

The Fiduciary Guarantee Revolution: Optimizing Trademark Rights to Accelerate Banking Financing in Indonesia

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Abstract

This study examines the legal and implementation challenges of using trademark rights as fiduciary guarantees to accelerate bank financing in Indonesia. Employing normative legal research with statutory and conceptual approaches, the analysis covers the Civil Code, Fiduciary Guarantee Law, Trademark Law, Copyright Law, Patent Law, and Creative Economy Law. The findings reveal that trademark rights, classified as intangible movable assets under the Civil Code, possess a sound juridical foundation for fiduciary security. However, there is normative disharmony: the Trademark Law remains silent on fiduciary transfers, while copyright and patent laws explicitly authorize them. The Creative Economy Law resolves this ambiguity by expressly permitting trademarks as fiduciary collateral. Despite this normative progress, implementation in Indonesian banking practice remains unrealized due to fundamental obstacles, including complex valuation, the absence of specialized institutions and standardized methodologies, prudential concerns, and a lack of uniform operational protocols. Addressing these challenges requires coordinated efforts among the government, financial authorities, and banks to develop valuation infrastructure, regulatory guidance, and internal banking capacity.

Keywords

Fiduciary Guarantee; Trademark Rights; Banking Financing

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1. INTRODUCTION

Indonesia's pursuit of accelerated economic development has placed significant emphasis on enhancing access to bank financing, particularly for micro, small, and medium enterprises (MSMEs), which form the backbone of the national economy. One strategic avenue to broaden access to financing is expanding the range of collateral beyond conventional tangible assets such as land, buildings, and machinery. (Sari, 2023) In this context, intellectual property (IP) rights have emerged as potentially valuable intangible assets that can serve as fiduciary guarantee objects under Indonesian security law. The theoretical premise is straightforward: if an IP right possesses marketable economic value and is legally transferable, it should logically qualify as collateral for credit agreements structured through



fiduciary transfer. However, a critical examination of Indonesia's intellectual property statutes reveals a pronounced normative disharmony that undermines this theoretical simplicity and creates legal uncertainty for banking institutions. (Malany et al., 2022)

The current legislative framework governing IP rights in Indonesia consists of several discrete statutes, each regulating a specific category of IP: Law Number 28 of 2014 concerning Copyright, Law Number 13 of 2016 concerning Patents, and Law Number 20 of 2016 concerning Trademarks and Geographical Indications. A comparative reading of these statutes exposes a striking inconsistency in their treatment of fiduciary security. Law Number 28 of 2014 explicitly provides that copyright may be the object of fiduciary guarantees. Similarly, Law Number 13 of 2016 expressly allows patent rights to be used as fiduciary collateral. Both statutes contain clear and unambiguous provisions authorizing the transfer of the respective IP rights as fiduciary security, thereby providing legal certainty to creditors and debtors alike. (Inayah & Sulistiyono, 2025) In stark contrast, Law Number 20 of 2016 concerning Trademarks and Geographical Indications remains entirely silent regarding the fiduciary transfer of trademark rights. This legislative silence is not a minor omission but a substantive gap that carries significant legal consequences.

To appreciate the gravity of this silence, one must examine the provisions of the Trademark Law that govern the transfer of trademark rights. The statute enumerates several grounds for transferring trademark rights, including inheritance, testamentary disposition, grants, agreements, and other legally justified causes. Conspicuously absent from this enumeration is fiduciary. (Kurniasih & Permana, 2020) The elucidation (*penjelasan*) of the law, which ordinarily provides interpretive guidance, offers no clarification on whether the catch-all terms "agreements" or "other legally justified causes" might encompass fiduciary transfers. This absence creates significant interpretive ambiguity. Legal scholars and practitioners are left to debate whether the term "agreements" should be construed broadly to include credit agreements with fiduciary security as a *sui generis* form of transfer, or narrowly to refer only to conventional civil law transfers such as sale and purchase, exchange, and gift. (Atikah, 2019)

The elucidation provides no clarifying guidance, leaving the matter open to legal uncertainty and divergent judicial interpretations. By contrast, copyright and patent laws not only include such authorizations but also provide detailed procedures and requirements, reflecting a more progressive and coherent approach to those IP categories. This normative gap raises serious questions about the coherence of Indonesia's intellectual property security framework and suggests a possible legislative oversight or differential policy treatment that lacks rational justification.

