

Protection of the IPR (Intellectual Property Rights) for the Culinary Industry through Law No. 30 Of 2000 Concerning Trade Secrets Related to Franchise Agreements Supporting Indonesian Creative Economy Growth

¹Nina Nurani, ²Yenny Maya, ³Kenji Kaniawati, ⁴Alfiana

Abstract---The culinary industry is the secret business of innovative recipes in the form of inventions or information as intangible assets that need to have adequate protection of IPR, because they have high economic value and are vulnerable to unfair business competition. The purpose of this study is to examine IPR protection for the culinary industry through Law No. 30 of 2000 concerning Trade Secrets and what if they are associated with franchise agreements supporting the growth of the Indonesian creative economy. This study uses a normative juridical approach. Interdisciplinary normative juridical refers to the principles, national legal norms, norms of international law, international conventions as secondary primary data and reviews of library data. The study uses descriptive research specification qualitative juridical analysis with methods of historical, sociological, systematic legal interpretation and legal construction. The results showed that the Trade Secret Law and franchise arrangements had not been effectively used to provide adequate protection, as evidenced by the high submission of applications for Franchise Registration not in line with the minimum number of records of transfer documents and licensing agreements at the Directorate General of IPR. In addition, it is not yet well understood, the regulation is also not yet comprehensive, in the form of unclear categorization and determination of information and legal subject of Trade Secret owners and ranking level of confidentiality. This opens up the potential for violations in the form of plagiarism and imitation as a form of fraudulent business competition. This has hampered the growth of Indonesia's creative economy. Therefore the government needs to revise these various weaknesses and intensify socialization.

Keywords: IPR Protection, Law No. 30 of 2000 Concerning Trade Secrets, Culinary Industry, Franchise Agreement, Creative Economy.

¹ Faculty of Business and Management Widyatama University
nina.nurani@widyatama.ac.id

² Faculty of Business and Management Widyatama University
yenny.maya@widyatama.ac.id

³ Faculty of Business and Management Widyatama University
Kenny.kaniawati@widyatama.ac.id

⁴ Faculty of Business and Management Widyatama University
Alfiana.dra@widyatama.ac.id

I. INTRODUCTION

Creative Economy (ekraf) is a series of economic activities originating from the use of creativity, skills and individual talents to create welfare and employment by generating and exploiting the creative and creative power of individuals (Departemen Perdagangan RI, 2008, p 2).

In Indonesia, the role of creative industries in the Indonesian economy is quite significant. Economic statistics in 2016 show, in the period 2010-2015, the amount of economic GDP rose from IDR 525.96 trillion to IDR 852.24 trillion (an average increase of 10.14% per year), while the three largest export destination countries for export commodities in the year 2015 were the United States 31.72%, Japan 6.74%, and Taiwan 4.99%. For the labor sector the 2010-2015 economy experienced a growth of 2.15% with the total labor force in 2015 as many as 15.9 million people (Badan Pusat Statistik, 2017).

In contrast to the characteristics of the industry in general, ekraf belongs to the category of industrial groups consisting of various types of industries, each of which has a connection in the process of embodying an idea or idea of becoming an intellectual property that has high economic value for the welfare and employment of the community and can increase a country's creative economic growth (Departemen Perdagangan RI, 2008, p 2).

Economic products are intellectual property produced and owned by a creator in the field of art, literature and science or an inventor in the field of technology. Therefore an economic product is a wealth that needs to be rewarded as a work that has economic value and at the same time needs to be protected by : Intellectual Property Right. The facts show that the market potential of creative work at home and abroad is very large and has a tendency to continue to grow, further strengthening the reason for the importance of protecting intellectual property rights on economic products, with the aim of creating creative ideas and innovations to obtain economic benefits for their intellectual work (Sulasi Rongiyati, 2018, p 40).

The market for creative works in the country is growing because of the increase in people's purchasing power and the increasing number of middle classes, the changing patterns of consumption of creative works because consumers become co-creators of creative works, as well as population growth (Dewan Perwakilan Daerah RI, 2016, p 21). BPS data quoted by Mari Pangestu showed that household consumption of creative products in 2014 reached Rp 977.2 trillion or 17.2 percent of national household consumers with the first rank occupied by the culinary sector, followed by fashion, crafts, and publishing and printing (Mary Pangestu, 2017). Based on the data obtained, culinary in the form of food and beverages from Indonesia is diverse and very well-known abroad, has the greatest market potential throughout Southeast Asia in the era of free trade in the ASEAN Economic Community (MEA) (Imam Maulana, 2019) supporting Indonesia's creative economy.

