

Batik Benang Bintik Indonesia Copyright: Protection of Intellectual Property Rights in the Perspective of Islamic Law and Positive Law

Mulida Hayati^a, Nuraliah Ali^b

^{a*,b} Faculty of Law, Universitas Palangkaraya, Indonesia

Email: ^amulida_hayati21@law.upr.ac.id, ^bnuraliahali@law.upr.ac.id

Abstract

The cultural asset of batik benang bintik, which is full of regional uniqueness, aesthetics, and economic value, is vulnerable to copyright infringement. Protection of Intellectual Property Rights over batik benang bintik is very important as a preventive measure from the occurrence of mutual claims that have the potential to lead to conflict and tension. This research aims to examine how the protection of intellectual property rights against the copyright of Batik Benang Bintik is in the perspective of Indonesian Positive Law and Islamic Law. This type of research is normative juridical. The data source is the source of primary legal materials, secondary legal materials, and is corroborated by interviewing sources. Legal protection for freckled batik is provided by the Central Kalimantan Province Culture and Tourism Office, namely Law Number 28 of 2014 concerning Copyright as the basis for legal protection of batik benang bintik which is regulated in article 38. In an Islamic perspective, copyright is recognized as one of the rights of ownership. assets so that ownership is protected as well as protection of property. This is based on QS: Al-Baqarah 188, An-Nisa 29, the attitude of person should not take a statement carelessly without mentioning the source. Protection of Batik Benang Bintik if claims by other countries: 1) The perspective of criminal law based on Law Number 28 of 2014 concerning Copyright is contained in article 112 to article 119; 2) The perspective of civil law is contained in TRIPS, as regulated in Law Number 28 of 2014 concerning Copyright in article 106 to 109.

Keywords: Intellectual Property Rights; Batik; Benang Bintik

1. Introduction

Piracy, plagiarism and claiming are copyright infringements that require serious attention. In Indonesia, the polemic of claiming and claiming cultural products by foreigners often occurs. Actions of mutual claims often lead to conflict between the countries involved and also cause financial losses. For example, batik, on several occasions was recorded as being recognized by foreigners. In 2008, Malaysia claimed batik as their own. The excitement of mutual claims action and tinged with long debates led to the inauguration of UNESCO to establish batik as a world heritage from Indonesia. In 2020, foreign media *Xinhua News*, China, said that batik is a traditional craft that is common among ethnic groups in China. This claim caused a stir with various arguments, especially in cyberspace. Even though these cases have been resolved, the claim of culture has made the two countries at war and experiencing tension.

The diversity of Indonesia's cultural heritage as a national identity of the State needs special protection. The high number of cases of Indonesian cultural claims that occur can indicate that the Government needs to pay more attention and protection to existing cultural developments. Clear and firm regulations and policies by the Indonesian government can be a preventive step so that they do not become contested / mutual claims between countries or open space for long debates. In 2018, the polemic of parang batik by Miss Grand Malaysia which

was used in the international beauty event, which turns out to be still debating whether it can be said to be an act of "claiming" or "misappropriation" because Batik Parang itself is not recorded in the 17 types of Batik that have been registered on National Data Center. The government needs to take the initiative to patent more copyrights on existing cultural heritage so that a similar incident does not happen again.

Currently, many batik have manifested in various conditions and opportunities. Batik has now been able to position itself in line with other clothing styles and trends from national to international. One of the batik in Indonesia is Batik Benang Bintik. Batik Benang Bintik is one of the cultural assets of the people of Central Kalimantan which is priceless. This batik not only contains high artistic value, but also has a very distinctive character so that it becomes the identity of the people of Central Kalimantan, especially the Dayak Tribe. The character of this batik can be seen in its distinctive ethnic motifs as well as being a distinguishing feature from other batik. In addition, the handicrafts of the Dayak tribe also have a large selection of motifs and models that are relevant to the needs of the times. If at first this batik was only worn in traditional ceremonies or weddings, now spotted thread batik is often used in various important activities such as festivals, model selection events, as well as other regional arts and cultural activities.

