

## INTELLECTUAL PROPERTY RIGHTS AS OBJECT OF FINANCING GUARANTEE IN PERSPECTIVE SHARIA ECONOMIC LAW

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### ABSTRACT

This article examines the status of Intellectual Property (IP) as collateral for financing within the framework of Islamic Economic Law. IP—covering trademarks, patents, copyrights, industrial designs, trade secrets, and communal intellectual property—embodies reputation and economic value, thereby raising the question of whether it may qualify as *mal* (property) and function as *marhun* (pledged collateral). Employing a descriptive-analytical method and a juridical-empirical approach through library research, the study analyzes statutory regulations on IP-based security, relevant fatwas, and contemporary Islamic legal scholarship. The findings suggest that IP conceptually corresponds to *haqq al-ibtikār* (creative/authorial right), which is increasingly recognized as a proprietary right containing both economic and moral dimensions. Its legitimacy is frequently grounded in *‘urf* (recognized custom) and *maṣlahah mursalah* (public interest), supporting the permissibility of utilizing IP as collateral under the general maxim that commercial transactions are allowed unless proven otherwise. The article further proposes Sharia-compliant operational models—such as *rahn* combined with *murabahah*, *ijarah*, *istiṣnā’*, and profit-sharing schemes (*muḍarabah/musharakah*)—subject to strict avoidance of *riba*, *gharar*, and *maysir*, and contingent upon reliable valuation standards, secondary-market readiness, and enforceable execution mechanisms. Divergent scholarly views are mapped, particularly regarding intangibility, valuation volatility, and moral-right constraints.

**Keywords:** intellectual property, collateral, rahn, Islamic finance, Islamic economic law.

### ABSTRAK

Artikel ini membahas kedudukan Hak Kekayaan Intelektual (HKI) sebagai objek jaminan pembiayaan dalam perspektif Hukum Ekonomi Syariah (HES), dengan menempatkan HKI—merek, paten, hak cipta, desain industri, rahasia dagang, hingga kekayaan intelektual komunal—sebagai aset bernilai ekonomi yang berpotensi diperlakukan setara dengan harta (*māl*). Kajian ini menggunakan metode deskriptif-analitis dengan pendekatan yuridis-empiris berbasis studi kepustakaan terhadap regulasi nasional (termasuk pengaturan fidusia HKI), fatwa, dan literatur fikih kontemporer. Hasil kajian menunjukkan bahwa HKI memiliki relevansi konseptual dengan *haqq al-ibtikār* (hak cipta/kreasi) yang diakui sebagai hak kebendaan, memuat hak ekonomi dan hak moral, serta memperoleh legitimasi melalui *‘urf* dan *maṣlahah mursalah*. Pemanfaatan HKI sebagai jaminan dimungkinkan melalui instrumen syariah seperti *rahn*, *wakālah*, serta skema pembiayaan (*murabahah*, *ijarah*, *istiṣnā’*, *muḍarabah*, dan *musyarakah*) dengan syarat menghindari *riba*, *gharar*, dan *maysir*, serta didukung mekanisme valuasi dan infrastruktur eksekusi yang akuntabel. Artikel ini juga menguraikan perbedaan pendapat ulama kontemporer terkait aspek kebendaan, ketidakpastian nilai, dan keterikatan hak moral.

**Kata kunci:** HKI, jaminan pembiayaan, rahn, hak ibtikar, hukum ekonomi syariah.

## INTRODUCTION

Intellectual Property Rights (IPR) which are classified in Trademark Rights, Patents, Industrial Design, Copyrights, Geographical Indications, Integrated Circuit Layout Design (DTLST), Trade Secrets and Traditional Cultural Expressions framed in the form of Communal Intellectual Property, inherent in reputation and quality that give birth to economic value and IPR potential that is equivalent to other assets both movable and immovable and is a long-term investment.<sup>1</sup> The exclusive rights of IPR born from the intellectual process should be protected, appreciated and respected by every individual and empowered by every right holder to develop the value of sustainable universal benefits from the economic value of IPR.

