

ANALYSIS OF COPYRIGHT OF SILVERWARE MOTIVE DESIGN AT CELUK, SUKAWATI, GIANYAR, BALI

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ABSTRACT

The infringement as meant is the plagiarism of silver motif design which belong to foreign businessmen that brought local designers so the case to Denpasar court. The American entrepreneurs who has silver businesses in Baturening, Mambal, Badung, claimed that the design motifs used by local craftsmen silver in Celuk, Sukawati, Gianyar, Bali imitated the designs created by him. The local craftsmen create the designs through creative process by *setilir* of the Balinese values. The creation process resulting intellectual treasures with novelty is believed to be recognized and receive copyright. so the local designers can be freed from worrisome of working under fearsome that they will violate the copyright. The background of the creation process in obtaining the copyright can be formulated as follows: (1) how the process of creating silver motif design is able to obtain a copyright, (2) how the concept of creating Celuk silver motif design, (3) how the criteria of Celuk silver motif design related to Copyright. From the background of the the problems, this study has objectives: (1) knowing the process of creating Celuk silver motif design, (2) determining the concept of creating Celuk silver, and (3) determining the copyright criteria in designing Celuk silver motif. The research methodology used in this study is descriptive qualitative using iconology, ethnography, and cultural approach with the perspective of the Copyright Act.

Keywords: *analysis, motif, silver skills, copyright, novelty.*

1 INTRODUCTION

Celuk Village belongs to Sukawati District, Gianyar, Bali. It has been well-known as the center of hand-made silverwares, meaning that the silverware produced there has been traditionally produced. Almost all the people living at Celuk Village work as silver smiths. The silver products which are produced at Celuk Village have entered both the national and international markets. The products which are produced are the items needed for religious rituals, rings, bracelets, necklaces, earrings, brooches and so forth. The open attitude of the silver smiths to the development of knowledge, technology, and tourism industry has contributed to the development of the silverwares at Celuk. Such a development can be identified from the technique of producing the products, their motive design, the quantity and quality and the sales result. The development in tourism industry has supported the development of the silverware at Celuk and that run by the American entrepreneur at Baturening, Mambal, Badung, Bali. He runs silverware business and has exploited the Balinese cultural values and employed the local designers and silver smiths. The Balinese cultural values which exploit the local designers employed by the American make it possible for him to produce the products with the same motive designs as that at Celuk. The silver smiths at Celuk have exploited the Balinese cultural values based on “bhakti” (devotion) and “yadnya” (sacrifice), parts of the Hindu Bali teaching. The Hindu religious values are reflected from when they start to think about and do what they intend to do. What they think about and do is based on seriousness, holiness, and sincerity. The important thing is what they think about and do is useful to the public. Sincerity without expecting for anything as a reward “tanpa pamerih” is the basic concept in the Hindu teaching, and is defined as “Yadnya” (sacrifice). “Yadnya” also means “love” to every creature in the universe. The word “yadnya” or “yajna” is derived from a Sanskrit word “Yaj”, meaning worshipping or a holy sacrificial ritual completed with what is offered (Ngurah, 1998:147).

Such a concept is referred to by the silver smiths at Celuk. Wiana (who knows a lot about Veda) states:

“Apa yang dilakukan oleh seniman, pengerajin, pengusaha dan pelaku-pelaku seni di Bali, orientasinya bisa memberikan manfaat untuk diri sendiri dan orang lain. Hal tersebut dalam ajaran agama Hindu disebut sebagai “yadnya”. Perbuatan pengerajin sebagai perwujudan kongkrit dari ajaran agama Hindu, yang

dimaksudkan menjalin kebatinan dengan Tuhan Yang Maha Esa (wawancara, tanggal 20 Mei 2013).

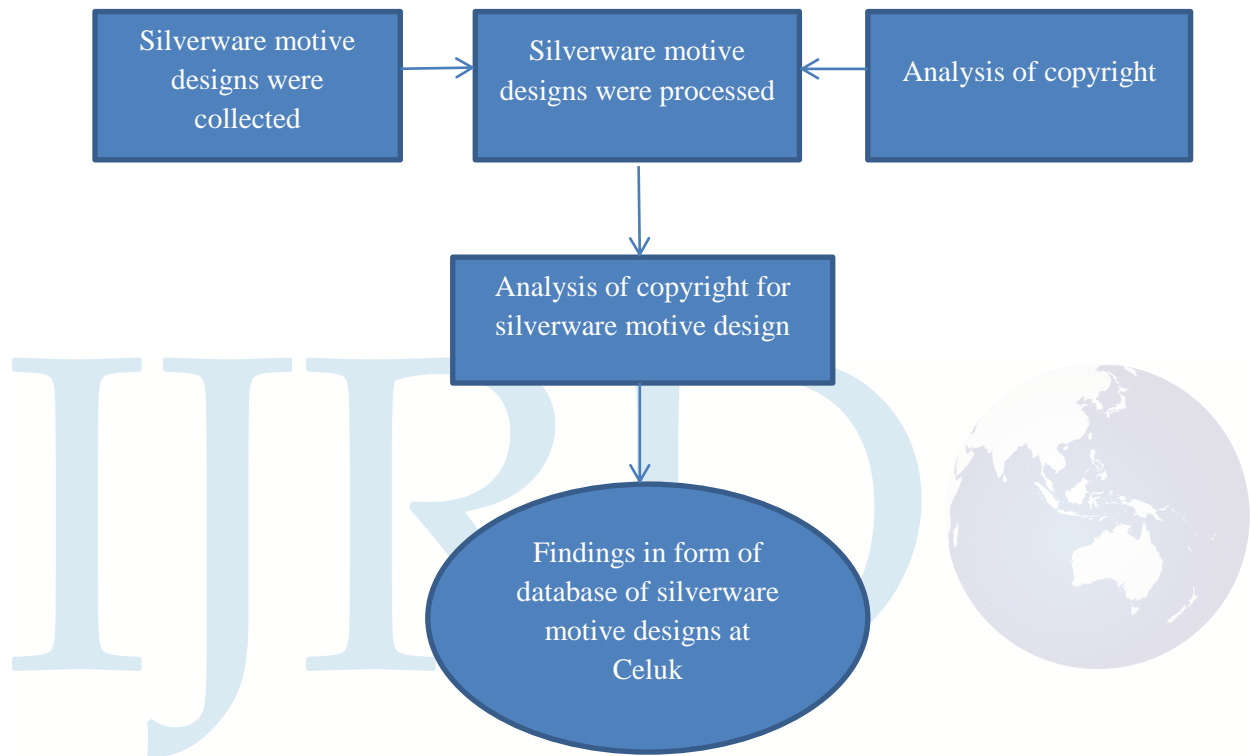
[What is done by artists, craftsmen, entrepreneurs and those who are involved in Bali are oriented towards being able to be meaningful to one's self and others. It is that which in Hinduism is referred to as "yadnya". What is done by the craftsmen is the concrete realization of the Hindu religious teaching. What is meant is that what they do is intended to have spiritual relation to Almighty God (interviewed on 20 May 2013)]

