

Implementation of Trademark Registration to Encourage the Development of Micro, Small and Medium Enterprises in Wonogiri Regency

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Implementation of Trademark Registration to Encourage the Development of Micro, Small and Medium Enterprises in Wonogiri Regency

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Abstract: This study aims to analyze the implementation of trademark registration and the inhibiting factors faced by Micro, Small, and Medium Enterprises (MSMEs) in Wonogiri Regency, as well to present solutions to overcome these challenges. This legal research is an empirical legal study that is descriptive. The research approach used is a socio-legal approach. The types and sources of legal materials used consist of primary and secondary legal materials. The legal materials are collected through document analysis and interviews. The analysis of legal materials is qualitative with a descriptive analytical method. Based on the research findings, it can be observed that trademark registration for MSMEs in Wonogiri Regency has not been well-implemented. Despite some awareness among MSMEs in this area regarding the importance of trademark registration, there are still obstacles in trademark registration and understanding intellectual property. Factors such as lack of knowledge about trademark registration, low legal awareness, complex registration procedures, and insufficient information about available facilities affect the implementation of trademark registration in this area. To address these challenges, there is a need for increased knowledge and education about trademark registration for MSMEs in Wonogiri Regency. Additionally, providing accessible information and facilities will help improve the implementation of trademark registration so that MSMEs can better understand the benefits and processes of trademark registration effectively

Keywords: Trademark Registration; Law Implementation: MSMEs in Wonogiri Regency.

INTRODUCTION

Micro, Small and Medium Enterprises (MSMEs) have an important role in advancing the regional economy in various regions, including Wonogiri Regency. As an important economic resource, MSMEs are expected to contribute more to economic growth and improve the welfare of local communities. In this context, trademark registration is an important element that can provide legal protection and strengthen the competitiveness of economic actors at the regional level.

During the Covid-19 pandemic period, MSMEs in Wonogiri Regency faced challenges due to social restrictions and economic conditions which affected business operations and changes in consumer behavior, but some were able to survive and experience growth amidst the economic turmoil that emerged at that time.

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MSMEs that successfully survive the pandemic have the potential to move up in class to ensure the sustainability of their business growth. A business is considered to be scaling up if there is an increase in business ³⁹ both in terms of capacity and in terms of business performance based on 3 (three) approaches, namely the productivity approach, the accessibility to capital ⁴⁴ approach, and the government intervention ¹¹ approach. The productivity approach refers to the theory of economies of scale, namely a theory that describes the phenomenon of decreasing production costs per unit in a company accompanied by an increase in production volume (output) or sales volume. In contrast to the productivity approach, the accessibility approach is related to the characteristics of society and businesses vis-à-vis the products and services provided both by formal financial institutions, especially banks, and by the government. The government intervention approach is related to fiscal intervention such as providing social protection or assistance, interest subsidies, and guaranteeing financing risks where the government acts as "monopoly power" (Syahrir Ika et al., 2022: 40-42).

²² Trademark registration provides strong legal protection for the brand owner. Based on Article 35 paragraph (1) and paragraph (2) of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, ¹⁶ the right to a trademark receives legal protection for a period of 10 (ten) years from the date of receipt and can be extended for the same period. Article 2 paragraph (3) of the law contains the criteria for protected brands, namely consisting of signs ⁵ in the form of images, logos, names, words, letters, numbers, color arrangements, in 2 (two) dimensions and/or 3 (three) dimensions, sound, hologram, or a combination of 2 (two) or more of these elements to differentiate goods and/or services produced by individuals or legal entities in goods and/or services trading activities.

Having a trademark that is easily identifiable as belonging to a business or company can help consumers identify and differentiate products and services provided by an MSME from other MSMEs in the same business. Therefore, trademarks are one of the keys to success in attracting demand for MSME products. Registering a trademark is very important to advance MSMEs, especially in Wonogiri.

³⁴ Based on the background description above, the author is interested in conducting legal research and presenting it in a research article entitled "Implementation of Trademark Registration to Encourage the Development of Micro, Small and Medium Enterprises in Wonogiri Regency" by exploring several legal issues ⁴⁹ which are the focus of the study. One of the main issues relates to how the implementation of trademark registration impacts MSMEs in Wonogiri Regency. There are other issues, namely administrative issues, related to the level of awareness and understanding of MSME actors in Wonogiri Regency regarding the

⁴⁶
importance of trademark registration and the extent to which the law has an important role in supporting the growth of MSMEs. By raising these issues, ²⁰ it is hoped that this research can provide a comprehensive picture of the implementation of trademark registration and its impact on the development of MSMEs in Wonogiri Regency.

LITERATURE REVIEW

Law Implementation

Legal implementation refers to the process of implementing or applying legal regulations that have been established. Implementation of the law is important in maintaining order, justice and protecting people's rights. When law implementation is effective, society can feel safe and fair.

¹⁷
Legal effectiveness means that people actually act in accordance with legal norms as they must, that these norms are actually implemented and obeyed. Effectiveness also implies achieving success in achieving predetermined goals. In this case, legal effectiveness is related to the relationship between the expected results and the results actually achieved (Sabian Usman, 2009:12).

