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The Position of Business Ethics in the Utilization of Industrial Designs Beyond the Protection Period in the Perspective of Business Law

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Abstract –

Industrial design as part of intellectual property holds strategic value in creating competitive advantages within the business world. Legal protection for industrial designs is regulated under Law No. 31 of 2000 for a fixed duration, after which such designs may be freely used and accessed by the public. However, in practice, the utilization of industrial designs whose protection has expired often generates ethical dilemmas in business practices, particularly regarding respect for the creator's moral rights and the principle of fairness in market competition. This issue has become increasingly relevant amid the growing awareness within the business community of the importance of integrity and social responsibility in conducting economic activities. This study aims to analyze the position of

business ethics in the utilization of industrial designs after the expiration of their protection period and to examine the implementation of relevant legislation from the perspective of business ethics. Employing a normative juridical approach and qualitative analysis of regulations and business ethics theories, this research finds that while the use of industrial designs in the public domain does not constitute a legal violation, there remains a moral obligation for business actors to uphold principles of honesty, transparency, and accountability toward the original creator. The study underscores the importance of harmonizing formal legality with business ethics as a foundation for fostering sustainable and equitable business practices.

Keywords — *Business Ethics; Business Law; Utilization of Industrial Design.*

I. INTRODUCTION

The development of science and technology has driven rapid innovation across various sectors, including the field of industrial design. As one of the objects of intellectual property, industrial design plays a strategic role in enhancing product competitiveness, building brand identity, and expanding global market reach. However, the time-limited nature of industrial design rights creates both legal and ethical challenges once the design enters the public domain. According to the prevailing legal regime, after the expiration of the protection period, industrial designs may be freely used by anyone without the need for permission from the original rights holder (Adz-hiya et al., 2022). This situation raises a fundamental question concerning how business ethics should be positioned in the utilization of expired designs. From the perspective of business law, the use of industrial designs whose protection has lapsed is indeed legally permissible.

Nevertheless, such practices often generate ethical dilemmas, particularly when utilization is carried out without regard to moral values, business integrity, or respect for the original creator. Companies that exploit expired designs solely for short-term economic gains, while disregarding principles of fairness and social responsibility, risk undermining a healthy competitive environment. Furthermore, neglecting ethical considerations may damage business reputation, erode consumer trust, and create tension between legal legitimacy and moral legitimacy.

This study offers novelty by highlighting the dimension of business ethics in the utilization of industrial designs after the expiration of the 10-year legal protection period, an aspect that remains rarely discussed in Indonesian legal and business literature. Previous studies have tended to focus on legal protection during the exclusivity period or on issues related to copyright and trademark infringement (G & Budhijanto, 2022). In contrast, this research fills the gap by examining how industrial designs in the public domain can be utilized without violating principles of fairness, social responsibility, and healthy competition. Moreover, this study broadens the scope of discourse by connecting the normative aspects of positive law with the perspective of business ethics, thereby offering an interdisciplinary analytical framework that not only enriches academic understanding but also provides practical implications for the business world. Thus, this study contributes not only to the expansion of intellectual property law discourse but also to the promotion of ethical business practices in addressing the dynamics of post expiration industrial design utilization (Morgan et al., 2016).

The urgency of this research arises from the reality that the dynamics of business law in Indonesia are becoming increasingly complex, in line with globalization, technological advancements, and socio economic transformations that demand both legal certainty and justice in business practices. This condition is further complicated by the persistent gap between normative regulations and field implementation, where business practices often involve conflicts of interest, weak oversight, and limited awareness among business actors regarding principles of ethics and social responsibility.

Therefore, this study aims to comprehensively examine the role of business ethics in the utilization of industrial designs after the expiration of their protection period, while also reviewing the implementation of applicable legislation from a business ethics perspective. Accordingly, this research is expected to provide both conceptual and practical contributions to encourage business practices that are not only legally compliant but also grounded in moral and ethical values, thereby strengthening a sustainable innovation ecosystem. In doing so, the study not only addresses existing gaps in the literature but also offers a new perspective on the importance of balancing economic interests, fairness for creators, and public access.

II. METHOD

This study employs a normative juridical method with a conceptual approach and a statute approach. The normative juridical method is selected because the focus of this research is to examine the legal norms governing the protection of industrial designs and to position them within the perspective of business ethics (Soekanto & Mamudji,

1986). Normative legal research emphasizes the analysis of primary and secondary legal materials relevant to the object of study (Marzuki, 2017).

The type of research used is normative legal research, which relies primarily on library studies (Ibrahim, 2013). Accordingly, the data examined consist of primary legal materials, namely legislation, as well as secondary legal materials such as legal literature, scholarly journals, and relevant books. The conceptual approach is applied to understand how business ethics theories are implemented within the framework of business law, while the statute approach is used to analyze the prevailing positive law.

Data analysis is conducted through a descriptive-qualitative method (Fajar & Achmad, 2010). The analytical process includes legal interpretation and legal construction of the applicable regulations, which are then connected to doctrines and theories of business ethics.

