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RESEARCH ARTICLE

**SIMPLE PATENT PROTECTION: A CASE
OF SARUNG TENUN GOYOR INDONESIA
AND THE COMPARISON TO MALAYSIA
UTILITY INNOVATION PROTECTION**

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ABSTRACT

The work or products of SMEs are important for the protection of intellectual property rights. The *Sarung Tenun Goyor* in its production process has gone through long ideas and experiments to produce a distinctive motif and shape, but it becomes a problem whether a traditional work can be subjected to simple patent protection and

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instead ignores social values and the value of community justice. In addition, Malaysia also has certain protection for utility innovation that close to simple patent protection in Indonesia. This study is intended to analyze the simple patent protection in the case of *Sarung Tenun Goyor* Indonesia and Malaysia Utility Innovation Protection. This study showed that to fulfill the novelty element, development of the existing production process could be carried out while still paying attention to the values of justice, social, and propriety. The fulfillment of Access Benefit Sharing stipulated in Law Number 13 of 2016 concerning Patents provides legal certainty of simple patent protection derived from traditional knowledge. Whereas the production process of the *Sarung Tenun Goyor* can be said to be a form of intellectual property and fulfills the elements as a simple patent object. The conclusion of this research is that the production process of the *Sarung Tenun Goyor* has not received legal protection. The Patent Law provides legal certainty for the development of the *sarung tenun goyor* production process by fulfilling Access Benefit Sharing (ABS).

Keywords: Legal Protection, Production Process, Simple Patent, Utility Innovation, *Sarung Tenun Goyot*

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INTRODUCTION

MICRO, SMALL AND MEDIUM Enterprises (MSMEs) are an important part of Indonesia's economic development. MSMEs centers are often not realized that they have produced Intellectual Property Rights (IPR), one of which is a simple patent. These simple patents include not only products, but also processes or methods or product development or methods that are novel and can be applied in the industrial world.¹ The work or product of MSMEs is important for the protection of Intellectual Property Rights, this is considering that MSMEs products often have high economic value. MSMEs as small-scale industries still think that the protection of Intellectual Property is not an important thing.² The state guarantees the protection of MSMEs that register their Intellectual Property. Legal protection is a state obligation that must be given to its citizens.³

Legal protection has a role in a work that is part of intellectual property which is often not realized by the public. Even though with this legal protection, the right holder has the economic value of what has been protected by the Intellectual Property Rights and if there are other parties who want to use the same Intellectual Property has an obligation to obtain a license first from the right holder.⁴ Patent protection in Indonesia is affirmed in Law Number 13 of 2016 concerning Patents. The protection is in the form of exclusive rights

¹ ERMANSYAH DJAJA, *HUKUM HAK KEKAYAAN INTELEKTUAL* (Jakarta: Sinar Grafika, 2009).

² Inayah Inayah, *Kesadaran Hukum Pelaku Usaha Mikro Kecil Menengah (UMKM) dalam Perlindungan Kekayaan Intelektual*, 4 *LAW AND JUSTICE* 120–136 (2019),

³ Baimoldina Svetlana Malikovna, *Concept of Legal Protection of Intellectual Property Rights*, 176 *PROCEDIA: SOCIAL AND BEHAVIORAL SCIENCES* 998–1004 (2015).

⁴ Waspiah Waspiah, *Model Percepatan Komersialisasi Paten Sederhana Pada Dunia Industri*, 12 *PANDECTA RESEARCH LAW JOURNAL* 86–105 (2017).

owned by the inventor for the results of his invention in the field of technology for a certain period of time or giving approval to other parties to use the invention. Meanwhile, The Paris Convention for the Protection of Industrial Property guarantees international patent protection.⁵

Similar to Indonesia, Malaysia also provides protection against simple patents. Simple patents in Malaysia are known as Utility Innovations, which provide protection to products or processes for “minor” inventions. Utility innovation is an exclusive right granted to an innovator for a “minor” invention or innovation, which can be a product or a process that provides a new way of doing something or solves a specific technical problem in any field of technology. Looking at protected objects, it provides similarities to simple patent protection objects in Indonesia, in the form of processes. It is an interesting study that the development of the production process comes from traditional knowledge, such as the object in this study, namely the *Sarung Tenun Goyor* Pematang.

Pematang Regency has a form of intellectual work in the form of the *sarung tenun goyor* or better known as the *sarung goyor*. This *sarung tenun goyor* is produced by one of the weaving-producing villages in Pematang, namely North Wanarejan Village, which is located in Taman District.⁶ This North Wanarejan village is a producer of *sarung tenun goyours* which have a characteristic with varied motifs and a distinctive appeal. This *sarung tenun* has a characteristic that when used it can adjust to existing weather conditions, it will feel cold when the weather is hot and vice versa. It is known in its history that the

⁵ Dhaval Chudasama and Smit Patel, “Importance of Intellectual Property Rights,” 4 JOURNAL OF INTELLECTUAL PROPERTY (IP) RIGHTS LAW 16-22 (2021).

⁶ Frisca Ajengtirani Ardiniken, Titien Woro Murtini, and Siti Rukayah, *Pola Tata Ruang Kampung Industri Rumah Tangga Studi Kasus: Sentra Tenun ATBM Desa Wanarejan Utara dan Desa Troso Jepara*, 14 TESA ARSITEKTUR 42-54 (2016),

Sarung Tenun Goyor has existed since the 1930s. Meanwhile, the *sarung tenun goyor* began to be produced by the community as a housing industry in the 1950s.⁷

The *sarung tenun goyor* itself takes a short time to manufacture and tends to be complicated to make using a tool called a Non-Machine Weaving Tool (*Alat Tenun Bukan Mesin*, hereinafter as ATBM). In the perspective of Intellectual Property in the form of Patents, the process used in a production process to manufacture this product can be protected as a form of human intellectual work.

Tenun fabric made with non-machine weaving tools (ATBM) is a traditional work that comes from fabric made from thread by inserting the thread transversely or following the pattern of motifs on the warp threads. The special thing that is obtained from a process like this is the uniqueness contained in each motif which of course will be different from each region. Becoming a craft with cultural values, technical abilities, aesthetics, meanings, symbols and philosophy.

Protection of the *sarung tenun goyor* production process then becomes important, because basically there are inherent rights and can only be enjoyed by the inventor.⁸ The thought process of ideas and ideas as well as long experiments carried out to solve a problem in production activities is an important reason that this process becomes an asset and then gets its rights. However, in reality, there is a long process that is systematically made and arranged to produce 1 (one) *sarung tenun goyor* in Wanarejan Utara Village.

