

The Urgency of Copyright Right on Bridal Makeup Design of Kendal Bridal Makeup Design to Reform Creative Industry in Indonesia

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Abstract

This research underscores the urgent need for copyright protection in the Indonesian bridal makeup design sector, particularly focusing on Kendal Bridal Makeup Design. The absence of legal safeguards for innovative makeup designs poses a significant threat to the creative efforts of makeup artists and the broader bridal industry. This study identifies a critical gap in existing intellectual property laws, which inadequately address the unique challenges of protecting original makeup designs. Findings indicate that the lack of robust copyright protections results in widespread imitation and unauthorized use of designs, undermining their economic value and diminishing creative incentives for artists. This situation impedes the growth of the creative industry, where originality and personal branding are essential. The research highlights that the current legal framework does not

adequately support the sector, leaving artists exposed to exploitation and legal disputes. The novelty of this study lies in its specific focus on bridal makeup design within the Indonesian context, an area that has received limited scholarly attention. By evaluating the legal and economic impacts of insufficient copyright protection, the study offers new insights into how reforming intellectual property laws can promote innovation and support industry growth. The research contributes by advocating for targeted legal reforms to enhance copyright protections for makeup designs and provides actionable recommendations for policy changes. These measures aim to safeguard artists' rights, foster creativity, and bolster the Indonesian creative industry, thereby paving the way for a more sustainable and innovative sector.

Keywords

Copyright Registration, Bridal Makeup Design, Copyright

Introduction

Makeup design is an art done by humans to design changes to the appearance of the face with cosmetics aimed at beautifying a person's face by accentuating the good parts of the face and hiding the less beautiful parts of the money.¹ Makeup has been around since 5,000 years ago with a variety of different reasons and opinions, both for social status, gender or just to make the wearer look beautiful.² Copyright itself

¹ Dina Andiza, "Perlindungan Hukum Atas Ekspresi Budaya Tradisional Upacara Adat dan Tata Rias Pengantin Tapanuli Selatan/Sibolga Ditinjau dari Undang-undang Nomor 28 Tahun 2014 Tentang Hak Cipta." *Jurnal Hukum Responsif* 7, no. 2 (2020): 171-180; Awaliyana Rakhmawati, "Kepuasan Pelanggan Terhadap Hasil Tata Rias Make Up Artist Pria dan Make Up Artist Wanita di Kota Semarang", *Thesis*. (Semarang: Universitas Negeri Semarang, 2016); Rizkiani Maulidiyah, "Studi Deskriptif Tata Rias Pengantin Tradisional "Ba'amar Galung Pancar Matahari" Banjarmasin." *Jurnal Tata Rias* 5, no. 3 (2016): 15-28.

² Yunita Prananda Maulida, and Ade Novi Nurul Ihsani. "Peningkatan Pengetahuan Perias Pengantin Melalui Sosialisasi Tata Rias Pengantin Syar'i." *Surya Abdimas* 7, no. 3 (2023): 515-521; Cita Raras Nindya Pangesti, and Atiqa Sabardila. "Mahkota Siger Sebagai Sarana Akulturasi Tata Rias Jawa dan Sunda: Kajian Budaya." *Etnorefika: Jurnal Sosial dan Budaya* 9, no. 3 (2020): 253-266.

is an exclusive right granted to creators or copyright holders to control the use of their copyrighted works by others. With copyright, creators and copyright holders can earn income from their work, while ensuring the authenticity and quality of the work.³

Cosmetology design itself is included in Copyright on Artworks that are protected, this is based on Article 40 paragraph (1) of Law No. 28 of 2014 concerning Copyright. Kendal's typical Bridal Makeup Design is one of the typical regional makeup designs that has high aesthetic value with a fusion model between Javanese, Chinese and various other styles.⁴ However, there are problems in the Copyright protection of Kendal's typical Bridal Makeup Design, namely that it has not been registered as a Copyright on Artwork and there is still a lack of public knowledge, especially the Bridal Make Up Artist (MUA) business actors regarding the urgency of filing a Copyright registration on Tata Design.⁵

Copyright protection of Bridal Makeup Designs is expected to encourage the growth of creative industries in Kendal Regency, including the bridal makeup industry for Bridal Make Up Artist (MUA) business actors.⁶ Thus, it can create added value for the economy and

