

Intellectual Property and Company Performance: A Proof of Effectiveness in the Indonesian Banking Sector

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Abstract: *This study aims to determine intellectual property rights as an important factor in the company's investment in running its business to obtain the maximum profit. Intellectual Property (IP) are currently still underestimated by most companies in Indonesia, considering the economic value generated by IP as intangible assets is much more profitable than other tangible assets. This research was conducted using a juridical-normative approach in identifying an intellectual property that could be used as property rights in the company, by combining it with the performance of companies in the Indonesian banking sector sampled by assessing its market capitalization value. The results found that there was a very significant effect from the maximum use of intangible assets, including until the IP was registered for legal protection.*

Keywords: Intellectual Property, Company Performance, Indonesian Banking

1. Introduction

The emergence of an Intellectual Property (IP) can increase the economic capacity of an individual to increase the economy on a larger scale. If on an individual scale alone it is able to become a catalyst for prosperity, the same thing can also be found in a business entity or company, in which the company also has a process of creating intellectual property driven by employees and business processes. The main forms of intellectual property of a company can be in terms of copyrights, patents, brands, industrial designs, integrated circuit layout designs, to trade secrets.

Intellectual property that arises in a company, of course, must have its own advantages for the company. Because it would be a waste of time if there is legal protection for Intellectual Property Rights but it has no effect on the performance of the company that owns it. On this interest, the author wishes to assess the relationship between the two variables i.e. intellectual property and company performance.

The Indonesian government through Law no.7 of 1994 ratified the Trade Related Aspects of Intellectual Property Rights (TRIPS) and by Presidential Decree No.15 of 1997 concerning Ratification of the Paris Convention for the Protection of Industry Property (Paris Convention). In addition, the Indonesian government also ratified the "Berne Convention for the Protection of Artistic and Literary Works" through Presidential Decree no.18 of 1997 and the "World Intellectual Property Organization Copyrights Treaty" through Presidential Decree no.19 of 1997.

As a consequence of the ratification, the Indonesian government is obliged to provide protection for the Intellectual Property Rights. Initially, it covers only Patent, Trademark and Copyrights but recent developments include Plant Varieties, Trade Secrets,

Industrial Designs and Layout Designs of Integrated Circuits. Where there is great economic value in each of these intellectual property rights if used properly and correctly.

Ownership of economic value coupled with economic benefits fosters the conception of property of intellectual works. In business world, these works are said to be a form of company's intangible assets.

Recognition and legal protection of intellectual property rights as an asset of the company's organization can contribute to increasing profits as much as possible without having to violate the law, or with such legal recognition and protection it can also make the company's assets in a safe position and clear of business risks and loss.

Intellectual Property Assets are often one of the most valuable assets owned by a company. For example, recently the company Apple has won the IP infringement dispute in the courts against Samsung with more than \$1 billion for willful infringement on Apple's designs and use of its patents. In other, Coca Cola company has valuable and well-known trade secrets and is closely secured for its business interests. Coca Cola has refused to disclose its decades-old trade secret despite two court orders.

In Trademarks, Google icon is estimated to be worth 27% of the company's total value of around \$44 billion. Although this phenomenon is an extreme situation for a business, nowadays many businesses make significant profits from their intellectual property ownership.

The company as a business entity should be observant and alert to the management of asset inventories that are recorded and written in the company's books with the aim of detecting the risk of greater losses in the future.

