

Legal Aspects of Intellectual Property Rights in Accreditation Instruments of Study Program Performance Reports

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ABSTRACT

The purpose of this study is to analyze the legal aspects of IPR related to Study Program Performance Reports (LKPS) as one of the aspects of assessment in the study program accreditation instrument and is stipulated in PERBAN-PT No. 2 of 2019. LKPS requires a letter of determination in the form of a decree or certificate issued by Ministry of Law and Human Rights for the outcomes of research and community services (PKM). The research method uses normative research with the legislative approach and economic approach. The results showed that the characteristics are unique to each type of IPR, so the application of LKPS assessments related to intellectual property cannot be equated. Copyright, LKPS instruments do not need to be determined by the Ministry of Law and Human Rights. Patents, not all registered patents granted have been determined by the Ministry of Law and Human Rights can be used as an assessment, but also need to consider other aspects of cost and commercialization. Industrial design, terminology must definitely refer to "industrial design" not "industrial product design". Recommendations on the results of the study include: first, copyright needs to determine definitively the scope of which if necessary to obtain a letter of determination from the Ministry of Law and Human Rights. Secondly, aspects of patent appraisal are not limited to the determination but also aspects of cost and commercialization. Third, the terminology of industrial design and the scope of the assessment is more emphasized. In general, recommendations for the results of this study suggest that the LKPS instrument needs to be reviewed (reformulation).

Keywords: *IPR, Instrument, LKPS.*

1 INTRODUCTION

The preamble of the 1945 Constitution of the Republic of Indonesia clearly states that one of the objectives is "to educate the life of the nation". Such effort to realize this goal as a great nation is by putting education as priority [1], as the education is fundamental indicator to the progress of a country. It is believed that education empowers human resources which lead into great ideas, thoughts, innovations, and creativity from various fields of sciences and technology; that education should receive serious attention from the government. Article 31 paragraph (3) of the 1945 Constitution of the Republic of Indonesia states that "the government strives and establishes a national education system, which enhances faithful, piety, and noble

characters in order to educate the nation's life, as it is regulated by law".

The national education system applied in Indonesia consists of primary education, secondary education, and higher education. For the higher education extension of the secondary education that manages some area, namely diploma, bachelor, master, specialist and doctoral programs. Higher education is conducted by universities, institutes, colleges, and polytechnics. The consideration of Law Number 12 of 2012 on Higher Education point (c) states that to improve the competitiveness of the nation to face globalization in all sectors, higher education is needed to develop science and technology as well as produce intellectuals, scientists, and/or professionals with culture-competent, creative, tolerant, democratic, and strong characters, also they have courage to defend the truth for the benefit of the nation.

As part of government's strategy to improve the national education system requires to implement national

education standards. Consideration of the point (c) of the Law of Higher Education, government has authority to establish the national standard for higher education (SNPT), covering some areas like education, research, and community service. In a more technical manner of the SNPT, government has issued the provisions contained in the Ministerial Regulation of Research, Technology and Higher Education Number 44 of 2015 on National Higher Education Standards which were amended by Ministerial Regulation of Research, Technology and Higher Education Number 50 of 2018 (Permenristek SNPT). SNPT as stipulated in Permenristek SNPT provides the provisions related to the requirement of quality assurance. The quality assurance system consists of an internal quality assurance system (SPMI) and an external quality assurance system (SPME). SPMI is carried out by the internal quality assurance, while SPME is carried out by a special agency outside the university (external quality assurance) which is commonly known as an accreditation. As stated in the socialization of the 2011 Accreditation "... a process of external quality review used by higher education to scrutinize colleges, universities and higher education programs for quality assurance and quality improvement". Accreditation can be interpreted as a guarantee and improvement in the quality of study programs or higher education institutions. Both SPMI and SPME are essential parties of quality assurance system in order to support the achievement of a study program at a university.