³ Irma Nur Rhamadani, "Perlindungan Hak Cipta atas Desain Tata Rias atau Makeup Design Hasil Karya dari Makeup Artist". *Brawijaya Law Student Journal*, April (2021); Hendra Tanu Wijaya, "Konsep Hak Ekonomi dan Hak Moral Pencipta Menurut Sistem Civil Law dan Common Law." *Jurnal Hukum Ius Quia Iustum* 10, no. 23 (2003): 153-168; Khoirul Hidayah, "Perlindungan Hak Paten Dalam Kajian Hukum Islam dan Peran Umat Islam dalam Bidang IPTEK." *De Jure: Jurnal Hukum dan Syar'iah* 4, no. 1 (2012): 85-95; I Kadek Sukadana Putra, Gusti Ayu Putu Nia Priyantini. "Perlindungan Hak Cipta Terhadap Ekspresi Budaya Tradisional Geguritan Bali di Indonesia", *Jurnal Media Komunikasi* 3, no. 2 (2021): 108-120.

⁴ Irfan Ardiansyah, "Perlindungan Hukum Hak Kekayaan Intelektual Terhadap Budaya Tradisional di Indonesia." *Jurnal Trias Politika* 6, no. 1 (2022): 123-129; Thomas Linzey, *Of Corporations, Law, and Democracy: Claiming the Rights of Communities and Nature*. (USA: EF Schumacher Society, 2006).

⁵ Agus Riyadi, & Rohmat Haryadi, "Model Tata Rias Pengantin Khas Kendal Ingin Punya Hak Paten," *Gatra.Com*, June 2021, <https://www.gatra.com/news-513975-gaya-hidup-model-tata-rias-pengantin-khas-kendal-ingin-punya-hak-paten.html>

⁶ Ardiansyah, "Perlindungan Hukum Hak Kekayaan Intelektual Terhadap Budaya Tradisional di Indonesia"; Nina Yolanda, "Upaya-Upaya Peningkatan Pemahaman dan Kesadaran Pencipta Karya Seni Tradisional Terhadap Hak Ciptanya", *SOLUSI* 17, no. 1 (2019): 34-21; Agung Wicaksono, et.al.

culture and encourage sustainable economic growth. Copyright and creative industries have a close relationship and influence each other.⁷ The creative industries include various sectors such as art, music, film, design, architecture, and so on, which are intellectual works that require copyright protection. With copyright, creative products become more protected and more valued in the international market, thus promoting sustainable economic growth.⁸

Several studies have been conducted related to Copyright Protection for Makeup Design, including the research by Dina Andiza in 2019, which focused on the Legal Protection of Traditional Cultural Expressions in Traditional Ceremonies and Bridal Makeup in South Tapanuli/Sibolga in the context of Law No. 28 of 2014 on Copyright. The study emphasized that traditional ceremonies and bridal makeup in South Tapanuli/Sibolga are forms of cultural heritage that should receive legal protection in the form of Intellectual Property Rights to safeguard the nation's cultural heritage. The government, in this regard, should be able to protect the cultural heritage of traditional ceremonies and bridal makeup through Law No. 28 of 2014. These cultural expressions should have elements of originality to be eligible for registration under Copyright, and the role of the indigenous community in registering this cultural heritage through the Directorate General of Intellectual Property (DJKI) is crucial to obtaining legal protection.

Pengembangan Ekonomi Kreatif Indonesia 2025. (Jakarta: Departemen Perdagangan RI, 2008).

⁷ Enrico Bonadio, and Nicola Lucchi. "How far can copyright be stretched? Framing the debate on whether new and different forms of creativity can be protected." *Intellectual Property Quarterly* (2019); Enrico Bonadio, "Copyright protection of street art and graffiti under UK law." *Intellectual Property Quarterly* 2 (2017).

