

INTISARI

Perlindungan Hukum Hak Cipta Motif Batik Serta Hak Merek Usaha Pengrajin Batik Kayu Krebet

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Penulisan hukum ini membahas mengenai kewajiban negara untuk memberikan perlindungan hukum kepada setiap warga negaranya, terkhusus di bidang HKI diantaranya hak cipta dan hak merek. Perlindungan hukum terbagi menjadi dua macam yaitu preventif dan represif, dalam penulisan hukum ini penulis memfokuskan pada perlindungan hukum preventif yaitu berupa pencatatan hak cipta dengan acuan UU Hak Cipta serta pendaftaran hak merek dengan acuan UU Merek. Penulisan hukum ini bertujuan untuk mengetahui pelaksanaan pencatatan hak cipta motif batik serta pendaftaran hak merek usaha oleh para pengrajin Batik Kayu Krebet untuk memperoleh perlindungan hukum dari negara. Perlindungan hukum preventif berkaitan dengan cara perolehan hak masing-masing jenis HKI, sebagaimana telah diketahui bahwa UU Hak Cipta menggunakan sistem deklaratif sedangkan UU Merek menggunakan sistem konstitutif.

Penulisan hukum ini dibuat berdasarkan penelitian yang dilakukan secara normatif-empiris, yaitu penulis selain meneliti sumber data secara kepustakaan juga mengkomparasikan dengan kondisi atau praktiknya di lapangan. Studi kepustakaan dilakukan dengan menelaah peraturan terkait, khususnya UU Hak Cipta, UU Merek, peraturan perundang-undangan serta literatur hukum lainnya yang berkaitan. Penelitian empiris, penulis lakukan dengan teknik wawancara terhadap responden yaitu beberapa pengrajin Batik Kayu Krebet serta narasumber yaitu: Karyawan Pelayanan Hukum Kanwil Kemenkumham DIY, Kepala Seksi Pertimbangan Hukum dan Litigasi serta Karyawan Pelayanan Hukum Direktorat Hak Cipta DJKI, dan Karyawan Pelayanan Intelektual Balai Pelayanan Bisnis dan Pengelolaan Intelektual Dinas Perdagangan DIY.

Hasil dari penelitian yaitu dalam pelaksanaan pencatatan hak cipta motif batik serta pendaftaran hak merek oleh pengrajin Batik Kayu Krebet ditemukan beberapa kendala. Seperti dalam pencatatan hak cipta ditemui kendala: 1) Anggapan sifat hak eksklusif yang dimiliki pemegang hak cipta yang tidak berkesesuaian dengan prinsip kebersamaan masyarakat Krebet 2) Mahalnya biaya pencatatan hak cipta. Sedangkan kendala yang ditemui dalam pendaftaran hak merek: 1) Mahalnya biaya pendaftaran merek 2) Adanya *missed*-komunikasi antara beberapa pengrajin Batik Kayu Krebet dengan pihak DJKI. Dari kendala diatas, dilanjutkan pembahasan mengenai upaya penyelesaian kendala agar tidak terjadi hal serupa di kemudian hari. Upaya penyelesaian kendala baik yang diupayakan oleh pengrajin Batik Kayu Krebet maupun DJKI selaku penerima permohonan hak cipta dan pendaftaran hak merek.

Kata Kunci: Pencatatan Hak Cipta, Pendaftaran Hak Merek, Batik Kayu Krebet.

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ABSTRACT

Legal Protection of “Motif Batik” Copyright and Craftsmen Enterprise Trademark of Wooden Batik Krebet

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This legal writing discusses about the state's obligation to provide legal protection to all citizens, especially those in the field of IPRs including copyright and trademark rights. Legal protection is divided into two kinds, which are preventive and repressive. In this legal writing, the author focuses on preventive legal protection in the form of copyright registration, referencing to the Copyright Act as well as the registration of trademarks with the Trademark Act reference. This legal writing aims to examine the implementation of copyright registration of “Motif Batik” and enterprise registration of trademark rights of Wooden Batik Krebet craftsmen, to obtain legal protection from the state. Preventive legal protection relate to the acquisition of rights of each type of IPR, as it has been known that the Copyright Act uses declarative system, whereas Trademark Act use the constitutive system

This legal writing is based on research conducted by the normative-empirical, that in addition to research the literature data sources, the author also compares with conditions or circumstances on practice. Literature study carried out by examining the relevant regulations, in particular the Copyright Law, Trademark Law, legislation and other relevant legal literature. Empirical research is done by interviewing the respondents, which are some craftsmen Wooden Batik Krebet. Moreover several speakers, namely: Employees Legal Services Office of Regional Office the Ministry of Law and Human Rights Province DIY, Section Head of Advisory Law and Litigation and Employee Legal Services Directorate of Copyright DJKI, and Employee Services Intellectual Center Business Services Property Management Department of Trade DIY Province.

This legal writing results of the study are in the implementation copyright registration of “Motif Batik” and the craftsmen of Wooden Batik Krebet enterprise registration of trademark rights, found several problems. There are some obstacles in the copyright registration, which are: 1) The presumption nature of the exclusive rights of the copyright holder is not in conformity with the principles of community Krebet 2) High cost of copyright registration. Whereas the obstacles in the trademarks registration: 1) High costs of registration of the mark 2) Missed communication on the registration process between several craftsmen Wooden Batik Krebet with the DJKI. From that obstacles, discussion continues on efforts to resolve the obstacles in order to avoid the same obstacles in the future. Efforts to resolve issues with either pursued by craftsmen Wooden Batik Krebet and DJKI as the receiver of the request of copyright and trademark registration.

Keywords: Registration of Copyright, Registration of Trademark Rights, Wooden Batik Krebet.

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