

# LEGAL PROTECTION OF BATIK AS A CULTURAL HERITAGE IN INDONESIA FROM AN INTELLECTUAL PROPERTY RIGHTS PERSPECTIVE

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# LEGAL PROTECTION OF BATIK AS A CULTURAL HERITAGE IN INDONESIA FROM AN INTELLECTUAL PROPERTY RIGHTS PERSPECTIVE

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## Abstract

Batik is one of Indonesia's most iconic cultural heritages. Batik is a patterned cloth made using tie-dye or printing techniques. Batik has a long history and has been part of Indonesian culture for centuries. This research aims to analyze the legal protection of batik as a cultural heritage in Indonesia from the intellectual property rights perspective. This research uses normative juridical research methods. The data collection technique in this research is a literature study. The data that has been collected is then analyzed in three stages, namely data reduction, data presentation and concluding. The research results show that Batik is one of the works protected by law and contained in Law Number 28 of 2014 concerning Copyright. This shows an effort to recognize, protect and promote batik as an inseparable part of Indonesian cultural identity. However, there are still challenges in maintaining the authenticity, protecting and promoting batik, especially related to piracy practices and protection of batik copyright.

**Keywords:** Legal Protection, Batik, Cultural Heritage, Intellectual Property Rights

## INTRODUCTION

Batik is a traditional cloth art originating from Indonesia and has been recognized as the cultural heritage of the Indonesian people. Batik is a work of cultural art that is admired worldwide and has made Indonesia one of the leading countries producing fine traditional fabrics in the world. Batik is made by drawing dots on a wide cloth medium to produce beautiful patterns. Batik has various types and different motifs, and each batik motif has different meanings and cultural characteristics (Wibowo et al., 2016).

More than 12 years ago, Batik was recognized as a World Cultural Heritage from Indonesia, in accordance with UNESCO's decision in Inscription: 4.COM 13.44. This recognition emphasizes the need to protect and recognise a country's cultural rights to its cultural heritage in international law. Recognition of culture is very important, considering the frequent occurrence of mutual claims on cultural heritage between countries. For example, Indonesia often has conflicts with neighbouring countries, especially Malaysia, regarding Batik cultural rights. However, the conflict ended when UNESCO officially recognized on October 2 2022, that batik was a world cultural heritage originating from Indonesia (Arsetyo, 2022). This is proof of the importance of protecting intellectual property rights.

Intellectual Property Rights (IPR) are defined as the right to obtain legal protection for intellectual property in accordance with regulations. IPR covers various aspects, including copyrights, patents, industrial designs, trade secrets, plant varieties, integrated circuits, and brands. IPR gives its owner the exclusive right to use, sell and enjoy the benefits of the work or innovation produced (Rahman & Triadi, 2023). The main characteristic of intellectual property rights (IPR) is that they are private, meaning that individuals can decide whether to apply for or register their work. The exclusive rights granted by the state to individuals who create the work, such as inventors, creators, designers, and so on, are intended as appreciation for the work or creativity produced and to encourage others to develop it further. Through this IPR system, the interests of

society are regulated through market mechanisms, where innovation and new works are appreciated and can be further developed by intellectual property rights holders (Widihastuti & Kusdarini, 2013).

Previous research by Ayunda & Maneshakerti (2021) indicates that creators have several legal protection options for their work, including preventive and repressive measures, as well as efforts to socialize the importance of intellectual property rights to the public. To avoid violations of intellectual works, creators can carry out official registration or recording of their work. If the creator experiences a loss of his rights, he can file a lawsuit in accordance with the provisions stipulated in the Copyright Law.

Other research by Sakul (2020) states that batik as a motif is difficult to protect effectively because anyone can adopt and modify it. The frequent claims made by foreign parties against batik raise questions about the government's ability to protect copyright on batik. For example, the batik claim case by Miss Grand Malaysia in 2018 raised doubts because the Batik Parang motif was not included in the 17 types of batik officially registered at the National Data Center.

4 Similar research by Sunaryo (2019) shows that the State carries out legal protection of Yogyakarta and Solo Batik as Traditional Knowledge by inventorying traditional batik motifs and maintaining Traditional Knowledge and Traditional Cultural Expressions. Legal protection for Intellectual Property Rights (IPR) that can be applied to Yogyakarta and Solo Batik is through the Copyright, Trademark, Patent and Trade Secret regime.

This research contributes to the conceptual understanding of intellectual property rights in the context of culture and heritage. This helps strengthen the theoretical foundation of how intellectual rights can be applied to protect and promote cultural heritage that is important to a country. This research aims to analyze the legal protection of batik as a cultural heritage in Indonesia from the intellectual property rights perspective.