Thus the growth of the culinary industry is potential as a mainstay sector because of the increasing demand, the more open markets in the country, but this has the potential to pose a threat of the entry of similar products from other countries (Imam Maulana, 2019). Therefore, a strategic issue that needs attention so that the culinary industry can develop rapidly and conductively as an effort to increase Indonesia's economic growth includes regulatory issues, including the regulation of IPR intellectual property stipulated in Law No. 30 of 2000 concerning Trade Secrets.

Trade secrets, like other intellectual property rights that have economic benefits, can become a company's assets. Based on an agreement, a company can give rights (not transfer of rights) to enjoy the economic benefits of intellectual property optimally, which is owned by other companies, for maximum utilization as an IPR asset based on license or franchise (Indira Swasti Gama Bhakti, p 14). Franchising is a form of business model where the first party called the franchisor gives rights to the second party called the franchisee to distribute goods / services within the scope of a geographical area and a certain period of time using trade secrets, brands, logos and operating systems owned and developed by franchisor. Granting this right is stated in the form of a franchise agreement (Indira Swasti Gama Bhakti, 2017,p 14).

The main thing that needs to be appreciated in the culinary industry business is the secret of innovative cooking recipes that are its own characteristics for the business from its competitors to similar businesses. If the culinary endeavor by Franchisor is franchised then the innovative recipe will be known to the franchisee, but the rights of the owner of the trade secret in addition to using his own trade secrets, can also give licenses to franchisees or prohibit other parties from using trade secrets or disclosing trade secrets. The advantage to third parties influences commercial interests (Indira Swasti Gama Bhakti, p 14). However, in fact there are problems, the culinary industry has not done much development of its business model through a franchise agreement and an agreement licensing document and the

transfer of rights to the recipient of the franchise through Kemenhunkam, for example in Palembang, Sumatra South which is famous for the culinary industry of Pempek there are only 4 entrepreneurs who use the franchise mechanism but do business in Jakarta, those are Pempek Jawa, Pempek Patrol, Pempek Palembang Tjek Entis and Pempek 8 Ulu Cik Ning (NN, 2014, p 757). The lack of interest is due to several factors including inappropriate rewards in addition to unclear arrangements and legal protection of the Trade Secret Law and franchise agreements. While several cases arose related to trade secrets and franchise agreements as a result of not being recorded so that the suit for verification during innovative karaya was carried out piracy or plagiarism, which included the Hi Pin case that occurred in Palu in 2009. Hi Pin was a former CV Bintang Harapan coffee factory employee, was sentenced to MA as a convict, violated the Trade Secret Law, and received a sentence of 1 year in prison. Hi Pin has been proven to divulge the trade secret of coffee concoction owned by CV Bintang Harapan (Detik News, 2018). Hi Pin ordered witness Noldhy Lagindawa to make coffee frying pans and mills according to his experience working at CV Bintang Harapan. "The defendant also ordered samples of raw coffee, documentation and frying and production machines, coffee filter, plastic packing at the coffee factory CV Bintang Harapan with the intention that the Defendant's ground coffee produced by Defendant CV Tiga Putra Berlian is the same as ground coffee produced by CV Bintang Harapan, "Even though the Trade Secret Law was born in 2000 in the hope of accommodating intricate intellectual property issues, especially in terms of enforcement. Trading as other IPRs is to protect property rights from the actions of others who use them without rights. Trade secrets are information that is not known in general or is known to a limited extent by certain parties regarding matters relating to trade. This trade information needs to be protected by confidentiality (Syarifa Mahila, 2010, p 18) because morally give awards to those who find, and materially provide incentives. Therefore, the author is interested in reviewing IPR protection for the culinary industry through Law No. 30 of 2000 concerning Trade Secrets and how to protect trade secrets for the culinary industry associated with p franchise agreements support the growth of Indonesia's creative economy.

