

The Potency of Intellectual Property Rights (IPRs) Regimes on Two Kinds of Small and Medium Enterprises (SMEs) Industries

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Abstract--- The industrial sector in Indonesia was dominated by small and medium-scale enterprises (SMEs). In the Malang Raya region, there were two kinds of major group of SMEs industries, namely processed foods and handicrafts. Each of group indeed has a specific of Intellectual Property Rights (IPRs) regimes. This study was to obtain the information of IPRs regime on two groups of SMEs industry. The data were collected from 2015 to 2016 in 84 SMEs in Malang Raya region. The 42 industries were categorized on processed foods and 42 industries of handicrafts. The results showed that were 12 kinds of products in the processed foods industry. Most of them were potato and cassava chips products. While, in the crafts group, the gypsum industries were dominants. The potency of IPRs regimes in the processed food industry was reached 21.4% (patent 16.6% and industrial design 4.8%). While, in the handicraft industry, the potential IPRs regimes were reached 45.3%, which was dominated by copyrights (33.3%) and followed by patent 4.8% and industrial design 7.2%. This study was also indicated that the potential of IPR regimes on SMEs was high enough, so in the future, they need coaching for awareness the importance of IPR regimes.

Keywords-- copyrights, handicraft, processed foods, industrial design, IPR regimes, patent

I. INTRODUCTION

Intellectual Property Rights (IPRs) is a legally instrument that protects rights to a person or organization for all the results of creativity and the embodiment of intellectual works produced. IPRs also grants the owner rights to enjoy the economic benefits of ownership of such rights. The results of intellectual works in practice may be tangible inventions in the field of technology or creation in other fields. From another point of view, the IPRs is a monopoly right granted to rights owners, subject to restrictions on applicable laws and regulations. The object of intellectual property is the intelligence, the power of thought or the product of human thought [1].

In line with the growing recognition of IPRs in the international world, so nowadays IPRs become an important issue regarding the international economic cooperation. Countries that have not adequate protection against IPRs will face on trade difficulties since they lack of fair competition, and will also resulting on low international trust to invest. By the provisions of the legislation, IPRs proprietary is entitled to use, reproduce, publish, give permission, and utilize such rights through license or agreement; including to prohibit other parties from using, reproducing and/or announcing such intellectual works.

In the National Development Plan of Indonesia, the government emphasizes on the development of business support programs for SMEs, entrepreneurship development programs and competitiveness [2]. The government has been given the attention to SMEs because SMEs has a very important role in the national economy defense. The role of SMEs in Indonesia was enormous and has been proven to save the national economy on the 1997 economic crisis. The recovery of the economic crisis has run through for seven years, and several studies have shown that the Indonesian economy did not rely solely on the role of large enterprises, but SMEs had proven to be relatively better compared with larger-scale enterprises [3].

Many efforts had been made by the government to improve the role of SMEs in the implementation of IPRs, but until recently it was not achieved encouraging results. The low number of registered IPRs from the growing number of SMEs was indicating the lack of attention of SMEs to generate the innovative of new findings. However, actually

the activities of SMEs had been going on so far in the field, so it was also had the potential of IPRs regimes to develop.

Malang Raya region is the region that covering Malang city, Malang regency and Batu city. This area is the part of East Java Province of Indonesia wherein developed quite rapidly, especially in terms of population number. This situation was make many universities both state and private located here, and prospected also for developing of tourism industry. From the preliminary data showed there were two groups of SMEs industry that has been developed rapidly in Malang Raya region that consist of processed foods and handicrafts. The objective of this study was to describe the potential of various HKI regimes in two major groups of SMEs industry at Malang Raya region. *The IPRs regimes*

In general, Intellectual Property Rights (IPRs) are divided into two categories, namely Copyright and Industrial Property Rights. Copyright is an exclusive right of the author or the grantee of the right to announce or multiply his creation or giving permission to it without prejudice to restrictions according to the law (Act Number 19/2002: article 1, paragraph 1). Meanwhile, Industrial Property Right includes Patent, Trademark, Industrial Design, Layout Design of Integrated Circuits, Trade Secret, and Plant Variety Protection.

Copyright is a right granted to the author for the literary and artistic work produce. The primary goal of the copyright is to protect the creation and to support and reward of the creativity. A patent shall be an exclusive right granted by the state to the inventor of his invention in the field of technology. This is for a certain period to use his invention or to give his invention to another party to implement it (Act Number 14/2001).