However, what is done by the foreign silverware entrepreneur is oriented towards commercialism, individualism, and capitalism; in other words, the orientation is the pursuit of as much benefit as possible. He always registers every motive design he has before the product is produced; making the product he produces protected by the copyright. A foreign entrepreneur stated that he registered 1,600 works and that 600 of which were already protected by the copyright (Tempo, Monday, 07 July 2008). Among the motive designs which were registered and protected are the same as those produced by the silver smiths at Celuk. Such a fact has made the local silver smiths and designers restless and afraid that they would be accused of copying the motive designs which the foreigner has (Bali Post, 11 July, 2008).

The different ideologies between the local silver smiths and the foreign one, as far as the global trade and the Act of Copyright are concerned, cause the local silver smiths to be faced with problems. On the one hand, the foreign silverware entrepreneur consistently proposes that the Act of Copyright be applied. The fact that the local designer was imprisoned (Warta Bali, 11 June 2008, Bali Post, 11 June 2008) proves this. On the other hand, the local silver smiths with their spiritual and social ideology neglect the protection given by the Copyright. In the future the conflict between the foreign entrepreneurs and the local ones will continuously take place, if the latter are not made to be aware of the Copyright. The silver smiths at Celuk should immediately describe and register their motive designs collectively so that they will be protected by the Copyright. To make them understand such a thing, it is necessary to undertake research entitled "Analysis of the Copyright for the Silverware Motive Design at Celuk", Sukawati, Gianyar, Bali.

2. Research Design

The following diagram shows how the information needed was collected, how the data were analyzed, the findings of the study, and how the result was reported in the form of the database of the silverware motive design at Celuk as the intellectual property.



(Research Design. Lodra, 2016)

First, both the primary and secondary data in the form of silverware motive designs were collected; then they were processed based on the creation concept referred to, and next the Copyright was analyzed. The result of the analysis of the local and foreign silverware motive design was made in the form of database.

3. Creation Concept

The motive designs of the silverwares produced at Celuk in the forms of necklaces, bracelets, rings, hair buns, earrings and broaches resulting from the interaction between the local culture and global culture diverse. The local motive designs develop depending on what is needed for religious rituals and souvenirs and the aesthetic, socio-religious, and practical functions. The creation concept with the traditional-global cultural foundation has caused the sacred and secular silverwares to appear. The secular silverwares are produced as ornaments in which the aesthetic value is emphasized. Such ornaments are used to show images. This is in accordance with what is stated by Foucault (in Barker, 2008:100) that exploitation through power and social practice is intended to slave over aesthetics (beauty).

The creation concept which is referred to by the Balinese craftsmen refer to the philosophy “Siwa Nataraja” which is implicitly taught in the Hindu religious teaching values. An art is created (srihti), what is created is maintained to make it eternal and sustainable (sthiti), what is created does not have any social, economic, and cultural effects, such effects are eliminated (shamhara) and not sustainable (tirabhava), and give blessing (anugrah). Such a philosophy of art creation is defined as the God’s five activities “pancakrtya” and is encouraged by devotion “ngayah” (doing something without expecting for any reward) (Estetika Hindu, 2003: xiii). Such a creation concept results in creative creations with identities and novelties and is classified as the traditional cultural expression ‘ekspresi budaya tradisional (EBT)’. Desak Nyoman Suarti (aged 55), a silverware businesswoman at Celuk defines the motive design creation as follows (Ketewel, 20 July 2015).

“...Sejak kecil saya hidup di lingkungan keluarga, masyarakat yang menjunjung tinggi nilai-nilai tradisional yang bersumber pada ajaran Agama Hindu. Berdagang di bisnis global, bersaing dengan pembisnis kriya perak dari negara-negara berteknologi maju seperti Cina, Jepang, Malaysia, Thailand, Amerika, dan negara Eropa. Jujur saja mereka unggul dalam teknologi yang menyebabkan mereka bisa menjual kerajinannya lebih murah. Sedangkan kita konsisten pada konsep penciptaan berlandaskan pada nilai-nilai budaya tradisional dan pengerjaan dengan keterampilan tangan (hand-made) namun konsumen di negara maju tersebut lebih tertarik pada desain yang menonjolkan nilai-nilai budaya lokal. “

[... since I was a child, I have spent most of life in the family and society which highly appreciates the traditional values which refer to the Hindu religious teaching. Trading globally and competing with the silverware business people from the developed countries such as China, Japan, Malaysia, Thailand, America and European countries can be a problem. The reason is that they are technologically developed, causing them to be able to sell their products at cheaper prices. On the other hand, we consistently refer to the creation concept which is based on the traditional cultural values and hand-made skill. However, the consumers coming from such countries are more interested in the designs which show off the local cultural values].

