

PROTECTION OF BATIK IN GROBOGAN REGENCY BASED ON REGIONAL REGULATION NUMBER 20 OF 2016 ON THE PROTECTION AND DEVELOPMENT OF BATIK GROBOGAN REGENCY

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ABSTRACT

Typical Batik of Grobogan Regency as one of two-dimensional forms of expression made of textile materials, so that as an expression of traditional culture can be protected under the Copyright Act. The importance of protecting a batik art typical of an area is to prevent imitation and recognition from other parties and countries. Batik itself is a batik pattern that originates from Indonesia. One of the example is the Batik District of Grobogan in Central Java Province. The Grobogan Regency Government itself has made an effort to provide legal protection for Grobogan Regency batik with the creation of Regional Regulation No. 20 of 2016 concerning the Protection and Development of Batik in Grobogan Regency in order to preserve the batik of Grobogan Regency and increase the creativity of craftsmen.

The purpose of this research is to provide an explanation of why Grobogan Regency batik needs to be made a regional regulation that specifically regulates the protection of batik in Grobogan Regency, where batik itself is actually automatically protected under Law No. 28 of 2014 concerning Copyright both for contemporary batik and batik from the results of traditional cultural expressions. Batik Grobogan Regency has a distinctive motif from Grobogan Regency such as agricultural products and tourist destinations that distinguishes batik from other regions.

This research uses a qualitative approach with the Sociological Juridical method. Juridical Method Sociology is legal research that studies and examines the interrelationships between laws with other social institutions, the research of law as law in action is a non-doctrinal and empirical science research. Researchers in conducting this research not only saw directly the provisions of regulations governing the batik protection issues of Grobogan Regency based on Perda No. 20 of 2016, but will be asked directly on the field to see the actual situation.

Keywords: Law Protection, Grobogan Batik, Regional Regulation Number 20 of 2016

INTRODUCTION

Intellectual Property (KI) is property that arises from human intellectual abilities. Works that arise or are born of human intellectual abilities can be works in the fields of technology, science, art and literature. These works are born or produced on the intellectual abilities of humans through the outpouring of time, energy, mind, creativity, feeling and caress.¹ Intellectual Property is also included in intangible or immaterial objects.² This is what distinguishes intellectual property from other types of property that can also be owned by humans but are not produced by human intellectuality. Whereas Intellectual Property Rights (IPR) are rights that protect owners from any other invention, design and related creations from unauthorized use either economically or not economically by other parties.³

Law enforcement in the field of Intellectual Property Rights (IPR) is contained in the provisions of the WTO (World Trade Organization) which is realized in the TRIP Agreement or Agreement on Trade Related Aspects of Intellectual Property Rights. Basically, the TRIP's Agreement aims to protect and enforce Intellectual Property Rights (IPR) laws in order to encourage the emergence of innovation, transfer and dissemination of science, technology, art and literature, so that it is expected to lead to the creation of socio-economic welfare of the community. For the Indonesian people, the birth of the TRIP's-WTO agreement greatly affected the revision of the Law in the field of Intellectual Property Rights. Because the demand for legal protection in the field of IPR is inevitable and every country needs a set of regulations that are able to accommodate all the provisions that apply internationally regarding IPR protection standards as stated in the TRIP's-WTO. So, the Law Number 28 of 2014 concerning Copyright was born which perfected all existing laws (Law Number 6 of 1982, Law Number 7 of 1987, Law Number 12 of 1997 and Law Number 19 of 2002).

Batik protection is contained in Article 40 paragraph 1 letter (j) of Law Number 28 of 2014 concerning Copyright stated that batik artwork or motive art are protected works in science, art and literature. As it is known, batik is one of the results of the traditional culture of the Indonesian people which has been going on for generations. Batik's creation was originally a creation of a typical Indonesian nation made conventionally. Such works are protected because they have artistic value, both in the creation of motifs or images and in the composition of the colors.

