

## **Film Licensing Agreement as an Object of Guarantee in Indonesia**

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### ***Abstract***

*Collateral is part of an agreement as a result of financial obligations and serves to provide confidence that the debtor will fulfil these financial obligations, where the guarantee is something that is submitted to the creditor by the debtor. The guarantee itself is divided into two, namely material security and personal guarantee. The license agreement itself is an agreement made by the license owner and the party who wants to use the license. One of the uses of a license agreement is in the film industry, where the Product House as a license owner can enter into a license agreement with the Video on Demand platform so that the film or series that has been made can be shown on the Video on Demand platform. Government Regulation No. 2022 on Creative Economy has opened up opportunities for license agreements as collateral objects. The license agreement as a collateral object itself is not an impossible thing, because other countries such as Iran and the United States have allowed license agreements as collateral objects. One of the Video on Demand platforms that uses license agreements in the screening of films on their platform is Netflix. Therefore, the Production House can make the license agreement made as an object of collateral.*

***Keywords: Film; Collateral; License Agreement.***

### **Introduction**

Basically, intellectual property rights are rights owned by a person to their work or intellectual product, which includes the right to obtain material and/or non-material rights to the work. Through TRIPs (Agreement on Trade-Related Aspects of Intellectual Property Rights), IPR is defined as the right owned by the creator to prevent other parties from using inventions, designs, or other works without permission.

Intellectual Property Rights themselves can be categorized as Objects that are known in the civil law system in Indonesia, in which property rights are attached. The Civil Code in Article 499 states that "according to the understanding of the Law called Material Property, every property and every right that can be controlled

by property rights". In the Civil Code, the property itself is regulated in the Second Book which specifically regulates material law. Objects or objects in civil law in Indonesia do not only mean tangible objects whose physical appearance is clearly visible, but also intangible objects.

The Civil Code mentions the existence of intangible objects in Article 503 which states "There are bodily goods and there are intangible goods". Intangible objects themselves are generally objects that do not have a physical form, but have material rights attached to them. Intangible objects in the civil law system in Indonesia are usually property rights or property rights over something. For example, land rights and intellectual property rights.

In Indonesian law, property rights are divided into 2, namely material rights that provide guarantees (*zakelijk zekheidsrecht*) and material rights that provide enjoyment (*zakelijk genotsrecht*).<sup>1</sup> The definition of Guarantee is the property owned by the debtor which then becomes a protection for the creditor so that the debtor carries out his obligations to fulfill an achievement in the agreement.<sup>2</sup> The guarantees in the Civil Code are then divided into 2, namely general guarantees and special guarantees. General guarantees are regulated through article 1131 of the Civil Code which basically states that all debtor's objects, both movable and immovable, both existing and new in the future, are liabilities for all individual engagements. Furthermore, in Article 1132 it is stated that the property is a joint guarantee for every person who owes to it. The income from the sale of these objects is divided equally, that is, based on the size of each receivable, unless there is a valid reason for precedence among the receivables. A general guarantee is basically a guarantee that there are no special rights that the creditor has.

Hartono Hadisaputro stated that a guarantee is something that is handed over by the debtor to the creditor with the aim of providing confidence that the debtor will fulfil the financial obligations arising from an agreement.<sup>3</sup> In Indonesia itself,

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<sup>1</sup> October, B.A. (July 5, 2023). 5 Types and Examples of Material Guarantees, Hukumonline.com.<https://www.hukumonline.com/klinik/a/jenis-dan-ej-jaminan-kebendaan-lt518f8c34e5c67/>

<sup>2</sup> Gatot Supramono, *Debt and Receivables Agreement*, Jakarta: Kencana, 2013

<sup>3</sup> Hartono Hadisaputro, *Principles of the Law of Engagement and the Law of Guarantee* (Yogyakarta: Liberty, 1984), p.50

guarantees are divided into two, namely material guarantees and individual guarantees. An individual guarantee is an agreement in which a third party promises to fulfil the debtor's obligations to the creditor if the debtor fails to fulfil them.<sup>4</sup> Meanwhile, material collateral is collateral that uses movable or immovable property as an object to guarantee the debtor's debt to creditors if in the future, the debtor is unable to pay his debt. Material guarantees can be divided into 5 types, namely pawns, fiduciaries, dependents, mortgages, and warehouse receipts.<sup>5</sup>