⁸ Abdulkadir Muhammad, *Kajian Hukum Ekonomi Hak Kekayaan Intelektual*. (Bandung: Citra Aditya Bakti, 2001); Sigit Nugroho, "Perlindungan Hak Kekayaan Intelektual dalam Upaya Peningkatan Pembangunan Ekonomi di Era Pasar Bebas Asean." *Supremasi Hukum: Jurnal Penelitian Hukum* 24, no. 2 (2015): 164-178. *See also and compare with* Zeehan Fuad Attamimi, Amalina Ahmad Tajudin, and Fadhil Umar. "The Role of Music Aggregator Distribution Toward Music Performers in View of the Three Pillars of the Copyright System." *Journal of Law and Legal Reform* 5, no. 1 (2024): 361-382; Agustina Balik, et al. "Registration of Copyright as Guarantee of Batik Motif Legal Protection (Comparison Study of Indonesia, Malaysia and Thailand)." *Journal of Indonesian Legal Studies* 8, no. 1 (2023): 1-44.

Furthermore, in line with this, research conducted by Irman Nur Rhamadani⁹ discussed the Protection of Copyright for Makeup Design as the work of Makeup Artists. It argued that makeup design can be protected under Article 40 of the Copyright Law as a form of painting because makeup design fundamentally uses the human body as its medium. However, both the Copyright Law and the US Copyright Act set conditions for a creation to be eligible for copyright protection, namely being original and fixed in a tangible form. A makeup design that meets both of these criteria can automatically receive copyright protection. Proof of meeting these criteria can be provided through documents that clearly show the design's form, highlighting the creator's creativity that distinguishes their work from others. These documents also serve to demonstrate the fixed form of the design, as makeup design cannot be permanently stored like other types of artworks.¹⁰

While existing research broadly covers the topic of Copyright Protection for Makeup Design, there is a notable gap in the specific examination of the mechanisms and criteria for determining originality in the registration of Copyright for Makeup Design. This research proposal introduces a novel approach and holds potential significance for the community, particularly for bridal Makeup Artists (MUAs) in Kendal Regency.

Given this context, the study seeks to investigate and analyze the importance of registering Copyright for Kendal's characteristic Bridal Makeup Designs. It is structured around two key research questions, *first*, what criteria define makeup designs eligible for copyright protection, and how can the originality of Kendal's distinctive Bridal Makeup Designs be demonstrated?, and *second*, in what ways does the

⁹ Rhamadani, "Perlindungan Hak Cipta atas Desain Tata Rias atau Makeup Design Hasil Karya dari Makeup Artist".

¹⁰ See also M. Zulvi Romzul Huda Fuadi, and Ayon Diniyanto. "Written Quotations and Its Legal Protection: How Indonesian Law Reform on Copyrights Law?." *Journal of Law and Legal Reform* 3, no.1 (2022): 1-16; Annisa Ramadhani, "Copyright Protection Regarding Plagiarism Cases and Warkopi Ethics Against Warkop DKI." *Journal of Creativity Student* 5, no. 2 (2020): 149-164; Hanif Helmi, "National Heritages and the Law, A Book Review "Perlindungan Negara atas Warisan Budaya Bangsa", Dr. Diah Imaningrum Susanti, SH, M. Hum, M. Pd, Setara Press Malang, 2018, 192 Pages, ISBN: 978-602-6344-53-3." *Journal of Indonesian Legal Studies* 6, no. 1 (2021): 245-250.

process of Copyright registration for these designs help protect the intellectual property of bridal Makeup Artist business professionals in Kendal Regency?

The approach used in this research is a qualitative approach.¹¹ Approach, researchers directly identify problems through field observations and interviews with relevant parties regarding formal and informal mechanisms in the mechanism of applying for copyright registration of Kendal Typical Makeup Designs. This research also uses case studies, especially in the mechanism of registration of Copyright on Cosmetology Designs and the criteria for originality in applying for registration of Copyright on Cosmetology Designs, so that it is hoped that this research will obtain a complete picture of the mechanisms and criteria for fulfillment in the registration.

The research employs a normative juridical method, focusing on qualitative analysis through a statutory and case approach.¹² Primary data is gathered from relevant laws and regulations, ranging from national statutes to ministerial decrees, as well as supporting scientific journals. Secondary data is obtained through interviews with pertinent stakeholders. This research specifically examines the mechanisms and criteria for establishing originality in the registration of Copyright for Kendal's distinctive Bridal Makeup Designs.