Accreditation is an activity to measure the suitability of SNPT as determined in the Law of Higher Education and other relevant laws and regulations; the government has issued a policy in the form of accreditation conducted by the National Accreditation Board of Higher Education (BAN-PT) assisted by the Independent Accreditation Institution (LAM). One of the authorities possessed by

BAN-PT refers to Regulation Number 2 of 2017 on the National Accreditation System for Higher Education (PerBAN-PT Number 2 of 2017) attachment VIII point (B) which is to compile and establish higher education accreditation instruments based on Higher Education Standards, mainly related to the feasibility and achievement of study programs in higher education. The instrument of the accreditation as contained in the Regulation Number 4 of 2017 on the Policy for Preparation of Accreditation Instruments (PerBAN-PT Number 4 of 2017) is intended to ensure that accreditation instruments are prepared in accordance with applicable laws and policies.

Based on PerBAN-PT Number 4 of 2017 in relation with the accreditation instrument, it has been stated in BAN-PT Regulation Number 2 of 2019 on the Guidelines for Preparation of Self-Evaluation and the Preparation of Study Program Performance Reports in Accreditation of Study Programs (PerBAN-PT Number 2 of 2019) dated on March 25, 2019. Stated in the Appendix of BAN-PT Regulation Number 2 of 2019, there are several provisions which are included in table 3.b.7, namely other research outputs from community service program (PKM) conducted by permanent lecturers of the study programs. One of the mentioned outputs is Intellectual Property Rights (IPR) which must be proven by a Decree issued by the Ministry of Law and Human Rights (Kemenkumham) in the form of a certificate. The provision also applies to table 8.f.4 for a research and PKM output produced by academicians (then lecturers and students are called academicians).

Table. 1 Table 3.b.7. Outputs of Other Research and Community Service Programs (PKM) by Permanent Lecturers of Study Program

Ref.	Titles of Research/PKM Outputs	Years	Information
1	2	3	4
I	IPR:		
	a) Patent,		
	b) Paten Sederhana		
	1. ...		
	2. ...		
	3. ...		
	Total	NA =	

II IPR:	
a) Copyrights,	
b) Industrial Product Design,	
c) Plant Variety Protection (Certificate of Plant Variety Protection, Variety Release Certificate, Variety Registration Certificate),	
d) ...	
1. ...	
2. ...	
3. ...	
Total	NB =

Description: Research/PKM outputs that have obtained recognition of Intellectual Property Rights (IPR) should be proven by a decree issued by the Ministry of Law and Human Rights or other authorized ministries

The provision of the research/PKM outputs in the form of IPR as evidenced by the decree from the authorized ministries become the assessment benchmarks or aspects of a study program for the accreditation, so that the study program strives to meet these requirements in order to gain accreditation score. One of the strategies carried out by the study program is to register the IPR which is research/PKM output to the Directorate General of Intellectual Property (DJKI), Kemenkumham. There is nothing wrong to registry the intellectual property in order to obtain the IPR (legal protection). One thing that should be noted, however, that IPRs have several types and characteristics that are not the same as each other. Some other aspects that also become concerns are the economic aspects (effective and efficient concerns), that the IPR is not necessarily and automatically obtained at the time of registration. There are certain types of IPRs that require some fees, which are considerably high.

Another research was conducted by Melany with a research focus on Database Modeling on the Study Program Performance Report Information System (LKPS) Based on Study Program Accreditation Instruments (IAPS 4.0)[2]. Whereas based on the results of this research, the existence of this relational database design will facilitate the management, provision and maintenance of accreditation data availability, besides that it can be part of the development of the study program performance report information system.

Other research has also been carried out by Layang Sardana, whose research focus is the aspect of legal protection of intellectual property rights of research results produced by lecturers [3]. These results can be in the form of works in the fields of technology, science, art and literature. The law must be able to provide protection for intellectual work, so that it is able to develop the creative power of the community which ultimately leads to the successful protection of Intellectual Property Rights. I

Made Dwi Ardiada has also conducted similar research with a focus on Intellectual Property Management Information Systems Using the Symphony Framework [4]. Based on the results of these studies that the Symphony Framework System is one of the best frameworks for complex enterprise-level applications, and to quickly and efficiently enrich the institution's information systems.

The focus of this research is more on the legal aspects of intellectual property rights in LKPS as an accreditation research instrument. Based on the description of the background of the problem is how the legal and economic aspects of IPR are related to accreditation of study programs as determined by Kemenkumham.