Intellectual Property Rights as intangible objects have long been used as collateral for financing. There are many types of intellectual property rights, such as Copyrights, Patents, Trademark Rights, Industrial Design Rights, Trade Secrets, Integrated Circuits, and so on. In 2022, the government issued Government Regulation Number 24 of 2022 with the aim of accommodating Intellectual Property Rights as a collateral object for financing.

However, before the Law comes into effect, some intellectual property rights can already be used as collateral objects as part of the financing scheme as regulated through Law number 28 of 2014 concerning Copyright which accommodates Copyright as an object of guarantee. In Article 16, paragraph 3 of Law number 28 of 2014 concerning Copyright, it is stated that Copyright can be used as an object of fiduciary guarantee.

In addition to Copyright, through Law Number 13 of 2016 concerning Patents, it also mentions Patents that can be used as the object of fiduciary guarantee. The fiduciary guarantee itself is a guarantee for movable objects, both tangible and intangible, and immovable objects, both tangible and intangible, where the fiduciary still controls the objects that are used as the object of the fiduciary guarantee. This is very different from a pawn, where the debtor hands over the pawn object to the creditor. In fiduciary guarantees, it is also required for the existence of

Furthermore, through Government Regulation Number 24 of 2022 concerning the Creative Economy, which is the implementing regulation of Law Number 24 of 2019, the government more clearly accommodates Intellectual Property Rights as a

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<sup>4</sup> Riky Rustam, *Law of Assurance*, (Yogyakarta: UII Press, 2017), p. 79

<sup>5</sup> Gatot Supramono, *Debt and Receivables Agreement*, (Jakarta: Kencana, 2013), p. 59

guarantee object. If we look at the considerations of the making of the Government regulation on the Creative Economy, we can see that the government is trying to grow the creative economy industry, which starts by increasing the availability of financing sources increase, such as accommodating more clearly about intellectual property rights as an object of guarantee.

Article 9 of Government Regulation Number 24 of 2022 paragraph 1, states that to implement the Intellectual Property-Based Financing Scheme, financial institutions, both banks and non-banks, use Intellectual Property as an object of debt collateral. Furthermore, paragraph 2 of the same article and regulation states that the object of debt guarantee in question can be implemented in the form of fiduciary guarantees or intellectual property, contracts in Creative Economy activities, and/or billing rights in Creative Economy activities. Furthermore, in the explanation of paragraph 2 article 9 of Government Regulation Number 24 of 2022, it is stated that contracts in Creative Economy activities can be in the form of license agreements and/or work contracts/work orders received by Creative Economy Actors.<sup>6</sup>

In the modern world, watching movies no longer needs to be done by buying *Blu-ray* or watching through the cinema. Now, there are *videos on demand* that allow viewers to watch anywhere and anytime. In the video on demand system, *the provider's platform* will provide screening services for films produced by themselves or those produced by other production houses. In the case of self-produced, *the provider platform* becomes the party that makes the film or series and then uploads or releases it within the *platform* itself. Meanwhile, in the event that the *provider platform* screens films or series from other production houses, the *provider platform* will get the broadcasting rights from the copyright holder. Usually, *the provider platform* will make a *license agreement* with the production house to get the broadcasting rights produced by the production house. To maintain profits, *the provider platform* will set the *license agreement* period in anticipation of movies or series that are rarely watched by viewers. One of the *provider platforms* that conducts *the license agreement* scheme is Netflix.