Bridal Makeup Designs in the Intellectual Property Rights Regime

Law Number 28 of 2014 concerning Copyright has regulated the scope along with the kinds of works that can obtain protection as stated in Article 40 paragraph (1). Copyright Law, these works include:

- a. books, pamphlets, embellishments of published works, and all other written works;
- b. lectures, lectures, speeches, and other similar creations;

¹¹ Lexy J. Moleong, *Metodologi Penelitian Kualitatif*. (Bandung: PT Remaja Rosdakarya, 2018); Al-Fatih, Sholahuddin. *Perkembangan Metode Penelitian Hukum di Indonesia*. (Malang: UMM Press, 2023); Ridwan Arifin, Waspiah Waspiah, and Dian Latifiani. *Penulisan Karya Ilmiah untuk Mahasiswa Hukum*. (Semarang: BPFH UNNES, 2018). See also Mike McConville, ed. *Research Methods for Law*. (Edinburgh: Edinburgh University Press, 2017).

¹² See Terry Hutchinson, and Nigel Duncan. "Defining and describing what we do: doctrinal legal research." *Deakin Law Review* 17, no. 1 (2012): 83-119.

- c. teaching aids made for the benefit of education and science;
- d. songs and/or music with or without text;
- e. drama, musical drama, dance, choreography, puppetry, and pantomime;
- f. works of fine art in all forms such as paintings, drawings, engravings, calligraphy, sculpture, statues, or collages;
- g. works of applied art;
- h. works of architecture;
- i. maps;
- j. works of batik art or other motif art;
- k. photographic works;
- l. Portrait;
- m. cinematographic works;
- n. translation, interpretation, adaptation, anthology, database, adaptation, arrangement, modification and other works of transformation;
- o. translation, adaptation, arrangement, transformation, or modification of traditional cultural expressions;
- p. compilation of creations or data, either in a format that can be read by a computer program or other media;
- q. compilation of traditional cultural expressions as long as the compilation is an original work;
- r. video games; and
- s. Computer programs.

Copyright protection above is not given to creations that are still in the form of ideas or ideas, this is because copyright must have a distinctive form and is private, and shows its authenticity as a creation derived from creativity, ability, skill and expertise themselves.¹³ This is mentioned in Article 41 of the Copyright Act, which is the work that can not be protected is the work that has not been or is not realized in real form in the form of ideas¹⁴, systems, procedures, concepts, principles, methods, findings or data even though it has been described, stated, disclosed, explained or combined in a creation as well as tools or

¹³ Bonadio, "Copyright Protection of Street Art and Graffiti under UK Law."

¹⁴ Thomas F. Cotter, and Angela M. Mirabole. "Written on the Body: Intellectual Property Rights in Tattoos, Makeup, and Other Body Art." *UCLA Entertainment Law Review* 10, no. 2 (2003) 97-138.

products created only to solve technical problems or whose form is only for functional needs.¹⁵

Copyright Law provides protection for intellectual works in the fields of science, art and literature that are expressed through a form that has its own characteristics to distinguish one work from another without the need to register the creation so that its rights can be recognized. As stated in Article 1 number 1 of the Copyright Act on the notion of copyright that copyright is the exclusive right of the creator that arises automatically based on the declarative principle. However, there are criteria for the acquisition of rights (criteria of eligibility) in order to be recognized, ie the work must have been realized in a tangible form. Likewise, Article 41 of the Copyright Act which states that the results of works that have not been realized in real form can not be protected by copyright.

Discussing makeup design as a work of art, it must begin with the definition or understanding of art, artwork, makeup, and makeup design. According to the Big Indonesian Dictionary (KBBI), art has 3 (three) meanings, namely: art is the skill of making quality work (in terms of its subtlety, beauty, and so on); art is a work created with extraordinary skill; and art is the ability of the mind to create something of high value.

According to Paningkiran, makeup artistry is an activity that involves transforming one's appearance from its original form through the use of tools and cosmetic materials. Makeup artistry is a way or effort of enhancing one's beauty, especially on the face, with the aim of adorning oneself in social interactions. In the context of performing arts, makeup artistry is used to depict or define the character that will later appear on stage. There are several types of makeup artistry, including corrective makeup, character makeup, and fantasy makeup.