II. THEORETICAL FOUNDATION

Mochtar Kusumaatmadja, (Mochtar Kusumaatmadja, 1976, p 4) through his Legal Development Theory, explained that the change happened in an orderly manner (Mochtar Kusumaatmadja, 1976, p 4). "Law is a means of renewing society, in terms of rules or legal regulations that can function as a means of development or means of channeling the direction of human activity in the direction desired by development or renewal. "Sunaryati Hartono states that the meaning of legal development includes four things as follows (Sunaryati Hartono, 1991): (a). perfecting; (b) change (c). hold something that does not yet exist, and (d). nullify in the old system.

In order for development to be carried out proportionally, legal certainty is needed, the availability of adequate legal instruments, to meet the needs of the progress and welfare of the community (Ranti Fauza M, 2002, p 44), and to support creative economic growth. Likewise the inventors' creativity needs to be adequately protected through Trade Secret IPR.

The theory of trade protection intellectual property rights foundation, including property rights theory, contract theory, and supporting theories include (Robert M. Sherwood, 1990, p 11-13); (1) Reward theory, that is to the inventor of the culinary industry that is kept confidential and has economic benefits need to be given awards and recognition and legal protection (2) Recovery theory, namely for effort and creative work that has issued energy, thoughts, time and costs need to be given exclusive rights to exploit intellectual property rights to return what has been issued; (3) Incentive theory, which needs to be given to stimulate creativity and efforts to create local special works and useful (Robert M. Sherwood, 1990, p 11-13). The award of exclusive rights in the form of economic benefits for the results of encouraging creativity and stimulating someone to invest their capital through a franchise agreement. According to Robert M. Sherwood in Public Benefit Theory (Robert M. Sherwood, 1990, p 11-13) states that inventors must be respected and protected by law driven by their creativity, the basis of Indonesia's creative economic growth. The philosophical foundation of the exclusive right of monopoly nature is stated by Jeremi Philips and Allison Firth, in the theory of "The Absolute Monopoly of the Market" stating that the owner of the IPR right has the right to prevent anyone from using property rights in a market regulated by law to protect it.

III. RESEARCH METHODS

Normative juridical, namely searching, researching, and studying the object through its legal principles both through national legislation, namely the Trade Secret Law No. 30 of 2000. The TRIPs-WTO agreement is linked to the protection of IPR on the work of the inventors of local specialty food and beverage recipes, each of which supports creative economic growth. Article 1320 Civil Code. Government Regulation No.42 of 2007 concerning Franchise and Minister of Trade Regulation of the Republic of Indonesia No.12 of 2006 concerning Provisions and Procedures for Issuance of Franchise Issuance Signs, as well as Regulation of the Minister of Trade of the Republic

of Indonesia No. 31 / M-Dag / Per / 8/2008 concerning the Implementation of Franchising. The descriptive specification of qualitative juridical analysis is with historical, sociological, systematic legal interpretation and legal construction methods.

IPR Protection for Culinary Industries Through Law No. 30 of 2000 Concerning Trade Secrets.

Business in the culinary industry is the secret business of innovative recipes, a distinctive feature of the business, it needs to have adequate IPR protection, because it has very high economic value and due to the rapid development of technology, unhealthy and very tight business competition can occur among business people in the world of commerce. An innovative recipe that has been considered discovery or information as an intangible asset of the company must be protected in order to avoid the bad faith of its competitors. If it is not properly maintained, the confidential information will be revealed and become worthless. Therefore it is necessary to have adequate protection of IPR that is through Trade Secrets.

Trade Secret Protection has strategic potential to be used to protect culinary industry works if the invention cannot be patented because it does not meet patent requirements even though it is also widely used for inventions that can actually be granted a patent, considering that Trade Secret Protection has several advantages that benefit inventors namely, among others (Husnul Muasyara, 2000, p 3):

a. The Trade Secret protection does not have a protection time limit as long as the owner keeps his trade secrets from public access, while the patent has a term of protection for 20 years, then becomes a public domain.

b. The Trade Secret protection does not require registration at the Director General of IPR as a condition for the birth of property rights as a patent so that legal protection can be obtained immediately.

However, in addition to the protection of trade secrets, there are also advantages that there are some weaknesses that need to be observed by the owners of trade secrets, namely:

a. If there is another party that obtains the same technology with confidential technology, in good faith (for example through its own research), the Trade Secret protection cannot prevent other parties from owning, commercializing and even obtaining a patent, if it meets the requirements for granting a patent.

b. If the confidential information attached to a product allows the other party to learn, examine and analyze the secret (reverse engineering). This action is not considered to be a violation of the Trade Secret when it is carried out in the interest of further development of the product concerned.