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<sup>6</sup> Government Regulation Number 24 of 2022 concerning the Creative Economy

Based on Government Regulation number 24 of 2022 concerning the Creative Economy, the *license agreement* made by Netflix and Production Houses for certain films or series can be the object of debt collateral. However, in 2006, the Director General of General Legal Administration issued Circular C.HT.01.10-74 of 2006 which stated that the attitude to reject fiduciary guarantees is in the form of individual rights. If referring to the rejection, then individual rights arising from contracts in Creative Economy activities cannot be the object of fiduciary guarantees. However, of course, in referring to the Circular Letter, it must apply to the legal principle of *Lex Posterior Derogat Legi Priori*; therefore, Government Regulation Number 24 of 2022 is certainly the main reference in terms of contracts as collateral. In the case of debt guarantees, the guarantee is actually provided with the ultimate goal when the debtor defaults, the creditor can execute the collateral object and get repayment from the proceeds of the sale of the collateral object. In this case, the collateral object should be an object that can be transferred to the buyer. Therefore, if we talk about *the license agreement* as the object of guarantee, it is necessary to underline the transfer of rights and obligations in the contract to the new party.

The use of License Agreements as an object of self-guarantee has actually been carried out in many countries such as Iran has adopted License Agreements (Intellectual Property Rights in general) as an object of guarantee.<sup>7</sup> In addition to Iran, the United States has also adopted the License Agreement as an object of guarantee, even this adoption has been carried out since 2001 through the Uniform Commercial Code. Therefore, the use of license agreements as collateral objects in Indonesia should have been implemented for a long time. This should be a common concern considering the growth of the film industry in Indonesia and the rampant use of video-on-demand platforms which are often used by licensing agreements.

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<sup>7</sup> Hamidi Avval A, Jafarzadeh M. To collateralize the rights in an Intellectual Property License Agreement. *Comparative Law Research* 25, no. 1 (2021), 29-56. <http://clr.modares.ac.ir/article-20-48761-en.html>

## Research Methods

The author used a juridical-normative legal research method in conducting this research. The juridical-normative legal research method is a research method that is carried out by researching and discussing the provisions of laws and regulations that apply as positive law in Indonesia.<sup>8</sup> In conducting this study, the author uses secondary data, where secondary research data is collected through literature studies on reading sources related to legal issues or problems raised in the research.<sup>9</sup> The secondary data from the research results are analyzed qualitatively systematically so that conclusions are drawn from the problems discussed.<sup>10</sup>

## Results and Discussion

### Contracts in Copyright as Objects of Guarantee

In the Civil Code, collateral can be in the form of the debtor's assets, both existing and future. This is stated in Article 1131 of the Civil Code which states that all the debtor's property, both movable and immovable, both existing and new in the future, becomes a liability for all obligations of a person.<sup>11</sup> Although the article is better known as a general guarantee, the existence of the article is proof that an unpaid contract can be used as a guarantee for debt payment.

According to Abdulkair Muhammad in his book *Securities Trading Law*, securities are letters that in their issuance have a role to carry out an achievement.<sup>12</sup> Securities themselves are letters that function as a tool to make payments, a tool for transferring billing rights, and a letter of legitimacy. Securities themselves have several characteristics which include:<sup>13</sup>

- 1) The securities are transferable documents.
- 2) There is an obligation to pay a certain amount of money;

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<sup>8</sup> Jonaedi Efendi and Johny Ibrahim, *Normative and Empirical Law Research*, (Jakarta: Kencana, 2016), p. 124.

<sup>9</sup> Bambang Waluyo, *Legal Research in Practice*, (Jakarta: Sinar Grafika, 2008), p. 50.

<sup>10</sup> Burhan Ashshofa, *Legal Research Methods*, (Jakarta: PT. Rineka Cipta, 2004), p. Sec. 20.

<sup>11</sup> Civil Code

<sup>12</sup> Abdulkadir Muhammad, *Commercial Law on Securities* (Bandung: PT. Stuart O'Brien, 2007)

<sup>13</sup> Hermansyah, *Indonesian National Banking Law*, (Jakarta: Kencana, 2009), p. 106

- 3) The transfer of rights;
- 4) Have a source of transitional law;

Actually, if we look at the four characteristics of securities, an agreement or contract can be called a Securities. However, the first and fourth conditions cannot be fulfilled absolutely by a contract which makes it impossible for us to immediately consider a contract as Securities. This is because, not all contracts are transferable and this depends on the agreement between the contract makers listed in the Article listed in the contract. Therefore, so far, the contract is more accurately referred to as a valuable document than as a security. The meaning of a valuable letter is a letter or document that has a value or *value* in the contract which can be in the form of payment for something.