The *Sarung Tenun Goyor* in the production process has gone through long ideas and experiments to produce a unique motif and shape and in practice has become communal ownership. In the Simple

⁷ *Id.*

⁸ Mochammad Bambang Ribowo and Kholis Raisah, *Perlindungan Hukum Terhadap Paten Sederhana dalam Sistem Hukum Paten di Indonesia (Studi Komparasi Dengan Sistem Hukum Paten Negara China)*, 12 NOTARIUS 42–60 (2019).

Patent regime there is protection against inventions in the form of a production process. However, then it becomes a problem whether the traditional fabric production process can be protected through a simple patent protection system in Indonesia and becomes a problem for the development of a traditional knowledge production process which later becomes a new invention that is considered to ignore social values and the value of justice in society.⁹

Based on the above background, the problems to be studied are as follows: 1) how is the legal status of the development of the *Sarung Tenun Goyor* production process based on Law Number 13 of 2016 concerning Patents; and 2) how are the legal protections for the *sarung tenun goyor* production process in Pemalang through Indonesia's simple patent protection system?

LEGAL STATUS OF DEVELOPMENT OF SARUNG TENUN GOYOR PEMALANG PRODUCTION PROCESS BASED ON LAW NUMBER 13 OF 2016

LEGAL PROTECTION OF intellectual property is an important thing that must be fulfilled by the state against copyrighted works created by humans through their intellectual abilities.¹⁰ Intellectual property has an important role in the economic development of a country. Legal protection is given as a guarantee for the protection of intellectual property owned and the fulfillment of economic rights that can be enjoyed by the rights owner. Since wealth or assets created

⁹ Jabalnur Jabalnur, *Perlindungan Hak Paten Bagi Pengrajin Khas*, 2 HALO OLEO LAW REVIEW 278–290 (2017).

¹⁰ Chudasama and Patel, *Supra* note 5.”

by human intellect or intelligence have economic worth or provide advantages to human existence, Intellectual Property has economic value.¹¹ Works that are born or produced on the basis of human intellectual capacities, whether via an outpouring of energy, thinking, creativity, taste, or purpose, should be protected by the Intellectual Property Rights (IPR) system.

The production process of the *Sarung Tenun Goyor* becomes an interesting object for the author to analyze through a simple patent system. This is because a simple patent becomes an intellectual property regime that makes the process the object of its protection.¹² To determine whether the production process for the *sarung tenun goyor* can be protected by a simple patent system or not, it's important to determine if the *Sarung Tenun Goyor* manufacturing method qualifies as an innovation under Indonesia's simple patent system. Inventions in Law Number 13 of 2016 concerning Patents are described in Article 1 number 2, namely:¹³ “an invention is a concept developed by an inventor and implemented in a specific problem-solving activity in the field of technology, which can take the shape of a product or process, or the improvement and development of a product or process”.

Based on the provisions of the Patent Law above, it has been clearly stated that what is included in the scope of the invention is all technology, whether related to processes or products rather than technology. This was reaffirmed by OK. Saidin¹⁴ which states that an

¹¹ MUHAMMAD ABDULKADIR, *KAJIAN HUKUM EKONOMI HAK KEKAYAAN INTELEKTUAL* (Bandung: PT. Citra Aditya Bakti, 2007).

¹² Syawal Esa Arrozi, *Perlindungan Hukum Terhadap Paten Sederhana di Indonesia*, THESIS (Mataram: Universitas Mataram, 2018).

¹³ Republic of Indonesia, *Law Number 13 of 2016 Concerning Patents. State Gazette of the Republic of Indonesia Year 2016 Number 176* (Jakarta: Sekretariat Negara, 2016).

¹⁴ Endang Purwaningsih, Evie Rachmawati, and Nur Ariyanti, *Kebijakan Paten Melalui Penguatan Perlindungan Inovasi Teknologi dan Peningkatan Kemampuan*

invention as an invention in the field of technology and technology is basically an idea that is applied in industrial processes. Thus, that a simple patent is granted to a work or invention idea in the field of technology, which can produce a product or only in the form of a process.

The Patent Law governs the protection of patents, both complex and simple, either in the form of products or processes. The invention as referred to is explained through Article 1 number 2. In the article it is not clearly stated what process limits can be categorized as inventions, whether all processes can be categorized as unconditional inventions or there are indeed limitations that can be used as the basis for making an invention determine the process that is categorized as an invention.¹⁵ Law Number 13 of 2016 concerning Patents Article 4 has provided several limitations related to inventions that can be protected through simple patents, which states that inventions do not include aesthetic creations, schemes, rules and methods for carrying out activities that involve mental, game and business, rules and regulations. and a method that only contains a computer program, a presentation of data and discoveries in the form of novel applications for existing and/or recognized substances, as well as new products derived from existing compounds for which there is no substantial improvement in efficacy and known variations in chemical structure.

The above limitations serve as guidelines in providing what kind of inventions can be protected through a simple patent protection system in Indonesia. In addition, Article 9 of the Patent Law

Inovasi, 12 JURNAL SURYA KENCANA SATU: DINAMIKA MASALAH HUKUM DAN KEADILAN 163–172 (2021).

¹⁵ Republic of Indonesia, *Law Number 13 of 2016 Concerning Patents. State Gazette of the Republic of Indonesia Year 2016 Number 176* (Jakarta: Sekretariat Negara, 2016).

additionally places restrictions on innovations that cannot be protected by a simple patent system, including:¹⁶

1. Process or product whose announcement, use, or implementation is contrary to laws and regulations, religion, public order, or morality.
2. Methods of examination, treatment, treatment and/or differentiation applied to humans and/or animals.
3. Theories and methods in the fields of science and mathematics.
4. Living things, except for micro-organisms; and
5. Biological processes that are essential for the production of plants or animals, except for non-biological processes or microbiological processes.

The limits that have been set as regulated in the Patent Law, therefore generally the invention of the *Sarung Tenun Goyor* production process can be categorized as an invention that can be protected through a simple patent system in Indonesia. The production process of the *Sarung Tenun Goyor* is a process that is realized in the production of weaving using traditional ATBM (Non-Machine Weaving Equipment) technology. In addition, that the production process of the *Sarung Tenun Goyor* is an invention that is not included in the category of prohibited or excluded inventions as regulated in Law Number 13 of 2016.