(OK Saidin, 2010, p 9-10) Article 1 of Trade Secret Law No. 30 of 2000 concerning Trade Secrets does not affirm limitatively that information is categorized as a trade secret, only, even though Article 2 explains that Trade Secret's scope of protection includes production methods, processing methods, sales methods, or other information in the field of technology and / or business that has economic value and unknown to the general public. As a reference Article 757 Restatement of Tort United States. In Article 757 (OK Saidin, 2010, p 9-10) it is more comprehensive to define the scope of Trade Secret as formulas, patterns, tools / methods of work or a collection of information that someone uses in business, formulas for chemical mixtures, a process in factories, testing or maintenance of materials, a pattern for machines or other tools or a list of consumers.

c. The Law on Trade Secrets does not accommodate the regulation of the subject matter of RD owner's law even though this issue is important because it involves who is entitled to the information. In the previous draft Trade Secret Law, those who were considered the owners of trade secrets were inventors who technically mastered the trade secrets. If in a certain situation the information is found by more than one person then the person who is considered as the owner is the person who leads / supervises the activity / collects, which results in the trade secret. When designed and completed by other people under the leadership and supervision of the person who designed it, the owner is the person who designed the trade secret (Taufik Effendy, 2014, p 23).

d. The Trade Secret Law does not regulate more details about the level of confidentiality which gives rise to uncertainty about the maximum number of people who know a confidential information, which is prioritized is the background of the person who knows and the place where the person is known.

e. The Trade Secret Law does not clearly regulate the way to determine information called trade secrets, resulting in the problems of Trade Secret owners with third parties, the potential for fraudulent competition. Detailed arrangements for how to determine Trade Secret and its legal protection are needed. UTSA expressly gives terminology about what is meant by individuals, namely individuals, companies, business groups, associations, associations, associations, joint ventures, governments, parts of government or agencies, or other legal or commercial bodies.

The latest data shows that there have been violations of IPR in Indonesia, including trade secrets, as a result of unfair business competition. Workers have the potential to cause violations of trade secrets by providing information on data or documents to other companies, until unfair business competition arises, therefore recording license

documents and transferring rights at the Ministry of Defense and Security is fundamental as a strong evidence in the trial. Data shows that during the 2011-2016 period there were 616 cases, 274 cases, 16 design cases, 7 case patents and 3 case trade secrets.

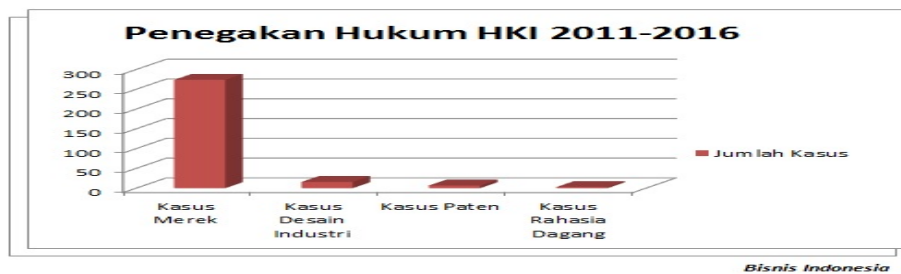


Figure 1: Intellectual Property Right LAW Enforcement 2011-2016

(Source: Bisnis Com, "Here is the Trend of IPR Violation Cases", <https://kabar24.bisnis.com>, October 11, 2017)

The lack of a comprehensive Trade Secret arrangement, along with the occurrence of violations of Trade Secrets by business operators, will show that the regulation is ineffective.