Before discussing contracts in Intellectual Property Rights as an object of guarantee, contracts in general are often used as objects of guarantees. One of them is the Work Order which is often the object of collateral with the aim of obtaining additional financing. Work Orders that are often used as an object of collateral are generally work orders from the government. A work order is basically a warrant that arises after an agreement made by the employer and the executor of the work. Therefore, the use of contracts related to intellectual property as an object of guarantee is not a "taboo" in the world of guarantee law.

In intellectual property rights itself, there are types of contracts depending on the type of intellectual property rights. For example, a franchise contract where in which, under certain conditions the "buyer" of the contract buys the "brand" to then be used in the business carried out by the buyer. In this case, the "seller" of the brand as the original owner of the brand will give permission to the buyer to use his brand with certain obligations. In addition to franchise contracts in the "purchase" of brands, there are also licensing contracts that are often used in terms of granting permission to use patents or granting licenses to distribute copyrighted works.<sup>14</sup>

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<sup>14</sup>Djoko Hadi Santoso and Agung Sujatmiko, "Copyright Royalties as Objects of Fiduciary Guarantee," *Journal of Legal Issues* 46, no.3 (2017), 198-204.  
<http://repository.unair.ac.id/id/eprint/117790>

Contracts regarding intellectual property themselves can be used as collateral because there is a right to collect as one of the clauses in these contracts. The billing rights can then become an assessment point in every intellectual property contract. Billing rights in intellectual property in the form of trademarks (franchises) are usually determined from the beginning in a definite manner. However, in intellectual property in the form of copyrighted works (*license agreement*) Billing rights are usually in the form of a percentage (profit sharing) according to the number of people who consume (view, watch, or read) the copyrighted work.

### **Transfer of Rights in *License Agreement* as Part of Intellectual Property-Based Financing Scheme**

As an agreement, in the *License Agreement* or license agreement there are rights and obligations that are binding on the parties. In a license agreement, the object of the agreement is "permission to use something" where the "something" can be in the form of many things.<sup>15</sup> Licensing agreements are often used in terms of granting licenses related to intellectual property rights, such as the use of patents, film distribution, book distribution, the use of technology, and so on. In simple terms, in the license agreement, the licensor (licensor) will grant permission to use the licensee (licensee) for a certain payment.<sup>16</sup> Based on Law Number 28 of 2014 concerning Copyright in Article 1 number 20, it is stated that a License is a written permission granted by a copyright holder or related rights owner to another party to exercise economic rights to his or her creation or related rights product under certain conditions.

As a form of economic rights received by the licensor and granted by the licensee in a license agreement, there are Royalties which are in exchange for the use of the Economic Rights of the object of the license agreement. The Royati is

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<sup>15</sup> Retna Gumanti, "Licensing Agreements in Indonesia," *Al-Mizan (e-Journal)* 12, no.1 (2016), 245-260. <https://doi.org/10.30603/am.v12i1.133>

<sup>16</sup> Putri Wahyu Maulana "License Agreement in the Form of Youtube Content on Fiduciary Guarantee According to Government Regulation Number 24 of 2022 concerning the Creative Economy," *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance* 3, no.1 (2023), 529-539. <https://doi.org/10.53363/bureau.v3i1.199>



the right to collect and which can be a benchmark in terms of the valuation of the copyrighted work when guaranteeing the copyrighted work. Just like contract payments in general, royalties can be paid periodically (every few payment terms) or all at once either at the beginning or at the end.

In addition to economic rights, copyright also includes moral rights that are an inseparable part of the rights owner. In Article 5 paragraph 1 of Law Number 28 of 2014 concerning Copyright, moral rights are eternally attached to the creator of a copyrighted work. Furthermore, this right includes the right to include a name on every copy of the copyrighted work owned, to change the work according to propriety in society, to change the title and subtitles of the work, as well as the right to prevent distortion of the work, mutilation of the work, modification of the work, or anything that is detrimental to one's own honor or reputation. This right will be permanently attached to the creator of a copyrighted work, as long as the creator is still alive.