Among the various types of intellectual property, trademarks possess distinctive appeal and economic significance that would seemingly make them ideal candidates for fiduciary collateral. Trademarks are not merely distinguishing signs for goods or services; over time, they evolve into

identities rich in economic meaning and consumer recognition. A well-established trademark embodies brand loyalty, quality assurance, market reputation, and goodwill, all of which translate directly into quantifiable economic value. (Alfian, 2025)

Trademarks shape particular market clusters or consumer castes and frequently symbolize prestige for both owners and users. Unlike patents, which have a finite statutory term and may become obsolete due to technological advances, or copyrights, which subsist in creative works that may have volatile market demand, trademarks can theoretically endure indefinitely through continued use and renewal. This perpetual potential, combined with their capacity to generate consistent revenue streams through licensing and franchising, makes trademarks particularly attractive as long-term collateral.

Under Indonesian law, trademark rights are formally classified as intangible movable property under the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata*). The Civil Code distinguishes between movable and immovable objects, as well as between tangible and intangible objects. Intangible movable assets, such as receivables, shares, and IP rights, are legally recognized as property that can be owned, transferred, and encumbered. (Akbar, 2021)

The Fiduciary Guarantee Law (Law Number 42 of 1999) further provides that fiduciary security may be established over movable objects, both tangible and intangible, provided that such objects are capable of being transferred and have economic value. Consequently, as long as trademark rights are marketable and possess demonstrable economic value, they should satisfy the statutory requirements for fiduciary security objects. This theoretical qualification is naturally evidenced by ownership, as evidenced by trademark registration certificates issued by the Directorate General of Intellectual Property. (Fazlia et al., 2022)

Compounding the normative inconsistency is the more recent enactment of the Creative Economy Law (Law Number 24 of 2019 concerning Creative Economy). This statute was designed to promote Indonesia's creative industries by recognizing IP rights as critical assets. Notably, the Creative Economy Law explicitly and affirmatively permits trademarks to serve as fiduciary collateral, thereby resolving the ambiguity left by the Trademark Law. (Akbar, 2022)

The Creative Economy Law acknowledges that trademark rights, along with other IP rights, are valuable intangible assets that may be encumbered by way of fiduciary security to obtain financing. This provision represents significant normative progress and arguably overrides or supplements the earlier Trademark Law's silence through the principle of *lex posterior derogat legi priori*. However, despite this legislative clarification, the practical implementation in Indonesian banking practice remains entirely unrealized. No major Indonesian bank has publicly offered credit facilities secured exclusively or primarily by trademark rights as fiduciary collateral. (Nababan, 2021) This implementation gap persists even as other jurisdictions, such as the United States under Article 9 of the

Uniform Commercial Code and Japan under its intellectual property financing schemes, have successfully operationalized trademark-based lending.

The central research problem, therefore, arises from the disjuncture between the permissive legal framework, which, particularly after the Creative Economy Law, theoretically accommodates trademark rights as fiduciary collateral, and the complete absence of such practices in Indonesian banking. This phenomenon invites a dual inquiry that goes beyond doctrinal exposition. First, what is the juridical construction of trademark rights as fiduciary guarantee objects under Indonesian law, particularly in light of the interaction between the Civil Code, the Fiduciary Guarantee Law, the Trademark Law, and the Creative Economy Law? Addressing this question requires a systematic harmonization analysis to determine whether the Creative Economy Law's explicit provision effectively supersedes the Trademark Law's silence, or whether residual legal obstacles remain. (Christy, 2024) Second, what fundamental obstacles hinder the implementation of trademark-based fiduciary financing in Indonesian banking practice? This second question demands an investigation that moves beyond textual analysis to consider institutional, operational, and market-related dimensions.