The use of IPR continues to be an unfinished discourse among practitioners, religious people, *stakeholders*, and IPR holders themselves. In Sharia Economic Law (HES) activities, there is a discourse about IPR becoming an object of waqf and IPR becoming an object of collateral or collateral in applying for financing facilities as an effort to bring greater value of benefits. The empowerment and utilization of IPR is a positive effort because both implicit and explicit in the perspective of national law<sup>2</sup> and Islamic law<sup>3</sup>, property with economic value should be managed and commercialized properly to obtain the beneficial value of the property.

The use of IPR as collateral for financing facilities has become a dilemma even though it has been regulated in Government Regulation (PP) Number 24 of 2022 concerning the Implementation of Law Number 24 of 2019 concerning the Creative Economy which provides opportunities for creative economy entrepreneurs to use IPR as an object of fiduciary guarantee. However, the Financial Services Authority (OJK) as a regulator of financial institutions has not issued a regulation regulating the use of IPR as a collateral object in financing institutions. OJK is still conducting a study on the prospects and feasibility of IPR as an object of collateral that is closely related to valuation, availability of *secondary markets*,

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<sup>1</sup> Fitri Novia Heriani, "Intellectual Property Protection Increases Business Economic Value" (Hukumonline.com, 2022), <https://www.hukumonline.com/berita/a/perlindungan-kekayaan-intelektual-tingkatkan-nilai-ekonomi-usaha-lt6307f55955a73/>.

<sup>2</sup> Surur Roiqoh, "Abandoned Land Perspectives of Indonesian Positive Law and Islamic Law," *Az Zaqqa'* 12, no. 1 (2020): 87–104, <https://ejournal.uin-suka.ac.id/syariah/azzarqa/article/view/2136>.

<sup>3</sup> Kaesya Areta Sabiya, Dhira Rahma Syabilla, and Fatiya Syifaurrehman, "Concept Analysis of Property Ownership in Islam and Its Application," *Journal of Economics Bussines Ethic and Science Histories* 1, no. 1 (2023): 55, <https://jurnalhamfara.ac.id/index.php/jb/article/view/313>.

*appraisals* for liquidation and legal infrastructure for IPR execution.<sup>4</sup> In addition, the instruments and indicators to determine the economic value contained in IPR have not been definitively determined even though they have been widely discussed, such as indicators of commercialization potential, overall economic impact, income approach and market *approach*.<sup>5</sup> through the establishment of the Intellectual Property Assessment Institute (LPKI).

The approach of Sharia Economic Law in the use of IPR as an object of collateral needs to be analyzed due to the rapid development of Indonesia's sharia economy. Starting in 2025, the growth of Islamic financial assets from all sectors shows a positive growth trend. As of the first quarter of 2025, the national Islamic finance market share reached 25.1% with total assets of Rp.9,529.21 trillion.<sup>6</sup> Sharia Economic Law, which is part of the overall Islamic law, has regulated the right of *ibtikar* in the form of inventions that are relevant to the nature of ownership in Islam and can be equated with copyright in the national legal system.

The majority of scholars from the Maliki, Shafi'i, and Hambali schools are of the opinion that original copyright is classified as a valuable property, just as property can be used in accordance with Islamic law.<sup>7</sup> The Indonesian Ulema Council (MUI) has issued fatwa No. 1/MUNAS VII/MUI/5/2005 stating that violations of IPR are haram acts. This fatwa emphasizes that the use of other people's intellectual works without the owner's permission is a form of theft that is not legal, both sharia and positive law. The fatwa is based on the principle of *maslahah mursalah*, which is the consideration of the public interest that does not have an explicit postulate but is still in line with the basic values of sharia.

