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Business Contract For Commercialization Of Research Results Funded By Universities For The Development Of Edutourism In Bangkalan

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Abstract

The article discusses the potential of Indonesia's abundant natural resources as a foundation for achieving equitable prosperity, as mandated by the 1945 Constitution. It emphasizes the importance of managing these resources through the development of science and technology to enhance national competitiveness. The research highlights the need for effective commercialization of research outcomes, which can include theories, ideas, and practical products, to create economic value and benefit society. The study identifies an ideal model for business contracts in the commercialization of research results, advocating for a proportional profit-sharing agreement. This model ensures fairness between researchers and funding entities, promoting equitable rights and obligations. The research methodology is empirical, focusing on social phenomena and realities within the community, and involves interviews and data collection from various tourism destinations in East Java. The findings suggest that the commercialization of research results, particularly in the context of edutourism, requires clear contractual agreements to delineate the rights and responsibilities of all parties involved. This approach aims to foster sustainable tourism development while maximizing the economic benefits derived from research innovations.

Keywords: Commercialization, Research Results, Business Contracts, Edutourism, Sustainable Development

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INTRODUCTION

The abundant potential of Indonesia's natural resources is the basic capital for the Indonesian state to realize the ideals of prospering the community in a just manner as mandated by the 1945 Constitution. In addition to abundant natural resources, it is also supported by a large enough population so that Indonesia has potential human resources (HR). The potential of these natural resources must be managed intelligently through the development of science and technology in all development activities. Natural resource management through the use of science and technology will be able to increase the nation's competitiveness.

Other strengths of Indonesia are market size, microeconomic stability, business culture, and a stable financial system. This provides a great opportunity for innovation in research and development results. The results of the research can be in the form of

theories and ideas expressed in scientific journals, appropriate technology, or products of goods or services. The innovations from this research and development need to be commercialized in order to have a positive impact on researchers, society, and the nation's economy. The development of research results towards commercialization is expected to provide added value creation and economic productivity to increase the nation's competitiveness.

Higher education is an institution that has the main task of developing science and technology, which is the most important in Indonesia. One of the universities that has become a leading sector in the development of science and technology is Trunojoyo Madura University through superior products of salt, corn, spices, herbal medicine, and halal tourism. Trunojoyo University through its research resources encourages research with a focus on salt, corn, spices, herbal medicine, and halal tourism. Of the five focuses, it will then be researched according to the qualification of technology readiness level (TKT) or technology readiness level (TRL). This TKT determines whether a research produces an innovative product or is only limited to conceptual ideas in the form of theories and development strategies/models. If a research has reached TKT 7-9 and produces an innovative product, it is necessary to encourage commercialization. The implementation carried out by lecturers in universities is financed independently and some are financed by universities either from internal funds of universities or external universities (sponsors or ministries/institutions).

This is a problem when a product and commercialized is the result of research funded by the university, resulting in a benefit from the economic side will cause disputes related to the distribution of the results. This must be overcome through a business contract whose substance regulates the rights and obligations of the parties involved so that it can provide positive value for all parties and society as product users.

Based on the background of the above problems, the problems in this study are as follows:

1. Business contract model in the commercialization of university-funded research results?
2. How are the rights and obligations of the parties involved in the commercialization business contract of research results funded by universities regulated?

RESEARCH METHODS

This research is an empirical research that examines social phenomena and realities in society. This research places as a general position or major premise that is sought through the process of searching and researching relationships or patterns of relationships, whether correlated or causal between various phenomena that manifest the presence of law in reality, as usually observed by the sense of observation. This research was carried out by analyzing the problem of regulating the rights and obligations of the parties involved in the management of tourist destinations. This is done with the intention of developing sustainable tourism.

Research Stages

This research will begin with the collection of initial materials at the East Java Provincial Culture and Tourism Office to determine tourist destinations in East Java

which can be used as a benchmark for finding information related to business contracts in the management of tourist destinations. In addition, it also goes to several tourist destinations in Bangkalan, Malang, and Batu.

Research Location

This research took several locations, including:

1. Bangkalan, Sampang, Pamekasan, and Sumenep Regencies;
2. Institute for Research and Community Service, Bariwjaya University;
3. Institute for Research and Community Service, National Development University of Vetera East Java.