¹ Krisnani Setyowati, and other, *Hak Kekayaan Intelektual dan Tantangan Implementasinya di Perguruan Tinggi*, (Bogor: Kantor HKI IPB, 2005), page 1

² Kholis Roisah, *Konsep Hukum Hak Kekayaan Intelektual*, Malang: Setara Press, 2015, page 9

³ Asuantri Mohamad dan Yasmin Bani, *Effect Of Ontellectual Property Rights (IPRS) And Absorptive Capacity On Research and Development (R&D): Empirical Evidences In Developing Economies*, *South East Asia Journal of Contemporary Business, Economics and Law*, Vol. 15, Issue 3, ISSN 2289-1560, (2018), page 1

Actually there are various ways that have been taken by the government in an effort to preserve batik, among others by requiring the imposition of batik for school children on certain days, as well as Civil Servants through the Indonesian Republic Civil Servants Corps who are required to wear sleeve batik shirts length on every 17th and national holidays. The efforts made by the government regarding the necessity of uniforming batik, although it was aimed at good, but according to the author, were a little less interesting, because the batik worn as uniform was almost always a factory product. Thus the regulation has not touched the traditional batik artisans, especially the batik artisans. Meanwhile guidance and direction from the Department of Industry and Trade was also directed more to nourish large-scale batik businesses. Likewise, only in the help of capital, which until now has not led to craftsmen, especially those in rural areas.⁴

Therefore, as an effort to protect traditional batik, the Grobogan Regency Government has made Regional Regulation Number 20 of 2016 concerning the Protection and Development of Batik in Grobogan Regency. Although the existence of the batik business in Grobogan has not lasted long, its development is considered very encouraging. So that the development of batik business needs to be accompanied by the existence of a Regional Regulation that regulates the problems that will be faced by batik artisans. For example, protecting the typical batik of Grobogan Regency from imitating and plagiarizing the batik motif typical of Grobogan Regency. Given that there are 19 sub-districts in Grobogan Regency, 13 subdistricts are spread around 54 Joint Business Groups, each of which consists of 15 to 20 batik artisans. So that both batik motifs that have been created by batik artisans will get strong legal protection.

The most basic preservation of batik art, especially traditional batik, is to provide batik protection and batik artisans for their intellectual work. Because it is known that the best and most traditional batik is handwrite batik. So that the most important consideration is found in the process of making batik because there are higher difficulties compared to the process of making other types of batik (batik, combination, and batik motifs). In written batik, more precision and perseverance are needed. However, written batik is difficult to imitate by others or it is difficult to find the exact same pattern, but there must be a difference even if only a little.⁵ Therefore, in this research the author will examine the Batik Protection of Grobogan Regency based on Regional Regulation Number 20 of 2016 concerning the Protection and Development of Batik in Grobogan Regency. The batik will not get guidance from the Regional Government of Grobogan Regency both in terms of capital assistance and batik business development facilities. Based on the background described above, the formulation of the problem is as follows: Why does the District of Grobogan batik need to make a Regional Regulation Number 20 of 2016 concerning the Protection and Development of Batik in Grobogan Regency?

LITERATURE REVIEW

A. REVIEW OF REGIONAL AUTHORITY

The Law 32 of 2004 concerning Regional Government shows that regional governments have wider authority to make spatial planning efforts in their territorial territories. The authority contained in Law Number 32 Year 2004 Article 14 paragraph (1) states: "Compulsory affairs which are the authority of the regions for the Regency constitute district / city scale affairs including: 1. Development Planning and Control; 2. Planning, Utilization and Supervision of Spatial Planning; 3. Implementation of public order and peace of society; 4. Provision of public facilities and infrastructure; 5. Handling the health sector; 6. Organizing education; 7. Overcoming social problems; 8. Employment services; 9. Development facilities of cooperatives, small and medium enterprises; 10. Environmental control; 11. Land Services; 12. Population Services and civil records; 13. Government general administration services; 14. Investment administration services; 15. Implementation of other basic services and; other obligatory affairs that can be mandated by legislation".

B. LEGAL PROTECTION ON BATIK ART

Protection of Batik Art in the Conception of Indonesian Copyright Law

TRIPS Agreement is an agreement that is part of a WTO Agreement signed by its member countries which requires all members to make rules regarding Intellectual Property Rights in their respective countries. One such intellectual property is Copyright. Copyright is the exclusive right of the creator that arises automatically based on the declarative principle after a work is manifested in a tangible form without reducing restrictions in accordance with the provisions of the legislation. Copyright is specifically regulated in the Berne Convention. The types of Copyright have been regulated in Article 2 Berne Convention which contain related to copyrighted works of art only mentioned relating to the scope of art, literature and science. Art itself in Indonesia is categorized as one of them is batik art.

