

THE DYNAMIC AND CHALLENGES OF INTELLECTUAL PROPERTY SECURITIZATION FOR FINANCING INTERNATIONAL BUSINESS IN CREATIVE AND TECHNOLOGY SECTORS

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Presented at

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ABSTRACT

This paper aims at exploring the dynamic of Intellectual Property (IP) securitization as a feasible financing for the technology and creative businesses which need ready capital to operate and develop products as well as market expansions. This idea is dedicated to analyze the prospect of IP assets for financing international business start-ups, development and expansions. To visualize the above idea, this work will explain IP securitization and show how technology and creative companies can use it to gain direct and indirect benefits. This paper demonstrates that IP securitization enables the technology and creative companies to achieve a reduction in financial cost by providing access to lower cost capital market funding. It also explores why a corporation might prefer to use IP securitization as a new vehicle for raising funds by showing the benefit cost and flourish associated with IP securitization. It is realized that this idea may spark some challenges at doctrinal, normative and practical level. At doctrinal level, the challenge refers to the philosophical issue related to exclusive right doctrine. At the normative level, the challenges are caused by the absence of the regulation concerning IP securitization in some countries influencing the validity and viability of IP securitization transaction. At the practical level, this idea may not guarantee the certainty of IP valuation as a unique asset involving complex procedures and matrix of supporting elements as well as interdisciplinary laws and so forth. In addition, while IP securitization has been growing rapidly in the United States after the success securitization of 'Bowie Bond', it has not taken off on a cross border basis because of diversity of laws and practices. In order to overcome the challenges, this work offers the need of government involvement in developing and promoting IP securitization. Governments must pay particular attention to the development of the necessary economic and legal framework for supporting IP securitization. This idea starts with the enactment and enforcement regulation and the establishment of elements and infrastructures for the transaction.

Key words: intellectual property, securitization, creative, technology, business, funding

1. Introduction

In recent years, there has been a growing awareness that Intellectual Property (IP) asset can be monetized because IP offers a variety of financing and economic opportunities to the owners. IP can be sold, licensed, used for collateral or securities. It can also provide alternative basis for seeking equity from bank, private investor or venture capitalist.

Accordingly, IP ²² can be recognized as financial assets because the IP owners can achieve future cash flow streams. ¹⁰ As a cash flow generating asset, it is possible to set up financial instruments on IP' asset via securitization. Securitization has become a mechanism to raise capital and obtain liquidity in exchange for the transfer of certain assets and to invest in alternative securities that can offer interesting return rates. While asset securitization itself is not new, IP securitization has become a new revolutionary technique in commercializing IP after the Bowie Bond Securitization in which David Bowie's music catalogue transferred into saleable bonds in 1997. The success of Bowie Bond securitization shows that IP right owners may obtain financial reward from IP securitization. In theory, securitizing IP is no different than securitizing any other asset, whereas, in practical level, securitizing IP presents a number of unique challenges and problems.

This paper explores the dynamic of Intellectual Property (IP) securitization as a feasible financing for the technology and creative businesses. It shows the prospect of IP asset as new vehicle for raising and financing international business in technology and creative companies and how those ⁷ companies can use IP securitization to gain direct and indirect

benefit by showing the cost and flourish associated with IP securitization. However, IP securitization ²⁰ may spark some challenges at doctrinal, normative and practical level. At doctrinal level, the problem refers to the philosophical issue related to exclusive right doctrine, while at the normative level, the challenges are caused by the absence of the regulation in some countries questioning misdoubting the validity and viability of IP securitization. At the practical level, the problems arises from the uncertainty of IP valuation as a unique asset, the complex procedures and supporting elements as well as interdisciplinary laws and so forth. In addition, IP securitization has not taken off on a cross border basis because of diversity of laws and practices. Therefore, this work offers ⁶ the need of government involvement in developing and promoting IP securitization by providing economic and legal framework for supporting IP securitization. The enactment and enforcement regulation and the establishment of elements and infrastructures for the IP securitization transaction will be the first milestones.

