



Brand Rights Protection as a Driver for Economic Improvement for Micro, Small, and Medium Enterprises in Indonesia

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Abstract

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Brand dispute cases that occur among MSMEs make protecting brand rights an important step for MSMEs to protect their identity and reputation in a competitive market. Efforts to protect brand rights for MSMEs are an effective strategy in for improving the economy. By using the literature review method. This research aims to determine brand rights protection as a driver of economic improvement for MSMEs in Indonesia and to determine the obstacles and efforts in legal protection for brand rights protection as a driver for the increase of MSMEs in Indonesia. The research results show that brand rights protection can provide various benefits for MSMEs in improving the economy. By protecting brands, MSMEs can build consumer trust, create competitive advantages, and encourage economic growth. Therefore, the government, related institutions, and MSMEs themselves need to increase awareness and understanding regarding brand rights protection and provide the necessary support for MSMEs in implementing brand protection measures.

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INTRODUCTION

MSMEs or Micro, Small, and Medium Enterprises are creative industries that produce creative products or services (Fathanudien et al., 2022). MSMEs are a company owned by an individual or business entity in which the perpetrator operates businesses producing their products, such as snack products, crafts hand, processed plants, and so on (Indrawati & Setiawan, 2020). MSMEs become an industry that is growing very quickly and is large in Indonesia. The MSME industry is one of the economic pillars that drives the wheels of the economy in Indonesia

(Betlehn et al., 2018). Based on data from the Coordinating Ministry for Economic Affairs of the Republic of Indonesia, the number of MSMEs currently reaches 99% of all business units with a contribution to GDP of 60.5%, and labor absorption is 96.9% of the total national labor absorption. This shows that MSMEs have a very large contribution to driving economic growth in Indonesia.

High economic growth is in line with the high number of MSMEs. This thing shows that the more people are involved in the MSME business world, the tighter business competition becomes (Suhargon, 2019). To differentiate similar goods or services, it is necessary to give a trademark to the product (Oktiani et al., 2023). A brand can be interpreted as an identification mark, which is used to identify one product from another (Jaya et al., 2022). A brand is an important thing that MSME business owners must register. By registering a brand, MSME business owners don't need to worry about protecting their brand (Serlia, 2021). Trademark rights are exclusive rights granted by the state to trademark owners registered in the general register of trademarks (Betlehn et al., 2018).

In 2023, based on registration statistics from the Directorate General of Information and Technology, MSMEs will only register brand registrations at 11% of the 64 million MSMEs throughout Indonesia. This shows that there are still many MSME products in Indonesia that have not been registered. Because it lacks sensitivity and does not protect the product it owns. (Ningsih dan purwaningsih, 2023). In the end, many Indonesian products, especially products with traditional values, had their ideas and designs stolen by outside parties. This is because the Indonesian people are not aware that IPR protection brings high economic value when it enters the world of trade (Toguan, 2021).

Trademark legal protection in Indonesia takes effect after the trademark is registered with the Directorate General of Intellectual Property Rights, more precisely when the application is granted by the Directorate General of Intellectual Property Rights, the legal protection for the trademark has come into effect and where the legal protection is by the trademark as shown in the application (Suhargon, 2019). As a result of not registering a trademark, There are 3 (three) forms of brand infringement, namely piracy brands, brand counterfeiting, and imitation of labels/packaging products (Sanjaya dan Rudy, 2018). So disputes often arise due to several reasons, including entrepreneurs not immediately registering their marks so that other parties take advantage of them, or disputes caused by parties with bad intentions who deliberately register well-known or profitable marks. (Toguan, 2021). This thing will harm the proper party's rights if arise problem disputes later day (Suhargon, 2019).

From the above background, the researcher raised the research title, namely: "Brand Rights Protection as a Driver of Economic Improvement for Micro, Small, and Medium Enterprises in Indonesia". The aim of this study is To find out about brand rights protection as a driver of economic improvement for MSMEs in Indonesia and to find out the obstacles and efforts in legal protection for brand rights protection as a driver for the growth of MSMEs in Indonesia.