Financial performance in a narrow sense is often interpreted as profitability. The definition of profitability

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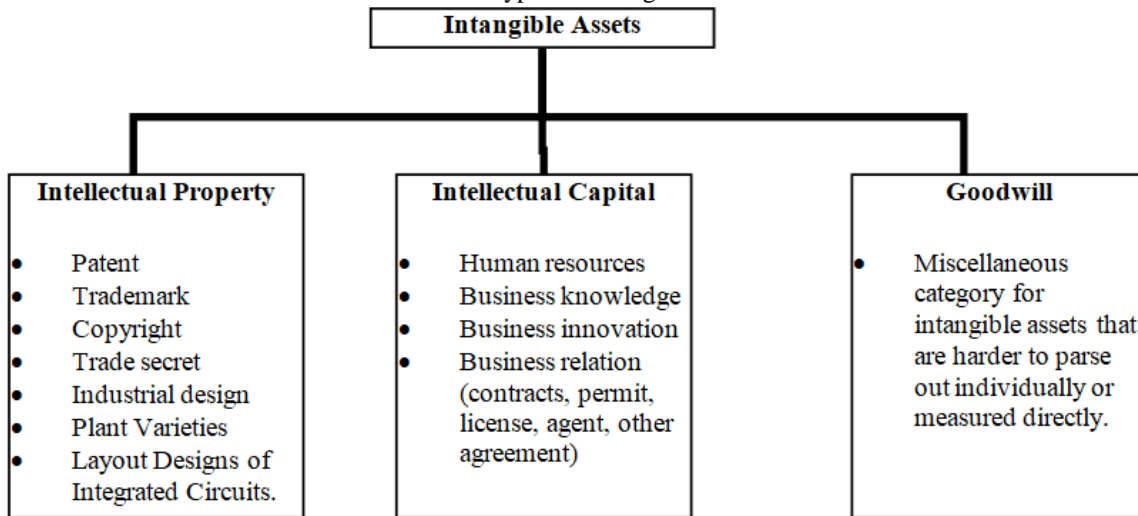
is the company's ability to profit from its operations. In general, the measurement of profitability uses financial ratios.

The usual financial ratio to measure overall financial performance is return on investment (ROI). Return on investment (ROI) is a tool commonly used to assess the success or achievement of the company as a whole, which is generally defined as net income (after adjusting for interest costs) divided by total investment. The term investment is used in three different senses in financial analysis i.e. Return on Assets (ROA), Return on owner's Equity (ROE), and Return on Invested Capital (ROIC). IP in a company can be seen in the form of intangible assets. Chart 1 tries to explain what Intellectual Property

is categorized in the intangible assets of a company, namely:

1. Intellectual Property Rights which already has protection in the form of a law.
2. Intellectual Capital which includes Human Resources, Innovation, and business relations. Here the author emphasizes that an important element of innovation or business agreement must be in the form of a Trade Secret which because it is not publicly published, it must be the largest portion in the results of the intellectual capital assessment.
3. Goodwill, which is an asset that cannot be specifically identified.

Chart 1: Types of Intangible Assets



The author has a hypothesis that the three forms of intangible assets have contributed to the profitability. The most minimal thing in improving the company's performance is the payment of special royalties for uses a patent created and registered by the company to the payment of a license for a business with large capital.

The author will cite certain financial ratios in assessing the relationship between Intellectual Property and company profitability. In the end, the correlation between the above intangible assets and performance will be assessed so that this research can provide benefits for business actors that intellectual property in the company can be capitalized.

2. Theory Overview

In reviewing this theory, the author tries to start with the theory of intellectual property as material rights owned by an individual as a form of embodiment of a company or business.

Intellectual work produced by humans is then recognized as wealth, this means that there is a concept of ownership and material contained in it. Associated with Locke's opinion, it is emphasized that the right to the results of human work, including intellectual work is the property of the producer of intellectual works. Using different

sentences, it can be said that wealth is an acknowledgment of the existence of someone's property.

In line with this, Locke said that humans have exclusive natural rights over their bodies, so humans have exclusive rights over what their bodies produce. Based on this, it can be said that what his body produces, including what his mind produces as an intellectual work. Therefore, it can be logically stated that based on natural law, intellectual work which is the result of work produced by a human body contains the exclusivity of the human producer.

Recognition of ownership logically also implies an acknowledgment that intellectual property is an object. Therefore, the intellectual property rights are attached to the so-called material rights. If categorized according to their nature, intellectual property rights are intangible objects, because intellectual property is a right. In accordance with the teachings of natural law, IP owners have the freedom to act freely on their property.

