Services of the Regional Office of the Department of Law and Human Rights of Central Java Province. While secondary data is data that can support the descriptions or support the completeness of primary data. Sources of secondary data obtained from: Primary legal

material is a legal material relating to the issues to be studied, namely Law no. 19 of 2002 on Copyright and related regulations under it and other provisions that have correlation with the issues to be studied.

The location of the research was conducted in Sragen regency in particular with the consideration that Sragen regency as a place to develop traditional batik motifs that have high philosophical value as Indonesian traditional culture that needs protection law. The object of this research is the work of art of batik in the form of batik motif of Sragen regency of Central Java. Method of collecting data. In searching and collecting the necessary data focused on the issues of existing problems, so in this study there is no deviation and vagueness in the discussion. The data used in this research is obtained through: Library research (library research), especially examine the primary legal materials related to the research material. Field research (field research), which is data collection directly from related parties with issues of protection of copyrights on traditional batik motifs especially batik in Sragen regency as the nation's cultural heritage to obtain and collect primary data, or data relevant to the object to be studied, obtained by conducting interview in depth to the respondents orally and structured using interview guidance tool

Stage of Research and Stages above for the following steps: Training Need Analysis, Design of Entrepreneurship Training, Development of Learning Materials (Modules), Uji Judge and Limited Field Test, Implementation Model, Revision, Evaluation of Model Implementation and Design Development, Recommendations and Reporting.



Future 1: Research flow and research stages

Data collection technique. The research phase is done by applying quantitative descriptive approach. Design development stage by applying descriptive approach and Forum Group Discussion, followed by application of experimental design model with experimental method (single one shot case study). After an improvement from the limited Test. Then proceed with a broader test with the experimental method (one group pretest-posttest). Model validation stage with quasi experimental method (pre Test possess with control group design) or Evaluation stage. To encourage Small and Medium Enterprises to be able to enter into export market, the first year is aimed at strengthening Small and Medium Enterprises in the field of management and organization and improvement of product quality. Here are the steps in improving productivity as follows: Designing the design development by testing the test judges or test in limited field on design feasibility to be implemented The limited field test used

single-shot case study experimental method by testing three tests ie: limited testing Trial1 and limited testing Trial. Development of Design if not perfect then needs revision according to competence for activity improvement action of design development. Design revisions are made if: In the use of real conditions there are deficiencies and weaknesses. New design usage tests need to be evaluated for design improvements. Design trials can be done by experimenting: Comparing the effectiveness and efficiency of old designs systems with new designs. Compare the previous situation and after using the new design (before-after). Comparing with the experimental group and the control group. In Implementation of Design Development, there needs to be guidance, supervision, and evaluation in order to avoid deviation. Design validation is: The process of activity to assess whether the design design in this new design is rationally more effective than the old one or not. Said rationally, because this validation is judgment based on rational thinking, not fact in the field. Design validation is: The process of activity to assess whether the design in this new design is rationally more effective than the old one or not. Said rationally, because this validation is judgment based on rational thinking, bellum facts in the field. Validation can be done by presenting some experts or experts who are experienced for the new product. So the next can be known weakness and strength. Design validation can be done in discussion forums. The design development of Batik Sukowati Sragen is expected to increase the performance of export products to what extent the changes occur.

DISCUSSION AND RESEARCH RESULT

Strategy is a set of actions used to formulate, implement, and evaluate managerial decisions in achieving company goals (Hunger & Wheelen, 2003; Hunger & Wheelen, 2007). Strategy has a close relationship with the concept of planning and decision-making, so that ultimately the strategy develops into management strategy. The strategy management process consists of several stages, including environmental observation, strategy formulation, strategy implementation and strategy evaluation (David, 2004; Hunger & Wheelen, 2007). The environmental observation stage is conducted to identify the Batik Cluster Competitiveness of various events, developments and environmental changes that affect the condition of the organization (Hunger & Wheelen, 2003; Hunger & Wheelen, 2007; Hill & Jones, 2009). The stage of strategy formulation is the stage of decision selection in the selection of alternative strategies to be used by the organization. The chosen strategy is the result of observation of the organizational environment (Hunger & Wheelen, 2007; Thompson, 2010). The next stage is the implementation phase of the strategy, which is the implementation stage of the strategy that has been formulated or planned. Strategy Implementation is a process whereby management embodies its strategy and policies through program development, budget and procedures (David, 2004; Harrison & John, 2009). The final stage is the evaluation and control that is to compare the results obtained with the desired results to provide the necessary feedback for the management to evaluate and take corrective action when treated (Hunger & Wheelen, 2007; Hill & Jones, 2009).