Protection of Culinary Industry Trade Secrets Associated with Franchise Agreements Supporting Indonesia's Creative Economic Growth

The potential of the archipelago's culinary variety is able to contribute to significant economic growth, absorbing labor, opening up employment opportunities for the community. "Strategic potential in the development of the culinary industry business contributes 30% of the total creative economy. The culinary industry has the potential to be very strong developing (Cipta Nadia Putra, 2019) one of the mainstay sectors supporting the growth of manufacturing and the national economy, contributing consistently and significantly to the GDP of the non-oil and gas industry as well as the increase in investment realization (Kementrian Perindustrian RI). The Ministry of Industry noted that the contribution of the food and beverage industry to the GDP of the non-oil and gas industry reached 34.95% in the third quarter of 2017. The largest contributor to the GDP of this industry compared to other sub-sectors. This achievement increased by four percent compared to the same period in 2016. Meanwhile, its contribution to the national GDP was 6.21 percent in the third quarter of 2017, up 3.85 percent compared to the same period the previous year. The development of investment realization, the food and beverage industry sector for domestic investment (PMDN) in the third quarter of 2017 reached Rp27.92 trillion or increased by 16.3 percent compared to the same period in 2016 and for foreign investment (PMA) of USD1 reached 46 billion (Kemenperin RI). The potential is done by the culinary archipelago, is a culinary recipe and regional specialty drinks that exist in all regions of Indonesia apart from foreign cuisine.

Data shows that there are 300 ethnicities in Indonesia who all have unique culinary, but only 10% have been processed (Mari Pangestu, p 7), the obstacle faced is the lack of new model business development (Mari Pangestu, p 7), therefore alternative strategic business development in developing the culinary business of the archipelago which is largely local and departing from regional specialty recipes in all regions of Indonesia, is a franchise system. This business besides being a solution for funding, human resources (HR) and management also has a very effective expansion of distribution channels to bring products closer to consumers through franchise recipients (Majalah Info Franchise, 2011, p 572).

Franchise agreements provide flexibility to the parties making the agreement (franchisor and franchisee) to make an agreement that transfers the right to use and / or use Trade Secret IPR as a discovery or characteristic of the franchisor's business in exchange for the requirements set by the franchisor, in order supply and / or sale of culinary products. Freedom to make this agreement refers to Book III of the Civil Code, relating to Freedom of Contract Article 1338 of the Civil Code and the legal terms of the agreement Article 1320 of the Civil Code. Implementing regulations are in Government Regulation No.42 of 2007 concerning Franchise and Minister of Trade Regulation of the Republic of Indonesia No.12 of 2006 concerning Provisions and Procedures for Issuance of Franchise Issuance Signs, as well as Regulation of the Minister of Trade of the Republic of Indonesia No. 31 / M-Dag / Per / 8/2008 concerning the Implementation of Franchising.

The regulation does not provide comprehensive legal protection, it is a control for entrepreneurs to receive new breakthroughs, especially the franchise mechanism adopted from America and Europe. The results of a survey of 100 (one hundred) traditional South Sumatra culinary entrepreneurs in Palembang City in 2013 are now running its business with conventional / self-managed trading mechanisms. It is because the culinary endeavor is related to its flagship family secret recipe, characteristic of taste, as a basis for sustaining its business. Concern is supported by prior experience; the secret of the recipe is copied or duplicated by other parties who take advantage of themselves (Putu, 2014, p758). This is also due to a comprehensive understanding of the franchise agreement. Therefore it needs attention in the development of the culinary industry franchise business that is regarding Trade Secret Protection.

As explained earlier, Trade Secret Law has not comprehensively regulated in detail the forms of information categorized in trade secrets, but Article 6 of the Trade Secret Law requires that all forms of trade secret rights and licenses be registered with the Directorate General of Intellectual Property Rights, indicating that the Trade Secret must be detailed so that it can be protected maximally in the event of the transfer of rights and licenses (Gunawan, 2003, p 106) The principle of IPR protection is the recognition of rights and the right to enjoy that wealth within a certain time, meaning that for a certain period the owner or rights holder of IPR can allow or prohibit trade secrets information. (Kesowo B, 1995, p 10) This is in accordance with the theory of intellectual property protection, including property rights theory, contract theory. Other supporting theories (Robert M. Sherwood, 1990, p 11-13); (1) Reward theory, namely to the inventor who has fulfilled the requirements of the discovery to be kept confidential, needs to be given awards and recognition and legal protection for the success of his efforts in giving birth to his findings (2) Recovery theory, that is for effort and creative work that has issued energy, thoughts, time and costs need to be given exclusive rights to exploit intellectual property rights to regain what has been issued; and (3) Incentive theory, which is an incentive needs to be given to stimulate creativity and to create a local food and beverage recipe works typical of the region (Robert M. Sherwood, 1990, p 11-13). The exclusive rights award in the form of economic benefits from the findings will encourage the growth of creativity and stimulate a person / company to invest in the era of free trade in support of the creative economy work (Robert M. Sherwood, opcit, p 37).

