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Fine Art and Design Works In the Context of Intellectual Property

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Fine Art and design works are classified as Intellectual Property that is protected by law. On the other hand, art creations are prone to be imitated or falsified on the grounds of being taken as inspiration or for commercial advantage. In Higher Education, especially in the field of Art and Design, methods to create original works have been taught to prevent intellectual property violation. However, due to dishonorable interests, the possibility of plagiarism and forgery can still occur. The questions that arise were: 1) what are classified as works of art and design? 2) What are the Intellectual Property Laws related to the field of art and design? 3) What are the prevention methods offered by fine arts and design higher education? Interpretation method was applied on the law concerning art and design, complemented with an explanation of art and design work creation process as a form of prevention to avoid imitations.

Keywords: Fine Arts, design, intellectual property, creation concept.

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INTRODUCTION

Originality studies, dealing with intellectual property right and related to the creation of art and design works in Indonesia, are essential for those who engage in the realm of art to avoid art work imitation or falsification problems. Some countries, such as; The United States, Britain, Australia, Canada, the Republic of China, Japan, South Korea, the Philippines, Singapore, Malaysia, and Thailand place originality studies under the Intellectual Property Law related to fine arts and design (Zatnika, 2006: 5-75).

In Indonesia, works of art and design are also classified as intellectual property protected by the Intellectual Property Law under the Directorate General of Intellectual Property, Ministry of Law and Human Rights of the Republic of Indonesia. The protected Art and design works are those registered and certified.

Based on this law, in case plagiarism or forgery is committed by someone, they can be prosecuted and brought before the law to get justice. To date, study results on the relationship between intellectual property and the fields of art and design have not been sufficient yet. Most studies are limited only to particular fields and not as a whole in the scope of art and design. This is not proportional to the number of fine arts and design faculties or study programs in Indonesian universities.

The relationship between work creation process and intellectual property laws should be proximate. The immediate relationship is important especially to understand art and design, as well as to understand and implement the Intellectual Property Law, and to apply the concept of art and design work creation in order to ensure work originality.

The purpose of this paper is to educate a wider community, especially those engaged in the field of fine arts and design to avoid plagiarism or counterfeiting cases. The authors and team are currently active in research activities in the field of fine arts and design, international seminars related to research results in the creation and exhibition in the field of fine arts and design and are registering several works to obtain certificates of intellectual property rights.

The main finding in this paper is the existence of a strong correlation between the process of creating art and design works and the Intellectual Property Law. Understanding the applicable law and during the process of creating art works could minimize the risk of property right violation.

LITERATURE AND THEORY

The literature used to construct the theoretical models in this study is built based on hermeneutic science (the science of interpretation), in which to interpret something, the necessary context must be known (Sudjiman and

Zoest, 1992: 103). The context in this case relates to the fields of fine arts and design, Intellectual Property Law, and the concept of the creation process in the field of fine arts and design. The procedure was interpreting the Intellectual Property Law in the context of art and design. Then the concepts in creating works were explained to ensure the authenticity of the work in relation to the field of fine arts and design. Further, the analysis was conducted literally, which means breaking something up into parts to comment or assess them as a whole (Mariantio, 2002: 15). The parts of the analysis were then organized based on the issues that arise from this study and were given a review or discussion.

Other theories or concepts that were taken served as explanations to strengthen the arguments to answer to questions formulating the problem. The theory or concept is related to the explanation of the fine arts and design fields and intellectual property to answer the problem of how to create original works.

DATA AND METHODS

The data collection method consists of observation, interviews, and literature study. The observation was conducted in practical lecture activities related to the process of art and design work creation, continued by Interviews with lecturers and students in the Faculty of Fine Arts and Design, Universitas Sebelas Maret.

The data for study literature was gathered from the vision, mission, and objectives of the Faculty of Fine Arts and Design of Universitas Sebelas Maret which has the fields of science development including Fine Arts, Crafts, and Design (Drafting Team, 2019-2020: 2).

The data related to Intellectual Property refers to the Intellectual Property Law issued by the Ministry of Law and Human Rights of the Republic of Indonesia. The data related to the concept of work creation process that ensures originality are summarized from the Final Project guidelines for each study program within the Faculty of Fine Arts and Design, Universitas Sebelas Maret, which is complemented with data from competent lecturers.

RESULT AND DISCUSSION

The results and discussion of this study are divided into three parts: fine arts and design fields, intellectual property, and creation of fine art and design works.

Fine Arts and Design Fields

The fields of art and design include: art, crafts and design. The art in this case can be explained as follows.

Art is basically communication, human communication through interpretation of a work. The language used in such communication is the language of images,

visual images, words, motion, space, rhythm, or tone, the form is processed in such a way that it becomes a symbol that is full of meaning. In this visual language, there is indeed no standard grammar as found in verbal language. In fact, almost every artist creates his or her own idiolect (Sugiharto, 2013: 35).