Makeup designer, commonly referred to as a makeup artist (MUA), is the creator of these makeup designs and is entitled to legal protection and associated rights. Every individual who produces intellectual work

¹⁵ Mary Lou Patton, et al. "An open, prospective, randomized pilot investigation evaluating pain with the use of a soft silicone wound contact layer vs bridal veil and staples on split thickness skin grafts as a primary dressing." *Journal of Burn Care & Research* 34, no. 6 (2013): 674-681; Alison Winch, and Anna Webster. "Here comes the brand: Wedding media and the management of transformation." *Continuum* 26, no.1 (2012): 51-59.

has the right to legal protection, as stated in Article 27(2) of The Universal Declaration of Human Rights (UDHR), which declares that everyone has the right to participate in cultural and artistic life, enjoy the benefits of scientific progress, and share in the advances of knowledge. UDHR also emphasizes that everyone is entitled to moral and material protection for their scientific, literary, or artistic creations. Likewise, Article 2(8) of the Convention Establishing the World Intellectual Property Organization (The WIPO Convention) states that intellectual property resulting from intellectual activities in the artistic field must be protected. The key principle in distinguishing copyright protection from other forms of intellectual property protection is that copyright protects artistic works, including all developments that occur in the world.

The creation of makeup design requires skills and creativity, much like the creation of other forms of art. Article 40 of the Copyright Law does not specifically mention makeup artistry as a protected art form. However, as an alternative, makeup artistry can still be protected under copyright law based on this article as it essentially involves painting on the human body as its canvas.

Criteria for proving originality of protectable makeup designs in Kendal bridal makeup designs

This research delves into the realm of copyright protection for the unique bridal makeup designs specific to Kendal. Drawing upon interviews conducted by the researcher with the Chairman of the Indonesian Bridal Makeup Artists Association (HARPI) “*Melati*” Kendal concerning the submission of copyright registration for Kendal's traditional bridal makeup designs, it is evident that there is a need for further examination and the finalization of a comprehensive guidebook on Kendal's traditional bridal makeup designs. Moreover, there remains a necessity for extensive awareness campaigns targeting all Makeup Artists (MUAs) across Kendal regarding the modified makeup designs, additions to attire, color patterns, and other supplementary makeup elements specific to Kendal's bridal tradition. The Chairman of Harpi Kendal underscores that this initiative constitutes a pivotal program within the Kendal MUA organization, aimed at promoting the registration of intellectual property rights for Kendal's traditional

cultural expressions. This endeavor seeks to preserve the existence and cultural heritage of the Kendal region. Presented below are the details of the interview between the researcher and the Chairman of Harpi Kendal.

The distinctive Kendal traditional bridal makeup designs are characterized by a unique fusion of makeup patterns from various cultures, including Javanese, Chinese, and other motifs. This uniqueness can be attributed to Kendal's historical background as a coastal region heavily involved in trade activities, leading to the assimilation of foreign cultures into the local tradition. Below are model designs of Kendal's traditional bridal makeup.

Fundamentally, copyright protection under the Copyright Law imposes certain requirements for a creation to be eligible. These requirements include being original and being embodied in a tangible form. To demonstrate the originality of a work, it must showcase creativity and differentiation from the works of others, without necessarily requiring complete novelty.

Regarding makeup design, such designs are eligible for copyright protection. However, a makeup design is considered to be embodied in a tangible form not only through its application to the face but also through the presence of documentation containing information about its composition or explanation. This necessity arises because the results of makeup design applied to the face cannot be permanently preserved, unlike other forms of artwork. Therefore, documentation becomes essential to establish the fixed form of the design.

In this case, the distinctive Kendal traditional bridal makeup design includes detailed documentation covering various aspects such as facial makeup styles, hairstyling, attire, and accessories, encompassing both bridal makeup for men and women. These documents are preserved and archived by HARPI "Melati" Kendal as a tangible fixed form, and they come in various formats, including makeup design illustrations, video tutorials, and photographic documentation of the makeup designs. Below are the documentation materials for Kendal's traditional bridal makeup design.

At the normative level, bridal makeup design is considered not to be protected by copyright because it does not have an element of originality because there is no creativity poured into it, this is stated in Article 41 letter c of the Copyright Act which states that works that are

only intended for functional needs are not protected by copyright.¹⁶ However, it can be broken by the existence of fixed form documents in Kendal's typical bridal makeup design with modifications and creativity of the designers (Makeup Artist), and also Kendal's typical bridal makeup design is included in traditional cultural expressions which are part of Communal Intellectual Property Rights. It is stated in Article 38 that the state holds copyright over cultural heritage and can be protected directly in the concept of traditional cultural expressions.