What can be concluded from what was stated above is that the motive designs with the local values can win the globalized competition.

Furthermore, Suarti states that :

... mengembangkan nilai-nilai budaya lokal secara langsung budaya tersebut bisa langgeng, lestari, dan bermanfaat untuk kesejahteraan untuk orang banyak. Saya tidak pernah keberatan jika ada motif desain ditiru atau dijiplak orang asalkan jangan di HKI-kan kita bisa nikmati bersama, dan ada kepuasan lahir-batin (wawancara intensif dengan Suarti di Ketewel, 19/10/2015).

[... the development of local cultural values can directly make the culture eternal, maintained, and useful to the people's prosperity. I never mind if my motive designs are copied by others, provided that no Intellectual Property is obtained for them. We can enjoy them together and are physically and spiritually satisfied (intensive interview in which the interviewee was Suarti at Ketewel, 19/10/2015)].

As a creator of silverwares, Suarti considers that the religious media should be used in the creation concept of the motive design. It is subjective whether a product is sacred or not, depending on the socio-cultural scope of its supporting community. The visual sacred values seem still to be understood as containing the religious aesthetic values. It is that which is referred to by Joe Holland as spirituality (2008:1). The motive design with sacred elements and as a form of worshipping (*bhakti marga yoga*) is based on the sincere way of thinking and attitude (holiness). It is that which is referred to as Intellectual Property. According to Bourdieu, such treatment and attitude knit the past values as a habit of the current desire (postmodernism) (Bagus Takwin, 2009:114).

4. Motives of Silverwares at Celuk

A motive means the basic form of an ornament used as the pattern which is repeatedly implemented in the production of crafts or art products. It is better known in *tenun*, *batik*, *carving*, *songket*, silverware production. In every region such as in Bali the motives which can be seen on the craft products refer to the concept of life. They are based on the local belief, the rituals they perform, and the religious teaching. Every action is based on “tatwa” (philosophy), ethics (*etika*), and ritual. The motives are seen to be ornamental, not to be separated from the philosophy, and the actualization of the norms of politeness which do not deviate from the values of the local people’s life. The process also starts from rituals. Ethnographically, based on what the motives are for, they are divided into two; they are the sacred and secular motives.

The traditional values which the motives contain are based on the concept of life such as the philosophy of “Siwa Nata Raja”. It is used as the basis in the art creation which implicitly shows the Hindu religious teaching. The concept ‘srihti’ refers to an attempt made to make an art form eternal. What has been created needs to be maintained if the social, economic and cultural effects are eliminated. “Shamhara” refers to a blessing, meaning that arts should be continued and made to be eternal. According to Triguna and Suamba, artists, including a designer, should refer to the basic principles of “Siwa Nataraja” creation (Estetika Hindu, 2003: xiii). It is this which is referred to as the work which is sacred and has magical power ‘taksu’. In “Tat Twam Asi”, one of the Hindu religious teachings, it is implicitly stated that everybody is equal. It can be used to control the society’s life. The physical and spiritual experiences develop, depending on environment, and lead to the ideas and concepts needed in the motive creation.

Such things are responsible for the appearance and disappearance of motives. The life experiences as those mentioned above cause ideas and concepts to grow, which can then lead to the motives applied to different types of media such as cloth, wood, silver, and so forth. In the rituals performed by Hindus the motives of gods and goddesses in the forms of statues and temples are used as the transcendental media. From the socio-religious point of view, motives are used as the building ornaments so that they will look beautiful, and aesthetic, as can be seen in what is referred to as “bade” or “wadah”, and

“ogoh-ogoh” in which the motives “boma”, “paksi”, and “kekarangan” are used. The motives used as the transcendental media are the actualization of “bhakti” (devotion) to Almighty God and ancestors. They symbolize holy sacrifices. As the items which are offered, they are created as perfectly as possible as they are believed that they will be accepted by God. Such creations are classical; they are used as the sources of ideas by the artists or craftsmen in Bali. Such creations develop into the secular and commercial ones. Various types of ornamental motives mentioned above are the decorations used to decorate two and three dimensional areas such as “batiki”, “tenun”, “anyaman”, silver and the like.

Some silverware motives are specifically made for sacred socio-religious interests. Lodra (2011) refers to such motives as “ritual media” with symbolic meaning. The motives which are sold in the market for commercial interests are propane (secular). Whether they are classified as sacred or propane depends on how they are processed, where they are placed, and what they are produced for. The motives which are produced to be displayed are used to show off image. The approaching technique, environment, social, cultural and religious things make the silverwares produced at Celuk different from those produced in other areas.

The techniques of approach used in the creation of silverware motives at Celuk Village, Sukawati, Gianyar, Bali are as follows.

- 1) Stylization; creation is based on the enrichment of the forms of vegetation, animals and other artifact objects. Visually, there are still many actualizations of the characteristic motives of the creative objects.
- 2) Innovation; motives are created based on the existing objects; however, their functions and forms are improved or renewed so they will be different from how they were before. The innovations made in the silverware motives show that they are specific, new, planned, and have objectives.
- 3) Deformation; changes are made in the objects, making their characteristics not seen, lost, extinct, and new motives appear.