Thus, in principle, the license agreement should not contain provisions that directly or indirectly harm the business actor as stipulated in the legislation that results in unfair business competition. The Hi Pin case that took place in Palu in 2009 has proven that the former employee leaked the trade secret of coffee concoction owned by *CV Bintang Harapan* as described above.

This can be anticipated by fulfilling the obligation to record transfer documents and license agreement documents, which are the main thing, namely related to the ease of the process of verification in court. Proof of recording as written evidence is the main and perfect evidence that has high evidence strength, which facilitates verification in the Court (Alat bukti dalam HIR), however, there are 129 entrepreneurs in the local culinary industry in Indonesia, with the dominant food and beverage sector having a café and restaurant concept. Application for Franchise Registration Certificate, within the period of 2 January to 22 February 2018 there were 22 requests for STWP (Anonim, 2018). This data shows that franchise growth is quite high, but according to "Ministry of Justice's Performance Data up to 2018" the application for the recording of transfer documents and Trade Secret license agreement documents to the Directorate General of Intellectual Property Rights is 10 requests (Kinerja Menhunkam) that none of the culinary industry entrepreneurs have recorded the transfer documents or license agreement documents to the Directorate General of Intellectual Property Rights.

The lack of business records is due to a lack of understanding of the meaning and benefits of recording, even though the transfer document and license agreement are not listed, the document does not have legal consequences. If entrepreneurs are faced with fraudulent competition, it is a proof of constraint, in building a creative economy. Even though recording has a philosophical meaning that inventors have exclusive rights in the form of monopoly, according to Jeremi Philips and Allison Firth in the theory of "The Absolute Monopoly of The Market" states that rights owners must be protected by IPR, so that they have the right to prevent anyone from using property rights in the market regulated by law that protects it (Nina Nurani, 2012, pp 4).

Provisions regarding compulsory registration will not open the access of publicized trade secrets, because what is listed is not the substance of trade secrets, but only administrative data from rights transfer documents and license agreement documents (Saudi, 2018). This compulsory record is stated in Article 5 paragraph (3) in conjunction with Article 8 paragraph (1) of the Trade Secret. Likewise, the announcement of the transfer of RD rights and license agreement in *the Official Trade Secret News*, also does not include matters that are substantial but only administrative data. This is an obstacle for the support of the growth of Indonesia's creative economy, even though the entrepreneurial ratio in Indonesia rose from 1.67% to 3.10% of the population of 225 million people, the Indonesian

economy in the second quarter of 2016 grew by 5.01%. According to data with GDP products on the basis of current prices reaching Rp.3,366.8 trillion (Biro Pusat Statistik, 2016).

Thus, it is necessary to improve the Trade Secret Law, which can protect inventors, so that it is necessary to improve the arrangement of local food and beverage recipes. Some of the weaknesses that need to be made perfect for the Trade Secret Law include: (1) detailed arrangements for categorizing trade secret information forms (2) the confidentiality rating of the maximum number of people who know a confidential information, other than the background of the person who knows and places where the person is known (3) the assurance of the acquisition of rights for the same technology developer which is kept secret in good faith, for example through his own research by another party (4) the certainty of the legal subject of trade secrets.

In the previous RD Law Draft, which was considered the owner of Trade Secrets, was an inventor who technically controlled Trade Secrets. If more than one person finds information then the owner is considered a leader and supervisor, or who gathers it. When designed and completed under the leadership and supervision of the person designing, the owner is the person who designed it (Taufik Effendy, 2014,p).

Improvements to these weaknesses need to refer to Mochtar Kusumaatmadja's legal theory of development so that the law can be used as a "means of community development", so the law is determined in the presence of the community, so that law is a means of order in order to make regular changes. (Mochtar Kusumatmadja, Op cit, p 4) The law must be responsive. (Philippe Nonet & Philip Selznick, op cit, p 23) Law is a means of renewing society. in the direction desired by development. According to Sunaryati Hartono that the meaning of legal development includes, among others (Sunaryati Hartono, 1991) : (a). Perfecting; (b) Change to make it better and modern (c). Holding something that doesn't exist before, and (d) negating something that is in the old system. As a responsive law, the Trade Secrets Law must pay attention to its main community, which has the secrets of innovative recipes that are distinctive characteristics of the regions that exist in all regions of Indonesia.