2 METHODS

The type of research used by the authors in this study is a type of juridical-normative research. The research approach in this study is a statutory and concept approach. The juridical- normative research method is research in which the objects are statutory regulations and library materials.

3 RESULTS AND DISCUSSION

3.1 Education, Higher Education, National Standard of Higher Education in Indonesia

Education is an essential element of humans, starting from the time in womb to the old time, men experience the process of education. Education is a light that guides humans in determining the direction, purpose, and meaning of life.[5] Law Number 20 of 2003 on the National Education System states that education is a conscious and planned effort to create a learning atmosphere and process so that learners actively develop their potentials to have religious and spiritual power, self-control, personality,

intelligence, noble character, and skills needed by their own selves, community, to the nation and country.

The Ministry of Research, Technology and Higher Education[6] as the representation of the government in the area of higher education has a vision and mission, one of which is to produce quality human resources. Regarding the quality of higher education, Kemristekdikti has established the rules of internal and external supervisory body in order to guarantee the quality in the institutions. One of the important parameters to measure the capacity of quality culture is based on the accreditation of the institutional accreditation (university level) as well as the study programs. The institutional accreditation becomes the benchmark for the public to assess whether the implementation of university or the study programs is already in accordance with national standard of higher education (SNPT) as stipulated by the government. In addition to current trend, companies and government institutions have included minimal B accreditation of the institutions as one of the prerequisites for employee recruitment.[6]

Based on data from the Ministry of Research, Technology and Higher Education, currently there is still a high disparity of education quality as reflected in some sources, that only 50 universities of 4,472 universities in Indonesia have the institutional accreditation of "A", and only 12% of the overall study programs are "A"-accredited from a total of 20,254 study programs that have been accredited. At present, the accreditation of the institutions and the study programs and institutions, whether the accreditation is carried out by the National Accreditation Board of Higher Education (BAN-PT) or other international accreditation such as ABET or ASIIN, is the only reliable instrument to measure the quality of higher education. Based on some of the background factors, BAN-PT has authority to improve the accreditation instruments in order to improve the quality towards a better direction.

3.2 Intellectual Property (IP) and Intellectual Property Rights (IPR)

As humans are given with intelligence by the Almighty God, who distinguishes from other creatures, have potentials to produce a variety of intellectual works that may have economic value. The intellectual property can be in the form of creation, invention, and design in the area of science, art, literature and technology which are commonly known as intellectual property (IP). The terminology of IP does not automatically become intellectual property rights (IPR) as these are exclusive rights granted by the State to the creators, inventors, or designers to prohibit and close

other people or other parties from using, publishing, or copying the intellectual property.

Public in general are relatively mistakenly using the terms intellectual property (IP) and intellectual property rights (IPR). The society relatively often uses the brand and the rights to their brand without paying attention to the context being discussed, even though this might lead into considerable implications from some aspects such as legal protection on intellectual property. In order to change the status of IP to IPR should refer to two systems. First, a declarative system (first to use system), which means that IP becomes IPR (can be protected by law) when the IP is created in reality (automatic protection). Any registration or recording process is merely limited to administration, and it does not become a basis given the inherent the rights of an IP. Second is constitutive system (first to file into system), which means that IP becomes IPR when it is registered and obtains a decree from the Kemenkumham in the form of a certificate. The use of these two terminologies should be used properly, so that any mistakes in the use of the terms shall not occur, especially for the legal academics.

Some rationales that become the bases why IP is considered as an asset that has economic value should be protected. First, the natural rights which are properly received by the creator, inventor, or designer to spend or use their time, energy, thoughts, and even costs to create the IP. Second, with the protection of IP, especially in the field of invention, it is believed to increase the inventors' passion to conduct further research. Third, the protection to IP, in the end, may attract healthy business competition climate.