Preliminary observations suggest several formidable obstacles. The complexity of trademark valuation stands as the primary impediment. Unlike tangible assets with clear market prices or depreciated replacement costs, trademarks derive value from subjective factors such as brand recognition, consumer loyalty, and market position. Valuation methodologies, including the cost approach, market approach, and income approach, each present unique challenges when applied to trademarks. The cost approach fails to capture the premium a well-known brand commands; the market approach lacks comparable transactions; and the income approach relies heavily on projections of future royalties or profits, which are inherently speculative. (Silaban, 2021)

Furthermore, Indonesia lacks specialized valuation institutions with demonstrated competence in trademark appraisal, as well as standardized methodologies approved by financial authorities such as the Financial Services Authority (Otoritas Jasa Keuangan, OJK). Banks, operating under prudential principles and risk-based capital requirements, are understandably hesitant to accept collateral whose value is difficult to ascertain, monitor, and liquidate. The absence of uniform operational protocols for perfecting fiduciary security over trademarks, including registration procedures with the Fiduciary Registry and the IP office, further compounds the uncertainty. Finally, the secondary market for distressed IP assets remains undeveloped, raising concerns about enforceability and realization in the event of default.

Addressing these challenges requires coordinated efforts among multiple stakeholders: the government, particularly the Ministry of Law and Human Rights, which administers IP registration; financial authorities such as the OJK and Bank Indonesia; and banking institutions themselves. The

government must develop valuation infrastructure, including certification programs for IP appraisers and officially recognized valuation methodologies. (Nindya & Siswoyo, 2025) The OJK should issue regulatory guidance clarifying the risk-weighting and provisioning treatment for trademark-backed loans. Banks need to build internal capacity in IP assessment, risk management, and legal documentation. Without such systemic development, the normative progress represented by the Creative Economy Law will remain merely symbolic, and the potential of trademark rights to accelerate bank financing in Indonesia will remain unrealized. This study aims to provide a comprehensive critical examination of these intertwined legal and practical issues, offering recommendations to bridge the gap between normative permissibility and operational reality.

2. METHOD

This study employs normative legal research, drawing on statutory and conceptual approaches. (Ali, 2021) The statutory approach analyzes primary legal instruments, including the Fiduciary Guarantee Law, Trademark Law, Copyright Law, Patent Law, and Creative Economy Law, selected for their direct relevance to intellectual property-based fiduciary security. The conceptual approach grounds the analysis in legal theories of security rights, fiduciary transfer, and legal certainty. Legal materials were collected through document study and analyzed using qualitative juridical methods. Three interpretative techniques were applied: grammatical interpretation to examine statutory texts, particularly the Trademark Law's silence; systematic interpretation to harmonize provisions across disparate statutes; and teleological interpretation to discern legislative purpose.

These methods were employed to resolve normative ambiguities and assess regulatory coherence. The theoretical framework is anchored in the principle of legal certainty, serving as the evaluative benchmark to determine whether the existing regulatory architecture provides sufficient clarity for the utilization of trademark rights as fiduciary collateral in Indonesian banking practice. This methodological design ensures a comprehensive analysis of both normative construction and implementation challenges.

3. FINDINGS AND DISCUSSION

3.1. The Juridical Construction of Trademark Rights as Fiduciary Guarantee Objects: Assessing Normative Readiness within the Indonesian Security Law System

The legal basis for using trademark rights as fiduciary security objects in Indonesia rests on their classification as intangible movable assets under the Indonesian Civil Code. This classification, derived from the distinction between movable and immovable, and tangible and intangible, objects, establishes that any asset possessing economic value and transferability may, in theory, serve as collateral. (Akram, 2023) The Fiduciary Guarantee Law No. 42 of 1999 accommodates this principle by defining fiduciary

security as the transfer of ownership rights over an object based on trust, with the object remaining under the debtor's control. However, a critical normative inconsistency emerges when examining sectoral intellectual property laws. (Suryotrisongko et al., 2017)

