



ARMA Update 8 August 2022

(English Version)

Intellectual Property as a Debt Collateral or Financing

On 24 October 2019, the Minister of Law and Human Rights has enacted the Law Number 24 of 2019 concerning Creative Economy (“**Law 24/2019**”). Creative economy means an embodiment of the added value of intellectual property sourced from human creativity based on cultural heritage, science, and/or technology.¹

Under the Article 16 paragraph (2), government facilitates financing scheme of creative economy product by utilizing their intellectual property ownership as the basis for their financing model. Such articles underlie the issuance of Government Regulation Number 24 of 2022 concerning implementation regulation of the Law Number 24 of 2019 concerning Creative Economy (“**GR 24/2022**”).

GR 24/2022 comes as a ground rule for the creators, musicians and all creative industry actors which introduce the chance to using their intellectual property assets as one of the debt collaterals for their preferred financing scheme. This ARMA Update will address the aspects that need to be considered to take the advantage of intellectual property as a collateral or a form of financing.

Intellectual Property-Based Financing Scheme through Bank and Non-bank Financial Institutions

Government facilitates the intellectual property-based financing scheme through bank and non-bank financial institutions. Facilitation of intellectual property-based financing scheme for creative economy actors is carried out through:²

- a) the utilization of intellectual property which has economic value; and
- b) intellectual property assessment.

In such matter, optimizing the use of intellectual property asset that has an economic value as an object of debt collateral is one of the forms of the utilization of intellectual property in addition to the facilitation in the application process for the registration of intellectual property in accordance with the related laws and regulations in Indonesia.³

¹ Article 1 paragraph (1) of Law 24/2019

² Article 4 paragraph (2) of GR 24/2022

³ Article 5 of GR 24/2022



❖ The Role of Bank and Non-Bank Financial Institutions

Creative economy actors can submit a financing request by way of Intellectual property-based financing to bank or non-bank financial institutions. The bank and non-bank financial institutions, within their rights and authority, can conduct several actions, as follows:⁴

- a) verification toward a creative economy business;
- b) verification of the registration letter of the certificate of intellectual property which used as collateral that can be executed in the event of a dispute or non-dispute;
- c) assessment of intellectual property that is used as a collateral;
- d) disbursement of funds to the creative economy actors; and
- e) receipt of refunds from the creative economy actors according to agreement.

❖ Requirements for Applying the Intellectual Property-Based Financing

The requirements for the creative economy actors to apply the intellectual property-based financing to the bank or non-bank financial institutions, are as follows:⁵

- a) financing proposals;
- b) have a creative economy business;
- c) have an engagement regarding the intellectual property of creative economy products; and
- d) have a registration letter of the certificate of intellectual property.

❖ Forms and Requirements of Intellectual Property as an Object of Collateral

The intellectual property owned by the creative economy actor will be the subject of the intellectual property-based financing model. In its implementation, the intellectual property itself will be used as a debt collateral. The debt collateral is realized in the form of (1) fiduciary guarantee on intellectual property, (2) agreement in connection with the activity of creative economy, and/or (3) collection right (*bak tagih*) in creative economy activities.⁶

Moreover, the requirements in order the intellectual property can be an object of debt collateral are, such intellectual property shall be registered in the Ministry of Law and Human Rights (“**MOLHR**”) at the Directorate General of Intellectual Property (“**DGIP**”) and managed either independently and/or the has been transferred to the other parties.⁷

• **The Assessment of the Value of Intellectual Property**

The value of intellectual property should be assessed further to be used as a collateral. The assessment by the intellectual property appraiser and/or the appraiser panel, shall use:⁸

- a) cost approach;
- b) market approach;
- c) income approach; and/or
- d) other assessment approaches in accordance with applicable assessment standards.

⁴ Article 8 of GR 24/2022

⁵ Article 7 paragraph (2) of GR 24/2022

⁶ Article 9 of GR 24/2022

⁷ Article 10 GR 24/2022

⁸ Article 12 paragraph (1) of GR 24/2022



The intellectual property appraiser must meet several criteria, which are, competence in field of intellectual property appraisal, having license of public appraiser from the Ministry of Finance (“MOF”) and registered in the Ministry of Tourism and Creative Economy (“MTCE”).⁹

Meanwhile, unless required to cooperate with the intellectual property appraiser, the appraiser panel (a group appointed by financial institutions) only takes its duty/responsibility if the intellectual property is not assessed by the intellectual property appraiser.¹⁰

- **The Recordation of the Granting of Intellectual Property Financing**

Creative economy actors have obligation to record the financing provided by bank or non-bank financial institutions in the recording system of the creative economy actors' financing facilitation which organized by the MTCE.¹¹

- ❖ **The Enforcement of GR 24/2022**

All creative economy actors / creative industry actors have given a time by the government to properly prepare their intellectual property to be used as a collateral, since GR 24/2022 will take effect 1 (one) year after its promulgation, which is on 12 July 2023.

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⁹ Article 11 paragraph (3) of GR 24/2022

¹⁰ Article 12 paragraph (6) – (8) of GR 24/2022

¹¹ Article 13 of GR 24/2022