2. The anatomy of IP Securitization

A. IP securitization definition

Securitization has a diverse range of definition, but all capture the process of pooling assets in order to sell them as securities. (Fairfax, 1999) According to John M. Gabala (2004), securitization normally is the conversion of illiquid assets into marketable securities to investors and providing immediate access to cash. Securitization is defined as "the conversion of assets into marketable securities for sale to investors" (Fitch,

2000). The ² process of issuing securities backed by assets in structured financing is sometimes called "securitization" because assets are...turned into securities – they are monetized, not through traditional secured borrowing or factoring, but through the issuance of asset backed securities (Sylva, 1999, p.198). Securitization is a process whereby the right to receive certain future payments is united and then sold in the form of securities (Garner, 2009, p. 1475). ¹³ Securitization is essentially a process of creating financial instruments that can be marketed to investors based on underlying assets or financial obligations (Nikolic, 2009, p. 398).

¹¹ IP securitization is defined as "a financing technique whereby a company transfers rights in receivables (e.g. royalties) from IP holders to an entity, the which in turn issues securities to capital market investors and passes the proceeds back to the owner of the IP"¹⁰(Pandey, p.2). IP securitization is a device of structured financing where IP assets or rights to receive future payments originated by IP are converted into marketable securities. IP securitization is also defined as a financial technique giving IP owners to obtain lump sump of cash up front from IP receivables, predictable cash flow, or the royalties (Medansky & Dalinka, 2005).

The first IP securitization structured in February 1997 when David Bowie, through David Pullman, introduced a new form of "securitization" by converting his future royalties to be received from certain record sales ²² into securities and sold those securities in a private offering for \$55 million (Fairfax, 1999, p.442). The form of securities was a bond (called Bowie Bond) (Sylva, 1997, p. 197). The David Bowie securities ("Bowie bonds"), offer a 7.9% interest rate with a 10-year average life and a 15-year maturity.

The bonds are backed by royalties on a 25 album catalogue consisting of about 300 songs of Bowie's recordings and song copyrights (Roberts, 1997, p.23). The "Bowie Bond" was the first IP backed securities and the first product of IP securitization (the first music royalties future receivables securitization). The securitization of song royalties by David Bowie may have begun a new trend that could extend not only to other musicians, but to securitize other copyrighted works and other IP assets. Following the Bowie Bond success, other musicians completed song royalties securitization such as James Brown, Isley Brother, Iron Miden and Road Stewart (Morris, 2009). Other copyright works were also securitized, for instance, in November of 1997, Bear, Stearns & Co., Inc. structured a securitization of 10 films future revenues made by Dreamworks, a production company owned by Steven Spielberg (Euromoney, 1998). While film securitization by New Line Cinema was completed in 1998, in 2003 Vivendi Universal film securitized film royalties (Morris, 2009). PolyGram, Dutch entertainment company generated US \$ 650 million bond backed by cash flow from films produced next three years (Davies, 1998). Merrill Lynch completed a securitization involving revenues of films library owned by the Italian film company Cecchi Gori (Serwer, 1998). Securitization of trademarks such as Triac, Guess?, BillBlass, Dunkin and drug patent royalties by BioPharma Royalty Trust and Royalty Pharma Finance Trust were also examples of IP securitization following Dawid Bowie securitization transaction (Moris, 2009).