The Copyright Law and Patent Law explicitly authorize fiduciary transfer, whereas the Trademark Law remains entirely silent on this mechanism. This silence creates legal uncertainty, as the enumeration of transfer grounds in the Trademark Law, including inheritance, grants, and agreements, does not expressly include fiduciary security. The Creative Economy Law No. 24 of 2019 subsequently resolved this ambiguity by explicitly permitting intellectual property rights, including trademarks, as fiduciary collateral. (E. Mulyani, 2012)

Nevertheless, this legislative solution operates at a general level, leaving unresolved questions regarding the procedural interface between the Creative Economy Law and the sectoral Trademark Law. From a juridical perspective, therefore, trademark rights possess a sound doctrinal foundation for fiduciary security, but the normative architecture remains fragmented, requiring harmonization to achieve legal certainty. *Sub-conclusion:* The juridical construction of trademark rights as fiduciary objects is theoretically valid but normatively fragmented due to disharmony between general and sectoral laws. (S. Mulyani, 2012)

The implementation gap in Indonesia becomes more apparent when contrasted with practices in other jurisdictions. In the United States, Article 9 of the Uniform Commercial Code governs secured transactions involving intellectual property. The UCC adopts a unitary approach wherein security interests in intellectual property are created through a security agreement and perfected by filing a financing statement with the relevant state authority. (Setyaningrum et al., 2016)

Notably, the UCC does not distinguish between tangible and intangible collateral, treating trademarks uniformly with other assets. This approach has facilitated the development of a robust market for intellectual property-backed lending, with valuation methodologies well established and financial institutions possessing significant expertise in assessing trademark portfolios. (Handayani, 2019) Singapore presents an alternative model through its Intellectual Property Financing Scheme, administered by the Intellectual Property Office of Singapore. The scheme combines regulatory facilitation with institutional support, including government co-sharing of valuation costs and the establishment of a panel of accredited intellectual property valuers. (Jantera & Marlyna, 2023)

The Singaporean approach emphasizes capacity-building alongside legal reform, recognizing that normative permissibility alone does not guarantee market uptake. South Korea offers another instructive example through the Korea Technology Credit Guarantee Fund, a specialized institution that provides credit guarantees based on intellectual property assets. The Fund employs standardized valuation methodologies and maintains a dedicated pool of valuers with expertise in trademark

assessment. (Kansil & Harjanto, 2024) These comparative examples reveal a common pattern: successful implementation of trademark-based financing requires not merely permissive legislation but also supporting infrastructure, including specialized valuation institutions, standardized methodologies, and institutional capacity-building. *Sub-conclusion:* Indonesia lags behind comparator jurisdictions in establishing the institutional and operational infrastructure necessary to translate normative permissibility into banking practice. (Marwah et al., 2025)

Despite the permissive legal framework, trademark-based fiduciary financing remains unrealized in Indonesian banking practice. The primary obstacle concerns valuation. Trademark rights, as intangible assets, lack the objective price-discovery mechanisms applicable to physical collateral, such as land or machinery. (Wardhani & Lie, 2025a) Valuation depends on subjective factors, including brand recognition, market share, consumer loyalty, and projected revenue streams. (Ardhianto, 2019) No specialized valuation institutions with recognized competence and authority for trademark valuation currently operate in Indonesia. (Kurniawan et al., 2025)

The existing regulatory framework, including the Creative Economy Law, outlines valuation requirements but fails to specify methodologies or establish accredited institutions. Banks' prudential concerns further compound this obstacle. Financial institutions operate under strict prudential regulations, including minimum capital adequacy requirements and non-performing loan thresholds. The perceived instability of trademark values, which are susceptible to market fluctuations, reputational risks, and potential cancellation proceedings, renders trademark collateral unattractive to risk-averse banks. (Darmawan & Wandirah, 2025) Execution mechanisms present additional uncertainty. (Sopamena et al., 2023)