In the case of Indonesia, there are many IPs that do not necessarily have IPR. The fact is Indonesia (formerly Nusantara / East Indiche) as an eastern country which focuses more on communal rights upon the intellectuals than individual rights as becomes the principles of the IPR. IPR is neither popularly known nor familiar in Indonesian community as it contradicts customary law, so that Indonesia only became acquainted with the idea of privilege rights upon the intellectual property when the Colonial period was applied by the Dutch. Indonesia began to fully implement the concept of IPR after Indonesia participated in becoming a member in the Agreement Establishing the World Trade Organization, which covers the approval of Trade Related Aspects of Intellectual Property Rights (TRIPs Agreement), through Law Number 7 of 1994. The implication of this agreement is that Indonesia must provide full protection of intellectual property by stipulating a legislation by referring to the TRIPs Agreement.

In general, IPR can be classified into two types, namely copyright and industrial rights. The classification is based on the Bern Convention for the Protection of Artistic and Literary Works and the Paris Convention for the Protection of Industrial Property. Copyright includes the area of creativity in science, art, and literature. Any terms related to copyright are regulated in Law Number 28 of 2014 on Copyright (UUHC). Copyright has both economic and moral rights that are not owned by all other types of IPRs. On this basis, the rights inherent in the creator should be accepted and not misused by others without any permission. Industrial rights include patents, brands, industrial designs, trade secrets, and Integrated Circuit Layout Designs. Patents are property rights in the area of technology to help humans to carry out their activities easier; historically, patents began to apply since the Industrial Revolution era which was indicated by the changes of the trend replacing human power into engine power. Patent arrangements in Indonesia are stipulated in Law Number 13 of 2016 on Patents (Patent Law). Based on the Patent Law, legal protection by nature is granted to some inventions based on the following criteria [7]:

- a. The invention should be in the area of technology;
- b. The technology that is invented must be problem-solving by nature;
- c. The invention should contain state of the art and has never been published in written form, or verbally and has never been demonstrated;
- d. The invention should contain inventive steps, which means the invention cannot be predicted beforehand; and
- e. The inventions that will be patented can be applied in industrial sector so that if the invention is in the form of a product, the product can be multiplied in number or by mass using certain technology.

Based on the scope of the patent, in the field of technology (both as products and processes) with new requirements, it contains inventive steps and can be applied in the industrial world. Patent consists of ordinary and simple patents with a very limited period of protection and cannot be extended. In time when the legal protection is over, it will become public property; people who will use it no longer need permission or pay royalties to the inventor.

Industrial design can be defined as a creation of the shape, configuration or composition of lines or colors, or lines and colors, or a combination of three-dimensional or two-dimensional shapes that give an aesthetic impression and can be realized in three-dimensional or two-dimensional patterns and can be used to produce a product, goods, industrial commodities, or handicrafts (Law of

Industrial Design, 2000). Industrial design in relation to the IPR protection is intended to enhance design development and, at the same time, provide balanced economic rights to the design works [8]. Indonesia as a country that has so many micro, small and medium enterprises (MSMEs) actors, industrial design becomes an asset for companies in relation to the products that they produce.

Trademarks were not initially associated with IPR because trademarks were more into business than human intellectuals as patents and copyrights. However, in the end in various international agreements, trademarks become inseparable part in relation to IPRs. The history of development of trademarks is indeed one of the important aspects for the sustainability of a business as it serves as a distinguishing feature [9] regarding the names of the product they produce with other products (by other parties). Law Number 16 of 2016 on Trademarks and Geographical Indications regulates the scope, duration, and trademarks violations. It is definitively stated that trademarks that can be displayed graphically in the form of images, logos, names, words, letters, numbers, arrangement of colors, in the form of 2 (two) dimensions and/or 3 (three) dimensions, sounds, holograms, or combinations of 2 (two) or more of these elements to distinguish goods and/or services produced by a person or a legal entity in the activity of trading goods and/or services (Law of Trademark and Geographical Indications). Therefore, trademark protection requirements include the marks which have differentiating power, and are used in the activities of trading goods and/or services.

Trade secret as regulated in Law Number 30 of 2000 on Trade Secrets (UURD) is one form of expensive investment in addition to other forms of investment that should be maintained against all parties so that it is not misused for the benefit of other parties through dishonest competition [10]. Common Trade Secrets also known as “knowing how to do” are IPR related to information in the field of business or technology that has economic value that its confidentiality should be granted.