Based on Government Regulation Number 24 of 2019 concerning the Creative Economy, Article 1 number 3 states that financing or credit, hereinafter referred to as Financing, is the provision of money or bills that are equated with it based on an agreement or loan agreement between bank financial institutions or non-bank financial institutions and other parties that require the financed party to return the money or bill after a certain period of time with the provision of rewards in the form of interest or profit sharing. Furthermore, in the same article and regulation, it is also regulated regarding the Intellectual Property-Based Financing scheme which is a financing scheme that makes intellectual property as an object of debt collateral for bank financial institutions or non-bank financial institutions in order to provide financing to creative economy actors. Financing for creative economy actors can be used by creative economy actors as a means of financing future projects or as consumptive financing.

In Article 4 of Government Regulation Number 24 of 2019, the intellectual property-based financing scheme through bank financial institutions and non-bank financial institutions states that the financing is facilitated by the government.

Based on this article, the government is obliged to facilitate bank financial institutions and non-bank financial institutions in terms of financing creative economy actors. These facilities can be in the form of the use of Intellectual Property with economic value and Intellectual Property assessment.

The government in Government Regulation Number 24 of 2019 has stated the requirements for economic actors who want to apply for Intellectual Property-based Financing consisting of at least the following:

- a) Financing Proposals;
- b) have a creative economy business;
- c) have an engagement related to intellectual property of creative economy products;
- d) have a registration letter or Intellectual Property Certificate.

In the event that the Finance Company will provide intellectual property-based financing to creative economy actors, the Finance Company will take several actions, including;

- a) verification of Creative Economy businesses;
- b) verification of registration letters or certificates of Intellectual Property that are used as collateral that can be executed in the event of a dispute or non-dispute;
- c) assessment of Intellectual Property used as collateral;
- d) disbursement of funds to Creative Economy Actors; and
- e) receipt of Financing returns from Creative Economy Actors in accordance with the agreement.

In general, the condition that an intellectual property object can be used as an object of debt collateral is that the intellectual property must be registered at the Ministry of Law and Human Rights and that the intellectual property is managed either personally or by other parties.

In terms of intellectual property rights financing schemes, what happens is the transfer of collection rights contained in royalties (payments) to the owner of intellectual property rights. In the event that intellectual property becomes the

object of debt collateral, then what is collateral for debt is a license contract/agreement between the licensor and the licensee. Later, the licensor as the right holder and who gets the right to payment will "guarantee" the payment of the right in the form of royalties to the Finance Company.<sup>17</sup>

Based on the value of the royalties obtained, the Finance Company will assess the amount of financing that can be provided to creative economy actors to carry out debt guarantees. Creative economy actors who enter into licensing agreements will get payment rights from the licensee.<sup>18</sup> The payment is made periodically by calculating the amount of consumption (viewers or users) of the copyrighted works that are published. The periodic payment becomes the economic right of the licensor which can then be transferred to the financing company.

### **License Agreement as Object of Guarantee in the United States**

In the United States itself, the law of guarantees is regulated in *Uniform Commercial Code* (UCC), more precisely in *Article 9*. This regulation, has already been adopted in all states of the United States with some minor changes. The discussion of intellectual property contracts as collateral has been going on for a long time in the United States, which began with the revision of Article 9 of the UCC in 2001. This revision makes collateral objects that can be collateral even broader, such as expanding the category of personal objects or adding new objects.