In default scenarios, creditors must execute fiduciary collateral through public auction or private sale, yet the market for second-hand trademarks remains undeveloped. Unlike physical assets with established secondary markets, trademarks derive value from ongoing commercial use, creating a *disconnect* between the mechanisms for execution and the nature of the asset. (Novilina et al., 2021) The lack of uniform operational protocols across banks further impedes progress. Individual banks lack standardized procedures for accepting trademark collateral, conducting due diligence, or structuring fiduciary agreements. (Pratnyawati & Mardiana, 2023) This procedural vacuum reinforces institutional conservatism, with banks continuing to rely on conventional collateral. *Sub-conclusion:* Implementation obstacles in Indonesia are predominantly institutional and operational, encompassing valuation infrastructure deficits, prudential constraints, execution uncertainties, and the absence of standardized protocols.

The findings reveal a fundamental disjuncture between normative permissibility and practical realization. Indonesia has successfully established the juridical foundation for trademark-based fiduciary financing through the Creative Economy Law, yet the absence of supporting infrastructure renders this legal framework largely symbolic. (Febriani & Sarjana, 2024) The comparative analysis underscores that legislative reform alone is insufficient; successful jurisdictions have complemented legal reform with institutional capacity-building, specialized valuation mechanisms, and government-backed risk mitigation instruments. (Fauzi & Al Gifari, 2025)

The Indonesian context presents distinct challenges. Valuation expertise remains concentrated in a small number of professionals, with no formal accreditation system for trademark valuers. Financial institutions lack the internal capacity to assess trademark portfolios, and prudential regulations do not provide special treatment for intellectual property-backed lending. Moreover, the implementing regulation of the Creative Economy Law, while addressing valuation, does not establish enforceable standards or mechanisms for institutional accountability. (Rizkiawan, 2022)

These deficits create a vicious cycle: banks do not accept trademark collateral because no reliable valuation infrastructure exists; valuation infrastructure does not develop because no bank demand materializes. Breaking this cycle requires coordinated intervention. Regulatory authorities must issue binding guidelines for trademark valuation methodologies. Accreditation systems for valuers must be established. Government-backed guarantee schemes, analogous to the South Korean model, could mitigate banks' risk exposure. Additionally, prudential regulations should be reviewed to accommodate the distinctive characteristics of intellectual property-based collateral. *Sub-conclusion:* Addressing the implementation gap requires systemic intervention across regulatory, institutional, and operational dimensions, moving beyond normative reform to infrastructure development.

3.2. Implementation Problems and Efforts to Optimize Trademark Rights as Fiduciary Guarantee in Indonesian Banking Practice

The transition from normative recognition to practical implementation represents the most formidable challenge in the utilization of trademark rights as fiduciary security objects within the Indonesian banking sector. Despite the progressive development of legal frameworks culminating in the Creative Economy Law and its implementing regulation, the empirical reality reveals a significant disjuncture between normative possibility and operational actuality. (Siregar, 2025)

Official data from the Financial Services Authority (Otoritas Jasa Keuangan) indicates that, as of 2024, no Indonesian banking institution has reported any credit facility secured by trademark rights under a fiduciary guarantee structure. (Nuraini, n.d.) Similarly, the Directorate General of Intellectual Property confirms that no fiduciary registration has been filed specifically utilizing trademark rights as

collateral. This empirical evidence substantiates the assertion that the practice of utilizing trademark rights as fiduciary guarantee objects has never been realized in Indonesia, notwithstanding the theoretical availability of legal mechanisms and the explicit authorization provided by recent legislation. This implementation gap warrants systematic examination to identify the multifactorial obstacles that impede the translation of normative frameworks into banking practice. (Rizkiawan, 2022)

The phenomenon of non-implementation is particularly striking when contrasted with international developments in comparable jurisdictions. In the United States, the Uniform Commercial Code Article 9 has long accommodated security interests in intellectual property. (Noor & Zulkifli, 2023) The U.S. Patent and Trademark Office maintains a public database of recorded security interests, with thousands of trademark-based financing transactions recorded annually. (Pane, 2021)