RESEARCH METHODS

This research uses a literature study or literature review method namely research that uses references and information similar to discussions such as articles, books, seminar proceedings, and journals. To use answer problem protection the

law at hand in field MSMEs. Study This is done to look for solutions problem on issues with existing laws. The result of the study this is gives an understanding on the formulation problem raised.

RESULT

Research results show that :

1. Protection of brand rights as a driver of economic improvement for MSMEs in Indonesia

Constitution Brand No. 20 of 2016 in preamble letter a of the Law The 2016 brand contains" that in the era of global trade, it is in line with convention international that has been ratified by Indonesia, role Brand and Indication Geographical become very important especially in guard competition healthy, fair, protective business consumers, as well protection of Micro, Small, and Medium Enterprises, and industry domestic;" (Betlehn et al., 2018). The protection provided for the holder brand is protection in the form of lawsuit change make a loss nor in the form of criminal through apparatus enforcer the law (Sulastri, et al., 2018).

2. Obstacles and efforts in legal protection for brand rights protection as a driver for increasing MSMEs in Indonesia

The usual obstacles that happen at registration of brand products MSMEs. That is Internal and external barriers. Internal obstacles in the form of lack of information obtained through counseling and outreach; limited funds; and perpetrators business MSMEs think that his business is still not yet advanced and included business small so that No need registered. Whereas obstacle external form cost of administration registration expensive brand; weak guarantee certainty law for perpetrator MSMEs. For get certificate right brand; and usage Name Still brand Lots there is equality in essence nor the whole to other people's brands are more formerly registered (Balqis Dan Santoso, 2020).

From the obstacles that have been described above, several efforts made the government to give ease for MSME industry players to register brands, namely through a policy of cheaper MSME brand registration fees compared to non-MSME brands, carrying out cooperation between the Director General of IP, Ministry of Law and Human Rights and the Ministry of Cooperatives and MSMEs, provide financing incentives for MSME brand registration and registration collective brand of the MSME industry (Betlehn et al., 2018).

DISCUSSION

PROTECTION RIGHT BRAND FOR MSMEs AS ENHANCEMENT ECONOMY IN INDONESIA

Brand or brand is one key success in operating MSMEs. Perpetrator MSMEs competing build a brand. The more positive the image a brand in society the brand will influence the level of purchase public towards the brand. Building a brand is not an easy effort, requires business or capital that is not little by little to build a strong image in society. Will be very No fair if the brand has been built with difficult sucks imitated by the perpetrator's effort that is not a responsible answer. Perpetrator MSMEs need A protection law on existing brands built to avoid deed cheating that leads to competition business cheating (Permata, et al., 2019). Therefore that is, the

registration brand must done perpetrator MSMEs Because for gives protection law to the owner's efforts to avoid action cheating like plagiarism brand or recognition of business ideas (Verawati, 2022).

Branding a good or service can also prevent unfair business competition. A product is expensive usually not because of the product itself, but the influence of the brand (Dewi dan Baskoro, 2019). Right on a brand based on usage first from a brand that. Those who register the brand first is considered as entitled on the brand concerned (Wijaya dan Wairocana, 2018). Indonesia is a country based on law, a country that always strives for the realization of justice, truth, legal certainty, and order in the implementation of the legal system (Shaleh & Nasution, 2020). One of the embodiments of legal ideals in Indonesia is to apply justice to the legal protection of brands in Indonesia. As a democratic country, it is necessary to optimize the legal system to improve national law by the principles of statutory regulations (Mayana, 2017).