A simple patent is an exclusive right that will be granted, if there is a request by the inventor to the authorized agency, in Indonesia through the Patent Directorate, Directorate of Intellectual Property, Ministry of Law and Human Rights.¹⁷ Simple patent protection is offered for any new invention, development of an existing product or

¹⁶ *Id.*

¹⁷ Yoyon M. Darusman, *Kedudukan Serta Perlindungan Hukum Bagi Pemegang Hak Paten dalam Kerangka Hukum Nasional Indonesia dan Hukum Internasional*, 5 YUSTISIA JURNAL HUKUM 203–215 (2016).

method, and can be used in industry, according to Law Number 13 of 2016 concerning Patents. Simple patents are also granted for inventions in the form of new processes or methods.¹⁸

Efforts to protect the legal protection of the *Sarung Tenun Goyor* production process are reviewed based on the provisions of the simple patent object having been fulfilled as referred to in Law Number 13 of 2016 concerning Patents. However, to provide legal protection for an invention, it does not only pay attention to the requirements for the object of the patent, but also to several substantive requirements that have been formulated in the Patent Law. Substantive requirements are an important consideration before granting exclusive rights to someone.

The substantive requirements as referred to above include requirements for novelty and industrial application. Substantive requirements become important before a product or process is granted protection through the simple Indonesian patent system. The substantive requirements are as described below:¹⁹

1. Requirements for Novelty

Novelty is a substantive requirement that has been stated in Law Number 13 of 2016 concerning Patents, that an invention is considered new if the invention is not the same as the previously disclosed invention. This novelty requirement also looks at whether it has the same function as the previous invention. In this novelty element, novelty is considered to exist if the general public or the public are not aware of the existence of the patent. Thus, this newness requirement relates to publication.

¹⁸ Rinayah Nasir, *Paten dalam Proses Produksi: Tinjauan Hak Yang Melekat Pada Inventor*, 1 JURNAL HUKUM POSITUM 141–149 (2016).

¹⁹ ENDANG PURWANINGSIH, *SERI HUKUM KEKAYAAN INTELEKTUAL HUKUM PATEN* (Jakarta: CV. Mandar Maju, 2015).

An invention is considered new if administratively at the date of receipt of the invention it is not the same as an existing invention.²⁰ The invention has not been announced either in Indonesia or outside Indonesia, in writing, orally, through demonstration or in any other way that allows an expert to carry out the invention. However, the Patent Law contains many exceptions, including an invention that is not regarded to have been proclaimed if it was received at least 6 (six) months prior to the date of receipt:

- a) Shown in an official exhibition both in Indonesia and abroad.
- b) Used in Indonesia or abroad by the inventor for the purpose of experimentation with research/development purposes.
- c) Announced by the inventor in a scientific meeting and/or scientific forum.

Article 6 paragraph (2) also stipulates that an invention is not deemed to have been published if a maximum of 12 months there are parties who announce their invention in violation of the law. Article 6 paragraph (2) of the Patent Law No. 13 of 2016, namely:²¹ *"an invention is also not considered to have been revealed if another party reveals it within 12 (twelve) months after receipt by breaking the responsibility to keep the invention private"*.

Based on the foregoing, it can be inferred that the requirements for novelty must satisfy a number of factors, such as elements of function, series of processes, and elements of publication. The production process of the *Sarung Tenun Goyor* based on the above elements in its protection encountered obstacles from the administrative side. This is because the production process of the

²⁰ Hanxin Lin and Cheryl Xiaoning Long, *Do Discretion Criteria for Patent Administrative Law Enforcement Encourage Innovation among Firms?*, 1 CHINA ECONOMIC QUARTERLY INTERNATIONAL 160175 (2021).

²¹ Republic of Indonesia, *Law Number 13 of 2016 Concerning Patents. State Gazette of the Republic of Indonesia Year 2016 Number 176* (Jakarta: Sekretariat Negara, 2016).

Sarung Tenun Goyor has characteristics as a process that has been passed down from generation to generation, therefore it becomes an obstacle in terms of the publication of the invention. The production process of the *Sarung Tenun Goyor* which has been practiced for generations, for decades and has become public knowledge for the community, especially in Pematang Regency, thus cannot fulfill the provisions of the element of novelty as regulated Article 6 paragraph 1 of the Law No. 13 of 2016 on Patents. Based on this analysis, the element of novelty in the production process of the *Sarung Tenun Goyor* in Pematang is not fulfilled in a simple patent.

2. *Industrial Step*

The second substantive requirement for an invention to be granted patent protection is simple, namely the fulfillment of conditions that can be applied in industry. Article 8 of Law No. 13 of 2016 on Patents states that an innovation can be used in industry if it can be implemented in industry as detailed in a simple patent application. Furthermore, Djaja²² indicates that a conditional innovation can be used in the industry if the patent is in the form of a product that can be mass-produced in huge amounts while maintaining the same quality. Meanwhile, if the invention is a process, it must be able to be operated or employed in practice. Theoretically, the production process of the *sarung tenun goyor* in Pematang can be practiced or applied in industry and can produce the *sarung tenun goyor* with the same quality. However, what should be noted is that the production process of the *Sarung Tenun Goyor* has been there for generations. On the other hand, along with the times, the production process of the *sarung tenun goyor* in Pematang has

²² DJAJA, *Supra* note 1.

undergone innovation and development from the *sarung tenun goyor* industry players.

Based on the findings of the aforementioned investigation and analysis, the *Sarung Tenun Goyor* production process may be classified as an invention and can be categorized as an object of protection from a simple patent. It can be said that theoretically, the invention of the *sarung tenun goyor* production process fulfills the element as an object of simple patent protection, but in terms of the substantive requirements of simple patent protection it is still hindered by the existence of new requirements in the invention of the *Sarung Tenun Goyor* production process.

The principle of legal protection given to intellectual property as an intangible asset for Micro, Small and Medium Enterprises (MSMEs) is a form of guarantee for the right owner to be able to enjoy economically the results of an intellectual creativity and to prevent disputes in the future.²³ An invention in order to obtain simple patent protection must at least meet several substantive requirements as regulated in Article 2 paragraph (1) of the Law. No. 13 of 2016 namely; The invention must contain an element of novelty, can be applied in industry (industrial applicability) and also meet the formal requirements as stipulated in Article 24 of the Law. No. 13 of 2016.²⁴ Based on the analysis of the protection of the *Sarung Tenun Goyor* production process, it was studied based on the requirements for a simple patent object and the substantive requirements for a simple patent registration, there are obstacles in meeting the novelty element. This is because the production process of the *Sarung Tenun Goyor* is a

²³ Inayah, *Supra* note 2.

²⁴ M. Prabodh, S. Ashish, R. Suthakaran, and K. Abhijit, *Indonesian Patent System: An Overview*, 2 INTERNATIONAL JOURNAL OF DRUG REGULATORY AFFAIRS 26–30 (2014).

form of invention that has been passed down from generation to generation and has been known to the public.