Comparison of regulations between Indonesia and the United States regarding Make-up Design Criteria and Implementation

Indonesian Copyright Law and US Copyright Act establish that for a creation to be eligible for copyright protection, it must be original and fixed in a tangible form. Proving the originality of a work involves demonstrating the creativity applied by the creator to differentiate their work from others. Originality does not necessarily mean that the work is novel, but rather that it is distinct from existing works. A work meets the originality criterion if it is not a copy of another work and if it is the product of the creator's thought, imagination, and skill, expressed in a unique and personal form.

Similarly, makeup designs that qualify for copyright protection must meet these two criteria. The challenge lies in proving that a makeup design is original and fixed in a tangible form. Unlike other works, makeup designs can be considered fixed in a tangible form not only through their application to a face but also through documentation detailing the composition and explanation of the design. This documentation is necessary because the results of makeup designs

¹⁶ Kayode Ibrahim Adam, and I A Yusuf. "Originality in Copyright and the Debate on Protection of Traditional Knowledge: A View on Nigerian Law." *KIU Journal of Social Sciences* 3, no. 1 (2017): 293–301; Giovanna Carugno, "How to protect traditional folk music? Some reflections upon traditional knowledge and copyright law." *International Journal for the Semiotics of Law-Revue Internationale de Sémiotique Juridique* 31, no. 2 (2018): 261-274; Baiq Ratna Mulhimmah, and Ridwan Olagunju. "Effectiveness of Islamic Law in Protecting the Copyright of Indigenous Peoples of Indonesia in The Form of Traditional Knowledge & Traditional Cultural Expressions." *Jurnal IUS Kajian Hukum dan Keadilan* 10, no. 3 (2022): 581-594.

cannot be permanently preserved like other works, thus requiring a fixed form to be documented.

This documentation is crucial for proving both originality and the fixed form requirement, as it clearly illustrates the creator's creativity that differentiates their work from others. Additionally, since makeup designs do not have a 'fixed form' that can be stored or archived like other works, this documentation serves to demonstrate the permanent form of the design. The documentation required for this proof can take various forms as long as they clearly show the makeup design's form, such as design tutorial videos, photos documenting the design outcome, and similar materials.

Makeup designs encompass a wide variety of types, not all of which are eligible for copyright protection like other intellectual works. To facilitate the analysis of makeup design types that can be protected by copyright, the author focuses on the study of traditional bridal makeup designs. This type of makeup design is not eligible for copyright protection because it lacks originality, as no creativity is involved. Furthermore, Article 41(c) of the Copyright Law states that works created solely for functional needs are not protected by copyright. Therefore, it can be concluded that general makeup designs cannot be protected by copyright.

However, traditional cultural expressions can be protected as Communal Intellectual Property Rights. When traditional cultural expressions are governed by copyright provisions, they automatically fall under the Intellectual Property Rights regime but with a communal ownership concept, differing from the usual individualistic concept. The ratification of international agreements such as the Berne Convention and the TRIPs Agreement, which underpin the integration of intellectual property rights protection into national legal systems, recognizes traditional cultural expressions as protected objects within the framework of intellectual property law, specifically under copyright provisions.

In addition to copyright provisions, the protection of traditional cultural expressions is also covered under Neighboring Rights, which provide international safeguards through agreements such as the WIPO Performances and Phonograms Treaty (WPPT). This treaty, established by the World Intellectual Property Organization (WIPO) member states, is designed to enhance and standardize the protection of

performers' and producers' rights concerning phonograms. The WPPT recognizes traditional cultural expressions as integral to live performances, thus extending protection to these expressions. By securing performers' rights over their performances, the WPPT contributes to the safeguarding of traditional cultural heritage.

The WPPT extends the definition of performers beyond contemporary literary and artistic works. Article 2(a) of the WPPT defines performers as: "actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, interpret, or otherwise perform literary or artistic works or expressions of folklore." This broad definition provides protection for traditional cultural expressions by safeguarding the rights of performers, thereby preventing unauthorized claims or ownership by unentitled parties.