3.3 Legal Aspects of IPR in LKPS Instruments

The quality of education is one of the most fundamental aspects of the progress of a nation. Education is a priority for a country to produce great human resources. Back when Japan was defeated by allies, the first person to be sought was not a police officer, not a soldier, not a doctor, but a teacher. Based on this brief story how Japan considers the importance an education is for the civilization of a nation, Japan is currently one of the developed countries in the

world with a variety of technologies exported to various countries throughout the world.

As a developing country, Indonesia has determined one of its objectives in the *preamble* of the 1945 Constitution of the Republic of Indonesia, namely “to educate the life of the nation”, and the realization of these objectives has been granted by budget provision for education for at least 20% (twenty percent) of the state budget (APBN), despite the fact that establishing a good education is not merely to guarantee the budget provision, but also how the education system is applied properly, proportionally, and full of responsibly throughout the country. A solid and established national education system is believed to guarantee the fulfillment of people’s needs for quality human resources.[11] The national education system as stipulated in the Law of National Education System, states that the education system in Indonesia consists of some levels, namely primary education, secondary education (junior and high school levels), and higher education.

Higher education is expected to have strategic roles to realize the goals of the country as the higher education is the place where there are many intellectuals inventing and

developing ideas and thoughts. For this, higher education should have standardized and measurable quality through accreditation mechanisms. All tertiary institutions or study programs are required to regularly accredit their institutions every five years conducted by the national accreditation agencies, e.g. BAN-PT or LAM. In relation with the quality of the higher education, one of the indicators is through the research outputs by the lecturers. The academics of an institution in conducting research and community services (PKM) have already produced considerable outputs, one of which is IP which has economic value. The terminology of IP can be interpreted simply as a result of human thought by using intellectuals in the form of creation, invention, and also design in the fields of science, art, literature, and/or technology. In addition, the terminology of IPR is an exclusive right granted by the state to the creators, inventors or designers of the intellectual works produced. IPR has a distinctive type and characteristic presented in detail in the following Table 2.

Table 2. Types and Characteristics of Intellectual Property Rights

Ref	Types of IPRs	Characteristics
1.	Patent - Ordinary patent - Simple patent Law Number 13 of 2016 on Patent	- It is intellectual property in the field of technology produced by inventors for their inventions; - The scope of the patent includes ordinary patents and simple patents; - It should have <i>novelty</i> , inventive steps, and can be applied in the industrial world; - Patent protection system uses constitutive system; - Patent protection period for ordinary patent is 20 years, simple patent is 10 years; it cannot be extended, so that it would become public domain (public property); and - There is an annual fee that must be paid to Directorate General of Intellectual Property (DJKI), <i>Kemenkumham</i> , to protect the invention.
2.	Copyrights Law Number 28 of 2014 on Copyrights (UUHC)	- It is categorized as intellectual property in the fields of science, art and literature; - The scope of protected works includes creation in the fields of science, art, and literature, consisting of: <ol style="list-style-type: none"> a. books, pamphlets, display of published works, and all other written works; b. lectures, speeches, and other similar creations; c. teaching aids and media made for the benefits of education and science; d. songs and/or music with or without text; e. drama, musical drama, dance, choreography, puppetry, and pantomime; f. works of art in all forms of paintings, drawings, carvings, calligraphy, sculpture, sculpture, or collages; g. applied works of art; h. architectural works; i. map; j. batik artwork or other art motifs; k. photographic works; l. portrait; m. cinematographic works; n. translation, interpretation, adaptation, potpourri, database, adaptation, arrangement, modification and works; o. other from the results of the transformation; p. translation, adaptation, arrangement, transformation, or modification of traditional