A patent is IPR regime that related to technology. The patent grants is the exclusive right of the inventor to obtain the economic benefits of his invention in the field of technology over a period. This exclusive right is granted to reward the inventor due to produce a patent has spent time, cost, energy, and ideas. Patent information can help make decisions when choosing strategies to research or develop the new products. If there is a

technical problem, there is no better way to find a solution except by looking for other patent information [4]. Understanding the patent is important for researchers or innovators to avoid infringement of IPRs, especially on patent rights.

Trademarks are markings of images, names, words, letters, numbers, color arrangements or combinations of those elements that have a distinguishing ability and are used in goods or service trade activities generally (Act Number 15/2001).

Industrial Design is a creation of the shape, configuration, or composition of lines or colors, or mixed of lines and colors, or a combination thereof in the form of three-dimensional or two-dimensional that give the impression of aesthetic and can be realized in a three-dimensional or two-dimensional pattern and can be used for produce a product, goods, industrial commodity, or handicraft (Act Number 31/2000).

A trade secret is an information that is prohibit known by the public in the field of technology and/or business, also has economic value because it is useful in business activities, and kept confidential by the owner of the Trade Secret (Act Number 30/2000). Unlike other IPRs regime, trade secrets are not for public known freely. Trade secrets are protected as long as the information is not "leaked" by the trademark owners.

Integrated Circuit is a product in the form of finished or semi-finished, in which there are various elements and at least one of these elements are active elements, partly or entirely interconnected and formed in an integrated semiconductor material intended to produce electronic function (Act Number 32/2000).

Plant Variety Protection, defined as a group of plants from a one of plant variety or plant species which is characterized by plant shape, plant growth, leaves, flowers, fruits, seeds and expression of genotypic characteristics or combinations of genotypes that can be distinguished from the similar plant variety or certain species by at least one determinant traits and the plant characters unchanged when reproduced it (Act Number 29/2000).

The legal foundation of IPR in Indonesia began with the issuance of Act Number 21 of 1961 on

trademark. Then, followed by the issuance of Act Number 6 of 1982 on copyright. Thereafter, followed by the issuance of several Government Regulations and Ministerial Decrees. Indonesia has ratified the approval of the World Trade Organization (WTO) through Act Number 7, 1994. Indonesia has agreed to enforce the agreement with all its annexes. Appendices relating to IPRs are the Trade Related Aspects of Intellectual Property Rights (TRIPs), containing norms and standards of protection for intellectual works. In line with the entry of Indonesia into WTO membership and ratified several international conventions in the field of IPRs, Indonesia has aligned several laws and regulations on IPRs. In the field of patent, the highest legal foundation and other legal foundation is Act Number 14, 2001 regarding Patent (State Gazette of the Republic of Indonesia Year 2001 Number 109). This act was implemented on 1 August 2001, consisting of 17 chapters and 139 chapters.

The Government of Indonesia realizes that understanding of IPRs in the industrial field is very important, and therefore the government continuously encourage the industry practitioners to conduct the development of product quality and enforce of IPRs registrations. Development in various fields of industry is not to be achieved without the support of creativity and innovations cultures of industrial societies. This industrial culture will make the research and development activities can produce various of technologies related to the industry needs. Creative and innovative cultures will come up and develop only in a society that respects, established and protects of IPRs.

A. The role of SMEs to Indonesian economy

Indonesia has experienced a monetary crisis in 1997 and expanded into a multi-dimensional crisis since it caused the decline of various economic activities of the people in the form of disruption of production, distribution and consumption activities. These problems have had an impact on increasing unemployment and the number of poor people, both in urban and rural areas [5]; [6]. The economic crisis has a wide impact on the Indonesian economy, causing the decline in activities of almost all sectors including in the industrial sector.

However, SMEs have taken an active role in the economic crisis of Indonesia. SMEs could survive, moreover its role was increasing and very clearly proven in supporting to survive Indonesian from an economic crisis. At that time, SMEs was strong of a business model that could recover quickly from the economic crisis compared to the large-scale of enterprises that had collapsed at that time.

SMEs basically refer to stand-alone productive enterprises, conducted by individuals and/or individual business entities or business entities with their respective criteria. According to Act Number 20, 2008, the differences between micro, small and medium enterprises are based on net wealth and annual sales results. The important role of SMEs was not only in the economic crisis past time but also SMEs have a very strategic role regarding on various aspects in the economic recovery. First, the amount of SMEs industry is huge and existing in every sector of the economy. Second, SMEs has a great potential in creating more employment opportunities when compared to the same investment in larger-scale enterprises. Third, the contribution of SMEs in the contributions of GDP is quite significant and, fourth to contribute the country's foreign exchange by a fairly stable export value.