An in-depth analysis of IPR liquidity as an object of financing guarantee from the perspective of Sharia Economic Law has an urgency to be carried out considering the growth of the sharia economy and the growth of entrepreneurs, including the sharia-based Micro, Small and Medium Enterprises (MSMEs) sector, in order to provide opportunities for these

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<sup>4</sup> Risandy Meda Nurjanah, "OJK Assesses the Feasibility of Intellectual Property Rights (IPR) as Bank Credit Guarantees" (konsultanpajaksurabaya.com, 2022), <https://konsultanpajaksurabaya.com/ojk-kaji-kelayakan-hak-kekayaan-intelektual-hki-jadi-jaminan-kredit-bank>.

<sup>5</sup> Mochammad Fakhri Ali and Doni Triono, "Literature Review of Intellectual Property Valuation: Based on Gordon and Russell's Intellectual Property Book," *Indonesian Journal RICH* 2, no. 2 (2021): 28–33, <https://irich.pkstan.ac.id/irj/article/view/33>.

<sup>6</sup> Nadya Rose, Muhammad Azriel Wicaksono, and Lidya Dewi, "Development of Total Islamic Financial Assets: Early Momentum in 2025" (National Committee on Islamic Economics and Finance, 2025), <https://kneks.go.id/berita/703/perkembangan-total-aset-keuangan-syariah-momentum-awal-tahun-2025>.

<sup>7</sup> M Zaenal Arifin, "Examining Intellectual Property Rights from the Perspective of Islamic Law" (Hukumonline.com, 2003), <https://www.hukumonline.com/berita/a/mengkaji-hak-kekayaan-intelektual-dari-kacamata-hukum-islam-hol9234/>.

entrepreneurs to be able to use their IPR as financing collateral for the sake of increasing business scale and being able to compete healthily with entrepreneurs other large. The analysis carried out in this study will use the theory of rights in Islam, the theory of property ownership in Islam which will explore the position and nature of *ibtikar* (copyright) rights in Islam which will answer research questions about the position and use of IPR as an object of guarantee for financing facilities in the perspective of Sharia Economic Law.

## RESEARCH METHODS

This research method uses a descriptive method of analysis with an empirical juridical legal research approach that will conduct a study of legal norms relevant to the research topic.<sup>8</sup> This study uses qualitative data in the form of secondary data, namely personal, public, and data in the legal field, namely primary legal materials in the form of hierarchical written regulations, non-codified legal materials, jurisprudence, and treaties<sup>9</sup> as well as secondary legal materials that include books, scientific articles, journals, and literature relevant to the object of this research, including tertiary legal materials consisting of non-legal sources that are also relevant in the context of the research this.<sup>10</sup> The data collection technique is carried out with library research or literature.<sup>11</sup>

## RESULTS AND DISCUSSION

### The Position of IPR and Its Relevance to *Ibtikar Rights*

The consequence of Islamic law is that the right of *ibtikar* is included in the category of property that results for the Inventor or Creator of the work or creation to become absolute property rights that are material. The Inventor or Creator is entitled to the value of the material or such rights, when used or utilized by others with his or her permission. This right is like property and applies to the laws that surround it. Based on this, *the right of ibtikar* has the same position as the ownership of other property that can be transacted, inherited and bequeathed. Therefore, to maintain the existence of the *right to ibtikar* from things that damage it, it must receive legal protection from the government through regulations or laws

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<sup>8</sup> Rangga Suganda, "Juridical Approach Method in Understanding the Sharia Economic Dispute Resolution System," *Scientific Journal of Islamic Economics* 8, no. 3 (2022): 2859, <https://doi.org/10.29040/jiei.v8i3.6485>.

<sup>9</sup> Kornelius Benuf and Muhamad Azhar, "Legal Research Methodology as an Instrument for Unraveling Contemporary Legal Problems," *Journal of Gema Keadilan* 7, no. 1 (2020): 20–33, <https://doi.org/10.14710/gk.2020.7504>.

<sup>10</sup> Yati Nurhayati, Ifrani, and M Yasir said, "Normative and Empirical Methodology in the Perspective of Legal Science," *Indonesian Law Enforcement Journal* 2, no. 1 (2021): 2–20, <https://doi.org/10.51749/jphi.v2i1.14>.