Constitution Brand No. 20 of 2016 concerning Brand and Indication Geographic. Based on the Act the Brand MSMEs stated inside the preamble letter of the Law The 2016 brand contains " that in the era of global trade, it is in line with convention international that has been ratified by Indonesia, role Brand and Indication Geographical become very important especially in guard competition healthy, fair, protective business consumers, as well protection of Micro, Small and Medium Enterprises, and industry domestic;" (Betlehn et al., 2018). The protection provided for the holder brand is protection in the form of lawsuit change make a loss nor in the form of criminal through apparatus enforcer the law. Completion law through instrument law civil can done through court (litigation) with lawsuit change loss earlier and stopped all deed make, use, sell and or distribute the items given right brand, or outside court (non-litigation) that allows the parties can finish disputing the through arbitration or Alternative Completion Disputes (ADR) with road negotiation, mediation, and consolidation (Sulastri, et al., 2018).

There are benefits protection Right Brand for MSMEs are:

1. For Increase Profit For MSMEs

The brand is Name or the call will be it's " stamped". at each marketed products. This brand Generally works to create a perception consumer. Products that use the brand can give profit or benefit no only for seller. But also buyers, will but on the contrary using the wrong brand can also give rise to a loss for marketing company product that.

2. Give Legal Protection for MSMEs

Protection brands in Indonesia adhere to the principle constitutive (registration with-first-to file principle). Brand only gets protection if Brand the registered to government through Ministry of Law and Human Rights and in matter This located in the Directorate Riches Intellectual. If MSMEs own products Good form goods or services with use something brand However No registered, then perpetrator business MSMEs the protection law over the brand. Protection right brand obtained after done registration brand. A Brand that already is registered called Brand Registered, is often symbolized with sign ® (registered) after the brand or mark ™ (trademark) after brand (Suhargon, 2019).

There are goals protection Right Brand for MSMEs are:

1. Creativity namely, Efforts to justify thre protection Brand with argumentation creativity is something weak thing, at the moment connection between goods with Brand triggered and developed by traders, however the same role big precisely created by consumers and society (Betlehn et al., 2018) looked at, that the most convincing argument in the matter this related the opinion of the viewer Brand as rewards on investment.
2. Information i.e., This is justification for main protection brand, because the brand is used in interest general so that increase supply of information to consumers and thereby increase market efficiency. The brand is a method of short communication information to buyers done in the frame make choice shopping. With a protect brand, passing prevention forgery by the party else, then will push cost shopping and manufacturing decision. The role of advertising in an increasingly industrial world dominant makes protection brand become the more important.
3. Ethical namely, Argumentation ethical main for protection Brand based on ideas about justice and fairness. Specifically said that "someone No can pick from those who don't planted." More special said in argumentation this, that with adopting Someone else's brand somebody has to take profit from the name well produced by the owner's original Brand (Suhargon, 2019).

OBSTACLES AND EFFORTS LEGAL PROTECTION AGAINST BRAND INDUSTRY MSMEs IN INDONESIA

Brand as an identity something product needs get protection law (Anugraheni, 2017). The protection given law to something brand trade in products MSMEs No only aim For give benefit to the parties producer but also for give protection on the part consumer. So from That protection to something brand Already should arranged with firm so consumer can protected from exists forgery goods or services that use something brand in a way No valid. Protection law to brand registration provided by the state is expected can push interest for producer economy MSMEs for registering brand products them, remember that Still low awareness perpetrator MSMEs in register brand product (Balqis dan Santoso, 2020).

In protecting the right brand for the industry MSMEs always faced many obstacles that occur, in particular to registration brands on products MSMEs :

a. Internal Barriers

Internal barriers are obstacles that arise from party producer product MSMEs That yourself. Deep internal barriers to implementation of registration brand for producer product MSMEs are motivated by several factors namely: Limitations knowledge of perpetrator MSMEs in matters of importance protection IPR specifically Brand as well as lack of knowledge about the procedure registration the brand; lack of information obtained through counseling and outreach ; limited funds; and perpetrators business MSMEs think that his business Still Not yet advanced and included business small so that No need registered (Balqis Dan Santoso, 2020).

b. Obstacle External

Besides internal obstacles faced by the perpetrators of MSMEs in implementation registration the brand is there obstacles external origin from outside producer product MSMEs. Obstacles external can form including: limitations government Good party Service Semarang City Cooperatives and

MSEs as well as the Ministry of Law and Human Rights in giving protection to IPR by the perpetrator MSMEs; cost administration registration expensive brand; weak guarantee certainty law for perpetrator MSMEs for get certificate right brand; and usage Name Still brand Lots there is equality in essence nor the whole to other people's brands are more formerly registered (Balqis Dan Santoso, 2020).