The refinement of the Trade Secrets Law needs to accommodate philosophical factors as the basis of the ideals expected by the innovative inventors of the typical regional tastes as contained in *Pancasila* in the form of balance, democratic justice so that order can be achieved.

Juridical factors, trade secret arrangements are binding, an initiative of the government as an effort to realize the concept of "modern welfare state, according to Padmo Wahyono, the state also functions as guarantor of security and order for its people, but also social, economic and cultural rights. (Padmo Wahyono, p 32-33) According to Marbun, the government must be active in community activities so that the welfare of all communities is guaranteed (Marbun & Mahfud, p 45) to support the growth of Indonesia's creative economy.

Sociological factors, Trade Secrets arrangements need to accommodate the values adopted by the local Indonesian community as a characteristic of having strategic potential in an effort to support the growth of Indonesia's creative economy. International factors that need to be considered in the Trade Secrets Law as national law, namely applying the principles of TRIPs and WTO rules contained in the GATT, considering that Indonesia has ratified the international provisions of TRIPs and WTO in relation to international market share, will bring juridical consequences to the assets of the assets the typical creativity of local communities as a characteristic is threatened by acts of piracy, imitation and other actions that lead to fraudulent business competition in the regional and international environment which will harm the inventors of recipes typical of each region.

IV. CONCLUSIONS AND SUGGESTIONS

Conclusion

1. Trade Secret has the strategic potential to be used to protect culinary industry works, it needs to be protected by IPR in the form of Trade Secrets. The advantages of the Trade Secrets arrangement contained in Law No. 30 of 2000 concerning Secrets include not having any time for protection other than not requiring registration at the Director General of IPR as a condition of the birth of property rights. However, there are still some weaknesses, among others, if conducted research, reverse engineering by other parties in good faith, is not considered Trade Secrets violation other than the comprehensive regulation, among others, has not anodized the information category as Trade Secrets, how to determine information, determination of owner's legal subject Trade Secrets and the level of confidentiality. This weakness opens up the potential for violations to occur, in the form of plagiarism and imitation as fraudulent business competition. There was a violation of

trade secrets in an increasingly fierce business competition, showing that the regulation of the Trade Secrets Law had not been effective, it needed to be renewed.

2. Franchising as a strategic business model for developing the archipelago's culinary industry innovative local recipes typical of the entire territory of Indonesia, need to be protected by Trade Secrets. There are obstacles to Trade Secrets protection because Trade Secrets Law is not yet comprehensive in addition to the incomprehensible understanding of franchising by business actors. It is evident that there is a lack of recording of transfer documents and Trade Secrets license agreement documents to the Directorate General of Intellectual Property Rights when compared to the high rate of growth of franchise entrepreneurs who are generally the local culinary industry in Indonesia with a dominant food and beverage sector concept of cafes and restaurants. Evident submission of application for Franchise Registration is not in line with the number of records of transfer documents and licensing agreements hampering the growth of Indonesia's creative economy.

V. SUGGESTIONS

1. The need for the government to revise the various weaknesses contained in the Trade Secrets Act No. 30 of 2000, among others: accommodating the following matters: (1) forms of Trade Secrets information categories (2) the level of confidentiality of information and the background of people who knowing and the place where the person is known (3) the criteria of further researchers (4) identifying the requirements of Trade Secrets legal subjects that can protect the work of the inventors of local recipes and drinks of each region, so that legal certainty is created.

2. The government needs to be more proactive and intensive in an effort to socialize the Trade Secrets and franchise arrangements comprehensively related to the protection of local culinary industry work in Indonesia with a distinctive food and beverage sector. There needs to be a paradigm shift for local culinary entrepreneurs from all Indonesian societies from conventional culture towards modern culture through understanding comprehensive franchise business models by recording the transfer documents and Trade Secrets license agreement documents to the Directorate General of Intellectual Property Rights while filing applications for Franchise Registration, in an effort the creation of a conducive atmosphere and a passion for inventors to be motivated to increase motivation to increase new creations without leaving the local environment in each region as a means of increasing the growth of Indonesia's creative economy.

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