The production process is the most important part in the industry, the production process realizes solving certain problems through work and processing techniques effectively and efficiently in order to produce products that comply with the specified quality.²⁵ The raw materials used in the production of *sarung tenun goyors* include warp yarn, weft yarn and dyes. The production process of the *sarung tenun goyor* as described above is a problem solving process using an industry to produce a product and the above process has been around for generations. Whereas in order to fulfill the patentability requirements, namely the requirements for novelty and industrial application, as in the analysis in the previous sub-chapter, the invention of the *Sarung Tenun Goyor* production process has obstacles in terms of novelty elements.²⁶ Therefore, to fulfill the novelty element, the existing production process can be developed. The form of the development of the *sarung tenun goyor* production process into a new invention will later be analyzed using a simple patent system:

- a) Renewal Terms. Based on the provisions of the new requirements, the development of the *Sarung Tenun Goyor* production process has complied with this provision. The developments carried out include the dyeing process which is combined with the yarn spinning process which is made and adapted to the current development of bg45v technology and to increase production effectiveness. In addition, that in terms of publications, the development of the *Sarung Tenun Goyor* production process fulfills the element of novelty because there has been no announcement regarding this matter.

²⁵ Nasir, *Supra* note 15.

²⁶ Ribowo and Raisah, *Supra* note 8.

- b) Applicable in Industry. The production process of the *Sarung Tenun Goyor* can be applied in industry. The process can still be used in the activity of producing *sarung tenun goyors* and the production remains the same. Thus, the conditions that can be applied in the industry can be fulfilled.

Based on a simple patent system, an invention is not always required to be a completely original new technology, but also a new technology which is a development of the previous technology. Even though it is only in the form of invention development, basically protection can still be given to inventors as a form of appreciation because making a form of intellectual property is not an easy thing. The creation still requires the sacrifice of time, energy, cost, and human intellectual thought in the process.

A simple patent is different from a patent. A simple patent is a patent that does not require in-depth research or development and contains only one claim.²⁷ However, implicitly there are other types of patents, namely process patents and product patents. A process patent is a patent granted to a process, while a product patent is a patent granted to a product. There are characteristics that distinguish between patents and simple patents. The development of the *Sarung Tenun Goyor* production process became the object of a simple patent in the form of a simple process patent.

Similar to Indonesia, Malaysia distinguishes between patent protection and simple patents. Patent protection in Malaysia is governed by the Patents Act 1983 (hereinafter as PA) and the Patents Regulations 1986 (hereinafter as PR). These statutes, which came into force on 1st October 1986, marked the beginning of an independent

²⁷ G. Dutfield, *Collective Invention and Patent Law Individualism: Origins and Functions of The Inventor's Right of Attribution*, 5 THE WIPO JOURNAL 25–34 (2013).

patent registration system for Malaysia.²⁸ Prior to 1st October 1986, to obtain patent protection in Malaysia, one needed to secure a patent registration in the United Kingdom (UK) and subsequently re-register the same in Malaysia. The re-registration would provide the registrant in Malaysia the same privileges and rights as that conferred in the UK as if the patent had been granted in Malaysia. The earlier system of re-registration of UK patents has since been repealed. The PA and the PR are administered by the Intellectual Property Corporation of Malaysia (Corporation). The Corporation, also known as MyIPO, is an agency under the jurisdiction of the Ministry of Domestic Trade, Cooperative and Consumerism which is responsible for the development and management of the intellectual property (IP) system in Malaysia.

The PA defines utility innovation as any innovation which creates a new product or process, or any new improvement of a known product or process which is capable of industrial application and includes an invention. It generally does not display a high degree of inventiveness in comparison to an invention qualifying for a patent. This is in line with the simple patent arrangement for the development of existing products or processes in Indonesia.

Developments carried out on existing inventions can be carried out by industrial owners or craftsmen themselves. Law Number 13 of 2016 has provided legal certainty for the development of inventions carried out in an employment relationship. Unless otherwise agreed, the patent holder of the invention generated by the inventor in an employment relationship is the party supplying the work, according to Article 12 of the Patent Law. Based on the study's findings,

²⁸ Angayar Kanni Ramaiah, *Innovation, Intellectual Property Rights and Competition Law in Malaysia*, 14 SOUTH EAST ASIA JOURNAL OF CONTEMPORARY BUSINESS, ECONOMICS AND LAW 60-69 (2017).

information was obtained that only the *sarung tenun goyor* industry of Nur Jamil made a written agreement and through interviews it was obtained information that in the industry there was indeed a written agreement made between the owner of the industry and the craftsman. However, that the written agreement made did not contain a clause related to the development of the invention of the *Sarung Tenun Goyor* production process carried out by the craftsmen. Therefore, based on the provisions of Article 12, those who are entitled to become patent holders are industrial owners as employers. These provisions apply to inventions produced by using available data/or facilities in their work. The inventor, however, continues to be compensated depending on the agreement reached between the employer and the inventor, which takes into consideration the economic benefits received from the existing innovation.²⁹

Determining the fulfillment of the elements in a simple patent object is not the last thing that needs attention. However, the author analyzes the emergence of other problems behind it regarding the values of justice, social, and propriety that need to be considered. The problem is related to the development status of the *sarung tenun goyor* production process invention which was originally a communal intellectual property. The production process of the *Sarung Tenun Goyor* is an intellectual work that develops prior art and is used as a commercial advantage, there should be a benefit sharing mechanism from the floating industry to the community as a form of good faith and as an appreciation of prior art culture. The procedure is outlined in Article 26 paragraph 1 of Law No. 13 of 2016, namely:³⁰ "If the invention is related to and/or derives from genetic resources and/or

²⁹ Indi Fandaya et al., *Pertanggungjawaban Pemegang Lisensi Wajib Menurut Undang-Undang Nomor 14 Tahun 2001 Tentang Paten*, 5 USU LAW JOURNAL 10–21 (2017).

³⁰ Republic of Indonesia, *Law Number 13 of 2016 Concerning Patents. State Gazette of the Republic of Indonesia Year 2016 Number 176* (Jakarta: Sekretariat Negara, 2016).

traditional knowledge, the origin of the genetic resources and/or traditional knowledge must be disclosed clearly and properly in the description".