Therefore that, for more give protection law to holder right to brand requires effective and efficient coordination and cooperation between the government with device regulation adequate legislation, authorities examiner brand, apparatus enforcer law, society broad, as well entrepreneurs who will use something brand for the product. Besides that's what it's not lost importance is the implementation socialization brand like giving counseling laws about the importance brand with a method down direct to the field with come industry small and medium during This be one strength economy Indonesian (Gultom, 2018).

Then as for effort protection law to brand industry MSMEs in Indonesia are can be done with method increase industry MSMEs for register brand by the perpetrator MSMEs. Because industry MSMEs only will get protection law brand if they have registered the brand. Efforts have been made done ie with the method (Betlehn et al., 2018):

a. Cost Registration Brand More MSMEs Cheap Compared to Non-MSME Brands

The low amount registrant Brand MSMEs No makes the government stay quiet. The government through the Director General of KI continues to push For increased registration Brands from industry MSMEs charge great expense and more cheaper compared to registrant Non MSME Brands. That thing shows concern government to increase the development of business MSMEs with guard riches intellectual from the perpetrator's business MSMEs.

A brand registration protected so others don't can wear it and will get protection for ten (10) years from the date of reception registration as arranged in Article 35 Law no. 20 of 2016 concerning Brand and Indication Geographic. Period time This can be extended for a long time determined during ten (10) years with payment cost. However, the owner, must submit 12-month extension before brand the ended. The brand will extend the validity period only If the owner Still uses brand the in trading goods and/ or services.

The Director General of KI provided treatment special for industry MSMEs in support industry MSMEs for registered brands ie with give distinction price more registration cheap compared to with perpetrator business general. Following served comparison price registration application registration brand between brand MSMEs and brands general.

Table 1. Application Registration Brand

Type Brand	Class rate Rp	Type Brand	Class rate Rp
MSMEs	500.000	Non MSMEs	1.800.000

Source: DJKI (2023)

Not only for application registration brand only, but also against cost extension protection brand or brand collective registered between brand MSMEs and the general public are also provided difference price. Following served comparison price registration extension protection brand between brand MSMEs and brands general.

Table 2. Extension Protection Brand Period 6 Months Before Or Until The ending Protection Brand

Type Brand	Class rate Rp	Type Brand	Class rate Rp
MSMEs	1.000.000	Non MSMEs	2.250.000

Source: DJKI (2023)

Table 3. Extension Protection Brand Period of 6 Months After Expiration Protection Brand

Type Brand	Class rate Rp	Type Brand	Class rate Rp
MSMEs	2.000.000	Non MSMEs	4.500.000

Source: DJKI (2023)

- b. Collaboration between the Directorate General of IP, Ministry of Law and Human Rights, and Ministry of Cooperatives and MSMEs

Efforts have been made to give protection Brand trade production industry MSMEs Collaboration between the Indonesian Department of Law and Human Rights with Ministry Cooperatives and Small and Medium Enterprises of the Republic of Indonesia Number M-10-UM.06.07.TH 2006 concerning Enhancement Understanding and Utilization System Right Riches The intellectuals in it there is protection brand trade for Cooperatives and MSMEs. As for considerations held cooperation the is as following :

- 1) MSMEs are one perpetrator of businesses that have a real contribution to the economy national.
- 2) Knowledge and understanding about the existence and importance of utilization system Right Riches Intellectuals (esp Right Brand) among perpetrator MSMEs sector industry Good food, minimal nor goods production processed House ladder Still need socialized.
- 3) Synergistic coordination and cooperation between the parties and efforts enhancement dissemination, understanding and utilization system Right Riches Intellectual not yet optimal protection brand trade product food.