B. IP securitization Mechanism

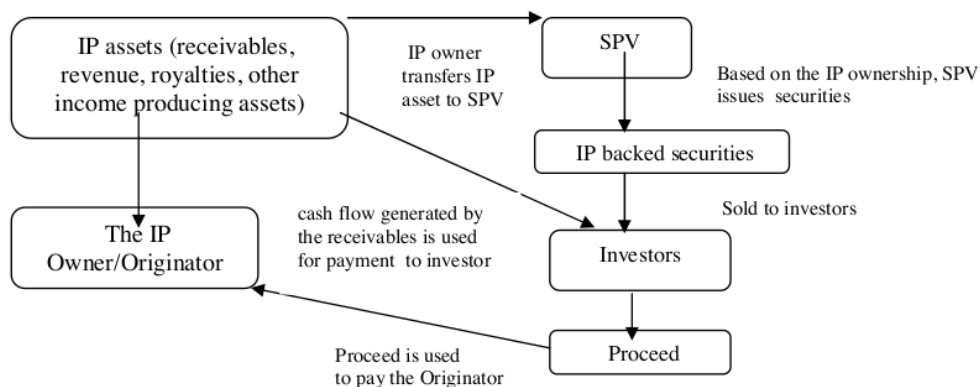
Securitization started at the beginning of 1970s in the United States when the Government National Mortgage (GNME - Ginnie Mae) issued pass through - mortgage backed securities (Culver, 2008). Initially, securitization is backed by traditional assets, such as mortgage, credit card and auto loan receivables, equipment lease, franchise fee, service fee, etc (Glasner, 2008, p.27). All of these asset are similar in nature because they represent payment obligation, in form of receivables or other financial obligation (Glasner, 2008, p.29). Recently, companies can securitize all assets including IP rights because IP is considered as valuable asset. As a valuable asset, IP including royalty revenue stream as can be transformed into securities traded to investor. IP securitization most recently involves copyright, trademark and patent assets. Copyright asset is given to the original works and to give the author the exclusive right to copy, distribute copies, make derivative works and take other defined actions with respect to that expression (Nimmer, p. 294). Patent protection gives the owner a monopoly of an invention for a limited term if the invention is non-obvious, novel & useful (Chu, 1999).¹ Trademark protects the trademark holder's right to use a mark to designate origin and signal quality on products traded through commerce (Nimmer, p.294).

The mechanism of IP securitization involves basic structures. First, a company or individuals, known as the "Originator," must have a pool of quality rights to receive future payments, receivables, or income producing (Culver, 1994). Originator is the entity that originates or generated the receivables that backed the finance raised (Deacon, 2004, p.575). Second, the Originator values and

¹ Nicole Chu, "Bowie Bonds: a Key to Unlocking the Wealth of Intellectual Property", *21 Hastings Comm. & Ent. L.J.* 469, 1998-1999, at. 480

pools receivables or income producing assets (Benneth, 2006, p.402). Third, the Originator transfers these ⁴⁴ assets to Special Purpose Vehicle (SPV) which is independent standing entity, specifically created for securitization transaction and protected from any bankruptcy or insolvency proceedings of the Originator (Klee & Butler, 2002). Fourth, the SPV issues ¹² securities to investors which are backed by the assets transferred. SPV generally issues securities in the form of debt or equity instruments (Klee & Butler, 2002). The type of securities depends on whether the SPV will be structured as a pay-through or pass-through vehicle. SPV issued equity securities is a "pass-through vehicle which spread over payments proportionally to the security holders based on the receivables' cash flow and their ownership share (Fairfax, 1999, p. 448). On the other hand, a pay-through vehicle issues debt instruments and allows security holders to receive fixed payments (principal and interest) that are secured by the receivables and based on anticipated cash flow (Fairfax, 1999, p. 448). Fifth, the ¹² proceeds from the sale of securities are used to pay the Originator for the transferred assets. Finally, the payment to investor purchasing the ¹² securities issued by the SPV are paid out of the cash flow generated by the receivables (Shaw, 1990, p. 251).

Simple mechanism of IP securitization



3. Cost and Benefit of IP Securitization

A. Cost of IP securitization

Although the fact that a certain IP asset is securitizable, it does not mean that IP securitization runs well. Structuring IP securitization should consider cost and benefit. An amount of costs are needed to structure a securitization transaction such as fee for professionals in law, or accountant, tax and financial affair that is expected to be large. IP securitization involves more technical expertise than traditional asset securitization and require more due diligence, affecting to the expensive and complex process. Therefore, the standard of asset to be securitized must indicate the break even point, in order to avoid the difficulty to acquire benefits from securitization (Kumar, 2006, p. 98). This standard is sufficient to cover the cost to be paid for setting up complicated scheme of IP securitization.