The purpose of indicating the origin of genetic resources and/or traditional knowledge in the description, according to the article above, is to ensure that genetic resources and/or traditional knowledge are not recognized by other nations and to encourage Access Benefit Sharing (ABS). This is in line with what was expressed by Moh. Hawary through interviews.³¹ The Department of Cooperatives, MSMEs, Industry and Trade of Pematang Rejang Regency supports and facilitates the *Sarung Tenun Goyor* industry in protecting its simple patents. Information on genetic resources and/or traditional knowledge is determined by an official institution recognized by the government or by issuing a statement of truth and clarity of origin of traditional knowledge, according to Regulation of the Minister of Law and Human Rights Number 38 of 2018 concerning Patent Applications, which is amended by Regulation of the Minister of Law and Human Rights Number 13 of 2021.³² Traditional knowledge in Article 1 point 3 of the Regulation of the Minister of Law and Human Rights Number 13 of 2017 concerning Communal Intellectual Property Data, namely:³³ "Intellectual works in the field of knowledge and technology that contain elements of traditional heritage

³¹ Interview with Moh. Hawary, Head of Intellectual Property Sub-Section, Regional Office of the Ministry of Law and Human Rights, Central Java. Interview on 2 December 2020.

³² Republic of Indonesia, *Regulation of the Minister of Law and Human Rights Number 38 of 2018 Jo Regulation of the Minister of Law and Human Rights Number 13 of 2021 Concerning Patent Applications State Gazette of 2021 Number 106* (Jakarta: Sekretariat Negara, 2021).

³³ Republic of Indonesia, *Regulation of the Minister of Law and Human Rights Number 13 of 2017 Concerning Communal Intellectual Property Data, State Gazette of 2017 Number 964* (Jakarta: Sekretariat Negara, 2017).

characteristics that are produced, developed, and maintained by a particular community or society".

The application of the benefit sharing mechanism is a form of respect for the moral rights of the prior art owner community.³⁴ This is because in practice the production process of *Sarung Tenun Goyors* has been applied from generation to generation in North Wanarejan Village. Because the production process of the *Sarung Tenun Goyor* is considered a prior art which is considered the culture of Pemalang Regency and Indonesia, the local government has the right to represent the community.

The analysis above is intended to guarantee the legal certainty obtained for the development of the *Sarung Tenun Goyor* production process in accordance with Patent Law No. 13 of 2016. Gustav Radbruch stated that legal certainty guarantees legal justice and stated that the law must remain useful. This is in line with the theory of legal certainty presented by Lili Rasjidi which states that the value of legal certainty is a value that in principle provides legal protection for every citizen. Legal certainty in this study is needed to determine whether the development of the *Sarung Tenun Goyor* production process is guaranteed protection from the Indonesian simple patent system or not. According to Lili Rasjidi's theory of legal certainty, as explained above, in terms of the provisions for recording an invention, if it is related to the theory of legal certainty, Law Number 13 of 2016 concerning Patents in principle provides guarantees and certainty for the development of inventions that can be protected by the system. simple patent. This is due to the fact that a simple patent does not necessitate the development of a new technology. In addition, that simple patent derived from traditional knowledge will

³⁴ DEWI SULISTIANINGSIH, PERDEBATAN PENGETAHUAN TRADISIONAL DALAM KEKAYAAN INTELEKTUAL (Yogyakarta: Pohon Cahaya, 2016).

get Access Benefit Sharing (ABS).³⁵ Registration for the *Sarung Tenun Goyor* invention does not ignore the values of justice or social values that exist in society. This is because the law has already controlled and decided that, as stated in Article 26 of Law No. 13 of 2016 on Patents, which has regulated and provided legal protection for basic patent registrations based on conventional knowledge.

The legal protection of the *Sarung Tenun Goyor* production process can be a reference for the government on how to seek protection of communal intellectual property. Protection of the *Sarung Tenun Goyor* production process through the intellectual property regime, especially simple patents, will be less effective. This is because a simple patent specifies certain conditions that protection through a simple patent regime recognizes a time limit of protection, with the expiration of the existing protection period, the invention becomes the public domain.³⁶ Meanwhile, the production process of the *Sarung Tenun Goyor* as a communal intellectual property must remain and be protected forever as a form of characteristic of the Indonesian nation.

Duffield³⁷ legal certainty that there is legal protection for the production process of Goyor weaving gloves in Pemalang, there are three forms of protection that can be done, namely utilizing pre-existing regulations, modifying or making additional/complementary rules and developing regulations that are *sui generis*. Termologically, that *sui generis* comes from Latin which means special. Intellectual property regimes refer to specific forms of protection beyond existing

³⁵ Miqdad Abdullah Siddiq, *Dilema Komersialisasi Pengetahuan Tradisional dalam Sistem Hukum Indonesia: Antara Perlindungan dan Pembagian Manfaat*, 48 JURNAL HUKUM DAN PEMBANGUNAN 164–180 (2018).

³⁶ Waspiyah Waspiyah, Rodiyah Rodiyah, Dian Latifiani, and Dede Alvin Setiaji, *Advanced Training of Intellectual Property Documents of Industrial Design for Goyor Sarung Craftsman in Pemalang District*, 1 INDONESIAN JOURNAL OF ADVOCACY AND LEGAL SERVICES 169–192 (2019).

³⁷ Duffield, *Supra* note 27.

forms of protection. This can also be seen as the formation of a special regime to meet certain needs.³⁸

LEGAL PROTECTION OF SIMPLE PATENT OF INDONESIA & MALAYSIA (A CASE OF *SARUNG TENUN GOYOR* PEMALANG PROTECTION & MALAYSIA UTILITY INNOVATION PROTECTION)

INTELLECTUAL PROPERTY protection is an important legal requirement that the state must meet in order to safeguard copyrighted works generated by humans using their intelligence. Intellectual property has an important role in the economic development of a country. Legal protection is given as a guarantee for the protection of intellectual property owned and the fulfillment of economic rights that can be enjoyed by the rights owner.³⁹ Because wealth or assets created by human intellect or intelligence have economic worth or provide advantages to human existence, Intellectual Property has economic value. Works that are born or produced on human intellectual abilities either through outpouring of energy, thought and creativity, taste and intention should be protected by a legal protection system for such property known as the Intellectual Property Rights (IPR) system.

Intellectual Property has a role not only as a form of legality and an intensive system for creators of works. However, more than that, intellectual property is an instrument that can be used as a tool to

³⁸ Gangfeng Wang, *Extraction of Principle Knowledge from Process Patents for Manufacturing Process Innovation*, 56 *PROCEDIA CIRP JOURNAL* 193–198 (2016).

