

Implementation of IPR Enforcement Still Experiencing Many Obstacles

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Enforcement of Intellectual Property Rights (IPR) up to this day still encounter obstacles in the civil and criminal aspects. This is stated by Secretary General of IPR Consultants Association (AKHKI), Firoz Gaffar, at the *Conference and Declaration of the Association of Indonesia IPR Teachers on 'Education of Intellectual Property and Law Enforcement in Indonesia'* at Faculty of Law of Universitas Gadjah Mada on Monday (12/12).

Firoz exemplifies the obstacles which include temporary decision, namely the temporary decision procedural law starting from the application, issuance, until the implementation which are not yet clear due to the absence of instructions of the Supreme Court.

"The law enforcement is constrained in terms of civil and criminal aspects," said Firoz.

Meanwhile, in the criminal aspect, Firoz mentioned that there are some constraints such as offense constraints when the investigator often cannot perform any action against IPR infringement since most of the IPR regimes (other than copyright) is a complaint offense, not the usual offense that does not require reports from the public. Another constraint is the check constraint in which prosecutors often disagree with the investigators on whether or not the copyright owner has been examined, especially when they live outside the country.

"There is also a constraint during the obliteration, sanctions, and investigation that there is no provision requiring when submission begins and the results of investigation made by civil servant investigators to the prosecutor with a copy to the police investigator," the S2 alumnus of UI School of Law explained.



Firoz assessed cases of IPR infringement such as counterfeiting and copyright piracy of brands are public enemy. In view of Firoz, counterfeiting and piracy should be categorised criminal case as an alternative to the civil case. Restoring the function of IPR by improving constrained aspects of law enforcement can actually be done. However, this is technical. The actual larger and more fundamental work is the formation of human character who are aware on IPR, wanting to enforce IPR.

"Well, the way to get there is through education," Firoz explained.

At the same place Director of Trademark of the Directorate General of Intellectual Property Rights, Muhammad Adri, added that another law enforcement problem in Indonesia is legal culture. Intellectual property rights law is more a reflection of culture recognising the existence of the capitalist individualist originating from the U.S. and Western Europe.


To reduce such a legal gap, the government has made persuasive approach, among others in the form of training for SMEs and the provision of subsidies to SMEs, and respect to the inventor.

"The educational approach is also manifested in the form of MoUs between the Government and universities in order to socialize IPR to the community," said Adri.

Meanwhile, Professor of the UGM Faculty of Law, Prof. M. Hawin, S.H, LL.M., Ph.D., said knowledge about IPR at universities can be done based on Problem Based Learning (PBL). Learning that emphasizes on student's involvement/activity is done by basing a manufactured problem. Students are given a problem in the form of scenarios in which they will bring up the questions that are relevant; conduct research to solve these problems, and discuss the solution actively.

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