<sup>11</sup> Beni Ahmad Saebani, *Legal Sociology Research Methods* (Bandung, 2024).

by considering the public interest. The government's action to regulate the right of *ibtikar* for its citizens does not contradict the principles of Islamic law.

*The Majma' Al-Fiqh Al-Islam Council* states that in general, the right to a scientific work, the right to trademarks and trademarks are property rights whose validity is protected by Islamic law, especially in the present day it is a *recognized 'urf* which is a type of wealth in which the owner is entitled to all the consequences arising from the status of ownership, such as the ability to make it as a commercial commodity. The fatwa of the Indonesian Ulema Council states that copyright is the exclusive right for the creator or recipient of the right to announce or reproduce his work or give permission for it without reducing the restrictions according to the applicable laws and regulations. The definition of copyright mentioned in this MUI fatwa refers to Law Number 28 of 2014 concerning Copyright (Copyright Law).

Some contemporary Muslim scholars have given their views on IPR,<sup>12</sup> but most of the literature has been devoted to copyright of written works (*haq al-ta'lif*). Sa'duddin bin Muhammad Al-Kibi defined *haq al-Ta'lif* as a permanent right to books, papers, essays and potpourri which is considered a material right and the right to reproduce.<sup>13</sup> The right belongs to each Author or Author as the creator of his written work. Wahbah Az-Zuhaily defines *haq al-Ta'lif* as the right of ownership of a work for a writer that is preserved in *sharia*. This right is preserved because it is the same position as other material rights based on the concept of *maslahah al-mursalah*,<sup>14</sup> so that other parties are not allowed to use it without the permission of the owner.<sup>15</sup>

A copyright contains economic rights (*haq al-iqtishadi*) where the Creator of the copyrighted work has the right to obtain material from his copyrighted work, as the opinion of Abdullah Al-Mushlih and Shalah Al-Shawi who stated that copyright is a privilege owned by an Author or Author that can be valued with money and can be commercialized by the Author or Author and/or the Right Holder. This economic right shows that every Creator has full power over his creation, so he has the right to get good material benefits from his copyrighted work.

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<sup>12</sup> Bahrainy Hussein, *Fatwa Collection* (Surabaya: Al-Ikhlâs, 2011).

<sup>13</sup> Nursania Dasopang, "Intellectual Property Rights (Ibtikar Rights) Copyright in the Perspective of Islamic Law," *Islamida: Journal of Islamic Studies* 1, no. 2 (2023): 96, <https://ejournal.staidarussalamlampung.ac.id/index.php/islamida/article/view/475>.

<sup>14</sup> Sutisna, "Islamic Law's View on Copyright," *MIZAN: Journal of Islamic Law* 5, no. 1 (2021): 1–16, <https://doi.org/10.32507/mizan.v5i1.927>.

<sup>15</sup> Chuzaimatus Saadah, "Analysis of the Concept of Haq Al-Ta'lif and Its Relevance to the Protection of Intellectual Property Rights," *El-Uqud* 1, no. 2 (2023): 71–81, <https://doi.org/10.24090/eluqud.v1i2.7953>.

In addition to economic rights, there are also moral rights (*haq al-adabi*) that are eternally attached to the Creator where the Creator has the right to be named when his creation is cited as in Articles 5 to 7 of the Copyright Law.<sup>16</sup> Moral rights, which have become scientific ethics, have long been one of the scientific habits in Islamic history, and are even considered one of the blessings of science. Imam Al-Qurthuby in his muqadimah tafsir also explained that his Book of Tafsir has quoted the works of previous commentators and historians to strengthen his work (Al-Imam Abu Abdillah Muhammad ibn Ahmad al-Anshari al-Qurthubi). Such a description is the recognition and implementation of the existence of moral rights inherent in a copyrighted work. Usamah Muhammad Usman Khalil in his paper stated that copyright as part of intellectual property rights (*al-milkiyah al-fikriyah*) is the right owned by a person to his written work in its various forms.<sup>17</sup>

As a new right within the scope of property rights, copyright is not enshrined textually in either the Qur'an or the Sunnah. It's just that both provide the basis for this problem. Muslim scholars classify these exclusive rights into material rights because these rights cannot be separated from the theory of property ownership rights in Islam. If it is associated with the permanent causes of a right, then copyright exists because of the work and seriousness of a creator in making a copyrighted work. The right to enjoy one's work is a privilege that one has. He is entitled to benefit from the results of his work. This privilege is the essence of copyright, as defined earlier.