III. RESULTS AND DISCUSSION

1. The Position of Business Ethics in the Utilization of Industrial Designs After the Expiration of Legal Protection

Business ethics constitutes a set of moral principles and norms that serve as a guideline in conducting business activities to ensure alignment with the values of fairness, honesty, and social responsibility. Conceptually, (Velasquez, 2012) defines business ethics as “a specialized study of moral right and wrong that concentrates on moral standards as they apply to business institutions, organizations, and behavior.” Thus, business ethics focuses on the moral standards that govern policies, institutions, and behavior within the business context.

In another perspective, (Bertens, 2000) argues that business ethics is not solely concerned with what is legal, but also with what is appropriate and morally acceptable for business actors to practice. Accordingly, even if a business activity is consistent with positive law, it does not necessarily render it ethical.

Business ethics emerges from the need to balance the interests of business actors with those of the wider community. Its fundamental principles emphasize fairness, honesty, and goodwill. Business practices driven solely by profit motives, without consideration for these principles, will inevitably generate moral issues and erode public trust.

Within the framework of business ethics, three fundamental principles are generally recognized as the main pillars of ethical conduct in business: honesty, fairness, and mutual benefit.

First, the principle of honesty is crucial for ensuring the long-term sustainability of business. (Keraf, 1998) highlights that honesty is not limited to compliance with agreements or contracts, but also encompasses reliability in delivering products or services of appropriate quality and price. Moreover, honesty is essential in maintaining the integrity of internal corporate relations, as the absence of transparency threatens business continuity. In the context of utilizing industrial designs that have entered the public domain, honesty requires that business actors not merely exploit business opportunities but also extend moral recognition to the original creator.

Second, the principle of fairness asserts that all parties involved in business relations deserve proportional and non-discriminatory treatment (Weiss, 2022). In relation to industrial design, this principle implies that even though expired designs may legally be used freely, businesses should ensure that such utilization does not infringe upon the moral rights of the creators or the originating community. For instance, the commercialization of batik motifs by foreign companies can be criticized as unfair, as it disregards the social and cultural rights of local communities.

Third, the principle of goodwill underscores the importance of good intentions in business activities, actions taken not merely for economic gain but also to honor moral values, cultural heritage, and the contributions of others. Immanuel Kant, through his concept of the categorical imperative, asserts that an action holds moral worth only if it is grounded in goodwill rather than merely its outcomes or consequences (Ezedike, 2020). Within the industrial design context, this principle demands that businesses utilizing expired designs continue to show respect for the original creators or communities that produced them. For example, a company using batik motifs after the expiration of legal protection may still be deemed ethical if it provides attribution or contributes to the local batik community. Conversely, use driven purely by profit without regard to moral or cultural considerations, although legally permissible, remains inconsistent with the principle of goodwill in business ethics (Alowais, 2024).

The role of business ethics in the utilization of industrial designs after the expiration of legal protection is a critical issue in the discourse of intellectual property law in Indonesia. Normatively, Law No. 31 of 2000 on Industrial Design, particularly Article 5, stipulates that:

1. Protection of Industrial Design rights is granted for a period of ten (10) years from the date of filing.

2. The commencement date of the protection period shall be recorded in the General Register of Industrial Designs and announced in the Official Gazette of Industrial Designs.

This provision demonstrates that industrial design protection follows a fixed term protection model, limited to ten years without the possibility of renewal. Upon expiration, the rights automatically lapse, and the design enters the public domain (Shahrullah et al., 2021). This principle aligns with the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs), which emphasizes that industrial design protection must be temporary to balance individual interests with public access (Syafrinaldi & Hardiyo, 2021).

The absence of explicit provisions for extension underscores the non-renewable nature of industrial design rights. This reflects the utilitarian theory (Mill, 2009), which views intellectual property rights as temporary economic incentives to stimulate innovation before transitioning to the public domain to yield broader social benefits. Thus, the entry of industrial designs into the public domain does not constitute a legal vacuum but rather a logical consequence of a time-limited protection model.

Nevertheless, ethical concerns persist. From the perspective of natural law theory, copyright and design rights inherently stem from a moral bond between creators and their works. Hence, even after legal rights expire, a residual moral right to recognition remains (Pradana et al., 2024). In other words, using a design without attribution may be considered a moral violation, despite being legally permissible.

Moreover, in modern business practices, the utilization of public domain designs often erodes cultural values and damages the reputation of their creators. The exploitation of Indonesian batik motifs by foreign companies, for example, illustrates this paradox: while legally permissible, such actions impose socio economic harm on local communities.

Within the framework of business ethics, (Crane & Matten, 2016) stress the importance of honesty, fairness, and social responsibility in economic activities. Likewise, stakeholder theory (Freeman & McVea, 2005) demands that business decisions account for their impact not only on investors but also on society, consumers, and the reputation of national creative industries.

Indonesian regulations do provide complementary instruments, such as Law No. 20 of 2016 on Trademarks and Geographical Indications and Law No. 28 of 2014 on Copyright, which strengthen the protection of cultural expressions and creative works. However, practice on the ground reveals ethical gaps that legal provisions alone cannot fully address. The appropriation of batik motifs by foreign entities, for instance, raises dilemmas of distributive justice. As (Audard, 2024) argues, economic benefits often concentrate in the hands of the powerful, while local communities are deprived of both moral and economic value.