Additionally, traditional cultural expressions can also be protected under industrial property law. In principle, industrial property law protects patents, industrial designs, and trademarks, as outlined in the Paris Convention for the Protection of Industrial Property of 1883. Like the Berne Convention, the Paris Convention is integrated into the WTO's legal framework under the TRIPs Agreement. Protecting traditional cultural expressions through industrial property law is feasible via trademarks, geographical indications, patents, and industrial design rights.

Communal ownership of Traditional Cultural Expressions (TCE) is philosophically a natural right inherent to the community that creates, uses, maintains, preserves, and develops TCE across generations. This ownership is a part of the community's social identity. This understanding is based on John Locke's natural rights theory of property, which posits that individuals who labor on unowned or collectively owned resources naturally gain ownership of the results of their efforts, and the state has a duty to respect and uphold these natural rights. Thus, the law provides natural protection to individuals who invest effort and skill in creating or discovering something.

Communities that work hard to preserve, maintain, and develop TCE are performing labor that legitimizes their communal ownership of TCE, which must be respected and protected by all, including the state. Communal ownership of TCE by the supporting community is a human right that must be honored by everyone, including the government. This recognition is enshrined in Article 27 of the

International Covenant on Civil and Political Rights and Article 15 of the International Covenant on Economic, Social, and Cultural Rights of 1966, which Indonesia ratified through Laws No. 11 and 12 of 2005, and in the recognition of community rights in Law No. 39 of 1999 on Human Rights.

Similarly, communal ownership of geographically indicated products by communities directly related to these products should be legally recognized. These communities, through their cultural heritage, have maintained and preserved the unique characteristics of these products across generations. This traditional knowledge and cultivation form part of TCE. The communal ownership of geographically indicated products is acknowledged in international law (TRIPs Agreement) and national law.

Efforts and Mechanisms for Copyright Registration of Kendal's Typical Bridal Makeup Designs to Protect the Intellectual Property of Bridal Make Up Artist Business Actors

Protection of traditional cultural expressions falls within the scope of Copyright. This is because traditional cultural expressions are part of art, literature, and knowledge. Indonesia has implemented several Copyright regimes, notably Law No. 28 of 2014 on Copyright. Additionally, Indonesia has ratified relevant international conventions such as the Berne Convention for the Protection of Literary and Artistic Works and the TRIPs Agreement.

According to Intellectual Property Rights (IPR), traditional cultural expressions related to customary ceremonies and bridal makeup in Kendal are cultural heritage, and the state holds the copyright over these cultural products. Folklore, as a unique intellectual work, has specific characteristics:

1. It is taught and practiced from generation to generation.
2. It encompasses knowledge about the environment and its relationships.
3. It is holistic and inseparable from the community that created it.
4. It is a way of life shared by a community, containing the values of that society.

These four elements are cumulative and define folklore. Unlike other intellectual works, folklore is a collective tradition without a known individual creator, conflicting with the copyright regime's requirement for an identifiable creator. This discrepancy prevents the full implementation of copyright protection for folklore.

While registration is not mandatory to obtain copyright, creators or rights holders who register their works receive a certificate of registration, which serves as preliminary evidence in court if a dispute arises. According to Article 7(3) of the Berne Convention, legal protection for folklore lasts for 50 years from the time it is legally published or becomes generally known. Traditional culture, as a product of human creativity, falls within the scope of Copyright. Including folklore in Law No. 28 of 2014 on Copyright signifies that traditional cultural expressions are part of the Copyright regime.¹⁷

The purpose of copyright protection for Kendal's distinctive bridal makeup designs is to safeguard the local makeup artists in the Kendal region from economic exploitation by foreign entities and to prevent unauthorized use by foreign parties without the owner country's consent. One of the efforts involves registering the Copyright for Kendal's Bridal Makeup Designs, and it is the state's duty to protect cultural heritage.

Efforts undertaken by the government, local communities, and related stakeholders, such as HARPI "Melati" Kendal, include the application for copyright registration for Kendal's Bridal Makeup Designs. The collaboration and involvement of entities like the Directorate General of Intellectual Property or DJKI at the central government level, the Regional Office of the Ministry of Law and Human Rights (Kemenkumham) in Central Java Province, the Kendal Regency Government, and HARPI "Melati" Kendal are essential in facilitating and simplifying the document preparation and copyright registration process for Kendal's Bridal Makeup Designs.