A copyright will be recognized when there is a reason for copyright ownership through earnestness, diligence and scientific capital to have created a copyrighted work that will be useful and equated with working (*al-'amal*) or can also be equated with making a product (*assina'ah*) because working is one of the reasons to obtain property ownership rights. Copyright as an exclusive right The owner of copyrighted works in Islam also has social rights, as mentioned by Yusuf Al-Qaradhawi that it is permissible for every individual to have property rights in Islam to make the individual rich by maintaining the process of looking for his wealth in something halal, infaring it in the way of Allah SWT, not spending it on something haram, not exaggerating in matters of mubah, not being disrespectful to property

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<sup>16</sup> Monica Ayu Caesar Isabela, "Moral Rights and Economic Rights in Copyright" (Kompas.com, 2022), <https://nasional.kompas.com/read/2022/03/26/03000031/hak-moral-dan-hak-ekonomi-dalam-hak-cipta?page=all>.

<sup>17</sup> Duwirdja Haris, Muhammad Akbar, and M Taufan, "Copyright in the View of Islamic Law BT - Proceedings of Islamic Studies and Integration of Knowledge in the Era of Society 5.0" (UIN Datokarama Palu, 2022), <https://kiies50.uindatokarama.ac.id>.

rights, not committing tyranny to others, not eating away at the rights of others as stipulated by Islam.<sup>18</sup>

The scope of copyright in Islam includes two dimensions, namely worldly and ukhrawi, as well as its responsibility, a copyright owner must be responsible for every detail of his copyrighted work, both in this world and in the hereafter. The dimension of the world is closely related to the benefits in society, how a work of creation can benefit society. While the dimension of the hereafter is that a work of creation will lead to happiness in the hereafter or at least not damage and provide harm to the hereafter.

Regarding IPR, which is equated with *ibtikar* rights in Islam because *al-Ibtikar* is called copyright. The right of *Ibtikar* is the result of thinking that lies in stand-alone material that can be felt by the human senses, but the thought is only formed and has an influence if it has been written in writings such as books or other media, then the result of the thought is not the result of plagiarism or repetition of previous scientific thoughts. However, this *ibtikar* is not something new at all, but can also be a discovery as an extension of previous scientific theories.<sup>19</sup> *Ibtikar* is only a description of thoughts that if they have been presented or expressed in the form of writing or prints or in other media, will have a wide influence, both in terms of material and thought. Therefore, according to fiqh scholars, when viewed in terms of the material, *Ibtikar* is more similar to the benefits of objects or materials.

It must be admitted that *Ibtikar* is something new in the study of Islamic law, along with the progress of the scientific world, the world of business and the socio-cultural life of the community. *Ibtikar* meaningfully means special ownership and is the result of human intellectual works that deserve special appreciation from the general public both in terms of morality and finance. Contemporary Muslim scholars give their views on the position of intellectual property rights in Islam, they are *ijtihād* on the basis of which the law is used as a basis for determining copyright. Among them is Fathi Al-Duraini who stated that the legal basis of copyright is *'urf* and the rules of *maslahah mursalah*.<sup>20</sup> *De facto* copyright has become a part of daily life, but there is no *discussion* about this, so *'urf* and *maslahah mursalah* are used as the basis of the law.

This legal basis is also used by Wahbah Al-Zuhaili by stating that there is no *sharīh* evidence regarding copyright, but this can be based on the rule of *jalb al-maslahah* (bringing

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<sup>18</sup> Wahbah Al-Zuhaili, *Al-Fiqh Al-Islam Wa Adilatuh* (Jakarta: Rajawali Pers, 2010).