Accordingly, although industrial designs that have passed their protection term may legally be used freely, the application of business ethics grounded in theories of justice, utilitarianism, and stakeholder theory is essential to balance economic, social, and moral interests. In this regard, business ethics functions as a safeguard of justice when positive law no longer provides protection, thereby preventing exploitative practices that harm the original creators.

2. Implementation of Industrial Design Regulations from a Business Ethics Perspective

The issue of industrial design protection becomes particularly significant at the stage when legal protection expires. Based on Law No. 31 of 2000 concerning Industrial Design, an industrial design is defined as a creation relating to the shape, configuration, or composition of lines or colors, or a combination thereof, which gives an aesthetic impression and can be applied to produce a product, article, or industrial commodity. Legal protection is granted only for ten (10) years from the filing date and cannot be extended (Kusmawati, 2024). Consequently, upon the expiration of this period, the industrial design enters the public domain and may be legally used by anyone.

However, the question arises do business actors who exploit industrial designs after the expiration of protection genuinely apply the principles of business ethics, or do they merely shelter behind legal legitimacy?

From the perspective of business ethics, legality alone is insufficient to ensure that an action is morally sound. Business ethics emphasizes principles such as honesty, fairness, and goodwill, which ought to guide every business activity. (Friedman, 1970) reminds us that corporate responsibility is not solely about profit-making, but also about considering the social impact of corporate actions. In the same vein, (Carroll, 2016), through his Pyramid of Corporate Social Responsibility, asserts that corporate responsibility extends beyond economic and legal dimensions, encompassing ethical and philanthropic responsibilities as well.

The Lego case provides a concrete example. After the expiration of protection for its toy brick design, other companies such as Mega Bloks and Cobi were legally able to produce similar products (*Kirkbi AG v. Ritvik Holdings Inc.*, 2005). Although the court rejected Lego's claim to maintain its monopoly, this phenomenon illustrates a dilemma: legally permissible, yet ethically questionable, as imitation without genuine innovation raises concerns about whether it represents fair competition or mere exploitation (*Lego A/S v EUIPO and Delta Sport Handelskontor GmbH*, 2021).

A similar situation can be observed in the case of Indonesian batik. Once traditional batik motifs no longer enjoy legal protection as industrial designs, many foreign companies have utilized them for commercial purposes (Rahayu, 2011). Yet, batik is not merely an industrial product but also a national cultural heritage, recognized by UNESCO in 2009 as an Intangible Cultural Heritage of Humanity (UNESCO, 2009). From a legal standpoint, such use is valid, as the motifs have entered the public domain. Nevertheless, from a business ethics perspective, this practice may be seen as a form of cultural appropriation that disregards the principles of respect, fairness, and social responsibility (Bahan Kain, 2025).

Viewed through the lens of Immanuel Kant's deontological ethics, the imitation of designs solely for profit contravenes the principle of the categorical imperative, since if every business actor engaged in such imitation, originality and business integrity would lose their meaning (Schmidt, n.d.). From a utilitarian perspective (Mill, 2009), ethical actions should generate the greatest benefit for the greatest number. Yet, design imitation often benefits only the imitator company, while harming the original designer and consumers who lose the value of authenticity. Within the framework of virtue ethics, the principles of honesty, integrity, and goodwill demand that business actors go beyond mere compliance with legal rules and demonstrate genuine respect for the works of others (Stanford Encyclopedia of Philosophy, 2022).

Accordingly, although the utilization of expired industrial designs is legally permissible, in terms of business ethics, such practices are often inconsistent with moral principles. The implementation of regulation remains primarily compliance based, rather than ethics-based. This explains the persistent gap between positive law and the values of business ethics.

IV. CONCLUSIONS

The position of business ethics in the utilization of industrial designs following the expiration of legal protection holds substantial significance as a moral foundation that complements the norms of positive law. Although Law No. 31 of 2000 concerning Industrial Design explicitly stipulates that designs exceeding the ten-year protection period automatically enter the public domain, the ethical dimension obliges business actors not to be solely motivated by economic interests, but also to uphold the principles of fairness, social responsibility, and respect for the original creator. Thus, business ethics functions as a normative safeguard to ensure that the exploitation of designs does not lead to injustice or moral harm, particularly in relation to public trust and social integrity.

Accordingly, the existence of positive legal provisions must be accompanied by a high degree of ethical awareness among business actors, in order to achieve harmony between legal certainty, entrepreneurial freedom, and moral accountability in commercial practices.

This study is limited to a normative juridical approach that relies primarily on the analysis of legal instruments and ethical theories, without incorporating empirical examination of actual business practices in Indonesia. Subsequent research is recommended to investigate the practical implementation of business ethics within design-based industries after the expiration of protection, through qualitative methods such as interviews, field observations, or comparative studies across jurisdictions. Such empirical exploration would contribute to a more holistic understanding of the interaction between legal norms and moral values within real world business contexts.

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