## RESEARCH METHODS

This research uses normative juridical research methods. The normative juridical research method is an approach used to analyze applicable legal regulations or legal theory by examining various legal documents, such as laws, court decisions, legal doctrine, and other legal literature (Jonaedi et al., 2018). The data collection technique in this research is a literature study. Literature study data collection techniques involve searching, selecting, and analyzing various literature sources that are relevant to the research topic being discussed (Jogiyanto, 2018). The data obtained comes from Google Scholar. The data that has been collected is then analyzed in three stages, namely data reduction, data presentation and conclusion.

## RESULT AND DISCUSSION

Batik is a traditional cloth art originating from Indonesia and has been recognized as the cultural heritage of the Indonesian people. Batik has been known since the time of the Majapahit Kingdom and continued to develop until the next kingdom and its kings. Batik is made by drawing dots on a wide cloth medium to produce beautiful patterns. Batik has various types and different motifs, and each batik motif has different meanings and cultural characteristics. Batik is a legacy of Indonesia's ancestors which still exists today. Batik was also first introduced to the world by President Soeharto, who at that time wore batik at the UN Conference. The history of the batik technique itself is known to date back more than 1,000 years, it is possible that the technique originated from ancient Egypt or Sumer. Then, batik techniques spread to several countries in West

Africa, such as Nigeria, Cameroon and Mali, Asia such as Sri Lanka, India, Iran, Bangladesh, Thailand, Malaysia and Indonesia (Kusrianto, 2021).

Batik, as Indonesia's cultural heritage, is an invaluable asset that requires legal protection from the perspective of Intellectual Property Rights (IPR). As a symbol of rich cultural identity, batik reflects the rich history and culture of Indonesia which has been recognized internationally. Through copyright and other intellectual property rights, batik can be protected from piracy and misuse practices that can harm the state and society. Legal protection of batik not only ensures the sustainability of this cultural heritage, but also supports economic development through a rapidly growing batik industry. The existence of Intellectual Property Rights (IPR) is inevitable in human life and in international relations between interdependent countries. Advances in science and technology influence issues related to Intellectual Property Rights. The Directorate General of Intellectual Property Rights (Ditjen IPR) is tasked with providing legal protection for intellectual works and encouraging increased creativity by implementing an Intellectual Property Rights system. For developing countries, IPR regulations have a positive impact on trade and economic development. This is especially beneficial for creative economy actors, who clearly receive protection in the realm of IPR (Mahila, 2018).

Ownership of Intellectual Property Rights (IPR) is very crucial in facing the global market because with IPR ownership, a person will obtain legal certainty when other entrepreneurs try to imitate the same brand (Widihastuti & Kusdarini, 2013). The Copyright Law in Indonesia provides protection for batik as a traditional intellectual work. Copyright is one of the main focuses in the study of Intellectual Property Rights. Regulations regarding copyright are contained in Law Number 28 of 2014, which has undergone several changes from Law Number 19 of 2002, which are adapted to developments in society and the law (Widyastutiningrum, 2019).

A constitutive system based on registering Intellectual Property Rights (IPR) objects gives exclusive rights to the rights holder who first registers the object. Therefore, registration is considered an important legal obligation. People who register early will get exclusive rights to the IPR object. There is an increasing need for protection and respect for copyright to advance society's welfare. Article 40 of Law Number 28 of 2014 concerning Copyright states that protected works include works in the fields of science, art and literature, including batik art. Apart from that, the certainty of copyright protection is based on the declarative principle, as regulated in Article 1 of Law Number 28 of 2014 concerning Copyright. Therefore, registration does not create rights directly but confirms that the party whose work is registered has the rights to the work and is the original owner of the registered work (Mantara et al., 2021).

Intellectual Property Rights (IPR) protection for batik copyright includes several principles, including intellectual property principles, which include justice, economic, social and cultural aspects. Economic principles show that ownership of intellectual rights to creative works in various forms and media will benefit the owner economically. For example, Batam batik provides economic benefits for its creators and also the people involved in batik activities as a source of income. The principle of justice states that the creation of works from intellectual results that produce products in various fields, such as science, art or literature, will provide legal protection for the creator (Ayunda & Masneshakerti, 2021).