	<ul style="list-style-type: none"> cultural expressions; q. compilation of creations or data, both in the form of readable formats or computer program or other media; r. compilation of traditional cultural expressions during compilation is an original work; s. video games; and t. Computer program. <ul style="list-style-type: none"> - The requirement for a work to be protected is the originality of the work; - The copyright protection system is declarative, it is automatic when a work is manifested in a tangible form; - The legal protection for copyrights is the creator's lifetime plus 70 years.
3. Industrial Design Law Number 31 of 2000 on Industrial Design (UUDI)	<ul style="list-style-type: none"> - Industrial design is intellectual property, in particular for creation and innovation in the field of design; - Scope of the design is both two-dimensional and three-dimensional designs, covering shapes, configurations, or composition of lines or colors, or lines and colors, or a combination thereof; - The requirements that a design can be protected by industrial design include a creation, giving an aesthetic impression, and can be used to produce a product, commodity for industrial goods or handicrafts; - Industrial design protection system is based on constitutive system; and - Duration of industrial design protection is 10 (ten) years.
4. Trademarks Law Number 20 of 2016 on Trademarks and Geographical Indications	<ul style="list-style-type: none"> - Trademark is one of the intellectual properties related to the mark used in the activities of trading goods and/or services; - Scope of images, logos, names, words, letters, numbers, arrangement of colors, in the form of two-dimensional and three-dimensional formats, sounds, holograms, or a combination of 2 (two) or more of these elements; - The requirements of a trademark include signs, distinctiveness, and use in trading activities of goods and/or services; - The trademark protection uses a constitutive system - The duration of the trademark protection is 10 years, and it can extended.
5. Trade Secret Law Number 30 of 2000 on Trade Secrets	<ul style="list-style-type: none"> - Trade secrets are a type of intellectual property in the field of information in the field of technology or business used in trading activities; - The scope includes production methods, processing methods, sales methods, or other information in the area of technology "know how to do" and/or business - The requirements of a trade secret include confidential information, economic value, and maintained to be confidential. - The protecting system for trade secrets in principle is declarative, but the information can still be kept confidential. - The protection period for trade secret is unlimited as long as the information can be kept confidential.
6. Integrated Circuit Layout Design Law Number 32 of 2000 on Integrated Circuit Layout Design (DTLST)	<ul style="list-style-type: none"> - Integrated Circuit Layout Design (DTLST) is an IPR in the area of technology, in particular semiconductor materials to produce electronic functions; - Scope and requirements of a DTLST can be granted the protection if it has originality and authenticity which is an independent work of the designer and is not something that is common to designers; - The protection system used in DTLST is constitutive system; and - DTLST protection period is 10 years, and it cannot be extended.

Source: Processed data by author

Based on Table 2 and in relation with the LKPS instruments based on PerBAN-PT Number 2 of 2019 which requires proof of a decree from the Ministry of Law and Human Rights and other authorized ministry, it can be analyzed limited to certain types of intellectual property; there should be further review on the formulation of the instruments, including copyrights, patents, industrial

designs, and trade secrets. Copyright is one type of intellectual properties that has distinctive characteristics, namely related to the acquisition of rights to a work that is automatically protected when the work is produced in a tangible form, and any registration recording to the DJKI of *Kemenkumham* is only relevant administrative evidence proof in case there would be any disputes later. It would be

problematic if the LKPS instruments require academic community (lecturers and students) to show proof of determination (i.e. a decree) issued by the Ministry of Law and Human Rights and all the research and PKM outputs should administratively be recorded in the DGKI of *Kemendiknas* as one of the completeness of the instruments.

Referring to the Table 2, every research result and PKM outputs related to copyrights have a wide scope whether they are included into science, art, or literature (Article 1 paragraph (3), Law of Copyrights). The certain extent of the scope based on the Law of Copyrights does not rule out the possibility of the research results and PKM outputs can be categorized as copyrights, while the formulation on the LKPS instruments has not been definitively mentioned despite it could be interpreted into all criteria. As the consequence, at the implementation level, it might lead into ambiguous and different perceptions among the assessors of BAN-PT.

One example of the research result or PKM outcome is in the form of published articles in a reputable national or international journal. As the process of the article to be published in the journal is through an editorial process, reviewing process including plagiarism checks (to measure level of similarity with the previous articles) which basically meets the requirements of originality creation until finally published, the submission or the publication date of the article can be referred as a creation and automatically obtain legal protection. The legal framework related to copyright protection needs to be adapted to the times [12]. In another example is if the academic community conducted a research and wrote a book based on the research, their book which has been published by the publisher automatically obtains copyright protection without having to be registered with the DJKI, *Kemendiknas*. To this rationale, the LKPS instrument should not require written proof or a decree from the authorized ministries as it may lead into illogical competitions among study programs by multiplying the registration of particular creations to the DJKI of *Kemendiknas*, only in order to fulfill the LKPS instruments without considering the substance. In addition, as the registration also requires certain amount of payment, it may become financial burden for the study programs and the academic community if the instruments are actually implemented.