<sup>19</sup> Al-Zuhaili.

<sup>20</sup> Moh Ulumuddin, "Copyright in Islamic Economic Discourse," *At-Tabdzib* 7, no. 1 (2019): 114–27, <https://ejournal.staiat-tahdzib.ac.id/index.php/tahdzib/article/view/94>.

benefit) or *daf' al-mafsadah* (rejecting damage) because with this rule the purpose of *sharia* will be realized. If the benefit is part of the purpose of *sharia*, then protecting copyright is an effort to protect the benefit of the Creator and society in general. If *jalb al-mafsadah* in copyright protection is as a *preventive* measure so that greater mafsadah *does not occur*, because with this protection, every copyright work will be encouraged to continue to explore various new discoveries that will be beneficial to humans. If this right is not protected, it will certainly cause various damages in society, such as the reluctance of creators to create their works and the more worrying impact is the lack of development of technology and science because there are no more scientists who are willing to create various discoveries from the results of their research.

IPR has relevance to the *Ibtikar Rights* from a sharia economic perspective in the integration of several aspects such as in the aspect of the purpose of protection both aim to protect human works from being exploited without permission, aspects of economic and social value, innovations of economic value and must be appreciated, aspects of giving rewards to the Creator as a form of appreciation and justice as well as the ethical aspect of the use of innovations that are free from *the elements of gharar* (ambiguity), *riba* and *dharar* (loss of the other party).

### **The Utilization of IPR as an Object of Guarantee for Sharia Financing Facilities**

Intellectual Property Rights (IPR) has been recognized as an important asset in the modern economy. The potential of IPR as a source of economic value encourages its use as a collateral object in financing facilities. The use of IPR as an object of financing collateral in banking institutions is in principle not prohibited by either OJK Regulations or other laws and regulations. However, there are things that need to be considered, such as valuation or assessment of the economic value inherent in IPR that can be assessed by IPR-certified independent appraisers and internal bank appraisers, definitive and accountable valuation guidelines and the form of engagement. In addition, it must be noted that sharia principles that require financial transactions must be avoided from the elements of *riba* (interest), *gharar* (uncertainty) and *maysir* (excessive speculation). Therefore, it is necessary to formulate a

sharia financing mechanism that is in accordance with these principles, so that IPR can be used as collateral effectively and in accordance with Sharia law.<sup>21</sup>

There are sharia principles that are relevant to the use of IPR as collateral, including:<sup>22</sup>

- a. *Rahn* (Pawn) is storing an item that has economic value and can be traded as collateral for debt;
- b. *Wakalah* (Representative) is a mechanism by which one party (muwakkil) appoints another party (representative) to act on his behalf. In the context of guarantees, wakalah can be used to appoint a third party as the manager of the guaranteed IPR;
- c. *Tawaruq* (Murabahah Commodity) is a financing scheme that involves the purchase of commodities by financial institutions and the resale of the commodity at a higher price in cash to parties who need funds. *Tawaruq* can be used to pay off debts guaranteed by IPR;
- d. *Mudharabah* and *Musharakah* are the principles of sharing profits and losses. In the context of IPR, financing can be provided based on the mudharabah (working capital financing) or musharakah (venture capital financing) scheme with IPR as a contribution from one of the parties;
- e. The prohibition of *Riba*, *Gharar*, and *Maysir* which is a prohibition in sharia economic transactions.

The mechanisms that can be implemented by utilizing IPR as an object of guarantee include:

- a. *Murabahah* with *Rahn* HKI, an Islamic financial institution (LKS) finances the purchase of raw materials or merchandise for business actors. The business actor then resells the goods to LKS at a higher price in installments (*Murabahah*). As collateral, business actors pawn their IPR (*Rahn*) to LKS;
- b. *Ijarah* with *Rahn* HKI, in practice LKS rents out IPR to other parties (*lessee*) with regular rent payments (*Ijarah*). As collateral for rent payment, *the lessee* mortgages physical assets or other IPRs to the LKS;

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<sup>21</sup> Afifah Dwy Rezky Razak Rahmania and Ahmad Fauzan Jamal, "The Application of the Principle of Prohibition of Maysir, Gharar, and Riba in Sharia Banks," *Al-Muqaranah Journal* 3, no. 2 (2025): 9–19, <https://jurnal.iainambon.ac.id/index.php/am/index>.