Based on the opinion above, when a true artist creates a work, it is certain that the results will differ from one artist to another, bearing in mind that in the visual language there is no standard grammar. In addition, each artist strives to create works based on his own style. The fields of art in the context of fine arts and design include art, film, painting and other two-dimensional works, sculpture and other three-dimensional works, pure graphics, ceramic art, multi-media works, installation works and others.

Craft sector is included in the scientific realm of arts and design. What is meant by craft can be explained as follows. Craft, as the equivalent of the term art craft, replaces the foreign term art and craft and is closer to handicraft related to hobbies. In creating works, craftsmen have a tendency towards art with all their insights or that leads to design; in fact, craft also develops into industrial art (Rizali, 2014: 98). The craft sector is grouped based on the processed material, including textile crafts, wood crafts, leather crafts, and metal crafts.

Understanding the design is not as simple as a matter of style but as follows.

Design is not limited to giving a form of beauty without further consideration, but also to the process of creation that involves technology, psychology, imagination, intuition, and taste. Designing is not only formulating a style system, but also a totality of creation that involves: planning, comprehension, calculation, contemplation, problem solving and imagination simultaneously (Sugiharto: editor, Rahayu: author, 2013: 143-144).

Designing is apparently not an easy job because if concluded from the above opinion, works in design combine technology and art. The field of design includes interior design, visual communication design, product design, and fashion design.

The field of Fine Arts and Design in Universitas Sebelas Maret, for Bachelor degree, (S-1) includes the Study Program of Fine Arts with interests in Painting, Sculpture, Graphic Arts, and Ceramic Arts. Craft Study Program which has its own characteristics is more concentrated in the field of textile or Textile Craft. The field of design has a Study Program in Interior Design and Visual Communication Design. For Master degree (S-2), there is a Fine Arts science program. Since January 2020, the management of undergraduate and graduate study programs has been under the Faculty of Art and Design.

Intellectual Property

Intellectual property includes Patents, Brands, Industrial Designs, Copyrights, Geographical Indications, Trade Secrets, and Integrated Circuit Layout Design (ICLD). Several types of works in the field of fine arts and design that can be submitted as intellectual property are included in the category of Copyright, Industrial Design, and Patents. In certain cases such as in the field of interior design, furniture layout or a proper interior design floor plan can be included in ICLD (Koesbaroto: 2003: 7) Specific classifications regarding Copyright, Industrial Design, and Patent are described as follows.

1. Copyright

Intellectual property concerning Copyright refers to Law Number 28 of 2014 regarding Copyright, and what is meant by Copyright is as follows:

Copyright is the exclusive right of a creator obtained automatically based on the declarative principle after a work is realized in real form without reducing restrictions in accordance with the provisions of the legislation (<https://www.dgip.go.id/memahami-hak-cipta>, downloaded on Monday, January 6, 2020).

Protected works related to the field of fine arts and design include: pamphlets, lay out of published works; fine arts in all forms such as painting, drawing, calligraphy, sculpture, statue, collage and applied arts; batik art; and Photography (<https://www.dgip.go.id/memahami-hak-cipta>, downloaded on Monday, January 6, 2020). Some of the protected creations in the field of fine arts and design include painting, sculpture, textile design motifs, batik motifs, wood carving motifs, motifs on metal, films, video art, video clips, advertisement posters, illustration, comics, and so on.

2. Industrial Designs

Intellectual property regarding Industrial Design is guided by Law Number 31 of 2000 concerning Industrial Design. What is meant by Industrial Design is as follows:

Industrial Design is a creation of shapes, configuration or composition of lines or colors, or lines and colors, or a combination of those in two or three dimensional forms, which create an aesthetic impression and can be manifested in two or three-dimensional patterns, and can be used to produce products, goods, industrial commodities or handicrafts (<https://www.dgip.go.id/memahami-desain-industri>, downloaded on Monday, 6 January 2020).

Art and design works of the Industrial Design include furniture such as tables, chairs, cupboards, beds and so on.

3. Patent

Intellectual property in the form of Patents refers to Law Number 13 of 2016 concerning Patents. What is meant by patent is as follows:

Patent is the exclusive right of an inventor over an invention in the field of technology to use it himself or to give approval to other parties to use the invention for a certain period of time.

Invention is an inventor's idea that is manifested into a specific problem solving activity in the field of technology, which can be in the form of a product or process or improvement and development of a product or process (<https://www.dgip.go.id/memahami-paten>, downloaded on Monday, January 6, 2020).

The works classified as Patent include the discovery of natural dyes for textiles such as for batik, tie dyes, Eco prints, and so on. In terms of furniture, examples of works that can be patented are the inventions of joint construction on furniture, natural dyes for furniture finishing and others.