Batik is an original work of art from Indonesia itself which each region has its own motive art. However, Batik is not the type of art in the Article 2 Berne Convention, so because Indonesia has been a member of TRIP's Agreement, Indonesia has ratified it with the making of Law Number 7 of 1994 and the TRIP Agreement provides freedom for member countries to protect in relation to Wealth. Intellectuals according to the needs of each country.

Law Number 28 of 2014 concerning Copyright of the State of Indonesia introduces Batik motifs as copyrighted works of art in Indonesia. In Article 38 of Law Number 28 of 2014 concerning Copyrights related to traditional cultural expressions in which batik is equated as a form of two-dimensional product creation of textile materials and Article 40 paragraph 1 letter (j) of Law Number 28 of 2014 concerning Copyright regulate about protected creations in science, art and literature. Included in the protected scope are batik artwork. The philosophical basis of the application of the Copyright is in accordance with the concept of immaterial property rights which are material rights. Material rights have the nature of Droit

⁴Afrillyanna P., Gazalba S. and Andriana K., *TRIP's-WTO and Hukum HKI Indonesia (Kajian Perlindungan Hak Cipta Seni Batik Tradisional Indonesia)*, (Jakarta: PT Asdi Mahasatya, 2005), page 6-7.

⁵*Ibid.*, page 50

de suit which is always following where the object is located, so the owner may take any legal action against his rights. The period of protection of the creators of batik art is contained in Article 58 (b) that protection is valid for the life of the creator and continues for 70 (seventy) years after the creator dies.

Efforts taken by the central government through the Director General of Intellectual Property of the Indonesian Ministry of Law and Human Rights to increase the registration of Intellectual Property appear by providing easy registration that can be done in each province so registration does not have to come to Jakarta. However, provincial authority is only limited to accepting registration, while the examination is still carried out by the Director General of Intellectual Property. Although efforts to simplify registration have not been carried out optimally, this effort shows progress when compared to giving ease in registering the copyright rights of batik artwork.

RESEARCH METHODS

The type of research used in this research is a sociological juridical method with qualitative analysis methods, and that is the data obtained is arranged systematically and then analyzed qualitatively in order to obtain clarity of the issues discussed. The purpose of using this qualitative analysis is to get information about the formulation of the problems that will be studied in this research. by describing legal compliance with its application in the field. Researchers in conducting this research not only saw firsthand the provisions of regulations governing the protection of typical batik in Grobogan Regency based on Perda Number 20 of 2016, but will be asked directly on the field to see the actual situation. And this research will get accurate and authentic data because it meets directly with informants and respondents. This research also uses material that provides an explanation of primary legal materials, and that is the Regulation on Batik Protection, Grobogan Regency.

The data analysis method used is a qualitative method, qualitative methodology is a research procedure that produces descriptive data in the form of written or oral words from people and observable behavior. After the data analysis is complete, the results will be presented descriptively, and that is by telling and describing what they are according to the problem under research. From the results, conclusions are drawn which are the answers to the problems raised in this research.

RESEARCH RESULT

The Importance of Regional Regulations Number 20 of 2016 concerning the Protection and Development of Grobogan Regency Batik in Protecting the Typical Batik Motives of Grobogan

A region must have the characteristics of each region. These characteristics can include handicrafts, textile products and regional specialties. One of the textile product that has a characteristic of each region is batik.

Batik is a famous instance of cultural heritage from Indonesia. Batik, as a traditional cloth, is made using a manual wax-resist dyeing technique. The word Batik comes from the Javanese language and consists of two parts namely “Mbat” and “Titik”, and means to make a “titik” (dot)³. This is achieved using a “canting”, a pen-like device to draw the batik pattern in wax, and “malam”(beeswax). Fabric coloring using malam is intended to cover up or block the entry of dyes into the pattern. There are two main batik motifs: geometric and non-geometric. The geometric patterns are recognizable due to the symmetry and repetition in horizontal, vertical, and diagonal directions that form angles between shapes. On the other hand, the non-geometric patterns typically do not exhibit such symmetrical patterns. Several geometric patterns are very widely used, such as *ceplok*, *kawung*, *parang*, *lereng*, and *nitik*. As for the non-geometric patterns, the major patterns include *Lung-lungan*, *Semen*, *Pagersari*, and *Taplak Meja*. Each pattern has its own particular variety and distinctive features.⁶