As one of the traditional works of art, the batik benang bintik has its own uniqueness, is full of regional characteristics, has artistic value, competitive aesthetic value and economic value. With such great potential, products with batik benang bintik are prone to copyright claims by other parties. Therefore, the protection of copyright on the batik benang bintik as an intellectual property has vital and urgent values to be studied further so as not to open up a space for copyright infringement. Through this research, it will be studied how the protection of intellectual property rights against the copyright of Batik Benang Bintik is in the perspective of Indonesian Positive Law and Islamic Law. In addition to the study of protection in National law, the study of legal protection of intellectual property rights from an Islamic perspective is also very important considering that the source of Indonesian National law comes from the culture and religion of the Indonesian people. Harmonizing laws based on culture, religion and modernity will greatly assist the creation of laws that can better respond to the challenges of globalization.

2. Methodology

This type of research is a normative juridical research with an approach that takes into account the values, norms and regulations contained in Islamic law and regulations in Indonesia. Data sources are sources of primary legal materials and sources of secondary legal materials. Primary legal materials, including: KUHP, Copyright Law. Secondary legal materials, including: books, articles, journals, information from the internet or online, news published in print or electronic media that are relevant and related to research. To complement the information and data, interviews were also conducted with several sources. The analysis of legal materials that have been collected is then selected, described, interpreted using the normative juridical method, namely grammatical interpretation and systematic interpretation. associated with relevant references, and then formulated systematically with each subject, namely the perspective of Islamic Law and Positive Law.

3. Literature review

3.1. Definition and Concept of Copyright Protection

Copyright is literally derived from the two words *hak* and *cipta*. In the Big Indonesian Dictionary, the word "*hak*" means an authority given to certain parties which are free to use or not. Meanwhile, the word "*cipta*" or "*ciptaan*" refers to human creations using intellect, feeling, knowledge, imagination and experience. So it can be interpreted that copyright is closely related to human intellectual

Meanwhile, the standard definition of copyright has been regulated in article 1 number 1 of Law Number 28 of 2014 concerning Copyright, which reads: "Copyright is the exclusive right of a creator that arises automatically based on the declarative principle after a work is manifested in real form without reducing restrictions. in accordance with the provisions of laws and regulations".

From this definition it can be concluded that copyright is a material right that is exclusive to a creator or recipient of rights to a work or copyright in the fields of science, art and literature

Copyright is one of the human rights contained in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights and is also a very important legal right that protects cultural works. Cultural work is anything that is produced by a person that enriches human thoughts and feelings

The Indonesian nation provides legal protection for intellectual property rights, in addition to being driven by international developments, also because the need for protection of intellectual property rights is needed because it has considerable economic value benefits for the creator or copyright holder and also state income. Several economic studies conducted by developed countries show that the copyright industry has made a significant contribution to driving an increase in national income

Batik Benang Bintik Indonesia Copyright: Protection of Intellectual Property Rights in the Perspective of Islamic Law and Positive Law

Copyright protection is not given to ideas or ideas because a copyright work must have a distinctive form, be personal and show authenticity as a creation that was born based on ability, creativity or expertise so that the work can be seen, read, or heard.

3.2. The Concept of Copyright in Islamic Law

Etymologically, *ibtikar* means the beginning of something or its beginning. *Ibtikar* in Islamic fiqh *ibtikar* right means copyright or creation that someone produces for the first time, in the world of *al-Ibtikar* science it is called copyright. In terminology, the notion of *ibtikar* rights is not found in classical fiqh literature in a systematic discussion of rights. Therefore, it is difficult to know the definitions *ibtikar* from the classical characters

In terms of form, the right of *ibtikar* is the result of thoughts that lie in independent material that can be touched by the human senses, but that thought is only formed and has an effect when it has been written in such a book or other media, then the results of these thoughts are not plagiarism or repetition. from the thought of previous scientists. However, this *ibtikar* is not something new at all, but it may also take the form of an invention as an extension of the theory of previous scientists.