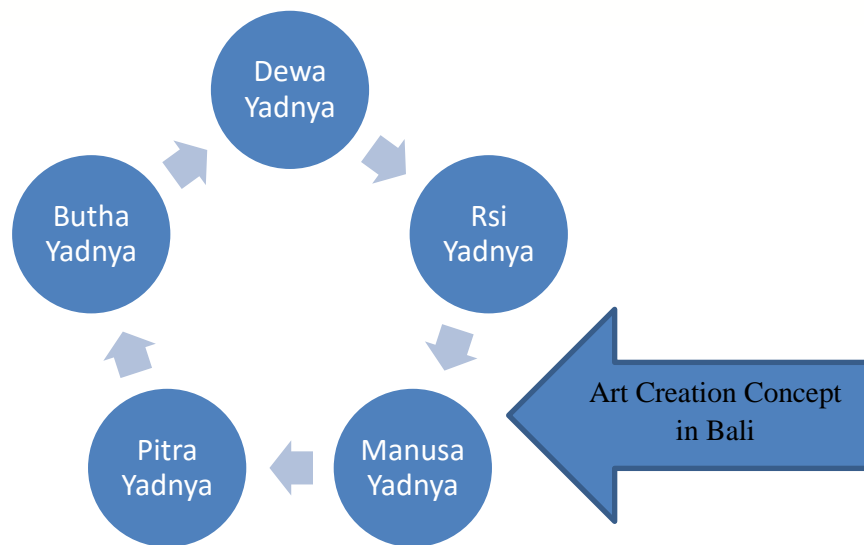
- 4) Adaptation; the process takes place naturally; the role played by individuals in identifying deeply the new culture carried by the consumers or environment cannot be avoided; then the new motives appear, reflecting the two parties.
- 5) Exploitation; the experience obtained through reading, the information obtained through listening to others and exploring the motives which were not available before cause new forms to appear.

The five approaches used as the basis for creating the silverware motive designs at Celuk as the intellectual property deserve the protection of the Intellectual Property in the area of the Copyright.

5. The Theme and Philosophy of Silverware Motives at Celuk

In general, as far as the arts in Bali are concerned, the creation concept refers to religion, the nature and culture. The theme is always philosophically related to belief, faith, and what is going on in the Balinese society. Basically, the silverware motives at Celuk are inspired by the concept “Panca Yadnya” (Five Sacrificial Rituals). The figure below shows the creation concept; if it is rotated to the right it will become sacred, and if it is rotated to the left, it will become propane.

Model Art Creation in Bali



Source (N. Lodra, 2016)

The model above describes the art creation concept which is adopted from the Hindu religious teaching. The rotation to the left and right describes the microcosmic nature and macrocosmic nature. According to Lyotard and Rorty (in Chris Barker, 2008: 27), cultural concepts are centered on norms, values, symbols and beliefs.

Basically, the concepts which are referred to in the silverware motives at Celuk are adopted from vegetation, gods, goddesses, and the belief that people can survive. The internal and external factors and the ethic, norm, cultural and religious bases which contribute to the silverware motives at Celuk develop. From the function point of view and the use point of view, the motives can be classified as sacred and propane.

a. Sacred Arts

The Balinese art creation model, which is illustrated as the balls with the rotation to the right, is transcendent in nature. In other words, the motives created by the silver smiths can be seen from them and form, and can be understood with the sacred domain. This has something to do with something which has abstract values; therefore, it is difficult to explain it; it is transcendent and cannot be logically explained. The sacred motives created by the silver smiths at Celuk cause the silverwares to be within the religious domain. The silverwares which they produce are used to complete the worshipping rituals; therefore, they are sacred. From the Hindu cosmological context, the actualization of motives are understood as the five elements of the nature's strength referred to as "panca mahabutha" which can be intensified through "tatwa" (philosophy), ethics, and ritual. In Hinduism, especially in Bali, sacredness is part of the value of the activities which highly appreciate holiness which cannot be separated from daily life.

b. Propane Arts

If the model above is rotated to the left, the propane aesthetic products will be produced. Such products are used for amusement, beauty, and image. If viewed from the theory of creation, business experience and the skill in tinting the characteristics of works cannot be neglected. As anthropologically explained, man has three elements of personality which play an important role in his formation; they are:

- 1) Id: the most primitive human personality; the irrational psychological energy which determines the awareness of and relationship with the external environment illustrates this.
- 2) Ego: it is frequently referred to as “exclusive” personality as it plays a role in connecting the Id energy with the social channel which can be understood by others.
- 3) Superego: the last structure of personality; it appears after someone is five years old; it is formed by the external environment and has the controlling function through the internalized system of reward and punishment.

Such human personalities accommodate both the internal and external environments, which then lead to the appearance of the propane art. Ego and super ego, which tend to be individual, determine whether a propane work is beautiful or not. The propane art such as the silverware motive equalizes the sacred culture, and its existence is secondary. The visual material form of the propane work is not different from that of the sacred work. The only how they are process, what they are for, and the people’s point of view differentiate them. The propane work is more socially, economically and aesthetically useful, whereas the sacred work penetrates the transcendental nature. The silverware motives at Celuk, if traced, explored, and analyzed can be grouped into several types; they are:

1) The Natural Type

The motives of this type include vegetation and animals using the stylization, deformation, explorative and adaptive approaches. The creation approach which refers to vegetation leads to the motives of what are referred to as “pepatran” and “kekarangan”. Such motives are used as the ornaments of rings, necklaces, bracelets, and the like.

2) The Spiritual Type (Abstract)

The motives which refer to the spiritual nature with the religious basis, the belief in the theme of gods and goddesses which are connected with myths, legends are created using the symbolic imaginative approach. Such motives decorate the pure, sacred and propane silverwares.

The motives which refer to the nature and spirituality (abstract) can be seen in the following pictures.



Source (<https://www.google.co.id/search?q=motif+kerajinan+perak+celuk>).