<sup>22</sup> Siti Ainurof'ah, "Analysis of the Strength of Patent Rights as a Collateral Object in Sharia Banking Financing in Indonesia" (Faculty of Sharia UIN Kiai Haji Achmad Siddiq, 2023).

- c. *Istishna'* with *Rahn* HKI, LKS orders the manufacture of an innovative product to business actors (*mutasani'*). Payments are made according to the stages of product completion. As collateral, *mutasani'* pawns IPR related to the product;
- d. *Mudharabah/Musyarakah* with IPR Contributions, LKS provides capital for the development and commercialization of IPR (*Mudharabah* or *Musyarakah*). The IPR owner makes a contribution in the form of IPR. Profit and loss are divided according to the agreed ratio;
- e. *Wakalah* for IPR Management, LKS appoints a third party (representative) to manage the pledged IPR. The representative is responsible for maintaining the value of IPR and generating income from the IPR. The income from IPR is used to pay for financing installments.

The use of IPR as an object of collateral is a contemporary problem so the law has not yet been determined. However, if it is related to the rules of fiqh which reads:

**The principle in the permissible transaction is that it is forbidden until the evidence shows that it is forbidden**

Meaning: "The *original law in muamalah is permissible, unless there is evidence that shows its haram*".

So the law is *mubah*. However, there are scholars on the ability to use IPR as an object of guarantee. The majority of contemporary scholars, the Organization of Islamic Cooperation (OIC) and the Indonesian Ulema Council (MUI), allow the use of IPR as an object of collateral with several conditions based on the argument that IPR is positioned as an asset (*maal*) that has significant economic value and can be commercialized. Because it has economic value, IPR fulfills the definition of property (*maal*) in Islam and is related to the principle of property utilization, *qiyas* (analogy) and *maslahah mursalah*.

The second opinion does not allow the use of IPR as an object of collateral on the grounds that IPR is not a tangible or abstract property that does not have a physical form (*ain*), so it does not qualify as collateral (*marhun*). This is supported by the assumption that there is ambiguity because it is difficult to assess IPR objectively and tends to fluctuate, thus causing *gharar* in the guarantee contract. In addition, there is the potential for covert usury where the value of IPR is used to cover the interest element in financing. Then IPR attaches moral rights to its creator, so it cannot be traded or pledged freely. After all, it is feared that

there is a potential for abuse in the use of IPR as collateral for purposes that are not in accordance with sharia principles.

## CONCLUSION

IPR in the perspective of HES has a conceptual basis to be positioned as an asset (*māl*) because it contains beneficial value and economic value that can be commercialized, especially when associated with the concept of *ḥaqq al-ibtikār* which recognizes the results of creativity as material rights. 2) The use of IPR as an object of financing collateral tends in principle to be justified through *the approach of 'urf* and *maṣlahah mursalah* and the general rules of muamalah ability, as long as the design of the contract and its practice meet the principles of sharia (free of *ribā*, *gharar*, and *maysir*), while still maintaining the moral rights of the creator. 3) The debate of contemporary scholars is centered on the issue of intangibility, the potential uncertainty of value (volatility of valuation) that can give rise to *gharar*, as well as the risk of abuse that can deviate from the goals of sharia. 4) Therefore, the most decisive prerequisites for implementation are the availability of accountable valuation standards, the existence of competent appraisers, secondary market readiness, and the certainty of fair execution procedures, so that IPR can function as a guarantee safely, effectively, and in accordance with *maqāṣid al-syarī'ah* (protection of property, justice, and benefits).

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