Ibtikar only as a description of thoughts and images of this thought will have a broad effect if it has been presented or stated in written or printed form or in other media the thought of a scientist as an *ibtikar* is actually a picture of thoughts that are not yet material. However, if this thought has been expressed in any form of media, then the ideas will have a wide influence, both in terms of material and thought. Therefore, according to fiqh scholars, *Ibtikar* when viewed from the side material, is more similar to the benefits of an object or material, such as fruit and milk from dairy animals, if it has been plucked from the tree or milk from the animal, because a person's thoughts after being separated from their thoughts and exposed to a media, seminars or so on, will be material.

Ibtikar is something new in the study of Islamic law, along with the progress of the scientific world, the world of trading business, and the socio-cultural life of the community. *Ibtikar* is meaningful as special ownership, and is the work of human intellectuals which deserves special appreciation from the general public, both from a moral and financial perspective. The position of intellectual rights in Islam according to contemporary Muslim scholars gives their views on this matter, they perform *ijtihad* on the basis upon which the law rests in determining copyright. Among them is Fathi-Al Duraini who states that the legal basis of copyright is 'urf (a tradition that is generally accepted in a society) and the *maslahah mursalah* (a benefit that does not have texts from the Qur'an and Al-Sunnah, but contains goodness to him).

De facto copyright has become a part of everyday human life, while there are no *sharih* texts that discuss this matter, and they do not have any objections to this, so 'Urf is made the legal basis for it. As for *maslahah mursalah*, there is benefit when this right is protected, because this is a form of appreciation to the creator of the copyright work. The existence of protection against it means preventive action for the occurrence of injustice to the owner. The benefit taken is the right to enjoy a creation for its owners, both from a moral point of view or in terms of material profit.

This legal basis is also used by Wahbah Al-Zuhaily, he states that there is no *sharih* argument regarding copyright, but this can be based on the principle of *jalb Almaslahah* (bringing maslahat) or *Daf 'Al Mafsadah* (rejecting damage), because with this rule the objectives of the Shari'a will be realized If benefit is part of the goal of syara', then protecting copyright is an effort to protect the benefit of the creator and society in general. In terms of the path of *almafsadah* in copyright protection is as a preventive measure so that a greater *mafsadah* does not occur. Because with this protection, every creation of a creative work will be motivated to continue to explore new discoveries that will benefit humans If this right is not protected, it will certainly result in various damages in the community, such as the reluctance of the creators to create their works, a more worrying impact is that technology and science do not develop because there are no longer people who want to create various inventions from the results of their research.

Ibtikar if it is related to the definition of assets in Islamic law, becomes a difference of opinion among expert jurisprudence scholars. According to hanafiyah scholars, what is called property is anything that may be stored and can be used properly. Jumhur ulama argues that property is anything that has value and the person who destroys it must replace it or bear the burden of the damage. Imam Syafi'i said, al -Mal or property is devoted to something of value and can be traded and has consequences for those who destroy it. Based on this definition, assets must be able to reflect financial value, in the sense that they can be measured in monetary units. The logical consequence of the thought of this jumhur ulama is that what is called property does not have to be material or material, but also benefits or rights can be viewed as assets. The reason used by jumhur scholars is that the intention of people owning an object is not because it is solely the object but is the benefit of the object itself.

The opinion of jumhur Ulama if it is related to *ibtikar* rights, then the results of one's thoughts, creations, and creations are considered assets, because according to them, property is not only material, but also beneficial. On this basis, thoughts, copyrights, or creations whose source are human thoughts have the same value of property and position as other objects, such as cars, houses and so on.. Imam Al-Qarafi has another opinion that even though

the *ibtikar* right is a right for the owner, this right is not property in nature, in fact it is not at all related to transactions that are transfer of property rights, the reason is that the source of rights is reason and the result of reason in the form of immaterial thoughts that may be inherited, passed on and transacted. The general criteria for assets that can be inherited, inherited and transacted are in the form or value of assets, while the right to the result of one's thoughts is a right that has no value to property, because the source is not property, namely human reason