The question is kind of property rights can be controlled. The answer to this question is inherent in the meaning contained in 'belonging' itself. Ownership means having something; something in the realm of law is defined as an object. Thus in every word belonging implicitly contains the meaning of ownership of certain objects. Justice according to Cicero is the most important moral virtue, or

the 'crowning glory of the virtues' so that injustice is fatal to social life and friendship between humans. The main function of justice is to keep one person from harming another, unless the other person has made a mistake.

Therefore, it is fair if someone gets his rights without violating the rights of others. Thus it can be said that violating the rights of others is against justice. Furthermore, Cicero said the second function of justice is to direct people to use common property rights for the common good and private property rights for their respective interests. Based on this opinion, the owner of a right has the freedom to use his property. While everything that can be controlled with property is called an object.

Benda (Object, Eng.) is zaak in Dutch. According to Article 499 of the Indonesian Civil Code, is defined as zaak is all goods and rights. Furthermore, it is known that zaak is 'part of the wealth' (vermogens bestanddeel). Whereas what is meant by objects in the legal sense is everything that is the object of property rights. The rights attached to an object are referred to as material rights (zakenlijk recht), which is a right that gives direct power over an object, which can be defended against everyone. Meanwhile, the definition of property rights based on Article 570 of the Indonesian Civil Code is the right to enjoy the use of an object freely, and to act freely on that object with full sovereignty. By controlling the object based on property rights, a person has the right to enjoy the object safely without interference from other parties.

So logically the IP owner can use his intellectual property rights freely. This is reinforced by the provisions in the Law related to IP which states that the owner of the right has the exclusive right to exercise it himself or give approval to another party to exercise that right. Act freely on his property (or IP) can be interpreted that the owner can use his own rights or allow others to use these rights, in essence there is freedom possessed by the owner of the object (or IP) for his rights.

3. Intellectual Capital and Performance

In this paper, the author would like to provide some of the results of previous studies that are more or less related to this discussion. At least the author sees that there are four (4) research journals that are related to the following research results.

Artiah (2011) in his study on "The Influence of Intellectual Capital on Profitability (Empirical Study on Banking Companies)" draws several interesting conclusions, namely:

1. Intellectual capital (IC) has a positive and significant effect on profitability (ROA),
2. Capital employed efficiency has a positive and significant effect on profitability (ROA),
3. Human capital efficiency (HCE) has no significant effect on profitability (ROA); and
4. Structural capital efficiency (SCE) has no significant effect on profitability (ROA).

Rachmawati (2012) in her study entitled "The Influence of Intellectual Capital on Banking Return On Assets (ROA)" concludes that Intellectual capital has a positive influence on banking Return On Assets (ROA). Rambe (2012) wrote in "The Influence of Intellectual Capital on the Financial Performance of Banks Listed on the IDX" also found that Intellectual capital has a positive and significant effect on the company's ROE and ROA performance, but has no effect on earnings. In line with that, Chandrasari (2013) also said the same thing in his writing "The influence of Intellectual capital on the performance of the Jakarta Islamic Index (JII) company".

The four writings above agree that intellectual capital which includes the strength of the company's Human Resources, the company's ability to innovate, and the business relationships that occur in its operations are the main factors in making the company produce good financial performance. The largest portion of the success of intellectual capital in improving company performance is in the form of Trade Secrets which already have their own legal protection in Law Number 30 of 2000 concerning Trade Secrets.

4. Intellectual Property (IP) and Performance

The next discussion is to try to find the connection between Intellectual Property in the company that is used as Rights and registered in Indonesia Ministry of Law. For this, the author seeks data from the Ministry of Law website to see the number of IP owned by the sample taken in this study, namely Big-Five banking listed on the Indonesia Stock Exchange.