³⁹ K. HIDAYAH, *HUKUM HAK KEKAYAAN INTELEKTUAL* (Malang: Setara Press, 2017).

protect intellectual property assets that can be used as a tool for market monopoly, as a tool to generate innovation, and as a system used to prevent possible intellectual property infringement.⁴⁰

Intellectual Property cannot be separated from economic activities, such as industry and trade. The key to surviving in a trade is mastery of inventions and the ability to constantly innovate. There are 3 (three) interactions contained in intellectual property, namely intellectual property itself, its commercialization and aspects of legal protection.⁴¹ The commercialization aspect is important, because intellectual property will be commercialized into works that can be used by humans and as a result of the commercialization of this intellectual property, then the aspect of state legal protection is present to protect the interests of rights owners to be able to enjoy the benefits obtained through the commercialization of intellectual property.⁴²

Intellectual property is classified by the World Intellectual Property Organization (WIPO) into numerous categories, including copyrights, brand rights, patents, industrial designs, integrated industrial layout designs, trade secrets and protection of plant varieties.⁴³ Patents are an interesting type of intellectual property, because human life and economic activities are always related to technology. Patents are not confined to a specific problem-solving

⁴⁰ Salsabila Khairunnisa, *Patent Legal Protection on Invention (Comparison Study Between Indonesia and Japan)*, 9 JURNAL HUKUM NOVELTY 183–191 (2018).

⁴¹ Dwi Tiara Kurnilasari, Annalisa Yahanan, and Rohani Abdul Rahim, *Protection of Traditional Knowledge: A Perspective on Intellectual Property Law in Indonesia*, 2 SRIWIJAYA LAW REVIEW 110–130 (2018).

⁴² Mutia Denti Armala Zuami and Bakti Tresnawati, *Perlindungan Hukum Terhadap Pemegang Hak Paten Akibat Dihapusnya Kepemilikan Hak Paten dari Daftar Umum Paten*, 1 JURNAL JURISTIC 95–106 (2020).

⁴³ Jane E. Anderson, *Indigenous Knowledge and Intellectual Property Rights*, 2 INTERNATIONAL ENCYCLOPEDIA OF THE SOCIAL & BEHAVIORAL SCIENCES 769-778 (2015).

activity in the sphere of technology in the form of goods or product development, according to article 1 number 2 of Law Number 13 of 2016.⁴⁴ However, an invention may also be defined as a specific problem-solving activity in the realm of technology that takes the shape of a process, or the improvement and development of a process. Patents are a type of intellectual property right that is included in the category of industrial property rights in this framework (Industrial Property Rights). Intellectual Property Rights are intangible items that are part of objects (immaterial objects). The legal definition of an object is anything that can be the subject of a legal claim. In the meanwhile, not only tangible but also immaterial items can become objects of rights.⁴⁵

This research examines the production process of the *Sarung Tenun Goyor* and its legal protection aspects. The *Sarung Tenun Goyor* is one of the traditional fabrics, this is because the method of making it itself is purely using traditional technology called ATBM (Non-Machine Weaving Equipment). The *sarung tenun goyor* has become a distinctive cloth owned by the Pematang Regency area. The *sarung tenun goyor* is one of the ikat weavings, because the manufacturing process goes through the binding stage on the threads. *Tenun ikat* is a thread that is tied so that the color of the thread that is tied does not absorb the color, but the part that is not tied absorbs the dyed color. The manufacture of *sarung tenun goyours* includes a series of processes used in production. The process is in response to solving technical problems in production. The *sarung tenun goyor* is one of the traditional types of fabric that is the identity and superior product of Pematang Regency. The *Sarung Tenun Goyor* in the production process

⁴⁴ Republic of Indonesia, *Law Number 13 of 2016 Concerning Patents. State Gazette of the Republic of Indonesia Year 2016 Number 176* (Jakarta: Sekretariat Negara, 2016).

⁴⁵ Nasrullah Nasrullah, *Protection of Patent Rights (Comparative Studies in Japan and Indonesia)*, 3 *JOURNAL OF PRIVATE AND COMMERCIAL LAW* 66–70 (2019).

requires 14 (fourteen) steps that need to be carried out to produce one sarong for one to two weeks. *Sarung Tenun Goyors* are produced using traditional technology in the form of Non-Machine Weaving Equipment (ATBM). The production process of the *sarung tenun goyor* has existed and has been applied from generation to generation.

Based on the above argument, it may be determined that the *sarung tenun goyor's* manufacturing method is a form of intellectual property. This was also confirmed through an interview by Moh. Hawary Dahlan as Head of Sub Division of Intellectual Property Services Regional Office of the Ministry of Law and Human Rights Central Java. The principle of simple patent protection is the same as other IPR protections as long as the overall aim is to protect someone who finds something so that his ideas and work are not used for granted by others and enjoy the results which are the result of their hard work, thought and expense. to get it.⁴⁶ When compared between copyright and patent, the difference between the two is that copyright is recognized by law in principle from the beginning, and the law only regulates its protection. While patent protection must be done through a registration. Patent law enforcement has not had a significant impact on the number of registered patent applications in Indonesia. This is because the Patent Law has not been used effectively by both public and private researchers, as well as entrepreneurs in Indonesia. Therefore, the Patent Law cannot be used as a driving force for national economic development.⁴⁷

The legal protection given to inventions not only pays attention to the fulfillment of the elements of the patent object, but also analyzes the patent subject in an invention. Article 1 paragraph (1) of Law No. 13 of 2016 Concerning Patents regulates the idea of patent ownership of an invention, it indicates that the state grants patents to inventors

⁴⁶ Ribowo and Raisah, *Supra* note 8.

⁴⁷ SULISTIANINGSIH, *Supra* note 34.

for their technological innovations for a set amount of time to carry out the invention themselves or obtain clearance from another party to do so. Patent rights are awarded to inventors, and inventors who use their rights are known as patent subjects, according to article 1 paragraph (1) of the Patent Law.

The subject of patents is also regulated in Patents (Article 10) of the Law No. 13 of 2016, which provides a stipulation that patents are not only granted to inventors, but also to people who further receive the rights of the inventor concerned through a license. In addition, it is explained that inventors are not only produced individually, but can be produced jointly and can be realized from working relationships.