Al-Qarafi's opinion was opposed by the majority of fiqh scholars, among others, from the Malikiyah ulama, who stated that even though the origin is human reason, the *ibtikar* right after being expressed in the form of media has a large property value, even more than the value of other assets. According to him, mere thoughts whose origin is one's mind cannot be transferred. However, after the thought is expressed in the form of media or other, the result of that thought is material and has a value. On this basis, according to the Malikiyah ulama the results of these thoughts can be viewed as, according to the results of these thoughts, they have been stated in the form of writing, print or any media

3.3. Batik Benang Bintik

Benang Bintik which is the batik of Central Kalimantan which means: "*Benang*" in the local language is a piece of white cloth. Meanwhile, "*bintik*" means a design or image that is on the strands of cloth. Ngaju Dayak Tribe Batik, Central Kalimantan has its own privileges for the Dayak tribe, because the type of motif embodied in the cloth symbolizes Dayak culture. It is said that the motifs in Central Kalimantan batik are influenced by the beliefs of the Dayak tribe called *kaharingan*. This belief continues to develop through symbols in the form of natural objects in space, earth, and those in a person. The motifs depicted on the spotted thread batik cloth are taken from paintings or carvings of historical remains.

One form of the Dayak tribal belief symbol is *Batang Garing* or the tree of life. This tree symbolizes a vertical relationship between humans and the ruler that is believed to be and the horizontal relationship between humans and other creatures on earth. This tree later became one of the characteristics of the famous Central Kalimantan batik motif. Apart from the motifs of *kawit tuyan*, jars, spears, shields, and *balain nihing*. Apart from the above motives, there are selected motifs which further enriches the world's cultural heritage, such as the *Kelakai* motif (a vegetable plant that is often consumed by the people of Borneo), *Mandau* (a typical Dayak weapon), the Tingang bird (a typical Bornean bird), Huma Betang, Naga, Dayak carving motifs, to Balanga motifs..

3.4. Traditional Work Expressions

When the issue of protection for the production of imaginative local communities and indigenous ash emerged in the late 1970s (which was ignored in the Paris Act of the Berne Convention on the Protection of Literary and Artistic Works 1971), conventional designations were used for the issue. it is a folklore expression (a term borrowed from the standard vocabulary in the Copyright Law).

In 1980, WIPO (together with UNESCO (United Nations Educational, Scientific and Cultural Organization) took the first steps in overcoming this problem, by enacting the so-called Model Provisions for National Legislation concerning the Protection of Folklore Expressions from Unlawful Exploitation and Other Harmful Actions. (Model Provisions for National Laws on the Protection of Expressions of Folklore Against Illicit Exploitation and Other Prejudicial Actions).

More than two decades later, the use of the word folklore has drawn criticism because it seems to represent a colonial mentality that denigrates the products produced by local and / or indigenous people. The problem here lies with the hierarchical assumption between Beni barat and the practices that emerge in a more local context.

The word *folklore* is a translation from English, derived from two words "*fiolk*" which means a group of people who have physical, social and cultural identifying characteristics so that they can be distinguished from other social groups, these identifying characteristics include: skin color, hair shape, search mats. and so forth. Meanwhile, "*lore*" is a part of culture that is passed down orally or through one sample of satay which is accompanied by gestures or reminders. Folklore is a part of culture that has been transmitted or passed down traditionally, either in oral form or by example, accompanied by gestures or reminder

The characteristics of *folklore* are as follows

- a. the distribution and inheritance written orally;
- b. traditional;
- c. anonymous;
- d. Has an important function in public life; and
- e. the common property of the supporting community.

Batik Benang Bintik Indonesia Copyright: Protection of Intellectual Property Rights in the Perspective of Islamic Law and Positive Law

At the normative level, the protection of the results of the people's culture is regulated in the provisions of Article 38 paragraph (1) of Law Number 28 of 2014 concerning Copyright, which states, "Copyright for traditional cultural expressions is held by the state". In addition, the rules for non-intellectual property rights (*IPR*) that protect traditional knowledge and traditional cultural expressions (*PTEBT*) are contained in customary law and the Culture Bill.