Data Source

Primary data is a number of data in the form of information or explanations from the research subject, in order to obtain a more in-depth explanation of secondary data. Data was obtained from the results of interviews such as the extent of the regulation of the rights and obligations of the parties in the commercialization of university research results.

Secondary data includes data in the form of documents, writings, scientific books and supporting literature. Such data can be in the form of laws and regulations, data on the results of commercialized university research, and data on cooperation in the use of university research results.

Data Collection and Data Analysis Techniques

The data collection techniques used in this study are through;

1. Interviews with respondents were conducted to get in-depth information (in-depth interview). Questions have been prepared to explore, especially to policy makers related to the commercialization of university research results
2. Focussed Group Discussion (FGD) to capture aspirations and participation from policy makers;
3. Field observation, to get a strategic picture in sustainable tourism development.

In analyzing the data using the induction method, namely by understanding the behavior - symptoms in the existing social reality, namely the response of the parties involved in the management of tourist destinations.

RESULT AND DISCUSSION

The Concept of Intellectual Property Rights Related to Research Results

Intellectual property rights are "the concept of ownership of a work, money arises or is born due to the intellectual ability of human beings in the field of science and

technology".[1] This intellectual property right is protected by law because it contains economic values that can later be commercialized. Intellectual property rights, abbreviated as IPR, are divided into two categories, namely copyright and industrial property rights. There are 6 (six) types of property rights in this industry, namely patents, brands, industrial designs, integrated circuit layout designs, trade secrets, and geographical indications.

When viewed from the history of the development of the concept of rights since ancient Greece, it is only known as property rights and rights of control. When associated with property rights, there are rights to movable objects, rights to immovable objects, rights to tangible objects, and rights to intangible objects. From some of the concepts of ownership rights above, IPR is a development of conventional property rights over intangible objects. Intellectual property is an abstract idea and theory, but has economic value so that it can be categorized as an intangible object.

IPR is a right given by law as a form of appreciation for creators who have worked hard to produce a work that is beneficial to society and has new or original properties in the scope of technology, science, and industry. The works produced by creators, be it knowledge, technology, and works of art, have economic value. The economic value in question is science, technology, and the artwork has commercial value so that it can provide income for its creators. Therefore, the granting of IPR by law to the creators of science, technology, and works of art is given the exclusive right to monopolize its use.

When viewed from the economic aspect, IPR does regulate more rights in the industrial sector which aims to protect industry players from attempts to abuse the ideas of competitors in trade. This shows that IPR is actually more suitable as an industrial right than a personal right. Because IPR is an industrial right, its utilization can be used by a third party through a license agreement.

A license agreement is an agreement where the owner of IPR gives permission to a third party to utilize the IPR for commercialization purposes. This license agreement is a solution so that the IPR that has been created by its creator can be more beneficial to the wider community, but still protect the rights owned by the creator.

A research in general will produce several outputs in the form of theories/ideas/ideas, prototypes, products, and artworks. The results of the research are the result of scientific and technological works. The copyrighted works of knowledge and technology can be protected by law by being granted copyrights and patents. This is emphasized by the public relations of the Ministry of Law and Human Rights where "the research works produced by researchers can be granted copyright and patents".[2]

The Concept of Ownership of Research Results

[1] H.O.K. Saidin, (2015), *Legal Aspects of Intellectual Property Rights,* Jakarta: Raja Grafindo Persada, 2015, p. 18.

[2] See in https://www.litbang.kemkes.go.id/kekayaan-intelektual-lindungi-karya-penelitian/ accessed on September 25, 2022.

Research results can be granted copyrights and patents by the IPR regime. Copyright is a property right with an immaterial category because the object protected in copyright is an immaterial object, namely in the form of moral rights.[3] Copyright is the right, not the object that is the embodiment of the right. So, what is given protection is the right to publish or reproduce or announce the results of the research.