Sragen regency has 4.542 units of batik business with 12,353 batik craftsmen spread in batik industrial centers in Plupuh, Masaran and Kalijambe sub districts. Especially for Masaran District there are 2,567 units of batik business that is able to absorb the labor of 7,233 people. Sragen batik craftsmen every month are able to produce as many as 1,201,500 pieces of batik material for domestic market consumption such as Java and outside Java, while the export market has not been optimally worked yet. The batik craftsmen Sragen until now is still doing the domestic market, while the export market is not all. Small and Medium Enterprises Batik Craft Industry in Sragen regency mostly only make batik material that is deposited to some famous batik shop to be used as batik clothes, some also make batik clothes. Batik quality Sragen has uniqueness or cash. The production of batik made by Small and Medium Enterprises of Batik Craft Industry in Sragen regency are batik cap, batik tulis, batik printing, and batik (batik tulis and batik print) combination. Sragen regency has long been known as batik-producing region with distinctive characteristics of batik-batik in other areas so that Sragen batik production is in great demand among consumers.

Criteria of Regional Superior Product according to Regulation of the Minister of Home Affairs No. 9 years 2014 are: 1) the absorption of local superior product labor is produced by utilizing skilled labor in the production area so as to impact on job creation and income for the local community. 2) Contribution to the economy is a product that has economic value and provide benefits to consumers, has a linkage to the front and backward, giving the effect of multiple economic and at the same time provide economic benefits for all stakeholders and regions that produce these excellent products. 3) Regional economic base sector is a regional superior product falling into the category of base sector groups in Gross Domestic Product and contributing the most in the regional economy. 4) Renewable means that the region's superior product is not a mining product and utilizes renewable and environmentally friendly raw materials. Mining goods cannot be included as a superior product of the region even though it is giving a large economic contribution to the region. 5) The socio-cultural element of creating, producing and developing regional superior products is the use of community talents and institutions that are built and developed based on local wisdom that is based on the characteristics and hereditary cultural heritage and local socio-cultural conditions. 6) Market availability is the ability of regional superior products to be absorbed in local, regional and national markets and has the potential to enter the global market. The raw material is guaranteed its availability with competitive price, guaranteed sustainability and environmentally friendly. 7) Capital is the availability and adequacy of funds for business smoothness for investment and working capital needs. 8) The production facilities and infrastructure is the convenience for the local superior producers to obtain production facilities and infrastructures at competitive and accessible price levels. 9) The technology is relevant, effective and there are elements that are not easily imitated. 10) Business management is the ability to manage the business professionally by utilizing the talents and community institutions. 11) Price is the ability to add value and bring in business profit.

Law No.28 of 2014 Article 38 of Copyright to traditional cultural expressions is held by the State. States shall inventory, preserve, and preserve traditional cultural expression. The use of traditional cultural expressions should take account of the living values of the carrier society. With regard to batik there are two important things namely Batik Making and Batik Motif, both of which are cultural heritage that has been handed down by generations known by the people of Indonesia. What is meant by "batik art" is a contemporary batik motif that is innovative, present, and not traditional. The work is protected because it has artistic value, both in relation to the image, style, and color composition. What is meant by "other motif artwork" is the motif that is the wealth of Indonesian nation that is found in various regions, such as songket art, ikat motive, tapis motif, ulos motif, and other contemporary motive, innovative, and continuously developed.