The existence of the *Sarung Tenun Goyor* Pemalang production process which has been practiced by the community for decades has caused a "vague" understanding of who the inventor of the invention of the *Sarung Tenun Goyor* is. Article 10 paragraph (2) of Law Number 13 of 2016, has stated that patent control can be owned collectively, this is in line with the invention of the *sarung tenun goyor* production process that has been applied by the people of North Wanarejan Village or in other areas that have a weaving process that similar. The production process of *goyor tenun* gloves in Pemalang has been practiced by several industries of *sarung tenun goyors* in North Wanarejan Village as well as several other areas which have similar production processes which are essentially state owned inventions. However, Patent Law No. 13 of 2016 is a law that regulates the use of patents does not regulate and determine the concept of simple patent control by the state. In Law Number 13 of 2016, the state is not present

as a right holder, but as a party that gives exclusive rights to inventors.⁴⁸

Based on the analysis above, the production process of *Sarung Tenun Goyor* has met the requirements as a simple object of patent protection, therefore providing protection for the work of human intellectuality is an important thing that needs to be considered. The importance of legal protection for the production process of *Sarung Tenun Goyor* which is a form of intellectual property that has been created through human intellectual abilities in it against moral rights and economic rights which are the rights of the inventor. In the theory of George Wilhelm Friedrich Hegel, the philosophy of intellectual property protection is as follows in personality theory states that when a person has generated an idea and put his thoughts into a copyrighted work, then the property rights are automatically attached to him. Personality theory emphasizes that absolute legal protection is given to all forms of creation or findings or inventions produced, not still contained in wishful thinking or pictures. Therefore, Intellectual Property Rights will forever be attached to the creator, this is what is called a moral right. Based on this theory, the production process of the *sarung tenun goyor* is a real work born of human intellectual abilities and is realized to answer logical problem solving. Therefore, in the invention there are moral rights which are the rights of the inventor and can only be obtained when the invention is protected by a simple patent system in Indonesia through a simple patent registration process.

The utilitarian theory put forward by Jeremy Betham also supports the legal protection of all forms of intellectual property. Utilitarian Thory explains that the law is formed to provide benefits

⁴⁸ Seokbeom Kwon and Alan C. Marco, *Can Antitrust Law Enforcement Spur Innovation? Antitrust Regulation of Patent Consolidation and Its Impact on Follow-on Innovations*, 50 RESEARCH POLICY 104295 (2021).

and happiness for society.⁴⁹ Legal protection based on utilitarian theory tries to provide legal protection for human intellectual works rationally. That legal protection is given to objects that have been painstakingly produced using their intellectual abilities. That the existence of legal protection as referred to is in the context of providing guarantees for intellectual works on the economic rights they have. The existence of legal protection for the resulting Intellectual Property can later provide benefits to the wider community. The production process of the *sarung tenun goyor* which consists of twenty-two steps that need to be carried out to realize a good quality *sarung tenun goyor* has certainly gone through a process of deep human thought and painstaking to answer the problem of how to make a *sarung tenun goyor* using traditional technology of Non-Machine Weaving Equipment (ATBM). The existence of this legal protection is a form of guarantee given to the owner of the right to enjoy the rights contained in an invention, one of which is economic rights.

According to the author, in principle the two theories above provide impetus that the production process of the *Sarung Tenun Goyor* which has been realized through human intellectual abilities and painstakingly costs money, time, energy and thought to be able to produce intellectual works has the right to be protected by law. The legal protection is intended to provide guarantees for the right owner to be able to enjoy the rights inherent in it. Economic and moral rights that an inventor may have in exchange for the invention he creates. The utilitarian theory which emphasizes legal protection so that inventors can enjoy their economic rights is in line with Article 12 paragraph (3) of Law Number 13 of 2016 concerning Patents.

⁴⁹ Malikovna, *Supra* note 3.

The importance of legal protection for intellectual property is carried out to ensure the realization of the principles contained in intellectual property. These principles include the following:⁵⁰

- a) The Principle of Natural Justice. The work produced by the creator for the result of his intellectual ability deserves to be rewarded both in the form of material and non-material, such as protection for him so that it creates a sense of security. The law provides protection to creators in the form of freedom of rights in using their exclusive rights.
- b) Principles of Economics (The Economic Argument). Intellectual property that is generated for intellectual abilities in various types and forms has useful values and economic values and is useful for human life. The economic value contained in Intellectual Property is wealth for the owner.
- c) Principles of Culture (The Cultural Argument). Recognition of works, creations and copyrights produced on human abilities in order to provide benefits for humans and realize the development of science, art, and literature in the Intellectual Property Rights system is recognized and protected in the hope of being able to encourage new innovations.
- d) Social Principles (The Social Argument). In providing protection for works produced on intellectual abilities, the Intellectual Property Rights system does not only pay attention to the interests of certain individuals or associations, but also pays attention to the balance between individual and community interests. The connection with simple patent protection derived from traditional knowledge is balancing the interests of the community and individuals through Access

⁵⁰ SULISTIANINGSIH, *Supra* note 34.

Benefit Sharing as regulated in Law Number 13 of 2016 concerning Patents.

This principle is intended to provide protection for inventors. Utility Innovation in Malaysia is meant to protect local industries. Research has revealed that UI protection promotes certain local industries by offering rapid and inexpensive intellectual property protection. UI provides protection against massive copying and limitations, especially if the protection for such copying is not available through unfair competition laws. Incremental innovations can be encouraged by UI and those breakthrough innovations such as those in the biotechnology and pharmaceutical industry can be protected by ways of patents rights. If it is related to the case study of this research, the arrangements made by the two countries, between Indonesia and Malaysia, have similarities. Below is the comparison between the simple patents (Indonesia) and utility innovations (Malaysia) as shown on Table 1.

TABLE 1. Comparison of Simple Patents Indonesia & Utility Innovation Malaysia

No	Simple Patents (Indonesia)	Utility Innovation (Malaysia)
1	Requirements: Novelty and industrially applicable	Requirements: Novel and industrially applicable
2	Only one claim	Only one claim
3	10 years (from the date of receipt of a simple patent application) and cannot be extended	The term of protection is 10 years from the date of filing and can be extended 5 + 5 years subject to evidence of use submitted to the IP Office

Source: Comparison of Law No. 13 of 2016 (Indonesia) and the Patent Act, 1983 (Malaysia)⁵¹

⁵¹ Government of Malaysia, *Patent Act 1983*, (Malaysia, 1983).