A notable example is the 2019 transaction wherein Dunkin' Brands secured a USD 1.2 billion revolving credit facility using its trademark portfolio as collateral, demonstrating the feasibility of large-scale trademark-based financing. Singapore has developed the Intellectual Property Financing Scheme, under which the Intellectual Property Office of Singapore partners with financial institutions to facilitate IP-backed lending. (Wahyuni, 2023)

As of 2023, the scheme had facilitated over SGD 100 million in IP-backed loans, with trademarks accounting for a significant portion of the collateral. South Korea's Korea Technology Credit Guarantee Fund (KIBO) provides guarantees for IP-backed loans, enabling small and medium enterprises to obtain financing based on their intellectual property. (Arafah, 2024) KIBO's standardized valuation methodologies and dedicated valuers have supported thousands of IP-backed financing transactions. (Ridho, 2024) These examples demonstrate that trademark-based fiduciary security is not inherently impractical but requires appropriate legal, institutional, and operational frameworks. Indonesia's lag in implementation thus reflects not an impossibility but a gap in the necessary supporting infrastructure.

The valuation of trademark rights constitutes the most fundamental obstacle to their utilization as fiduciary collateral. Trademark rights, as intangible assets, resist straightforward valuation methods used for tangible assets such as land, buildings, or motor vehicles. International valuation practice recognizes three principal approaches to intellectual property valuation: the cost approach, the market approach, and the income approach. The cost approach estimates value based on the historical or replacement cost incurred to develop the trademark, including expenditures for creation, registration, and promotion. (Wijayanti, 2023)

This approach is often criticized for failing to capture the trademark's actual economic potential, as costs do not necessarily correlate with market value. The market approach derives value by reference to comparable transactions in which similar trademarks have been sold or licensed. While theoretically appealing, this approach faces practical limitations due to the uniqueness of trademarks and the scarcity

of publicly available transaction data. The income approach, widely regarded as the most appropriate for trademark valuation, estimates value by discounting future economic benefits attributable to the trademark. (Wardhani & Lie, 2025b) This approach requires projections of revenue attributable to brand recognition, determination of appropriate royalty rates, and selection of discount rates, all of which involve significant judgment and assumptions.

In Indonesia, the absence of specialized valuation infrastructure compounds these methodological challenges. Government Regulation Number 24 of 2022 mandates the existence of intellectual property valuation professions but does not establish the institutional framework necessary for their development. (Ardhianto, 2019) No accredited certification program for trademark valuers exists, no professional association has been formally recognized, and no valuation standards have been adopted as authoritative by regulatory authorities or courts. Banks, therefore, lack access to reliable, standardized valuation opinions on which to base credit decisions. This infrastructure deficit fundamentally undermines banks' ability to assess the value of trademark collateral with the certainty required by prudential banking principles. (Fitriani et al., 2024)

Banks' prudential concerns extend beyond valuation uncertainty to encompass the stability and durability of trademark values throughout the credit period. Trademark values are inherently dynamic, influenced by consumer preferences, competitive dynamics, brand reputation, and the trademark owner's strategic decisions. A trademark that is highly valuable at the time of credit disbursement may decline significantly in value due to negative publicity, the emergence of superior competitors, or changes in consumer behavior. (Jasmindhia, 2024)

This volatility introduces uncertainty into banks' assessment of whether collateral will retain sufficient value to cover outstanding obligations. Additionally, trademarks are subject to specific legal risks in intellectual property law. Non-use of a registered trademark for three consecutive years may expose it to cancellation actions. Challenges to the validity of registration based on prior rights may succeed. These legal risks create uncertainty regarding the continued existence of trademark rights throughout the credit period. (Damayanti, 2021)

Execution mechanisms present further complications. Under the Fiduciary Guarantee Law, execution of fiduciary collateral typically occurs through public auction or private sale. For tangible assets, these processes are well established. For trademark rights, however, execution raises questions regarding the marketability of trademarks through forced sale mechanisms. (Kurniawan et al., 2025) The absence of an established secondary market for trademarks, combined with the difficulty of determining value at the time of execution, creates uncertainty regarding the recovery that banks can expect in default scenarios. These prudential and legal concerns collectively reinforce banks' preference for conventional collateral and perpetuate the failure to implement trademark-based fiduciary security.