The role of SMEs was very important in the national economic persistence. The main roles were in aspects such as increased employment, equity of income, rural economic development, and increased non-oil exports [7]. Two hundred and thirty million more population were scattered in places with unique geographical arrangements in Indonesia territory, and an abundance of natural resources potentially to be processed into business and industrial materials, so making SMEs the right choice as a means of prospering the people. Moreover, since the inter-island infrastructure was limited, which makes the economy impossible to be done only by big companies, so SMEs could take control of the economy [5]. Data from the Indonesia Ministry of SMEs showed that number of SMEs in 2006 as much as 48 822 925 or 99.77% percent of the total business holders in Indonesia.

The characteristics of SMEs industries were micro-scale, spread throughout Indonesia, labor-intensive, relatively small investment and generate

high added value. Then, low entry barriers (using simple to mid-level technology, and do not require high skills), the source of creating new entrepreneurs, the high degree of flexibility in anticipating the dynamics of market changes and resilience to the economic crisis [5]. *The importance of innovation in business development*

The most important character of entrepreneurship was the ability to innovate [8]. Without innovation, a business will not long operate; since the needs, desires, and requests customers will always change. Customers will not always consume the same product. Customers will look for other products from other companies that can satisfy their needs. For that reason, it needs continuous innovation if the company will go further and still run the business.

Innovation was anything related to goods, services or ideas that were felt new by someone. Although the idea has long been there, it can be said that innovation its just saw or felt it new by someone. A company can innovate in the areas of: a) product innovation (goods, services, ideas and places); and b) management Innovation (work process, production process, finance, marketing, etc.). The innovation needs to pay attention to the following principles: a) analyzing of opportunities; b) what to do to maximize the opportunity; c) simple; d) goal; e) starting from a small; and f) leadership.

According to Hills [9] defines innovation as an idea, practice or object considered new by an individual or another user unit. Suryana [10] states innovation: "as the ability to apply creativity in order to solve problems and opportunities to enhance and enrich life". Keeh [11] explains innovation was very important because there were the following reasons: 1) Technology was changing very rapidly as new products, processes and services emerge from competitors, and this encourages entrepreneurial efforts to compete and succeed. We had to do in adjust to new technological innovations. 2) The effect of environmental changes on the product life cycle was getting shorter, which means that the old product or service had to be replaced with a new one in a short period, and this could happen because there were creative thinking that leads to innovation. 3) Consumers actually were smarter

and demand fulfillment. Customer hopes fulfilling needs more high demand regarding quality, renewal, and price. Therefore, innovative skills were needed to satisfy the needs of consumer that would keep customer as a customer. 4) With the rapidly changing market and technology, a good idea could be more easily replicated, requiring new, improved product usage, new and improved processes, fast, and continuous services. 5) Innovation could lead to faster growth, increase market segments, and create better corporate positions.

II. METHODS

Research activities were conducted in 2016 in two small potential industry groups of SMEs in Malang Raya region. The group consists of food processing and handicraft industry. Each group was selected from 42 samples of SMEs, so totally data obtained from 84 samples of SMEs. The various types of SMEs that included in the SME group of processed foods industry were consisted of potato and cassava chips, fruit chips, tempeh chips, and other chips (meatballs, mushrooms, etc.). And, fruit juice and another processed foods from fruit; crackers; pancake powder; candy; herbs and herbal drinks; bread; and spices. Afterward, the SMEs of handicraft group consisted of: onyx stone crafted; leather; gypsum; metal; wood; mask; brown sugar; webbing; painting shoes; lanterns; handicrafts and batik. Data were obtained by using field observation and in-depth interview by visited locations. The respondents were consisted of the community of the SMEs industry owners in Malang Raya region. The samples criteria were determined by purposive sampling for each of industry group in the sampling areas (with initial data obtained from the local office of Industry Department). The activities carried out through several stages, included: 1) data mapping; 2) selection of sample; 3) preparation and propagation of questionnaires; 4) administration preparation (correspondence for institutions and industries, letter of assignment for enumerators, certification of industry, etc.); 5) training of survey enumerators; 6) data collection to agencies; 7) field survey and, 8) data analysis and interpretation.

III. RESULTS

Table I showed that the type and potential of each IPRs regime of SMEs processed foods in Malang Raya region. In this group data was obtained from 12 kinds of SMEs industry consisted of potato and cassava chips, fruits chips, tempeh chips, and another chips (meatballs, mushrooms, etc.). Then, fruits juice, another processed foods made from fruits, crackers, jelly leaf powder, medical herbs, herbal drinks, breads, and spices.