Traditional cultural expressions are all forms of expression, both material (object) and immaterial (intangible), or a combination of both that shows the existence of a culture and traditional knowledge that is hereditary. The scope of traditional knowledge includes technical knowledge in traditional contexts, traditional skills, innovation in traditional contexts, traditional practices, traditional learning and knowledge that underlies life ways passed down from generation to generation, including traditional knowledge related to genetic resources, medicine, traditional, and other intellectual works. Also the scope of traditional cultural expressions includes: includes phonetic or verbal expressions, sound or musical expressions, expressions of motion or action, and material expressions (things) and other intellectual works.) as well as other intellectual works.

It is concluded in Agus Sardjono's book in the title Intellectual Property Rights and Traditional Knowledge, while the characteristics of traditional cultural expressions are as follows

- a. As a knowledge that is practiced from generation to generation;
- b. Ownership of traditional knowledge is *kumonal*; and
- c. Traditional knowledge is the result of the interaction between founder and nature.

4. Discussion

4.1. Managing the copyright of Batik Benang Bintik

Among all the conventional categories of intellectual property, copyright is one category that at first glance looks promising protection for traditional arts and artists. Modern copyright laws cover a wide variety of artistic products in all media. The management of the spotted yarn batik copyright is not easy, it needs the cooperation of law enforcers, government, and community members to take part in maintaining and preserving culture in order to create sustainability.

A system or management of *sui generis* protection for traditional arts, namely

- a. Provide definitions of the types of cultural content that can be protected, including old stories, motifs, musical *terra-terras*, etc. as well as contemporary interpretations of the inherited traditions;
- b. To determine the minimum terms or conditions for protection and the duration of the protection;
- c. Establish "ownership" rules for the protected content, including principles regarding control over the use of generally accepted traditions;
- d. Grants the owner a comprehensive set of exclusive use rights, including the right to copy, adapt, display and broadcast protected material, in whole or in part;
- e. Give each owner access to proceedings against people who use the protected material without permission, and provide a penalty for such unauthorized use; and
- f. Identify a series of restrictions and exceptions (for example, for personal use or for educational purposes) that can obtain exclusive rights other than those conferred on the owners.

Good copyright management is registering the copyright so that it is known who the creator is and is protected with legal certainty, if not registered the copyright is general in nature and weak legal protection. Registering a copyright will make it easier for law enforcement agencies and the government to simplify the process of proof in the event of a dispute or claim regarding copyright. Settlement of cases of infringement and disputes regarding copyright can be done through alternative dispute resolution, arbitration or court. The court that has the authority to settle cases of infringement and other disputes regarding copyright is the commercial court.

To obtain registration of creation at the Ministry of Law and Human Rights of the Republic of Indonesia, applications for submission of copyright rights can go through three alternatives, namely:

- a. Through the Directorate General of Intellectual Property Rights to obtain registration of creation at the Ministry (Ditjen HKI);
- b. Through the Regional Offices of the Ministry of Law and Human Rights of the Republic of Indonesia throughout Indonesia; and
- c. Through a registered IP Consultant Legal Counsel.

There are requirements for registering creations at the Regional Office of Law and Human Rights in Central Kalimantan are filling out a registration form, having a Taxpayer Identification Number (NPWP), an example of

creation and a 6000 stamp statement. the state still has to be registered in order to obtain definite legal protection.