Objective held cooperation between the Indonesian Department of Law and Human Rights with the State Ministry of Cooperatives and Small and Medium Enterprises are :

- 1) Increase knowledge and understanding as well as utilization system IPR specifically brand trade among perpetrator MSMEs.
- 2) Realize MSMEs oriented IPR specifically Right Brand, have quality and power high competition in global competition.
- 3) Increase synergistic and productive coordination and cooperation between the parties in developing MSMEs and empowering the system of Right Riches National Intellectual (IPR).

- c. Giving Intensive Financing Registration Brand MSMEs

Legal basis for Director's Decision General Right Riches Intellectuals Ministry of Law and Rights Asasi Republic of Indonesia Human Rights Number HKI-09.OT.03.01 of 2013 concerning Incentive Right Riches Intellectual for School Intermediate Universities, Micro Businesses, and Small Businesses as well Inhabitant Built Correctional 2013. Giving incentive form giving financing registration submission application Right Riches Intellectual ie brand Good form pictures, names, words, letters, numbers, arrangements color or combination from elements those who own it Power differentiated and used in activity goods or services.

As for space scope giving incentive brand covers submission application registration brand For a maximum 3 (three) types of goods or services in 1 (one) class every request. Giving incentives addressed for Micro Businesses and Small Businesses with requirements :

- 1) Bring a letter statement stating that MSMEs are affixed duty stamp enough.
 - 2) Condition application submission registration based on Constitution brand, namely :
 - a. Fill in the form in Indonesian
 - b. Photocopy of KTP (3 sheets)
 - c. Legal Entity Deed / TBN (2 copies legalized by a Notary)
 - d. Example etiquette brand Minimum size 2x2 cm, maximum 9x9 cm (28 pieces)
 - e. Statement letter accompanied stamp duty Rp. 6000,-
 - 3) Never before get help or incentive from a party anywhere.
 - 4) The work produced fulfils criteria for protection the right riches intellectual and useful for society.
 - 5) Originated Cover Letter from the Regional Office of the Ministry of Law and Human Rights, if submission application through the Regional Office of the Ministry of Law and Human Rights.
 - 6) Originated Letter of Recommendation from the Ministry or Service If originate from the Ministry or Service. However, the implementation submission application giving incentives for 12 only held (two twelve) months counted from January 1, 2013 until by December 31, 2013.
- d. Registration Brand Collective Industry MSMEs

In Indonesia, the perpetrator MSMEs often sell and buy it something goods or services with something characteristic the same characteristics as several perpetrator MSMEs others. So, the government through Law No. 20 of 2016 concerning Brand and Indication Geographical facilitates the protection of Brand in a way collective. Based on the explanation Law No. 20 of 2016 concerning Brand and Indication Geographic, a Brand collective is a Brands used on goods and or services with the same characteristics about nature, general, and quality goods or services as well as will be supervised traded by several persons or legal entities in a way together For differentiate with goods and/or service kind other.

The brand collective is one road given by the government towards the perpetrator's business MSMEs in Indonesia. If referring to sound article 1 number 4, then in principle Brand collective is Brands used by the community perpetrator trading business something product goods or the same service. The perpetrator's businesses do not need to register or build the brand individually but built in a way together through some people or several business entities.

CONCLUSION

Based on the description above, it can be concluded that the effort in to provide Brand protection for the MSME industry is by registering the MSME brand. Brand rights protection can provide various benefits for MSMEs in improving the economy. By protecting brands, MSMEs can build consumer trust, create competitive advantages, and encourage economic growth. Therefore, the government, related institutions and MSMEs themselves need to increase awareness and understanding regarding brand rights protection and provide the necessary support for MSMEs in implementing brand protection measures. Therefore, the government provides a solution in the form of making it easier for MSME industry players to register brands, namely through a policy of cheaper

MSME brand registration fees compared to non-MSME brands, carrying out cooperation between the Director General of IP, Ministry of Law and Human Rights and the Ministry of Cooperatives and MSMEs, provide financing incentives for MSME brand registration and registration collective brand of the MSME industry.

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