B. Benefit of IP Securitization

A new funding source is desirable in the vast IP market which includes record masters, publishing, television, film libraries, high tech licenses and biotech licenses and where production or research costs are high (Haber, 1997, p.93). IP securitization offers an appropriate method for funding or financing creativity and productivity in high technology and creative industries. The high technology business and creative industries, like other business, need ² ready capital not only to operate, but for research and development of the products. The ² cost of development of product in high technology industries is estimated ten times the cost of invention (Min L Rev, p.1230). Most high-tech companies have a difficult time making money on the product before develop another. Through IP securitization, high-tech companies can tap into their future earnings and keep up

with the market place. IP securitization offering ready capital also benefits for many film and music studios that need large amounts of money for movie and music productions and promotions.

Since IP securitization is an essential mechanism for corporations to access ready capital by transferring against future income streams, it has essential advantages to allow the company or individual ⁷ to raise money at a lower cost than conventional financing techniques. IP securitization diversifies financing option to companies unable to access bank and the capital markets.

Liquidity while diversifying funding options will be increased by structuring IP securitization. IP Securitization increases the liquidity of a company by enabling it to access future income immediately. IP securitization has become a popular technique to obtain liquidity in exchange for the transfer of certain assets (Fraga, 2005, p.5) and increases liquidity by providing immediate access to cash (Gabala, 2004). The ability of IP securitization to increase liquidity renders securitization called as "alchemy" because it creates valuable thing from that has not existed before, especially its ability to transform illiquid assets into liquid assets or cash (Fraga, 2005). According to Vicens Marti Fraga (2005), securitization essentially also replaces the rights to future receivables (royalties) with presently available cash, while Lois R. Lupica (1998) argued that process of securitization transforms illiquid assets into instant cash payment future.

IP securitization will likely be an attractive vehicle for IP owners, creative industries or technology companies in search of funding or financing because the possibility of those parties to access instant money for their operation and development activities. IP Securitization is particularly beneficial to companies wishing to accumulate "generalized purchasing power" or engage in long-term

investments (Lupica (1998)). Proceeds from IP securitization transaction can be utilized by the IP owners to support the new start up, expansion, manufacturing or product development, introduction and promotion of new products to the market or to improve their financial performance.

The difficult options of raising a large amount of money, while still retaining ownership in the underlying IP can be resolved by IP securitization. Traditionally, in the world before securitization, companies as originators had two options; borrow money by using their asset as collateral for secured loan or sell asset (Janger, p.303). Whereas, in the era of securitization, companies/originators can raise money without selling assets. According to Clarie A. Hill (1996),
⁵ securitization is simply a method of raising money without selling the property. In IP securitization, the ⁵ financier purchases the right to the receivables or royalties income but not the underlying IP itself.

IP Securitization technique raises new possibilities for unlocking the wealth contained in intellectual property (Chu, 1998-1999, p. 471). If IP securitization financing can be successfully applied to the patents, hi-tech/bio-tech companies, creative industries and other IP based companies, many more IP activities can be undertaken and utilized for the wealth reason.

By offering ⁹ an alternative investment to investor, IP securitization provides opportunities to society for obtaining income distribution. Investment instruments issued by IP securitization will offer safer and stable income. Since IP backed securities is asset backed securities, they are generally less unstable than corporate bonds, and are not vulnerable to possible future negative ratings of the originator. In addition, securitization is attractive for investor because the products of securitization represents fixed income investment constant rate of

return. IP securitization also allows investors to design their investment based on their risk preferences. Investors can compare risks of securities and identify securitizations with the credit risk they are looking for and invest accordingly (McLean, 2008, p. 564). Moreover, IP securitization also allow society to get involve in funding creativity and productivity. By purchasing IP backed securities, investor/society provide instant cash for creative and productive companies to develop and create new IP products.