4.2. Basis of Copyright Protection in Islam

The basis of copyright protection in Islam, namely

a. *Urf* (a generally accepted habit in society) because copyright has become a part of human life, while there are no sharih text who discuss it and they do not object to this, so urf is used as a legal basis.

b. *Al-Maslahah Al-Mursalah* (A benefit that does not have a text in either the Al-Qur'an or Al-Hadith), where there is benefit when this right is protected because this is a form of appreciation to the creator of the copyright work and a form of preventive action from injustice to the owner of the copyright work. Meanwhile, the benefit taken is the right to enjoy a work for its owner, both from a moral point of view and material gain.

c. *Daar Al-Mafasid Wa Jalbul Mashalih* : is a preventive action so that mafsadah does not occur, because with protection, the creator of the copyright works to continue to explore new and useful discoveries. If this right is not protected, it will result in various damages in society, such as the reluctance of the creators to work. What is even more worrying is the lack of development in science and technology because no one else creates inventions and research results.

d. *Qiyas* : *qiyas* between the creator of the work with someone who works for which he is entitled to get the results of his work. Also the *qiyas* of a person who takes the wages of a goat from medicine (*ruqyah*) by reading the Qur'an and reading it.

e. *Sadd Adz-Zara'I* : This means that when the copyright owner is given the right to exploit his work, he will get the benefits, but if it is not protected then various damages will arise, such as reluctance to work and so on..

f. Opinions taken by some scholars who say it is permissible to take wages from teaching religious knowledge, even if they are allowed to take wages for a muezzin

4.3. Copyright Protection in Islamic Law

Islam recognizes copyright as one of the rights of property ownership so that ownership is protected as well as protection of property. This protection includes:

a. Prohibition of eating other people's property indiscriminately (QS: Al-Baqarah 188 and An-Nisa 29).

b. Scientific attitude in Islam, where a person should not arbitrarily take an explanation without mentioning the source.

c. Penalties for violating copyright

5. Protection by the Government

The form of legal protection provided by the Culture and Tourism Office. Central Kalimantan Province, namely by emphasizing Law Number 28 of 2014 concerning Copyright as the basis for legal protection of batik benang bintik as regulated in Article 38 (paragraph (1) which reads, "Copyright of traditional cultural expressions is held by the state", paragraph (2) "The state is obliged to take inventory, maintain the traditional cultural expressions as meant in paragraph (1), paragraph (3)" The use of traditional cultural expressions as meant in paragraph (1) must pay attention to the values that live in the society of those who carry it. paragraph (4) "Further provisions regarding Copyrights held by the State on traditional cultural expressions as referred to in paragraph (1) are regulated by Government Regulations" and Article 39 paragraph (1) which reads, "In the case of a work the creator is unknown, the work is held by the State for the benefit of the creator." Therefore, the legal protection of batik benang bintik is regulated according to the applicable laws.

However, in the formulation of Law Number 28 of the Year as referred to in paragraph (1) is regulated by a Government Regulation, until now this Government Regulation has not yet existed, it is still at the stage of discussion and planning.

But in 2014 the Cultural and Tourism Office of Central Kalimantan Province registered the copyright of batik benang bintik at the Ministry of Education and Culture of the Republic of Indonesia (*Kemendikbud*), registered in the registration of Indonesia's intangible cultural heritage because it only talks about symbols and symbols as an effort to obtain legal protection, developing and utilizing cultural diversity by improving data through recording, documentation and determination as the first attempt by the Ministry of Education and Culture of the Republic of Indonesia (*Kemendikbud*) for batik benang bintik.

Batik Benang Bintik Indonesia Copyright: Protection of Intellectual Property Rights in the Perspective of Islamic Law and Positive Law

However, specifically to register the copyright of batik benang bintik to the Directorate General of Intellectual Property Rights (Ditjen HKI) it is still not possible to do so, but in this case the Central Kalimantan Department of Culture and Tourism is still trying, considering that the batik benang bintik has not yet become a work in the form of Raw (shaped objects) are balanced with differences in people's views on batik and other limitations. Furthermore Batik benang bintik the original of Central Kalimantan culture, it is not known who the creator is and there is a symbol or symbol on the cloth based on objects, plants or animals that are expressed on a cloth

5.1. Protection for Batik Benang Bintik When Claimed By Other Countries

Copyright infringement is the use of a copyright-protected work, which violates the exclusive rights of the copyright holder, such as the right to reproduce, distribute, display or display, or create derivative works without the permission of the copyright holder.