The three types of motives above present the silverwares produced at Celuk in general. The activity done by the local people cannot be separated from the motives of the silverwares produced at Celuk. The social and spiritual motivations and sincerity as what is taught in Hinduism contribute to such types of motives. The economic motivation to improve prosperity also plays an important role.

Identification of the Silverware Motives at Celuk

Nbr	Group	Source of Inspiration	Approach	Pure	Applied
1	Natural Type	Vegetation, animals, and geometric objects	Stylization Innovation Deformation Adaptation Exploration	Aesthetical Image	Practical, aesthetic, image
2	Spiritual Type (Abstract)	Religion, belief, the belief in the themes of	Stylization Innovation Deformation Adaptation	Aesthetical, magical, image	Practical, aesthetic, ethic, image

		gods- goddesses, spirit	Exploration		
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5. Creation Method

Creation method refers to the aesthetic action and attitude to create a product through a structured procedure so the product looks specific, unique and meaningful. As far as the creation of motives is concerned, the method refers to the steps which are systematically taken and includes how the product is produced, phases through which it is produced, and what the object is. During the preparation phase, the design, the tools and materials needed, and the skill are prepared. As far as the silverware motives at Celuk are concerned, the first phase is exploration which is then followed by designing and actualization.

- 1) In the phase of exploration internal and external explorations are made; the internal exploration is identical with self-exploration, and the external exploration includes data, references in the forms of artifacts, photographs, and the like. All are included in the domain of analysis and are used as the basis for the design.
- 2) In the phase of designing, experience and artifacts are analyzed in the form of the design scratch resulting in the sketch, which is then referred to as the motive actualization or technical picture.
- 3) In the phase of actualization, the final sketch and design are used as the prototype model or the mass product of the silverware motives at Celuk.

The academic method is taken into consideration in the three phases mentioned above in which several steps are taken.

- a. The Spirit Wandering which includes the field observation, references in the form of information through which the theme can be found, and the way of solving problems.
- b. The basis of the theory of creation, references, tools, materials, concepts are perfectly prepared.

- c. The design planning accommodates ideas and concepts after discretion, and the result of analysis; the creation equipment includes construction, ergonomics, philosophical concept and market opportunity.
- d. The prototype is chosen from the superior motive design, completed with technical picture.

The four steps of the academic method above are flexibly taken by the silver smiths at Celuk. The concept they refer to cannot be separated from the action they take. Furthermore, the silverware motives at Celuk cannot be separated from the local tradition, ritual and religion. Therefore, the theory of Cognitive Anthropology and the theory of Art Sociology are needed. The cognitive anthropology can describe the local condition and why the local people maintain and develop the silverware motives until now. Their current profession used to be their part time profession. Loading and unloading ships at Benoa Harbor used to be their main profession. The development of tourism industry has caused the cultural diffusion to take place at Celuk. The silverware motives at Celuk cannot be separated from the connection between the local culture and the local people's way of thinking. The tourism culture has caused the social, economic and cultural changes to take place (ethnography). The silverware motives are not only seen from the visual form but they should also be seen as collections of data, ways of thinking, attitudes and behaviors of the local people. As stated by Emile Durkheim that sociology is a science which is concerned with social facts which are regarded as the things outside individuals. Peter L. berger stated that individuals cannot be separated from society (George Ritzer and Douglas Goodman, 2009), as can be implicitly seen in the ideas and concepts which inspire the silverware motives at Celuk.

Ethnography, enculturation, and diffusion are the devices used in the anthropological theories to describe and analyze concepts and ideas with the belief and Hinduism as the foundations. The motive creation which refers to the rotation to the right leads to the form, function and meaning of the sacred works. The process through which motives spread to other areas results from the cultural exchange through consumers and the silver smiths themselves. The creation process, as a framework of analysis of human being, cannot be separated from the art activities performed by those who are involved in

it. According to Lyotard and Rorty (in Chris Barker, 2008:27), the creative creation scheme is an ethnicity with the cultural concept which is based on norms, values, symbols and beliefs. According to Dibia, it is a holy strength of God which can be obtained through ritual processes, causing the art works to be interesting, lively and meaningful. The human art work, including the silverware motive at Celuk, has aesthetic and magical strengths (Dibia, 2012: 31).