4. The Challenges in Applying IP Securitization

A. At Doctrinal level

Applying IP securitization will arise conflicting interest because of doctrinal problem of exclusive right. IP laws promote and protect two conflicting interests: (a) the stimulation of creativity and productivity; and (b) the exclusive right of creators or inventors to exclude others from using the product of such creative efforts (Chu, 1998-1999). Copyright protects original works and ³⁷ gives the author the exclusive right to exclude others from using, copying, or compiling the work. Trademark right on the other hand, prevents others from using any distinctive images, mark or terms that identify the products or service of a company in order to protect against consumer confusion or dilution of the mark. Patent grounded in novel, non obvious and useful standards, provides for the right to prevent anyone else from making, using, selling or offering to sell the patented inventions.

Exclusive right is principally granted for ³ protecting the interest of the individual (inventor) who actualizes his existence and potential. On the other hand, the exclusive right ³ may stimulate the production and dissemination of

creativity and productivity (science, knowledge and technology works) under free market conditions (Haq, 2008, p.1). Since IP securitization will strengthen the exclusive and monopoly right of IP owners to monetize and commercialize their asset, it may treat social interest to achieve social welfare. Doctrine of exclusive right provides opportunity for creators or inventors to manifest their will or interest. Exclusive right is the central concept to protect intellectual products and hold an important ³ role in improving industry and trade development toward economic progress (Haq, 2008, p.5). Unfortunately, according to Hayyanul Haq (2006), the exclusive right ³ have been manipulated by a few gigantic corporations exploiting the exclusive rights ³ as the main instruments to accumulate and maximize the interest and profit towards IP capitalism. The over exploitation of exclusive right results in misappropriation-manipulation, and forces self interest and capitalism. The ³ spirit of capitalism allows and strengthens the companies aggressiveness to surpass the social interest (Haq, 2006, p.14). Since most IP products and their derivatives ³ are controlled by several gigantic corporations in developed countries (Haq, 2006, p. 6), these corporation may involve in misappropriations of the exploitation of IP in the securitization scheme. If these corporations structure IP securitization in an extreme, ²⁹ greed and inordinate self interest in financial system, the benefit and efficient form of securitization can develop ²⁹ a serpent-like grip on the real economy (www.sodahead.com/48493/securitization-as-satan) and becomes an evil interfering the flow of money and finance. This extreme securitization becomes and exposes the root of financial crisis. According to Niall Ferguson, ¹⁴ the financial crisis in August 2007 had relatively to do with bank lending...its

prime cause was the rise and fall of securitized lending which allowed banks to originate loans but then repackage and sell them out (Ferguson, 2008).

B. At Normative level

IP securitization has been well regulated in the United State, while in some countries, it has not specifically regulated in the legislation in the field of IP, capital market, corporate or financial laws. The absence of the regulation concerning IP securitization sparks a fundamental problem for applying IP securitization. Without specific regulation, the validation of IP securitization will be questioned. In addition, the uncertainty of the law may raise doubts about the certainty in determining whether a IP securitization will be worth. Moreover, without certain regulation, there is uncertainty whether the securitization of intellectual property rights is part of the securitization of assets or should be separated and treated differently from the asset securitization. Furthermore uncertainty rules on IP valuation, as well as uncertainty law on IP pertaining to the ownership and perfection of a security interest can abandon IP securitization possibilities.

The absence of IP securitization in Indonesia will be analyzed for the instance of normative challenge of IP securitization. Indonesia has not regulated IP securitization in specific “sue generis” system or integrated into capital market, corporate, financial of IP laws. Due to the absence of securitization regulation, some Indonesian banks (BII, Bank Bira, Citibank) and some companies (Astra Sedaya Finance, Bunas Finance Indonesia, and Surya Multidana) proceeded the securitization in Malaysia and Singapore (Manurung & Nasution, 2007).

The existing regulations supporting securitization in Indonesia is very limited. The current regulations on capital market law are only related to the issuance or trading of asset backed securities as the product of the securitization process, not the securitization itself. Indonesia government has provided President Regulation No. 19 /2005 for the “Financing Secondary Mortgages Facility” which is limited for securitization with underlying asset of housing mortgages. In banking area, it can be noted that Bank Indonesia has released a regulation of the “Prudential Principle in Asset Securitization for banks”, but it has also a limited scope which is applied for banks only.