Since then, the use of Intellectual Property Rights as an object of collateral has become more widespread in the United States. The use of Intellectual Property Rights as an object of collateral is generally found in the United States film industry which experienced significant growth in the 2000s. The significant growth of United States cinema and new regulations that make the guarantee of Intellectual Property Rights possible made it possible for many of the United States film

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<sup>17</sup> *Ibid*

<sup>18</sup> Annisyatulhuda Rani Ayuningtyas Stuikno and Fairuz Sabiq, "Youtube Content Analysis as a Fiduciary Guarantee in Islamic Banking," *El-Mal: Journal of Islamic Economic & Business Studies* 5, no.1 (2024), 968-977. <https://doi.org/10.47467/elmal.v5i1.429>

industry to make their Intellectual Property Rights part of the Object of Guarantee in financing. In the scheme, the creditor will receive several intellectual property objects from the debtor as collateral objects such as *copyright*, script and music licensing, costumes, even talent contracts<sup>19</sup>. This has led many banks in the United States such as Bank of America to report an increase in Intellectual Property Rights-based loans as collateral.

As was the case in the case of *Smit v Iron & Glass Bank* where the debtor and creditor signed a know-how license agreement that entitles the creditor to payment of the license agreement. The court then ruled that knowhow was a general intangible object because the creditor did not list it as an accessible collateral. This then makes the creditor unable to confiscate the collateral because it does not include the general intangible assets in the collateral clause or the description of the collateral in the agreement that has been made.<sup>20</sup> It should be underlined that the problem of the object of the guarantee is the object of the agreement which is a science that is considered as a general intangible object. This means that the Court looks at the object of the agreement, not necessarily sees the agreement as the object of guarantee.

### **Netflix License Agreement as Object of Guarantee**

Based on the previous explanation, the license agreement as an object of guarantee should have been applicable in Indonesia. A license agreement as an agreement made by the Production House with a party who wants to use or show the works of the Production House has a valuable value so that it can be used as a guarantee. In the background, the author has explained that according to Hartono Hadisaputro, a guarantee is something that is handed over by the debtor to the creditor with the aim of providing confidence that the debtor will fulfill the financial

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<sup>19</sup> Pauline Stevens. The Intersection of Film Finance and Revised Article 9: A Mystery. *UCLA Ent. L. Rev.*, 9 (2001), 211.

<sup>20</sup> Nguyen, X. T. (2007). Collateralizing intellectual property. *Ga. L. Rev* 42, no. 1. <https://heinonline.org/HOL/LandingPage?handle=hein.journals/geolr42&div=7&id=&page=>

obligations arising from an agreement.<sup>21</sup> The value contained in the license agreement should be an object that gives confidence that the debtor (in this case the production house) will meet the financial obligations arising from the agreement.

The license agreement itself is part of the many intellectual property rights that are now developing in Indonesia and these intellectual property rights can potentially become an object of collateral with the aim of obtaining financing as capital for the next Production House project. As stated earlier, contracts cannot be called absolutely as Securities because not all contracts are transferable and Securities must be transferable, therefore so far contracts can only be categorized as Securities of Value. A contract as a valuable instrument can be used as a guarantee for financing or collateral in a certain agreement when the contract has a transition clause that allows for a transition in the contract or there is no clause that prohibits the transfer of the contract. Likewise, the license agreement made by the Production House and the party who wants to use the work from the Production House must be transferable, especially for the right to bill or payment in the license agreement. Therefore, when the production house wants to make the license agreement that has been made, the production house must also pay attention to the transition clause in the agreement, in addition to the production house must also pay attention to the value of the contract.

A license agreement between Netflix and the Production House is an agreement with the purpose of distributing a film produced, made, or licensed by the production house. The production house will receive periodic payments from Netflix according to the number of viewers who watch the film. In the context of TV broadcasting, often production houses only license a few episodes or a few seasons. While movies are continuous and have several movies, sometimes Netflix can only have licensing agreements for a few films, not for the entire film franchise. In addition to the number of movies, the licensing agreement between Netflix and the Production House can also regulate the number of countries in which the film

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<sup>21</sup> Hartono Hadisaputro, *Principles of the Law of Engagement and the Law of Guarantee* (Yogyakarta: Liberty, 1984), p.50

or series is shown. Usually, the film will be shown in a country that is projected to have a large audience or fans to watch Netflix movies. This can be known from the language used and how far the cultural aspects contained in the film are related to a country. In anticipation of a film or series rarely being watched by the audience, Netflix limits the duration of the contract/license agreement with the production house, which when the contract period ends, the film can no longer be watched on Netflix. The calculation of the economic rights obtained by the licensee is usually calculated from the percentage of profit sharing and then multiplied by the number of viewers who watched the film. Netflix conducts a data mining process to determine the number of viewers who watch movies or series from Netflix. From the data that has been processed, Netflix can determine the number of hours shown for a movie or series and the cost per hour, in order to determine the amount that must be paid to the licensee.