From the total of sample observed, the potential of IPRs regime from processed food industry groups were reached 21.4%. Patent (16.6%) was dominated in the IPRs regime followed by Industrial Design (4.8%). In the term of products from processed foods, fruits processed (*dodol*, *wingko*, etc.) and jelly leaf powder were had potential 50% of IPRs regimes which were categorized in the patent (method, process,

region. The potential of SME handicraft market in Malang Raya region was high enough because this area was developed into tourism destination area. The various types of SMEs that were included in the group of handicrafts consisted of onyx crafts, leathers, gypsums, metals, woods, mask, brown sugars, webbings, painted shoes, lanterns, handicrafts, and batiks.

From the total of data samples, the potential of IPRs in handicrafts industry group was reached 45.2% (higher than the processed food industry group). The most potential of IPRs regime in the handicrafts industry group was the copyright (33.3%), followed by industrial design (7.14%) and patent (4.76%). The highest percentage of IPRs regimes potential was in painting industry (100%) as a copyrights regime, followed by batiks and leathers industry (75%) were consisted of patent and copyrights regimes. So, based on the total data indicated that SMEs industries of processed foods

TABLE I. THE TYPES OF SMES PROCESSED FOODS INDUSTRY AND POTENTIAL OF EACH IPRS REGIME AT MALANG RAYA REGION

Type of SMEs processed foods industry	Number of SMEs	IPR regimes					Total	Percentage
		Patent	Copyrights	Industrial Design	PVP			
Potato and cassava chips	6	2	-	-	-	2	33.3	
Fruits chips	5	-	-	1	-	1	20.0	
Tempeh chips	5	-	-	-	-	0	0	
Other chips products (mushrooms, meat balls, etc.)	3	1	-	-	-	1	33.3	
Fruits juice	2	-	-	-	-	0	0	
Other kinds of processed foods from fruits (<i>dodol</i> , <i>wingko</i> , etc.)	2	1	-	-	-	1	50	
Crackers	3	-	-	1	-	1	33.3	
Jelly leafs powder	2	1	-	-	-	1	50	
Candy	3	-	-	-	-	0	0	
Medical herbs and herbal drinks	3	-	-	-	-	0	0	
Breads	5	2	-	-	-	2	40	
Spices	3	-	-	-	-	0	0	
Total	42	7	0	2	0	9	21.4	
Percentage	-	16.6	0	4.8	0	21.4	-	

composition). In the fruits chips and crackers industries there were any potential on IPRs of industrial design, particularly on equipment design and new design of crackers template model.

Table II showed the type and potential of each IPRs regime on SMEs handicrafts in Malang Raya

were not any potential to copyright regime (Table I). While, handicraft industry group was more dominant on copyright potential than another IPRs regimes, particularly on patent and industrial design.

IV. DISCUSSION

SMEs basically refers to stand-alone productive businesses, conducted by individuals and/or individual business entities or business entities with their respective criteria. The differences in criteria between small and medium-sized businesses were based on net wealth and annual sales (Act Number 20 of 2008). The two groups of SMEs in Malang Raya region that have a potential of IPRs regimes were processed food and craft industry. This was very closely related to the development of the city of Malang as a city of education and tourism. So, the largest potential for business activities were universities students and tourists.

The SMEs has large potential in mobilizing the economic activities of the community, as well as a main source of income of most Indonesian people in improving their welfare. Handicrafts industry was the SMEs industry sub-sector that becomes the backbone of Indonesia's economy. The position of SME handicrafts has very strategic in the Indonesian economy due to a large number of business units (\pm 3.4 million SMEs), and absorbed the labor morethan 8.5 million [5]. The existence and role of SMEs were very significant. The number of SMEs in Indonesia was reached 51.36 million business units in 2008. Its meant that reaching 99.99 percent of the national business

national foreign exchange and national investment [12].

Data from BPS showed that in 2005, small industry and home craft industry (IKKR) in Indonesia was reached 2.7 million business units and was absorbing 6.5 million of labors (60.22%) from all of workers that required by the industrial sector as a whole. Meanwhile, from the survey on 2004 conducted by Indonesia Central Berau of Statistics [13], there were 17.14 million non-legal businesses except on agriculture and fishery field categories, which employed 30.55 million people [13]. Various reports also noted that in 2005 the potential of SMEs on webbing industries were reached 631,993 business units by absorbing labor as much as 1 254 491 people, and produced the production value around Rp. 4.91 trillion or more, and has an export value more than US \$ 17.34 million.