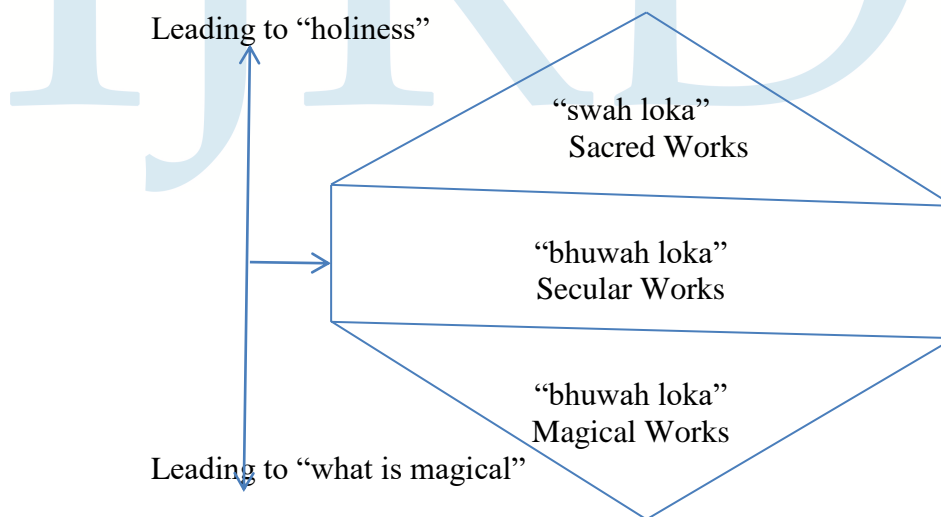
6. Motive in the Hindu Cosmology

Cosmology refers to the science of the origin and development of the universe and what it contains. The analysis of the silverware motive at Celuk cannot be separated from the creation concept which is based on Hinduism in general and the *Reg-Veda* in particular. Therefore, such an analysis cannot be separated from the Hindu cosmology. Brahman creates everything in the universe. Based on Hinduism, what firstly appeared was the “Golden Embryo” from the ocean which touched the atmosphere from which He constructed and restored the earth to make it in order. In the book “Purana”, in the creation process there are two strengths; they are referred to as “Purusa” and “Prakerti”. Such strengths met and the universe was created. The growth of what is called “Cita” (idealism) is caused by three elements. They are “Triguna” (*Sattwam*, *Rajas* and *Tamah*), “Triantahkarana” which includes “Budi” (instinct), “Manah” (intelligence), and “Ahamkara” (ego). There are also what are referred to as “Pancabudhindria” and “Pancakarmendria”, and what is better known as “Dasendra” (ten senses) (<https://id.wikipedia.org/wiki>).

As far as the Hindu philosophy is concerned, the universe with what it contains is referred to as “macrocosmos”. Different phenomena lead to the appearance of the knowledge which can be used to explore life and human life. Man has knowledge which functions as the foundation of life; therefore, man is referred to as “microcosmos”. Based on the Hindu cosmology which is written in the book “Reg Veda”, it is stated that the universe is constructed from 5 (five) strengths; they are the solid matter, liquid, air, fire (plasma), and ether. Similarly, the human body has blood, bone, lung, kidney, and heart. It is such elements, which are referred to as “Pancamahabhuta”, which can make man alive. “Purusa”(spirituality) and “Prakerti” (material) which are eternal, delicate and

cannot be separated from one another are the foundation of the universe (<https://www.google.co.id/webhp?>).

The Hindu cosmology was already known when the human civilization started, indicated by the symbolic worshipping objects. They were used to show respect to and asking for protection from what occupies the universe. The ritual activities which are completed with different forms of arts are aimed at the universe which has provided people with life. The worshipping objects, including motives, were already in existence when the human civilization was simple. Based on the Hindu cosmology, the universe is divided into 3 (three) spheres, each is believed to have life. The upper sphere is referred to as “shuah loka” where gods and goddesses reside, the middle sphere, which is referred to as “bhuwah loka” is the sphere where humans do their activities and the propane culture grows. The lower sphere is referred to as “bhur loka” which is occupied by bad spirits “butakala”, for which the ritual “pecaruan” is performed by the Hindus. In this sphere the magical culture grows (<https://www.google.co.id/webhp>). Based on the Hindu cosmology, the creation concept can be illustrated as follows.



Source (Lodra, 2016)

The model above shows the Hindu Cosmology as the art creation philosophy and concept, including the creation philosophy and concept of the silverware motives at Celuk. The cosmological concept is also the foundation from which the sacred, secular

and magical works appear. In addition, the “swah loka” is defined as the holy sphere where gods and goddesses reside; the “bhuwah loka” is defined as the sphere where humans live, and “bhutakala” (bad spirits) reside.

As far as the silverware motive at Celuk is concerned, the creation concept which is intended to satisfy what is industrially needed is economic (business) in nature, the creation concept which is intended to express image and transcendence is aesthetic in nature, and the creation concept which is intended for rituals is sacred in nature. The belief in the strength of the universe is referred to as macrocosmos and the strength within human being is referred to as microcosmos. Basically, the artists in Bali refer to the Hindu cosmological concept, which is referred to as “tri bhuanna” which the macrocosmos and microcosmos have. Lodra (2013) stated that the art which is performed as the worshipping medium is within the Hindu cosmological scope. The Hindu cosmology had already been within the domain of the social, ritual, cultural, economic and traditional activities before man was created.

The contact which is made by the Balinese people with the other ethnic groups which are socially, politically and culturally different has caused them to be socially and culturally stained. According to Ayu Sutarto (2015), the local wisdom which every region has functions as the “soft power” which maintains the traditional identity. The local people cannot avoid themselves from being stained when they are affected by the global culture such as the copyright and its sanctions. The existence of the copyright is defined as the “enrichment” of the local culture, indicating that the Balinese culture has changed. In such a position, the local people seem to be “powerless” to avoid the global culture. In addition, the Balinese people do not understand what is meant by the cultural implementation of the “Intellectual Property” (HKI). The social institutions such as the traditional organization and the like cannot play their roles; they tend to give up. In such a situation, the changes in the Balinese people’s characteristics cannot be avoided. The Balinese people who appreciate togetherness become inclusive and materialistic resulting from external motivations, one of which is the HKI culture. However, the HKI cultural characteristics are different from those of the Balinese culture.

Characteristics of the HKI Culture and Balinese Culture


Nbr.	HKI Culture	Balinese Culture
1	Secular	Sacred
2	Individual, Collective	Togetherness, helping one another
3	Original	Development
4	No Imitating	Imitating one another
5	Commercial	Social religious
6	Protected by the law	Protected by the tradition

The Balinese culture which is characterized by sacredness, togetherness, collectivity, anonym, helping one another, imitating one another and being socio-religious functions as the “soft power” towards the global culture (Ayu Sutarto, 2015). The copyright tends to lead to conflicts in the society using individuality, secularity, commercialization and being protected by the law as its identities.

7. Craft Product

The creation concept of the motive design of the silverwares at Celuk, as explained above, has produced products with traditional identity. The products are produced using the collaboration and innovation approaches. In addition, the local-global cultures are mixed with the novelty values. The novelty values in the silverware motive designs are commonly stated to express the traditional culture and to have fulfilled what is required in order to be protected by HKI, especially the copyright. In this study, 3 (three) motives are used as the sample to represent the other products. The motive designs are defined as the ones which are intended for ritual, aesthetic and economic purposes, as described in the following table.