Infringement of copyright and related rights can not only be prosecuted criminally, as well as civil cases to a commercial court in the area of violation law. In addition, Law Number 28 of 2014 concerning Copyright in Article 95 provides an opportunity for parties to resolve copyright disputes through non-litigation channels, such as through arbitration or other alternative dispute resolution in commercial courts. If there is a geographical indication of copyright infringement then it can be done through mediation if possible

There are several solutions that can be done, namely:

a. Settlement efforts in the perspective of criminal law

The discretion granted by the Copyright Law to be able to resolve copyright disputes in civil or through non-litigation channels does not result in the loss of the right of the public prosecutor to file criminal charges against perpetrators of copyright infringement. The Copyright Law emphasizes that resolving civil disputes in the field of copyright does not eliminate the right of public prosecutors to carry out criminal prosecutions. Anyone found to have violated copyright protection will be subject to sanctions.

The legal rules made in Law Number 28 of 2014 concerning Copyright which then include a criminal element in the threat of punishment for violations which shows that the rule of law is made into a rule that is not only repressive but also preventive against existing violations. One of the repressive but also preventive characteristics can be seen in the shift in the nature of a copyright offense, which was originally a complaint offense to an ordinary offense.

In connection with enforcement efforts from a criminal law perspective, criminal sanctions for infringement of exclusive rights against copyright protection based on Law Number 28 of 2014 concerning Copyright are contained in Articles 112 to Article 119.

b. Settlement efforts according to Law Number 28 of 2014 concerning Copyright

Law enforcement from a civil perspective exists in TRIPS, in addition to regulating the issue of intellectual property (IPR) law enforcement procedures, it also regulates injunctions by commercial courts which have been regulated in Law Number 28 of 2014 concerning Copyright Articles 106 to 109. The existence of a provisional determination as the authority of a commercial court judge is intended to:

- 1) Preventing the entry of products suspected to be the result of infringement of Copyright or Related Rights into the trade route;
- 2) Redraw the product from circulation and confiscate and retain as evidence relating to the violation of Copyright or Related Rights;
- 3) Secure evidence and prevent its disappearance by violators; and
- 4) Stop the violation in order to prevent greater losses

Law Number 28 of 2014 concerning Copyright guarantees that you can file a civil suit if there is a violation of rights against a work. Filing a civil suit does not diminish the State's right to prosecute the party who commits the criminal offense. Copyright infringement can be filed for compensation by confiscating the results of the violation, both in the form of economic gain and in-kind results. Basically, some of these things are a form of law enforcement efforts that can be done in order to guarantee the law on *folklore* in Indonesia.

5.2. Closing

In a positive legal perspective, the form of legal protection provided by the Culture and Tourism Office of Central Kalimantan Province is by emphasizing Law Number 28 of 2014 concerning Copyright as the basis for legal protection of spotted yarn batik as regulated in article 38. Protection of Batik Benang Bintik if the claims of other countries are based on: 1) a criminal law perspective, namely based on Law Number 28 of 2014 concerning Copyright contained in Articles 112 to Article 119; 2) Civil law perspective contained in TRIPS, as regulated in Law Number 28 of 2014 concerning Copyright articles 106 to 109.

In the Islamic perspective, copyright is recognized as one of the rights of property ownership so that ownership is protected as well as protection of property. This is based on QS: Al-Baqarah 188, An-Nisa 29, and the attitude of person should not take a statement carelessly without mentioning the source. Literally, the basis of copyright protection in Islam rests on *Urf* (generall habits in society), *Al-Maslahah Al-Mursalah*, *Daar Al-Mafasid Wa Jalbul Mashalih*, *Qiyas*, *Sadd Adz-Zara'I*, and Opinions taken by some scholars who say that it is permissible to take wages from teaching religious knowledge, even if they are allowed to take wages for a *muadzin*

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**Batik Benang Bintik Indonesia Copyright: Protection of Intellectual Property Rights in the
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