Regarding the required legal document issued by *Kemendiknas* as a proof for copyrights, it is recommended that there be no need to prove a work by the decree as it has been stipulated in Law of Copyrights that

the copyright protection is gained automatically. Secondly, if it still requires legal proof issued by Ministry of Law and Human Rights, further review is needed for the LKPS instrument to provide definitive criteria to which scope of the copyright; otherwise, there would be different interpretations among assessors.

Patents are intellectual property rights in the field of technology, both processes and products. In this regard, the provisions for the protection of a patent under the Patent Law are through a constitutive system (first to file), meaning who registers first will have the patent; in contrast to the system in the United States that uses first to invent for patent protection [13]. The implementation of the LKPS instrument that requires legal proof i.e. a decree issued by *Kemendiknas* might trigger the study programs to register the research and PKM outputs in order to obtain the decrees by *Kemendiknas* to pursue accreditation without considering other important aspects, e.g. whether the research and PKM meets the patent requirements, whether the inventions and research outcomes by the academic community provide useful value, whether the invention can be commercialized for industry, etc. These significances should become the concerns for the decree by *Kemendiknas* as it also has to deal with costs. There will be regular payment for the patent, not only initial payment during the registration, but also the annual fees as long as patent protection is filed. If the patent registered does not meet the mentioned requirements, such as it does not provide use value and/or cannot be commercialized, it becomes the financial burden either for the inventor or the study program's finances.

Regarding the patent included in the LKPS instrument, not all patents that have obtained a determination from the *Kemendiknas*, in other words having been registered (granted) can be assessed according to the LKPS instruments because it is related to fees, long registration process, and protection period. It is recommended that the LKPS instruments need to determine definitively that what it means by patent, it is not only the registered patent, rather the patents that have already been commercialized or licensed (for a process of technology transfer) to third parties; otherwise, the patent becomes financial burden (in terms of institution's finances) if it be commercialized. The institution is required to pay the annual fee during the protection period as the patent holder of the invention produced by the inventor, e.g. academic community in official relations with government agencies is the intended government agency and the inventor, except stated in other agreements (Law of Patent).

Industrial design is the creation of the shape, configuration, or composition of lines or colors, or lines and colors, or a combination of three-dimensional shapes containing aesthetic values and can be realized in either three-dimensional or two-dimensional patterns and used to produce products, commodity goods industry, or handicrafts as stated in Law of Industrial Design (UUDI). UUDI has some weaknesses as stated by Andrieansjah related to the objectives of an aesthetic impression[14] and also the assessment for the novelty or originality. First thing that needs to be reviewed is the use of the terminology “industrial product design” in the LKPS instrument, which is clearly not in accordance with the UUDI which only states “industrial design”. The use of different terminology may lead into different meanings that the industrial design as specified in the general provisions of Article 1 paragraph (1) of the UUDI is not only as a product, but also industrial commodity such as goods and/or handicrafts. In other words, the use of terminology “industrial product design” seems to limit the meaning as determined in the UUDI.

In addition, the research and PKM outcome conducted by the academic community have the potential to be able to be granted for industrial design rights protection as long as it meets the requirements, namely it is a new creation, gives an aesthetic impression, and can be used to produce a product, commodity for industrial goods or handicraft. The requirements are not only as specified in the UUDI, but the industrial design has already been used and implemented in producing products, commodities, or handicrafts in anticipation of only administrative registration to complete the LKPS instrument. Finally, the industrial design produced not only intended to abort the administrative requirements of the instrument, but it has actual benefits in terms of being applied in the industrial world.