What is meant by "traditional cultural expression" includes one or a combination of forms of expression as follows: textual verbal, both oral and written, in the form of prose and poetry, in various themes and content of the message, which can be either literary or informative narrative; music, including, among others, vocals, instrumental or combinations thereof; motion, including among others, dance; theater, including among others, puppet shows and folk plays; art both in the form of two dimensions and three dimensions made of various materials such as leather, wood, bamboo, metal, stone, ceramic, paper, textile, etc. or any combination thereof; and traditional ceremonies. What is meant by "traditional cultural expression" includes one or a combination of forms of expression as follows: textual verbal, both oral and written, in the form of prose and poetry, in various themes and content of the message, which can be either literary or informative narrative; music, including, among others, vocals, instrumental or combinations thereof; motion, including among others, dance; theater, including among others, puppet shows and folk plays; art both in the form of two dimensions and three dimensions made of various materials such as leather, wood, bamboo, metal, stone, ceramics, paper, textiles, etc. or any combination thereof; and traditional ceremonies. Tradition is a community cultural heritage that is nurtured and / or developed sustainably across generations by a community of local communities or indigenous peoples. Traditional Knowledge Custodians and / or Traditional Cultural Expressions are communities of local communities or indigenous peoples residing within a particular territory, which

share common values and social cohesion, and maintain, maintain and develop Traditional Knowledge and Traditional Cultural Expressions Traditionally and communally Usage The term custodian more precise and focused on the people who manage PT EBT. Conservation is a form of utilization of Traditional Cultural Expression conducted by every person or legal entity, both Indonesian and foreign, in order to protect, maintain, maintain and maintain the quality of Traditional Culture Expression value.

Regulation of the Minister of Justice and Human Rights No. 13 of 2017 Data on Intellectual Property Communal Traditional Knowledge of know-how, skill, innovation; concepts; learning; agricultural knowledge; technical knowledge; ecological knowledge; medication knowledge including related drugs and healing procedures, as well as knowledge related to Genetic Resources; know-how, skills, innovation, concepts, learning; agricultural knowledge; technical knowledge; ecological knowledge, medication knowledge including related drugs and healing procedures, as well as knowledge related to Genetic Resources, local customs; rite (magical), celebrations, traditional economic system, social organization system, knowledge and behavioral habits regarding nature and the universe, traditional medicine; and / or, proficiency in making traditional handicrafts, traditional food / drink, traditional mode of transportation. Traditional verbal textual cultural expression; music, motion, theater, art, traditional ceremonies, architecture, landscape; and / or other forms of expression according to progression.

Traditional Culture Expression Data Inventory:. Name of Traditional Cultural Expression, custodian, Traditional Culture Expression form, classification, region / location; and description Article Defines article nominal a particular item or object, typically one of a specified type. Small household articles synonym: item, thing, object, artifact, commodity, product a piece of writing included with others in a newspaper, magazine, or other publication. An article about middle-aged executives' synonym: report, account, story, write-up, feature, item, piece, column, review, commentary a separate clause or paragraph of a legal document or agreement, typically one outlining a single rule or regulation. it is an offense under Article 7 of the treaty synonym: clause, section, subsection, point, item, paragraph, division, subdivision, part, portion verbal bind by the terms of a contract, as one of apprenticeship.

Protection Local regulations on protecting traditional cultural expressions need to regulate traditional cultural expression protection systems. Protection against traditional cultural expressions is given to cultural elements that have special characteristics integrated with the cultural identity of a particular society that preserves it; and compiled, developed, implemented and maintained within the scope of tradition. Protection against traditional cultural expressions can be done by: inventory, documentation, and maintenance; prevention and / or prohibition; and coaching. The content of local regulations concerning traditional cultural expressions needs to include an understanding of traditional cultural expressions, forms of traditional cultural expression creations that are protected, possessed or holders of copyright over traditional cultural expressions, mechanisms of exploiting traditional cultural expressions, traditional cultural expression protection systems, and prohibition provisions and sanctions.

The position of local regulations on the protection of traditional cultural expressions is as an autonomous rule governing intellectual property protection policy in the field of culture. The local regulation is required to have substance conformity with the higher laws and regulations, but as part of the intellectual property law system, the regulation on the utilization and protection of traditional cultural expression shall remain within the framework of intellectual property law applicable both nationally and internationally.