When viewed from the definition based on Article 1 number 1 of Law Number 28 of 2014 concerning Copyright, hereinafter referred to as the Copyright Law, what is meant by copyright is "the exclusive right of the creator that arises automatically based on the declarative principle after a work has been realized in real form without reducing restrictions in accordance with the provisions of laws and regulations". According to Suyono Margono, copyright is "a type of private ownership of a work in the form of the embodiment of an idea of a creator in the fields of art, literature, and science".[4] Copyright is the embodiment of an abstract idea. This can be illustrated where there is a book that is sold, then the book is attached to two rights, namely the right to property to the object (book) which will later change hands of its owner and the copyright to the content/substance of the book which is still attached to the creator. Thus, the owner of the book can only enjoy the purchased book and has no right to reproduce or distribute commercially without the permission of the copyright holder.

In addition to being granted copyright, research results can also be granted patents. A patent is "a form of guarantee of legal certainty or an intellectual work in the field of technology and is a solution to a problem".[5] Patents are rights granted by law and are categorized as industrial intellectual rights. Similarly, this patent is included in the theory of intangible objects.

In Law Number 13 of 2016 concerning Patents, it is stated that a patent is "an exclusive right granted by the state to an inventor for the results of his invention in the field of technology, which for a certain period of time carries out his invention himself or gives his consent to another party to carry it out".

Patents are not rights that arise since the discovery of intellectual works in the technology field but must go through a verification process first by the state through the Ministry of Law and Human Rights of the Republic of Indonesia. In other words, patents are not obtained automatically.

This patent right by the Patent Law is also limited by the term. If the patent has expired or expired, then the patent will belong to mankind. This is so that the patented

[3] Rachmadi Usman, (2003), *Intellectual Property Rights Law*: *Protection and Legal Dimensions in Indonesia*, Bandung: Sinar Grafika, p. 30.

[4] Suyud Margono, (2010), *Legal Aspects of Commercialization of Intellectual Assets*, Bandung: Nuansa Aulia, p. 14-15.

[5] See http://www.hki.co.id/paten.html accessed on September 25, 2022.

invention can be useful and beneficial to mankind and is not monopolized by the patent owner of the invention alone.

In its use for commercial purposes, the patent also gives inventors the right to commercialize it independently or in partnership with other parties. When partnering with other parties in the commercialization of the invention, a licensing agreement is made which regulates the rights and obligations of the inventor (patent holder) with the partner who commercializes the invention so that in the future it is clear the distribution of the results, the obligations of the parties, and reduces the potential for disputes in the future.

Agreement Model in the Utilization of Research Results

Research results are an intellectual result that can be tangible and intangible. The results of research in the form of goods, products, and prototypes, for example. Meanwhile, intangible research results are such as theories, ideas, ideas, models, policies, software, and artworks. The results of the research can be protected by law in the form of granting copyrights or patents if they meet the requirements of the law. Every research result will certainly be automatically copyrighted since the creation exists. The copyright belongs to the researcher. For the grant of patent rights for research results in the field of new technology, it can be granted if there is a patent application to the Ministry of Law and Human Rights of the Republic of Indonesia and then pass the verification only after that it is determined by the Minister of Law and Human Rights of the Republic of Indonesia. If the patent application is approved, the patent rights belong to the inventor or researcher.

Regarding the existence of research funded by third parties, it is necessary to have an agreement at the beginning before the research is carried out so that the rights and obligations of the parties are clear. The agreement between the parties is outlined in a cooperation agreement.

The ideal model of cooperation agreement in the utilization of research results is a proportional profit sharing agreement. In the cooperation agreement, a clause on the use of research results that can provide economic value must be included in the agreement, for example, "... If the results of the research provide results and economic value, then the results will be divided proportionally by 50% and 50%". Thus, the profit-sharing agreement model is more profitable because researchers and *founders* get the same rights so as to provide justice for both researchers and *founders*.

CONCLUSION

Research results are intellectual results owned by researchers and can be granted rights by law in the form of copyrights and patents. The provision of intellectual property rights protection for research results is to protect intellectual results from being misused for commercial purposes. If there is a third party who wants to take advantage of the copyright and patents of the researchers, they can make a license agreement with a proportional revenue sharing model. The profit-sharing agreement model is more profitable because researchers and founders get the same rights so as to provide justice for both researchers and founders.

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