In addition, there is a conflicting law between the bankruptcy remote principle and Indonesia bankruptcy law. Bankruptcy remote principle is applied to SPV specifically created to complete securitization. The insulation of the SPV from bankruptcy is important pillar of securitization scheme (Locke, 2008, p. 180). The ⁴³ use of SPV is simply a disguised form of bankruptcy waivers (Klee & Butler, 2002). However, Indonesian Bankruptcy Act (UU 37/2004) may not apply the bankruptcy remote principle to SPV because Article 2 (1) of UU 37/2004 regulates that every ⁸ debtor having two or more creditors and failing to pay at least one debt which has matured and became payable, shall be declared bankrupt through a court decision, either at his own petition or at the request of one or more of his creditors. SPV may not be protected from bankruptcy or insolvency proceedings because SPV can be a potential debtor due to the obligation of SPV to pay the securities holder's investment revenue.

C. At Practical Level

Practically, a critical aspect of IP securitization is the valuation and calculation of IP assets. Calculation and valuation are necessary to determine the feasibility of securitization and to predict future cash flow (Rosenberg & Weiss, 2003). However, the IP asset valuation uncertainty is the main practical challenge of Structuring IP securitization. IP securitization presents significant difficulties due to valuation issues regarding the intangible properties of the asset (Lev, 2001). Real value of IP assets can not be measured accurately, thus future cash flow generates, receivables or royalties with the element that can be analyzed quantitatively are usually considered for IP securitization (Kirsch, 2007). Future cash flow generates, receivables or royalties are more liquid than inventory as they are one step closer to cash and they are a better form because they demonstrate that the firm has buyers (Kirsch, 2007, p.10). While any asset with a cash flow can be securitized, the most important characteristic of the cash flow is predictability (Gabala, 2004, p.331). However, the predictability of cash flow or royalties may be uncertain in the era of massive infringement of IP. For instance, copyright securitization presents uncertainty of royalty in the illegal peer-to-peer (“P2P”) music file-sharing and high speed internet technology contributes the fast-massive infringement which can dilute royalty streams of copyright. In Napster case, illegal P2P file sharing and downloading music declined the sales, harmed the market for copyrighted music by reducing compact disc sales and deprived copyright owners of royalties (Gabala, 2004, p.323) Unpredictability of the royalty income due to the such infringements may

diminish the attractiveness of the future royalty/cash flow/receivables-based securitization.

Awareness of IP values and experience to practice IP securitization are also a practical problem in some countries. While in the United States, US companies are increasingly aware of their intangible assets, including IP and they have experienced a shift in focus of their value from tangible to intangible IP assets² and monetize IP through IP securitization, several countries, including Indonesia has no experience to structure IP securitization and remain focus on tangible and conventional financing transaction.

Another problem also arises when IP securitization involves many parties and complex interdisciplinary laws. IP securitization is a very challenging area of study. It requires researchers and practitioners to address interdisciplinary study and laws including intellectual property, corporate law, capital market, corporate finance and other areas. According to Frankel (1991), securitization involves not part of financial system, but a whole system, not one or few branches of law, but most branches of the law ... Securitization involves many parties such as SPV, servicers, rating agencies, credit enhancers, insurance companies, the financial and capital market professions. It does not merely need the traditional intermediaries, but finance subsidiaries of operating companies and government intermediaries (Frankel, 1991).

5. Government Involvement for Promoting and Supporting IP 6 Securitization

Governments must pay attention and involvement to the development of the necessary economic and legal framework for supporting IP securitization. This idea starts with the enactment IP securitization regulation with its enforcement as well as the establishment of elements and infrastructures for the transaction.

The requisite elements necessary for IP securitization transaction derived from analysis of the most common form of asset securitization. At the most basic level, IP securitization involves a variety of key supporting elements : (a) system finance based upon IP; (b) capital market (market for IP based securities); (c) infrastructure to support securitization, such as the legal support for structuring SPVs.