CONCLUSION

The expression of traditional culture is an identity for the community owner. Protecting and preserving traditional cultural expression is very important, because if the expression of traditional culture is extinct then the extinct identity of the owner community. The protection of traditional cultural

expression has been going on for four decades, both nationally and internationally. However, until now there has been no uniformity in the regulation of traditional cultural expression. Indonesia regulates traditional cultural expression under the scope of copyright law, but the period of protection of traditional cultural expression in Indonesia does not follow the period of copyright protection. Under the Copyright Act of 2014, the period of protection of traditional cultural expressions applies indefinitely. The copyright of traditional cultural expression in Indonesia is held by the state. The setting of traditional cultural expressions under the scope of copyright law is inappropriate because some of the focus of copyright protection contradicts the focus of protection of traditional cultural expressions. Need to provide Traditional Cultural Expression Protection through the establishment of a Regional Regulation. Protection The expression of traditional culture is the protection of the identity and identity of a nation. In addition, it is also the implementation of regional policy on the mechanism of utilization and protection of intellectual property rights in the field of culture. The position of local regulations on the protection of traditional cultural expressions is as an autonomous rule governing intellectual property protection policy in the field of culture. The local regulation is required to have substance conformity with higher legislation, but as part of the intellectual property law system, the regulation of exploiting and protecting traditional cultural expression shall remain within the framework of intellectual property law applicable both nationally and internationally. Batik as a traditional cultural heritage associated with batik there are two important things namely Batik Making and Batik Motif, both of these are cultural heritage that has been handed down by generations known by the people of Indonesia.

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REFERENCES

- [1] Kuruk, Paul, 1999, Protecting Folklore Under Modern Intellectual Property Regimes: A Reap-praisal Of The Tensions Between Individual And Communal Rights In Africa And The United States," 48 *Am. U.L. Rev.* 769, *American University Law Review.*, pp. 769-849.
- [2] Law no. 28 of 2014 on Copyright
- [3] Regulation of the Minister of Home Affairs of the Republic of Indonesia, 2014, Regulation of Minister of State Affairs No. 9 of 2014 on regional superior products, Jakarta.
- [4] Graham, Loric., dan Stephen McJohn. 2005. *Contemporary And Comparative Perspectives On The Rights Of Indigenous Peoples*", Wash. U. J.L. & Pol'y 313, Washington University Journal of Law and Policy, pp. 313-337.
- [5] Spangler, Stephanie. 2010. When Indigenous Communities Go Digital : Protecting Traditional Cultural Expressions Through Integration of IP and Customary Law". 27 *Cardozo Arts & Ent.L.J.* 709., *Cardozo Arts and Entertainment Law Journal*, pp. 709-736.
- [6] Michael, Blakeney, 2000. *The Protection Of Traditional Knowledge Under Intellectual Property Law*. E.I.P.R. 2000, 22(6), *European Intellectual Property Review*, pp. 251-261.
- [7] Farrel, mark. 2000. Developing A Market Oriented learning Organization. *Australian Journal of Management*. Vol. 25, pp. 201-217.
- [8] Friedman, Lawrence M., 1984 *American Law, An Introduction*, New York, : W.W. Norton and Company.
- [9] J. David Hunger & Thomas L. W, 2004, *Strategic Management and Business Policy*, 9th Edition, Pearson Prentice Hall.
- [10] Schmitz, H dan Musyik B. 1993. Industrial Districts in Europe: Policy Lessons for Developing Countries. Discussion Paper Institute of Development Studies, (331).

- [11] Hill, Charles W.L. and Jones, Gareth R. 2010, Strategic management theory: An integrated approach. South-Western Cengage Learning, Mason.
- [12] Githaiga, Josep, 1998, "Intellectual Property Law and Protection Indigenous folklore and Knowledge", E LAW Murdoch University Electronic Journal of Law Volume 5, Number 2 (June 1998).
- [13] M. Friedman, 1973, A History of American Law, New York: Simon and Schuster
- [14] Lawrence M. Friedman, 1973, A History of American Law, New York: Simon and Schuster