Creative creation source	Creative creation Object	Motive design of EBT	The underlying philosophy
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“Sate Tungguh” Media ritual			“Sate Tungguh” is arranged in the form of chains on particles; it is used as the necklace motive design and has the potential of being sold in the global market. It shows “greatness”
Carving of “pepatran” motive			The carved wall of the temple “pura”; it can be seen that the motives are designed for social, ritual and ornamental purposes; Japan, Korea and Singapura are the markets.
“The carving of “pepatran motive”			The motive design used in rings, brooches etc. It looks practical, aesthetic, ornamental; Such products are sold in the USA.

The table shows that the silverware motive design at Celuk exploits the ritual media such as “sate tungguh”, the temple relief, and the temple wall relief using stylization, adaptive, and collaboration approaches as can be seen in the motive designs “pendon”, ring, and brooch without being protected by the Copyright.

8. The Copyright on the Silverware Motive at Celuk

Copyright is part of the Intellectual Property ‘Hak Kekayaan Intelektual (HKI)’ which is used to protect the creation created by someone or a group of people using his/her/their intellectual ability. Such a right is awarded to the Creator who creates something using his/her mind, imagination, intelligence, and skill; his/her creation is original and has novelty. Such a right is absolute in nature, meaning that it can be transferred to another as prescribed in the Act of Copyright Number 28 of 2014. The motives of the silverwares at Celuk are inspired by the Bali Hindu culture. It is not possible for the other areas in Indonesia to have the concepts which inspire such motives. Copyright is not only awarded based on the concept which inspires the creation of a product but it is also based on aesthetic considerations. The stylization, adaptation, collaboration, and acculturation approaches to the motive creation lead to the traditional

cultural expression “Ekspresi Budaya Tradisional” (EBT) works with novelty. That Copyright will be awarded for a product if it has novelty as prescribed in the Act of the Republic of Indonesia Number 28 of 2014, Chapter V. It regulates Traditional Cultural Expressions.

Three silverware motives at Celuk were taken to represent the other motives for the analysis of Copyright as can be seen from the following table.

Nbr.	The Silverware Motives at Celuk traditional cultural expressions “Ekspresi Budaya Tradisional (EBT)”	Analysis of Copyright Criteria: Intellectual Property: Specific, Unique, and having novelty
1		<p>Specific: Silverware motive produced at Celuk</p> <p>Unique: “pepatran” motive using the stylization of vegetation</p> <p>Novelty: visually, it is used with ring</p>
2		<p>Specific as silverware motive produced at Celuk</p> <p>Unique: “pepatran” motive with stylization of vegetation</p> <p>Novelty: visually, it is used with brooch</p>
3		<p>Specific: Silverware motive produced at Celuk</p> <p>Unique: “pepatran” motive using stylization of vegetation</p> <p>Novelty: visually, it is used with medallion, ear-plug</p>

Source: (<https://www.google.co.id/search?q=motif+peerak+celuk>)

9. Balinese Culture and Copyright Culture

Helping one another “gotong-royong”, doing things without expecting for being paid “ngayah”, doing things together, creating things without including the names of the creators, and imitating others’ works are what the silver smiths, artists and creators in Bali commonly do. They never think that their products should be protected with the Copyright. They work inspired by devotion “bhakti”, and religious offering “yadnya” as taught in Hinduism. They feel satisfied that they can think of and produce things which

are useful to themselves and others. The religious offering “yadnya” will be more perfect if what is imitated can make other people prosperous. Sacredness, secularism, togetherness, helping one another ‘gotong-royong’, imitating one another, and being involved in social-religious and traditional activities characterize the Balinese culture. Such cultures have been protected by the Act of *Cagar Budaya* and the Act of HKI, article 10 of the Act No. 19 of 2002 concerning the Copyright. It is stated in the two Acts that every traditional creation which has been inherited from generation to generation and who has created it has not been identified belongs to the government. The copyright culture gives more emphasis on the individual, collective, secular and economic interests as can be seen from the motives which are already protected. The copyright culture develops and leads to conflicts in society. Based on what was exposed in the Tempo newspaper which was published on Tuesday, 01 July 2008, it was stated that a number of traditional motives were suspected of being registered for the Intellectual Property in the Directorate General of the Intellectual Property (HKI) by foreign companies. In the same newspaper which was published on Thursday, 03 July 2008, it was further stated that “the Government Should Issue the Regulation Regulating the Traditional Art Works.

The characteristics of the HKI culture and Balinese Culture are described below.

Nbr	HKI Culture	Balinese Culture
1	Secular	Sacred
2	Individual, collective	Togetherness, helping one another ‘gotong-royong’
3	Original	Development
4	No imitating	Imitating one another
5	Commercial	Social religious
6	Protected by the Law	Protected by the Tradition

(Source, N. Lodra, 2016)

The Balinese culture which is characterized by sacredness, togetherness, collectivity, being anonymous, development, imitating one another, and being social-religious function as the ‘soft power’ towards the global culture (Ayu Sutarto, 2015). The Copy Right culture leads to conflicts in the society using individuality, collectivity, secularity, commercialism, and being protected by the law as its identity.