Based on the table above, there are similarities and differences in simple patent protection in Indonesia and Malaysia. The above provisions are intended to make it easier for local industries to register their patents. *Sarung tenun goyor* is one of the superior products of Pemalang Regency, and even has one *sarung tenun goyor* center village, namely North Wanarejan Village. The *sarung tenun goyor* is indeed synonymous with Pemalang Regency. Therefore, the efforts of the Pemalang Regency Government in providing legal protection to intellectual property contained in *sarung tenun goyors*, especially the simple patent process, are very important. Normatively, legal protection of the production process is not regulated *sui generis* in relation to simple patents derived from traditional intellectual property. This has been addressed in Article 26 of Law No. 13 of 2016 on Patents, which provides protection for simple patents based on traditional knowledge. The *sarung tenun goyor* production process is conceptually an invention that is realized in a tangible form through a weaving production process using traditional ATBM (Non-Machine Weaving Equipment) technology. In addition, that the production process of *Sarung Tenun Goyor* is an invention that is not included in the category of prohibited or excluded inventions as governed by Law No. 13 of 2016. Another attempt by the Government of the Republic of Indonesia is the issue of a Minister of Law and Human Rights Regulation No. 13 of 2017 addressing Intellectual Property Data as a kind of defensive legal protection. In addition, that the production process of the *Sarung Tenun Goyor* has substantially fulfilled the elements that can be applied in industry. In addition to economic motives, that the existence of this legal protection can increase the reputation of the *Sarung Tenun Goyor* with its quality and characteristics.

All efforts performed intentionally by individuals, governments, and private entities to secure, exploit, and fulfill the welfare of life in

conformity with established human rights are referred to as legal protection. Legal protection is the provision of legal remedies by law enforcement officials to protect human rights that have been violated by others, and this protection is provided to the community so that they can enjoy all of the rights granted by law. In other words, legal protection is the provision of various legal remedies by law enforcement officials to provide legal protection to the community.⁵² A feeling of safety, both physically and psychologically, from any disruptions or threats. With regard to intellectual property, it indicates that the law protects the creator's or inventor's inherent rights in the creative work created.

The Pematang Rejang Regency Government has never initiated the registration of the *Sarung Tenun Goyor* production process under a simple patent regime, as well as the *Sarung Tenun Goyor* industry owners who have not taken any legal protection measures against this process patent. Anang Faifin revealed that the Regional Government only provides protection when interested parties want to register and then the Regional Government provides assistance in the registration process.⁵³ Meanwhile, the Ministry of Law and Human Rights in Central Java has made defensive and preventive protection efforts. Defensive legal protection efforts are carried out by collaborating with relevant agencies in the Central Java region to collect data on traditional knowledge owned by the region and preventive measures are carried out by providing services and assisting in the intellectual property registration process. The following are some inventions

⁵² Ilayda Nemlioglu, *A Comparative Analysis of Intellectual Property Rights: A Case of Developed versus Developing Countries*, 158 *PROCEDIA COMPUTER SCIENCE* 988–998 (2019).

⁵³ Interview with Anang Arifin, Head of Sub Division of Cooperatives, Department of Cooperatives, Industry and Trade, Pematang Rejang Regency. Interview on 5 December 2020.

registered through simple patents carried out by MSMEs derived from traditional knowledge as shown on Table 2.

TABLE 2. Simple Patent MSMEs Invention Data

No.	Invention	Inventor	Year of Protection
1	The Process of Making Fractal Batik Motifs	Yun Hariadi, Nancy Margried P	2010-2020
2	Color-Coletting Equipment for Dyeing Stamped and Hand-drawn Batik Motif Fabrics	Eni Efendri	2010-2020
3	Yarn Winding Machine (Winding) For Non-Machine Weaving Equipment (ATBM)	Triyanto	2013-2023
4	Development of Cocoa Cassava Chips Processing Method	Sutarno Rifai	2016-2026
5	Ringkel Background Batik Fabric Dyeing	Tika Sulistyaningsih, Anugrah Ariesahad Wibowo, Irianti Nugrahani, Sugiyanto	2018-2028
6	Obong Batik Making	Lugiyantoro	2018-2028
7	Ringkel Background Batik Fabric Dyeing	Tika Sulistyaningsih, Anugrah Ariesahad Wibowo, Irianti Nugrahani, Sugiyanto	2018-2028
8	Instant Rice Production Process	Irna Herdiana, Citra Khaerani	2018-2028

Source: The Intellectual Property Database⁵⁴

The Table 2 shows the legal protection efforts carried out by MSMEs in protecting their processes or products in a simple patent regime. Meanwhile, the legal protection efforts given to the

⁵⁴ Ministry of Law and Human Rights Directorate General of Intellectual Property, "Intellectual Property Database," 2021, Reterived from <<https://pdki-indonesia.dgip.go.id/index.php/paten?q=paten+simple&type=1>>.

production process of the *Sarung Tenun Goyor* based on the above discussion are still experiencing obstacles in terms of the legal structure. The Government of the Republic of Indonesia has issued legal instruments used to protect simple patents derived from traditional knowledge and their implementing regulations. However, it will not run optimally without the role of related institutions or legal structures. Ministry of Law and Human Rights of Central Java through an interview with Moh. Hawary stated that the Ministry of Law and Human Rights of Central Java has coordinated and cooperated with related agencies in districts/cities in Central Java to protect intellectual property owned by the region.⁵⁵ However, the Department of Cooperatives, MSMEs, Industry and Trade of Pematang Regency is less than optimal. In addition, based on the findings of the study, it can be concluded that legal culture factors also influence the less than optimal protection of the *Sarung Tenun Goyor* production process. Industry players do not know whether a work contains intellectual property potential. In addition, that industry players still think that the production process used does not matter if it is used by someone else without approval. Intellectual property, according to Robert M. Sherwood, is a tool for a region's economic development. On that basis, the Regional Government should take a role in initiating legal protection against the invention of the *Sarung Tenun Goyor* production process.

⁵⁵ Interview with Moh. Hawary, Head of Intellectual Property Sub-Section, Regional Office of the Ministry of Law and Human Rights, Central Java. Interview on 2 December 2020.

CONCLUSION

This research concluded and highlighted that the production process of the *Sarung Tenun Goyor* is a form of intellectual property and can be protected through a simple patent regime in the form of a process. However, the protection process will experience obstacles in fulfilling substantive requirements in the form of new requirements. The development of the *Sarung Tenun Goyor* production process has legal status in Patent Law No. 13 of 2016. Whereas the provisions on simple patent protection have similarities and differences with the simple patent arrangement in Malaysia. The development carried out on the production process of the *Sarung Tenun Goyor* as an effort to meet the requirements of novelty. Article 26 of the Law No. 13 of 2016 on Patents provides certainty of legal protection for inventions derived from traditional knowledge to be protected through a simple patent regime. Legal protection for simple patents derived from traditional knowledge does not ignore the value of justice or social values in society, but the Patent Law guarantees this. Simple patent legal protection derived from traditional knowledge must still be explained in the description that the invention is a development of traditional knowledge to fulfill Access Benefit Sharing (ABS).

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The inventive step requirement makes a lawyer out of an inventor

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