(a) System Finance Based upon IP

For supporting system finance based upon IP, firstly it is necessary to entail the existence of a functioning system of finance based upon IP. A system of finance based upon IP may a key to financial and economic development. The conceptual framework linking IP to financial and economic development have four key elements : (a) the IP securities and inventive linkage; (b) the IP title, collateral and credit linkage; (c) IP liquidity and mobilization; (d) the IP market, transactions, and efficiency linkage. The four linkages are necessary to support effective IP based finance, and all linkages are based upon the existence of the appropriate legal infrastructure. The creation of functioning system of IP based finance involves the precondition of : (a) clear property right to IP; (b) clear right

to transfer property, including IP, (c) clear rules related to use of IP as collateral; (d) financial institutions capable of understanding credit enhancement analysis related to IP collateralization for IP backed securities; (e) a ³⁶ clear and predictable system of taxation; (f) appropriate financial regulation and supervision.

Secondly, the market development in which IP have an important role must be considered. To establish IP development , the key elements necessarily reformed must include: (a) institutional reforms that better define property rights and improve contract performance; (b) capital market reforms that makes IP finance available at reasonable rate, especially for individual/retail investors, (c) market reforms such as market regulation and fiscal policies that reduce or eliminate the main distortion in goods and services produced by IP assets.

(b) capital market (market for IP based securities)

Government has an important and catalytic role in developing institution and a system which issue IP backed securities market. To establish the system, the key principles can be suggested : (a) government must crate the legal and financial infrastructures, including IP, foreclosure procedures and secured lending laws; ; (b) government must set up the competition, privatization and sunset provision. (c) the primary role of government in the secondary market should be to guarantee in IP backed securities; (d) government should maintain an appropriate supervisory role through regulation concerning assets, liabilities and capital

In addition, in process of capital market development for supporting IP securitization, several issues which need to be addressed include; (a) establishment of a government supported IP based finance institution; (b)

modification of land and collateral laws to support the transfer of IP; (c) development of laws supporting use of intangible (IP) as collateral; (d) establishment of credit rating and credit enhancement agencies ; (e) modification of corporation and/or trust laws to support the creation of SPVs.

(c) infrastructure to support securitization

To encourage IP securitization market, there are recommendation to : (a) develop legal infrastructure to support primary and secondary IP backed securities market; (b) enhance regulatory capacity; (b)create and improve the IP backed securities underwriting process; (c) create legal infrastructure to support credit enhancement and credit rating; (d) improve disclosure and develop rating system; (e) develop appropriate technology for trading, clearing and settlement; (f) create competitive domestic IP backed securities market with appropriate taxation; (g) create IP based finance corporations.

6. Concluding Remarks

Development and IP securitization is one aspect of an overall process of financial market a from and can not be separated from the larger process. While there are several potential challenges in applying IP securitization, IP securitization should be promoted because IP securitization plays significant roles of prospective investment, financing instruments and funding mechanism. IP securitization may dedicate the accelerating distribution of income for society, providing alternative financial supports for strengthening and developing creativity and productivity mostly in creative and technology industries. Therefore, the government promotion of IP securitization can affect

significantly ⁴² on financial development and stability, in turn supporting economic development.

Since the regulation IP securitization is absent in some countries, the enactment IP securitization regulation with its enforcement will be the first milestones. Along with enactment of regulation, the establishment of elements and infrastructures for the transaction will promote the validity and feasibility of IP securitization transaction.

IP securitization ²⁸ rests on a complex matrix of legal and institutional structures. Many countries are still seeking to establish appropriate legal infrastructure to support IP securitization. The regulation can be through law on securitization, financial law, corporate law, capital market law, and/or modification of bankruptcy and collateral laws. Before finding of the appropriate model for IP regulation, the specific requirements are necessary for capital adequate purposes in order to guide legal reforms.

Finally, legal and institutional structure are the key for IP securitization development. Both appropriate laws and effective institution are necessary to support IP securitization in context of broader financial development.

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