10. Analysis of Copyright

In the Act of the Republic of Indonesia Number 19 of 2002, it is prescribed that Copyright is made up of the economic right and moral right for every creation which is specifically personal (Massudilawe & Partners, 2008). As far as the copyright for the motive designs are concerned, it includes to what extent the creation can contribute to the people's welfare and the right to the ownership of such a creation. The Act can protect the silver smiths who create motive designs at Celuk and protect them from being claimed by foreigners. The silver smiths at Celuk consistently see the impact of the copyright from two cultural sides. On the one hand, it is commercial, secular, individual and collective in nature, and eliminates the social value and the habit of helping one another. On the other hand, the traditional cultural concept gives more emphasis on togetherness, sacredness and helping one another "gotong royong". The copyright motivates the artists to be creative without ignoring the traditional cultural values which are regulated in the articles which prescribe licenses and royalties, which are in the form of a compensation or benefit obtained from the sales result by the Creator. The income earned by the creator contributes to the economic welfare. In addition, the creator is also the owner of the creation.

As far as the silver smiths at Celuk are concerned, they maintain brotherhood, family and group relation, and togetherness, and use the silverware motive designs together. Such a way of thinking will cause them to be getting far from being involved in the world trade and becoming members of the World Trade Organization (WTO), Trade Related Aspects of Intellectual Property Rights "TRIPs and being involved in the agreement of WIPO Copyright (World Intellectual Property Organization). The Act of Copyright protects every product created by the Creator for the economic and welfare considerations. Psychologically, the compensation received by the silver smiths is in the form of royalty for every product which is sold after having been protected by the Copyright. In addition, Copyright also motivates creativities. The quality and quantity of the silverware motive designs at Celuk keep developing, following the developments of technology, knowledge, and local-global markets. However, such developments are not responded with reference to the Copyright culture. Thousands of Celuk's silverware

motive designs have been used in different parts of Indonesia; however, none has been protected by the Act of Copyright.

Three types of silversmith motive designs which have and have not been protected by the Copyright are analyzed in the following table.

Nbr.	Motive designs belonging to a foreign entrepreneur which have protected by Copyright	Silverware motive designs which have not been protected by Copyright	Description
1	 <p>Padu Silver & Gold Tray Ring 325,00</p>	 <p>KEMAS Pau 100.000 KEMAS Pau 100.000 KEMAS Pau 100.000 KEMAS Pau 100.000</p>	<p>The rings with motive designs which have been protected by Copyright; the visual expression is the same as that of the rings produced at Celuk which refer to the Balinese culture; therefore, it is possible for the Celuk's motive designs to obtain the Copyright.</p>
2	 <p>Padu Silver Ring 325,00</p>	 <p>NEK Pau 100.000 NEK Pau 100.000 NEK Pau 100.000 NEK Pau 100.000</p>	<p>The rings with foreign motive designs seem to be the same as the motive designs used in the necklaces and rings produced at Celuk which refer to the Balinese culture; it is possible for them to obtain Copyright</p>
3	 <p>Padu Silver Tray Ring 400,00</p>	 <p>NEK Pau 100.000 NEK Pau 100.000 NEK Pau 100.000 NEK Pau 100.000</p>	<p>The rings with foreign motive designs "cucumber seed" which have been protected by Copyright; the visual expression is the same as that of the motive designs adopted at Celuk which refers to the Balinese culture; therefore, it is possible to obtain Copyright for such motive designs.</p>

Source: N. Lodra, 2016

The analysis above shows that the motive designs, forms and functions of the three silverwares which are created using the stylization, adaptive, and collaboration approaches belong to the traditional cultural expression work type “ekspresi budaya tradisional (EBT)”. They show the novelty value as well, as one of the requirements of order to obtain protection from the Act of Copyright. The three motive designs used as the samples were analyzed using the creation concept, the visual motive design, and function. The motive design which belongs to the foreign entrepreneur has been protected by the Copyright. It can be seen that the creative creation object “the cucumber seed” is made to be oval; the same as the traditional one. The silverware motive design adopted at Celuk, which looks like woven coconut leaves “kelabang” has not been protected by the Copyright. It is organized in such a way that it looks oval or looks like “the heart” and has traditional aesthetic value. In the two motive designs the Balinese motive “the cucumber seed” with beads “mote-motean” at the edge can be seen. The motive design which belongs to the foreign entrepreneur has been protected by Copyright; however, the one which is produced at Celuk has not, although it has been created using the stylization, innovation, and adaptive approaches and has the novelty value as well.

11. Conclusion

The motive designs of the silverwares produced at Celuk are created based on the global-traditional culture. Such a concept has led to the appearance of the silverware motive designs which are sacred, secular and have socio-economic value. Such motives are adopted for the displayed silverwares. Such a concept of the motive design creation gives individual and collective identities as well as the traditional value with the novelty value. The novelty value is one of the requirements which should be fulfilled by the traditional cultural expression “ekspresi budaya tradisional (EBT)” in order to be protected by the Copyright. Helping one another “gotong royong”, devotion “ngayah”, collectivity, being anonymous, and imitating one another characterize the Balinese culture, and these are not in line with the principles of the copyright. The motive designs created by the silver smiths at Celuk have never been protected by the Copyright as they are created based on devotion and sacrifice as what Hinduism teaches.

The Intellectual Property “Hak Kekayaan Intelktual (HKI)”, including the Copyright, has been ratified in Indonesia for the global cultural products. The copyright refers to the exclusive right of the creator of a product, science, and literature. The copyright cultural reflection acknowledges and protects the original intellectual work based on rationale, reasoning, power, and cost. The motive designs which belong to the foreign entrepreneur have been protected by the Copyright but those which belong to the local silver smiths have not, although they have been created using the stylization, innovation and adaptive approaches and have novelties. The spirit of copyright can make the silver smiths more creative without eliminating the traditional cultural value by maximizing the benefit obtained from the sales result as prescribed in the articles which regulates licenses and royalties. It is expected that in the future the Celuk’s silverware motive designs which have not been protected by the Copyright should be made in the form of “database” and be protected by the collective copy right.

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