Naturally, SMEs holders have a strategy to adjust their ability to maintain their business. Only a few of SMEs that implemented the strategy on business development to increase their business forward [14]. The number of SMEs that used defend strategy reached millions. The defensive strategy was chosen by many of the SMEs eventhough they were operated their business in

TABLE II. THE TYPES OF SMES HANDICRAFTS INDUSTRY AND POTENTIAL OF EACH IPRS REGIME AT MALANG RAYA REGION

Type of SMEs handicrafts industry	Number of SMEs	IPRs regimes					Total	Percentage
		Patent	Copyrights	Industrial Design	PVP			
1. Onyx cruits	3	-	-	1	-	1	33.3	
2. Leather	4	1	2	-	-	3	75	
3. Gypsum	6	-	1	2	-	3	50	
4. Steels	2	-	-	-	-	0	0	
5. Woods	4	1	2	-	-	3	75	
6. Mask	4	-	-	-	-	0	0	
7. Brown sugar	2	-	-	-	-	0	0	
8. Webbing	5	-	3	-	-	3	60	
9. Painted shoes	2	-	2	-	-	2	100	
10. Lantern	3	-	1	-	-	1	33.3	
11. Handicrafts	3	-	-	-	-	0	0	
12. Butik	4	-	3	-	-	3	75	
Total	42	2	14	3	0	19	45.2	
Percentage		4.76	33.3	7.14	0	45.2		

holders (Planning Bureau Ministry of SMEs, 2008). The others contribution of SMEs were in the absorption of labor, the formation of national gross domestic product (GDP) national, increasing

decades as the profession but it was not different condition from the initial run when they started the business. Many of the SMEs were not able to survive, finally they apply the strategy to make

bankrupt their business to avoid more losing of money.

The existence of SMEs could not be separate with IPRs regimes. Started from the products that were resulting from the business activities, then the technology used, and the design of each product produced, as well as the use of trademarks or service for the purpose of the marketing of the products. The Indonesia government has tried to raise awareness of SMEs on the importance of IPRs issues, especially on SMEs that engaged in creative industries. This was intended to protect the SMEs so they could grow more rapidly and avoid plagiarism. It is important to SMEs and other companies to take advantage of various IPRs regimes in the development of their business. Recently around tens millions of technologies could be accessed freely, so the SMEs could learn, utilize, develop, and then register its IPRs when they need further.

To know the regimes of IPRs for protected the SMEs existence, so first we need to understand what the IPRs potency that exists in a business activity of the SMEs. In general, the potential of IPRs regimes that exists in SMEs business activities covered copyright, trademarks/services, industrial design and patents (common and simple). Obviously, the needs of IPRs protections were not always similar for every business activity of SMEs. In the future, it is expected to encourage IPRs-oriented research and development program on SMEs. So, in the long term it could be implemented its IPRs protection.

The various factors that caused a low number of IPRs granted on SMEs could be traced from the various of possibilities. For examples, ineffective socialization among institutions especially on SMEs. It was still low awareness for IPRs enforcement, so there were still many plagiarisms and violations of IPRs regimes, also still low awareness of innovation creativity where it would strengthen national science and industrial competitiveness actually.

In generally, our study was indicated that the potential of IPR in two groups of SMEs industries (processed foods and crafts) in Malang Raya region was high. The most potential of IPRs regimes that found in SMEs of processed foods industry was

patent. As for the group of SMEs craft, the most potential was copyrights regime. However, the existing of SMEs generally were not understood the importance of registration of IPRs for the development and sustainability of their business. For example, the low understanding of IPRs regimes caused by the opinions that registration fees of IPRs regime was expensive and IPRs benefit aspects were not been felt by SMEs community, so the interest to register industrial property right was still very low.

V. CONCLUSIONS

According to this study showed that in Malang Raya region was found 12 kinds of product of processed foods of SMEs industry. Most of them were potato and cassava chips products. While, in the other groups that were crafts group with the most of industry on gypsum industry. In the processed food industries were identified the potency of IPRs regimes reached 21.4% (patent 16.6% and industrial design 4.8%). While, in the handicrafts industries were reached 45.3% of IPRs regime potency, which was dominated by 33.3% of copyrights and followed by patent potential 4.8% and industrial design 7.2%. This study also indicated that the potential of IPR regimes on SMEs was high enough, so in the future, they need coaching for awareness the importance of IPRs regimes.

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