The data taken is the number of registered rights, both those that are still in the registration process and those that already have a license. IP that can be obtained include patents, trademarks, industrial designs, copyrights, and geographical indications. The next variable data taken is the market capitalization value owned by the five major banks in Indonesia which reflects the size of the company value (components of number of shares and its value). The larger the market capitalization, the stronger the company's position in the industry.

Chart 2: Big-Five Indonesian Banking and Number of registered IP

Stock Code	Company	Market Cap	Patent	Trademark	Industrial Design	Copyright	Plant Varieties	Sum of Intellectual Property (IP)
BBCA	Bank Central Asia	700.20T	2	1484	0	9	0	1495
BBRI	Bank Rakyat Indonesia	366.34T	0	847	0	20	0	867
BMRI	Bank Mandiri	216.68T	1	354	0	13	0	368
BBNI	Bank Negara Indonesia	77.73T	1	138	0	2	0	141
BBTN	Bank Tabungan Negara	10.85T	0	31	0	5	0	36

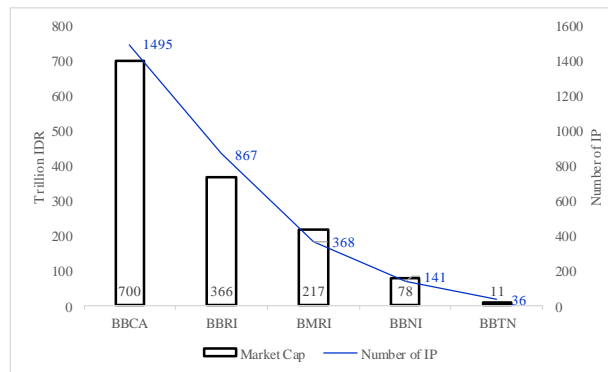


Chart 2 above show data of company value and the number of registered IP. It can be seen that there is a positive correlation between the amount of intellectual property acquired by the company as rights and being registered.

For the banking sector, the largest number of registered intellectual property rights is in terms of the use of brands which of course have many products throughout the archipelago and for that there is a need for legal protection to minimize the risk of being used by other parties who try to take advantage.

It can be seen that Bank BCA, which is the top banking position in Indonesia, has 2 patents, 1484 trademark rights, and 9 copyrights. It is clear that the most dominant patent rights are registered compared to the other four banks, where examples of registered patents are regarding payment systems in e-commerce transactions and virtual keyboard financial transactions. If you look at the details of the patent, it is certain that the manufacturing process requires a lot of investment in money, time and energy to be able to create the patent. This ability is reflected in the company's intellectual capital in creating value added from the financial side of the company.

The conclusion that can be drawn from the variable relationship between the number of intellectual property rights and company performance is that the process of strengthening the intellectual property creation culture of a company is an investment that is not in vain for companies that have long-term projections to strengthen their position in operation.

5. Conclusions

Based on the discussion that has been stated above, several conclusions are obtained as follows:

1. IP owners can use their intellectual property rights freely. This is reinforced by the provisions in the Law related to IP which states that the owner of the right has the exclusive right to exercise it himself or give approval to another party to exercise that right. Act freely on his property can be interpreted that the owner can use his own rights or allow others to use these rights, in essence there is freedom possessed by the owner of the object for his rights.
2. Intellectual property (IP) owned by a company can be seen in the form of intangible assets, namely: (1) Intellectual Property Rights each of which already has protection in the form of laws such as patents, brands, industrial designs, copyright, and geographic indications. (2) Intellectual Capital which includes Human Resources, Innovation, and business relations. Which includes Trade Secrets and (3) Goodwill which is an asset that cannot be specifically identified.
3. Intellectual capital is the main factor in making the company produce good financial performance. The largest portion of the success of intellectual capital in improving company performance is in the form of Trade Secrets which specifically have their own legal protection.
4. The relationship between the variable number of intellectual property (IP) and company performance is that the process of strengthening the intellectual property creation culture of a company is an investment that is not in vain for companies that have long-term projections to strengthen their position in operation.

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