According to the Deputy for IPR Facilitation and Regulation at Bekraf RI, Ari Juliano Gema, there are three things that the government needs to pay attention to in efforts to preserve the batik industry, namely technique, technology and motifs. However, it is unfortunate that of these three aspects, only motive can be given legal protection. Traditional batik motifs such as parang, cirebonan and other motifs should receive protection as part of cultural expression



(according to the Copyright Law) and as objects of cultural advancement (based on the Cultural Advancement Law). On the other hand, contemporary batik motifs that are currently developing can be protected as copyrights and industrial designs. Therefore, batik craftsmen need to protect their motifs and work with intellectual property rights so that this cultural wealth can be properly maintained and appreciated (Justika, 2021).

Industrial Design Rights protect written batik motifs because in their final form, written batik is in the form of images initially made with a pattern prepared in advance on white cloth. In accordance with Article 1 of Law Number 31 of 2000 concerning Industrial Design, "industrial design" is defined as the creation of shapes, configurations or compositions of lines or colors, both in three dimensions and two dimensions, which give an aesthetic impression and can be realized in patterns. three-dimensional or two-dimensional to produce industrial or handicraft products or goods. Industrial designs that have been registered will be given a certificate, which is proof of ownership of the design work that has been created by the designer. Having an Industrial Design Rights certificate will strengthen legal protection, especially in terms of proving ownership if another party claims that the design work is theirs (Brenisya, 2016). According to Article 2 of Law Number 31 of 2000 concerning Industrial Designs, industrial designs that receive protection have the following criteria:

1. Industrial design rights are granted for new industrial designs.
2. An industrial design is considered new if at the Filing Date, the design is not the same as any previously existing disclosure.
3. Previous disclosure, as intended in paragraph (2), refers to the disclosure of industrial designs before:
  - a. Receipt date; or
  - b. Priority date if the application is submitted with priority rights.
  - c. Has been announced or used in Indonesia and outside Indonesia.

Regulation of Intellectual Property Rights (IPR) in Indonesia depends on statutory regulations and the basic law, where IPR cannot be separated from three main things, namely copyright, property rights and patent rights, with the main focus on copyright. Copyright is an exclusive right that is automatically given to the creator for creating a work that has a tangible form in accordance with legal provisions (Sinaga, 2020). Auteuswet defines copyright as the sole right of the creator of works of art, literature and science to reproduce or reproduce the work in accordance with the limitations set by law. The Universal Copyright Convention also states that copyright includes the sole right of the creator to grant permission or publish works protected by the agreement. Several requirements that must be met when registering batik copyright are as follows (Ayunda & Maneshakerti, 2021):

1. Originality means that the work being registered must truly be the work of the creator or copyright owner. Originality does not mean that the work must be new, but it must be your own work without plagiarizing someone else's work. The creator must actively create the work from his own intellectual output or from joint intellectual output if it is a joint work. The work must have its own uniqueness so that it is not subject to copyright protection that has been previously registered.
2. In a tangible form the work must be realized in a tangible form for the copyright to be registered. Copyright only protects things that are tangible or have a material form. Ideas or notions can only be protected after realising them in a tangible form. Ideas or notions cannot be registered as copyrights because they are still in the creator's mind and cannot be accessed by other people. Several Batam batik motifs have been registered in copyright

registration, with ten motifs recorded. This will make it easier if a dispute arises in the future.

A number of studies have highlighted the legal protection of batik motifs as traditional intellectual property (Nurhidayat, 2013; Sari, 2015; Kusumaningtyas, 2011). This step reflects efforts to recognize, protect and promote batik as an integral part of Indonesia's cultural identity. Thus, through the legal basis of Copyright, batik is considered a cultural heritage that should be protected and preserved. This legal protection not only ensures the continuity of batik culture, but also provides appropriate respect for the artistic and cultural heritage that has become an inseparable part of the lives of Indonesian people.

## CONCLUSION

Batik is recognized as a work protected by law, especially in Law Number 28 of 2014 concerning Copyright. This is a positive step in efforts to recognize, protect and promote batik as an inseparable part of Indonesia's cultural identity. However, although it has received legal protection, there are still various challenges in maintaining the authenticity, protecting and promoting batik. One of the main challenges is the practice of piracy and batik copyright violations, which are still widespread. This can harm batik creators and hamper efforts to preserve batik culture. Therefore, more concrete steps are needed to overcome these various challenges. Law enforcement efforts against batik copyright infringement need to be strengthened. Apart from that, educating the public about the importance of respecting copyright and protecting batik as the nation's cultural heritage is necessary. On the other hand, batik promotion efforts must also continue domestically and abroad. Promotion of batik can be done through various means, such as exhibitions, festivals and education to the younger generation.

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