One of region that has a batik motif is Grobogan Regency in Central Java, Indonesia. Grobogan Regency has regional potential products in the form of Grobogan Batik which has different motives from other regions. The existence of a special product produced in Grobogan Regency was formed by a local regulation specifically protecting the typical Batik of Grobogan Regency. It aims to provide protection as well as increase the creativity of craftsmen to preserve the batik of Grobogan Regency based on Regional Regulation No. 20 of 2016 concerning the Protection and Development of Batik in Grobogan Regency. Actually the regulation regarding batik protection is regulated in Article 38 related to traditional cultural expressions in which batik is equated as a two-dimensional product creation of textile materials and Article 40 paragraph (1) letter (j) related to contemporary batik protection, namely innovative batik motifs, present, and not traditional, which has artistic value related to the image / pattern or color composition.

Based on the results of research conducted by the author related to the Protection of Batik Semarang in the Perspective of Law No. 31 of 2000 concerning Industrial Design, that batik artwork can also get industrial design protection because as a two-dimensional product in the form of a piece of cloth on top of which is a picture/motif.

The Order of Regulations in the form of the Law based on Law Number 12 of 2011 concerning the Establishment of Legislation Regulations is a general regulation. So that Law Number 28 of 2014 concerning Copyright does not specifically regulate the typical batik of a region. Where the rules in Law Number 12 Year 2011 regulate related to the formation of regional regulations based on attributive principles, namely regional authority to compile legislation in the form of regional regulations as implementing regulations of the Act. Regional regulations are established in accordance with regional authority in the distribution of functions based on Law Number 23 Year 2014 concerning Regional Government which was last amended by Law Number 9 of 2015 concerning Second Amendment to Law Number 23 Year 2014 concerning Regional Government.

⁶ Ida Nurhauda dkk, *Automatic Indonesian's Batik Pattern Recognition Using SIFT Approach*, *Procedia Computer Science* 59, (2015) 567 – 576

Regarding the batik motifs of Grobogan Regency, batik motifs that have become a distinctive feature of Grobogan Regency such as the plant motifs and tourism motifs of Grobogan Regency will automatically get copyright protection based on the declarative system, namely registration is not a must for both the Grobogan District batik forms/actual form and batik produced from other regions. In year 2000 there were four motives that were registered and the registration was funded by the Government of Grobogan Regency, motives that had been registered were the pring sedapur motif, the eggplant motif, the pajale motif (soybean corn rice), and the corn motif.

The Regional Regulation Number 20 of 2016 concerning the Protection and Development of Batik in Grobogan District was made, this regulation broadly regulates the protection of Grobogan Regency batik through efforts to register and inventory batik motifs as well as Grobogan Regency's batik development through the role of the Regional Government in encouraging artisans to produce batik artwork and help introducing Grobogan Regency batik to the wider community and assisting in its marketing. The concrete steps that will be taken by the Regional Government of Grobogan Regency in the protection of Grobogan Batik are by registering and inventorying Batik Grobogan. The registration referred to here is that the craftsmen and the Joint Business Group are required to register their batik artwork through the Office of Industry and Trade of Grobogan Regency, where the batik motifs listed are Batik motifs whose patterns, motifs and colors are in accordance with the people's culture and regional characteristics. If the craftsmen/Joint Business Groups do not register their batik artwork, they will not get guidance from the Regional Government. The development of the Regional Government covers the provision of facilities to artisans/Joint Business Groups in developing/producing batik motifs in the form of capital assistance as well as tools/raw materials for batik and getting socialization regarding information on batik development from the Regional Government.

Registration of Batik Motives as stipulated in the Regional Regulation as mentioned above is nothing but the involvement of the craftsmen themselves, namely craftsmen who want to be protected from their batik handicrafts are required to register themselves. Registering is meant by registering batik motifs that want to be protected by their copyright, batik motifs that may be registered in the regulation will only be batik motifs from the typical batik that is characterized by Grobogan Regency, while for printed batik and other batik, there is no protection. The registration is in the process by registering motives accompanied by a description of the motive or with a description of the motive. So that the craftsmen can express more in every batik craft making in Grobogan Regency. The next interest is the batik motif that has become a distinctive feature of Grobogan Regency, such as the plant motifs and tourism object motifs of Grobogan Regency, whose copyright will be directly registered so that not only batik motifs from craftsmen intended for commercial needs are protected but the motives describing the distinctive features of Grobogan Regency can also be protected and can be elevated as a new culture in Grobogan Regency.