¹⁷ See H. Alamsyah, et al. "The dark side of cultural heritage protection." *Journal of Private and Commercial Law* 6, no. 1 (2022): 21-40; Hidayatul Nikmah, "Perlindungan Motif Batik Milik Pengrajin Perorangan Di Bojonegoro Menurut Undang-Undang No. 19 Tahun 2002 Tentang Hak Cipta dan Fatwa MUI (Studi Kasus di Sentra Pengrajin Batik Jenegoroan)." *Jurisdictie: Jurnal Hukum dan Syariah* 5, no. 2 (2014): 213-223.

The legal protection provided for Kendal's Unique Bridal Makeup Designs is in the form of Communal Intellectual Property Protection, where the rights belong to the local community. Economic benefits can be collectively owned, and profits can be distributed among community/organization members or between members and the state. This can provide economic value and legal protection for Bridal Makeup Artists in Kendal Regency, including the organization HARPI "Melati" Kendal, which serves as the association of Bridal Makeup Artists in Kendal Regency.

Based on Government Regulation No. 56 of 2022 concerning Communal Intellectual Property, there are two stages, namely Administrative Requirements and Document Verification. The Administrative Requirements stage, as stated in Article 17 paragraphs (1) and (2) of Government Regulation No. 56 of 2022, includes:

1. Administrative requirements for the registration of Traditional Knowledge shall consist of at least:
 - a. registration form;
 - b. description;
 - c. supporting data; and
 - d. a written statement of support for protection, preservation, development, and utilization efforts signed by the Regional Government.
2. The description referred to in paragraph (1) letter b shall at least contain:
 - a. the name of Traditional Knowledge;
 - b. the Originating Community;
 - c. the form of Traditional Knowledge;
 - d. the region/location;
 - e. the type of Traditional Knowledge; and
 - f. documentation in audio and/or visual form.

Subsequently, the process moves on to the Document Verification stage as stipulated in Article 22 through Article 26 of Government Regulation No. 56 of 2022, which entails:

- a. The Minister, Minister/Head of Non-Ministerial Government Agency, or Regional Government shall conduct an examination of the completeness of administrative requirement documents.
- b. In case, based on the results of the examination, there are deficiencies in administrative requirements, the Minister,

- Minister/Head of Non-Ministerial Government Agency, or Regional Government shall notify the applicant.
- c. The fulfillment of requirements shall be subject to verification.
 - d. In carrying out the verification, the Minister, Minister/Head of Non-Ministerial Government Agency, or Regional Government may form a team.
 - e. In cases where the application that has been verified qualifies as Communal Intellectual Property, the Minister, Minister/Head of Non-Ministerial Government Agency, or Regional Government shall issue proof of registration of Communal Intellectual Property.
 - f. In cases where the application that has been verified does not meet the qualification criteria as Communal Intellectual Property, the Minister, Minister/Head of Non-Ministerial Government Agency, or Regional Government shall notify that the application cannot be accepted.
 - g. If an application that is not accepted can be resubmitted.

Therefore, the Document Verification stage, as outlined in Articles 22 through 26 of Government Regulation No. 56 of 2022, involves a thorough review process where the Minister, a Minister/Head of a Non-Ministerial Government Agency, or Regional Government assesses the completeness of administrative documents. If deficiencies are found, the applicant is notified and required to address these issues. Verification may be conducted by a specialized team, and if the application meets the criteria for Communal Intellectual Property, registration proof is issued. Conversely, if the application does not meet the criteria, it is rejected, although resubmission is permitted.

Conclusion

Makeup design is a form of art that should be legally protected, similar to other forms of art. However, makeup design can also be protected under Article 40 of the Copyright Law because, in essence, makeup design can be considered a form of painting that uses the human body as a medium. Nevertheless, there are several conditions that must be met for a work to receive copyright protection, namely, it must be original and fixed in a tangible form. In this regard, if a makeup design meets these criteria, it will automatically receive copyright protection. To prove compliance with these requirements, certain

documents are required that clearly depict the form of the design. These documents are crucial because they can vividly illustrate the creator's level of creativity that sets their work apart from others. Additionally, these documents play a role in demonstrating that the design has been fixed in a permanent form. This is important because makeup designs cannot be stored permanently like other forms of art.

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