The absence of standardized procedures and uniform operational protocols within the banking sector compounds the substantive obstacles. Individual banks, faced with the possibility of accepting trademark collateral, must develop their own internal procedures for verification, due diligence, documentation, and monitoring. This requires investment in specialized knowledge, personnel training, and systems development, costs that may be difficult to justify when the volume of potential trademark-based transactions remains uncertain. The absence of industry-wide standards prevents the development of shared learning and best practices. (Noor & Zulkifli, 2023)

This configuration creates a collective action problem: each bank lacks sufficient incentive to pioneer trademark-based financing, as competitors who refrain from it avoid comparable costs and risks. No single bank moves first, despite the potential collective benefits of developing a functioning market for trademark-based financing. Addressing this coordination failure requires regulatory authorities to establish standards, facilitate information sharing, and potentially provide risk-mitigation mechanisms. (Fauziah, n.d.)

Addressing the implementation gap requires comprehensive and coordinated efforts across multiple stakeholder groups. The government, through relevant ministries, must accelerate the development of intellectual property valuation infrastructure. This includes establishing certification programs for intellectual property valuation professionals, developing standardized valuation methodologies adapted to Indonesian conditions, and creating or designating institutions capable of providing authoritative valuation opinions. The Financial Services Authority (Otoritas Jasa Keuangan) must issue specific provisions governing the treatment of intellectual property collateral in banking practice, providing clarity regarding risk limits, supervision mechanisms, and asset quality assessment. Banks must undertake internal capacity building to develop human resources with an understanding of intellectual property characteristics and valuation, establish internal procedures, and create monitoring systems. (Kusuma & Gunadi, 2020)

Collaborative approaches among banks to share information and develop common standards could reduce individual costs and accelerate collective learning. Socialization and education for creative economy actors are equally important to stimulate demand for trademark-based financing. The potential benefits of successful implementation include enhanced access to capital for creative economy enterprises, portfolio diversification for banks, and more efficient utilization of intellectual assets for national economic development.

The analysis reveals that the non-implementation of trademark-based fiduciary financing in Indonesia stems not from normative barriers, as the legal framework has been rendered permissive through the Creative Economy Law, but from institutional, operational, and market-related obstacles. Valuation infrastructure deficits, banks' prudential concerns, legal risks, execution uncertainties, and

coordination failures collectively perpetuate a status quo in which trademark collateral remains unused despite its theoretical availability. International experience demonstrates that these obstacles are surmountable through coordinated policy interventions, institutional development, and capacity building. The realization of trademark-based fiduciary security in Indonesia, therefore, requires a systemic approach that addresses regulatory guidance, valuation infrastructure, banking capacity, and market awareness simultaneously.

4. CONCLUSION

The juridical construction of trademark rights as fiduciary security objects in Indonesia rests on a sound doctrinal foundation, as trademarks constitute intangible movable assets under the Civil Code. However, normative disharmony persisted until the Creative Economy Law explicitly authorized intellectual property as fiduciary collateral, thereby resolving earlier statutory ambiguities. Despite this permissive legal framework, implementation in Indonesian banking practice remains unrealized. Empirical evidence confirms that no bank has extended financing using trademark-based fiduciary guarantees.

The principal obstacles are not normative but institutional and operational: the absence of accredited valuation professionals and standardized methodologies under the cost, market, and income approaches; banks' prudential concerns over value volatility, legal risks, and uncertain execution mechanisms; and a collective action problem that discourages any single institution from pioneering such financing. Comparative experiences from the United States, Singapore, and South Korea demonstrate that overcoming these barriers requires systemic interventions. Realization of trademark-based fiduciary security demands coordinated efforts to develop valuation infrastructure, issue regulatory guidance, build banking capacity, and stimulate market awareness. Only through such comprehensive measures can Indonesia unlock the economic potential of trademarks as collateral and accelerate financing for the creative economy.

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