This regulation will protect batik artisans in Grobogan Regency so that craftsmen can freely express and create their batik works so that the batik in Grobogan Regency can be more diverse and can be developed more rapidly so that it is expected to pursue the progress of batik from other cities such as Pekalongan, Jogja and also Solo. This certainly can have a significant impact on the development of Grobogan Regency. Not only is the cultural development increasing with the many batik motifs in Grobogan Regency but it also has a positive impact on economic progress in Grobogan Regency because with the development of batik it will open up a new economic industry in Grobogan so that people's incomes can also increase especially batik artisans.

In addition, the other substance in the Regional Regulation is to give a signal that the craftsmen will also be guaranteed with technical, management and marketing guidance in the form of technical training starting from preparation to batik ready to be marketed so that not only in terms of the quality of batik which will be improved but more to balance between the quality of batik and also the quality of the craftsmen. the quality of the craftsman in question is in terms of his skills, both batik skills and marketing skills. This is in accordance with the value of benefits in making a law.

So the purpose of this Regional Regulation is to have special legal protection provided by the Grobogan Regency Government to the work produced by craftsmen so that there is no plagiarism from both internal and external, and that is claims by other craftsmen, other regions and other countries, therefore the Regional Government indicates that every new motive must be registered with the Regional Government through the relevant agency, so that if there is someone who imitates or plagiarizes the motives that have been registered, sanctions will be imposed in the regulation, for example, withdrawing. The motives listed are motifs that are characterized by Grobogan Regency. For example, the bledug kuwu motif (one of the tourist attractions in Grobogan Regency), this bledug has a different shape when viewed from different angles. So, craftsmen must be creative to make motifs that are characterized by Grobogan Regency.

For example, countries that have fabrics with distinctive patterns from their country such as Hol Pidan from Cambodia, Laos Katu Sarong, Tenggara and Kelingkan Limar Songket from Malaysia, Luntaya Acheiq from Myanmar, T'nalak and Ga'dang from Philippines, Tung and Phaa Sarong from Thailand, and Phaa Hom from Vietnam⁷, while for Indonesia itself, which consists of 33 provinces potentially each province which is divided into several regions also has batik cloth with different motifs, for example Central Java Province consists of 35 regencies / cities having typical Jepara lurik batik, typical mega cloudy batik Pekalongan, Parang Barong batik and Parang Rusak typical of Solo, Semarang Batik typical of Semarang, and many more.

⁷Wastrapema. *Kain Tradisional ASEAN Dipamerkan*. (2011) diakses pada www.beritasatu.com/hiburan/16964/kain-tradisional-asean-dipamerkan, Kamis 11 April 2019, 9:30 WIB

CONCLUSIONS AND RECOMMENDATIONS

Conclusion

Indonesia has rules regarding the establishment of legislation, in which the hierarchy of laws and regulations in Indonesia under the Law have Government Regulations, Presidential Regulations, Provincial Regulations, and Regency/City Regulations. Focusing on the problems that the researchers wrote related to the making of regional regulations regarding the protection of batik in Grobogan Regency, this became a concrete example that the Indonesian State as a member of the TRIP Agreement had realized the establishment of copyright laws in which one of the protection areas was batik. Because there is an act of imitation and recognition of a region's unique batik by irresponsible parties, there must be more specific arrangements to regulate the peculiarities of an area, one of which is batik. The concrete steps that have been taken by Grobogan Regency can be used as examples by other regions and other countries that have distinctive motifs to be protected legally to avoid violations of copyrighted works.

Recommendation

With the existence of Regional Regulation No. 20 of 2016 concerning the Protection and Development of Grobogan Batik, craftsmen must be more motivated to develop their creativity in creating batik works typical of Grobogan Regency and the Grobogan Regency Government itself is abler to play an active role in helping craftsmen to realize what is regulated in local regulations that is. In addition, other regions or other countries that have distinctive patterned fabrics can also take concrete steps to provide the same protection as in the district of Grobogan by establishing rules that specifically protect copyrighted works that show the distinctiveness of an area.

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