Creation of Fine Art and Design Works

The process of creating fine art and design is very complex. In the field of Art, works including paintings, sculptures, pure graphics, ceramic arts, art films have components that must be met in terms of their creation. The components of art work creation include: 1) background of creation, 2) formulation of problems of creation, 3) estimation of works, 4) methods of creation, 5) purpose of creation, 6) literature and previous work review, 7) process of art creation, 8) analysis and synthesis 9) conclusions, findings, and recommendations. The relationship between works and originality can be found in point number six (6), which is a review of literature and previous works. For example when an artist or student creates an artwork with an abstract theme, they need to review literatures regarding the process of creating a work using abstract expressions and techniques. Then they must also review their own work and others making abstract works in order to show the authenticity of their latest work and show the difference from the previous works.

The process of creating craft works can be explained as follows; Chapter I Introduction, consisting of 1. Background of the Problem, 2. Literature Study, 3. Focus of the Problem; Chapter II Design Methods, including 1. Problem Analysis, 2. Strategy (steps and Solution), 3. Data Collection (Survey, Production Process Study, Market Study / Estimated Needs), 4. Experimentation / Testing, 5) Initial Design Ideas and Alternatives; Chapter III Design Process, i.e. 1. Problem Solving diagram, 2. Design Concepts (function, shape, aesthetics, technique, material, ergonomics, market segments, etc.), 3. Design Criteria / Considerations / Arguments, 4. Design Solution (Visual and Techniques); Chapter IV visualization that contains 1. Design Results, 2. Description of the results achieved, constraints and solutions; and Chapter V Conclusion, which is followed with Bibliography. Based on the systematic design process, the effort to guarantee the originality of a work lies in the design method and data collection. The works included in the above systematics include the design of textiles, arts, fashion and others.

The creation of Visual Communication Design works includes: 1. Analysis, 2. Design (concepts, rough sketches & fine sketches, mock ups and dummy, works and finishing), 3. Development, 4. Implementation, and 5. Evaluation. The effort to guarantee the authenticity of a work lies in the evaluation stage.

The process of interior design creation consists of stages as follow: Chapter I Title, consisting of 1. Background of Problem, 2. Limitation of Problem, 3. Formulation of Problem, 4. Purpose, Chapter II Literature and Field Studies, including 1. Literature Study, 2. Field Study, 3. Problem Solving, Chapter. III Analysis (three design alternatives), and Chapter IV Design Decision. The stages related to the originality of interior design works can be identified since the stages of Literature Study and Field Study. All the stages reflected in the creation systematics above should be used as guidelines when students become professional artists, craftsmen and designers in the future. If necessary, students or graduates also need to socialize the ways to create original art and designs to the general public, especially those involved in the world of art and design.

An interesting finding in the creation process of scientific fields of arts, crafts, and design is that all emphasize the prevention of plagiarism or counterfeiting to show works' originality. This means that there is a close similarity or relationship between the process of creating art and design works with the Intellectual Property Law. In the context of intellectual property, art and design works in the academic world have proven their authenticity at the their creation stage, thus these works only need to be registered to the Ministry of Law and Human Rights of the Republic of Indonesia to obtain certificates that will facilitate any necessary action in case a legal problem occurs.

CONCLUSION

Based on the results and discussion, it can be concluded that the fields of art and design are quite diverse. In general, all fields in fine arts and design have similarities in ensuring the authenticity of the works. In particular, each field has a specific way to guarantee originality in the process of its work creation. Intellectual Property Law related to art and design must be understood and implemented, especially as consideration in the work creation process and after the work is completed. It is important to always remind the Copyright, Industrial Design and Patent Laws to Faculty of Fine Arts and Design students, artists, craftsmen and designers. The concept of work that guarantees authenticity has actually been taught at the higher education of fine arts and design, and can be disseminated in the wider community, especially those engaged in fine art and design work creations. This concept focuses mainly on the review of works with similar themes that have already existed, both the artist's own work and others'. Then dif-

ferences need to be sought to ensure that the latest work is an original and not a copy of someone else's. An interesting finding from this study is the inseparable correlation between intellectual property laws and the process of creating art and design works.

For further research, future researchers can examine more specifically about the relationship of intellectual property with their respective fields such as art, crafts, and designs that have not been widely explored. The areas of arts that can be studied include art-film, painting, sculpture, pure graphics, and ceramic art. In the field of craft, future studies may be focused on textile crafts, wood crafts, leather crafts, metal crafts. And in the field of designs, future research can focus on interior design, visual communication design, product design, and fashion design. All the suggested future studies are essential to increase awareness on the importance of a work's originality and the importance of registering the work as intellectual property.

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