Trademarks and trade secrets in the context of research and PKM outputs are likely difficult to be implemented as

some previous types of IPRs. If the research results are associated with the “sign” of the trademarks, it will be likely more inclined to the design than the trademarks, especially if it is examined using the requirements of a trademark protection in the form of marks, having distinguishing features, and being used in trade activities and services. Both research and PKM are quite difficult to fulfill the three cumulative requirements, mainly related to the use of trades in goods and services, in this case also applies to trade secrets.

The recommendations of LKPS instruments related to industrial design are namely, 1) there should be reformulation of the terminology of “industrial product design” into “industrial design” as the addition of one word might reduce the real meaning in terms of legal standing; 2) additional requirements should be added particularly related to “being” applied in the industrial world; otherwise, study programs like Product Design or Visual Communication Design are believed to have a lots of designs submitted to the Ministry of Law and Human Rights in order to obtain the determination letter without considering the substantive aspects related to application in the industrial world.

In terms of legal objectives as well as modern theory presented by Gustav Radbruch, the research and PKM outcomes covering copyrights, patents and industrial designs with a determination letter from the authorized ministries which covers justice, certainty, and benefit will be likely more inclined towards the goal of legal certainty [15]. From these objectives, however, the goal might not be achieved simultaneously, but rather a tug of war between one goal and another. In addition, legal certainty is not considered as the ultimate goals, rather the benefit side for the institutions, designers, creator, or inventor. Some recommendations are shown in the following table:

Table 3. Recommendations for LKPS Instruments

Ref.	Types of IPRs	LKPS Instruments Formulations
1	Copyrights	<ul style="list-style-type: none"> - There is no need to prove a creation with a decree issued by Ministry of Law and Human Rights because based on the Law of Copyrights, as automatic protection applies when a creation is produced. - If only the legal proof issued by the authorized ministries is still needed, the LKPS instruments should provide definitive statement which scope of the copyrights being assessed; otherwise, there could be different interpretations among the assessors of the accreditation body.
2	Patents	<ul style="list-style-type: none"> - Not all patents which have been registered (granted) can be assessed. This is mainly related to the financial aspects such as initial fee and annual fee for patent protection. The LKPS instruments need to define definitively the patents being assessed are those which have been commercialized or licensed to third parties so they might not burden the institution’s finance.
3	Industrial Design	<ul style="list-style-type: none"> - The use of the term “industrial product design” should be adjusted to the Law of Industrial Design, namely “industrial design”. This change is intended not to narrow the meaning of the design which is only for products because the Law of Industrial Design also includes industrial commodity goods or handicrafts. This shows the

importance of synchronization between the legislation and LKPS instruments, even though it is just for a term.

- The LKPS instruments should not only require the decree issued by authorized ministries as only specified in the Law of Industrial Design (administrative consideration only); instead, the required industrial designs are which have been used and implemented in producing products, commodities, or handicrafts. Thus, the industrial design produced is not only to abort the administrative requirements, but actually provides benefits in terms of being applied in the industrial world.

Sources: Processed Data by Author

4 CONCLUSION

Based on the elaboration, there are some conclusions related to the LKPS instrument as regulated in PERBAN-PT Number 2 of 2019 on research results and PKM outputs which should be proven with legal determination from the Ministry of Law and Human Rights. First, in terms of copyright, there is no need for the instruments to require the research outcomes to have letter of determination from Kemenkumham. In addition, LKPS instruments do not definitive information of the scope of the copyrights for the research and PKM outputs. Second, in the case of patents, not all registered patents (granted) that have been determined by the Kemenkumham can be assessed by considering some aspects, namely financial burden and commercialization significance. Third, in terms of industrial design, LKPS instrument should definitively state “industrial design” instead of “industrial product design”. In addition to the assessment, the letter of determination by the Kemenkumham is necessary to ensure that the industrial design has been applied in the industrial world. There are some recommendations based on the results of the study, namely in terms of copyright, it is necessary for the BAN-PT define definitively which scope should be needed in order to obtain a decree from the Kemenkumham. Second, in the case of patents, the assessment should not only be limited to the registered patents, but also other aspects, such as financial aspect and commercialization significance. Third, in terms of industrial design, the terminology of the scope of the assessment should be more emphasized.

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