The amount to be paid by Netflix is the value contained in the license agreement that has been made by Netflix and the production house. In Indonesia itself, there have been many movies or series that have aired on Netflix and of course made by production houses in Indonesia. The valuable license agreement can be used as a guarantee for the production house to finance the next project or work of the production house. The value contained in the license agreement should be assessed by an appraiser who is familiar with the valuation procedure of an intellectual property right. These procedures, as previously explained, are contained in SPI 321 published by MAPPI (Indonesian Valuation Professional Society).

MAPPI as an institution whose appraisal members can assess the agreement that has been made by Netflix has made SPI 321 with the hope that intellectual property rights, especially those researched in this paper, can become the object of collateral for financing. In addition to paying attention to the assessment of the value of the license agreement made, the production house must also pay attention to the clauses contained in the license agreement. In a license agreement that will be used as the object of collateral, the article related to the prohibition on the transfer

of billing/payment rights can be an obstacle for the production house when it wants to make the license agreement that has been made into a guarantee.

In the United States itself, as explained in the previous section, licensing agreements have long been used as an object of guarantee. License agreements that can be used as collateral are not only limited to licensing agreements of great value such as film or series licensing agreements, but also licensing agreements for actors, costumes, or characters contained in the film. License agreement. Licensing agreements related to films to be shown on video on demand platforms such as Netflix have been used as collateral objects to obtain financing. However, in addition to getting financing, the licensing agreement can also be a guarantee in the event that the production house will make the next film.

The license agreement between Netflix and the Production House can be used as an object of collateral because basically the license agreement can be categorized as a valuable document where there is a right to collect in it. The financing company can determine the amount of financing that can be provided from the royalties that may be obtained from the screening of the film. This requires a rigorous data mining process to determine exactly how much royalty you may get and the risks.

The license agreement made by Netflix and the production house in Indonesia should be able to be an object of guarantee, this sees other countries such as the United States that have allowed Netflix license agreements as an object of guarantee to obtain financing. The licensing agreement itself is not only limited to *platform video on demand* Netflix which is a platform that comes from abroad. Licensing agreements made by production houses and *video on demand* Domestic should also be used as an object of collateral to obtain financing, as long as there is no clause in the agreement that prohibits production houses from transferring.

## **Conclusion**

Contracts as collateral objects are commonly done in practice, usually contracts that are used as collateral objects are work orders whose value has been determined from the beginning. In intellectual property, there are several forms of guarantees

that can be made with different objects of guarantees. Such as billing rights that can be done with fiduciary guarantees, brand rights (franchise contracts) that can be guaranteed, and copyright *license agreements* as collateral. *The license agreement* as the object of the guarantee itself has been regulated in Government Regulation Number 24 of 2019. The challenge in making a license agreement as an object of guarantee is indeed more difficult, because the value of the contract is difficult to know without clear data based on the projected number of spectators which is volatile. However, the use of Intellectual Property Rights as part of the object of the guarantee is not impossible. This refers to several countries outside Indonesia that have adopted Intellectual Property Rights as the object of guarantee, one of which is the United States. The United States has regulated Intellectual Property Rights as the object of warranty since the revision of the UCC in 2001 and one of the parts of Intellectual Property Rights that can be the object of warranty in the United States is the License Agreement. In Indonesia itself, the challenge of the license agreement as the object of collateral is the valuation of the price or *value* of the License Agreement itself. Finance companies must be more careful in making the *license agreement* of copyrighted works as an object of collateral because the number of viewers is volatile, this is no exception *to the license agreement* between Netflix and Production House.

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