¹⁴ Intellectual property rights

Intellectual Property Rights (IPRs) are economic rights granted by law to a creator or inventor for a work of human intellectual ability (Khoirul Hidayah, 2017:1). ⁴⁸ The World Intellectual Property Organization (WIPO) provides an understanding of IPR, namely ¹⁰ Intellectual Property (IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce (intellectual property refers to ³² creations of thought such as inventions, literature and works of art, designs, symbols, names and photographs that are used commercially).

Brand

³
Based on Law Number 20 of 2016 regarding Trademarks and Geographical Indications, a Brand is a sign that can be displayed graphically in the form of an image, logo, name, word, letter, number, color arrangement, in 2 (two) dimensions and/or 3 (three) dimensions, sound, hologram, or a combination of 2 (two) or more of these elements to differentiate goods and/or services produced by individuals or legal entities in goods and/or services trading activities.

¹³
A brand can function as an identification mark to differentiate production results produced by a person or several people jointly or by a legal entity from those produced by

another person or legal entity as a promotional tool (Irene Svinarky et al., 2018: 66). A brand can be protected by law if the mark has been registered.

Geographical Indication

³¹Based on Law Number 20 of 2016 regarding Brands and Geographical Indications, geographical indications have ⁶the meaning of a sign indicating the area of origin of a good and/or product which, due to geographical environmental factors including natural factors, human factors or a combination of these two factors, gives a reputation, quality and certain characteristics of the goods and/or products produced. The ¹²state grants exclusive rights to holders of registered geographical indication rights, as long as the reputation, quality and characteristics on which the protection of the geographical indication is granted still exists.

¹⁸Micro small and Medium Enterprises

⁸Based on Government Regulation Number 7 of 2021, a business is divided into 3 (three) classes, namely Micro, Small and Medium Enterprises (MSMEs). Micro businesses are productive businesses owned by individuals and/or individual business entities that meet the criteria for micro businesses as regulated in the government regulations. A ²small business is a productive economic business that stands alone, carried out by an individual or business entity that is not a subsidiary or branch of a company that is owned, controlled, or is part, either directly or indirectly, of a medium or large business that meets the business criteria. In contrast to small businesses, medium businesses are productive economic businesses that stand alone, carried out by individuals or business entities that are not subsidiaries or branches of companies that are owned, controlled, or part of either directly or indirectly with small businesses ⁴⁷or large businesses. that meet the criteria for medium-sized businesses.

Small and Medium Industries

⁷Industry is all forms of economic activity that process raw materials and/or utilize industrial resources so as to produce goods that have added value or higher benefits as ³⁶determined based on the number of workers and/or investment value .

RESEARCH METHODS

³⁰The type of legal research used in this research is empirical legal research which means research whose data is obtained directly from the community, which is referred to as primary data (Soerjono Soekanto, 2020: 51). Empirical research was carried out because researchers wanted to know what the gap is ²⁸between *das Sollen* and *das Sein*, namely the gap between

theory and the world of reality, regarding the implementation of trademark registration among MSMEs in Wonogiri Regency and what factors hinder its implementation and the solutions.

RESULTS AND DISCUSSION

A. Description of MSMEs in Wonogiri Regency

The development of the number of MSMEs each year shows a significant trend in the economy of Wonogiri Regency. This increase is in line with the government's efforts to encourage the growth of MSMEs as one of the pillars of the local economy. Business actors with micro, small and medium criteria in Wonogiri are involved in several business sectors and are spread across 25 sub-districts consisting of Baturetno, Batuwarno, Bulukerto, Eromoko, Girimarto, Giritontro, Giriwoyo, Jatipurno, Jatiroto, Jatisrono, Karangtengah, Kismanoro, Manyaran, Ngadirojo, Nguntoronadi, Paranggupito, Pracimantoro, Puhpelem, Purwantoro, Selogiri, Sidoharjo, Slogohimo, Tirtomoyo, Wonogiri, and Wuryantoro. MSMEs in Wonogiri Regency are divided into several sectors such as agriculture, livestock, forestry and fisheries; mining and quarrying sector; processing industry sector; electricity, gas and clean water sectors; building sector; trade, hotel and restaurant sectors; transport and communications sector; financial and rental sectors; as well as the private services sector.

B. Research result

1. Implementation of Trademark Registration for ²¹Micro, Small and Medium Enterprises (MSMEs) Taking Place in Wonogiri Regency

Trademark registration has ⁴⁵a crucial role in protecting the identity of MSME businesses and providing legal certainty regarding the intellectual property they own ⁴³

The ⁴³legal system theory according to Lawrence M. Friedman, which divides the legal system into main components, ⁵⁰namely legal structure, legal substance and legal culture, can be applied to analyze the implementation of trademark registration for MSMEs in Wonogiri Regency. Implementation of brand registration is very dependent on the performance and coordination between institutions such as ⁴⁰the Directorate General of Intellectual Property (DJKI), Manpower and Industry Service of The Wonogiri Regency, Cooperatives and SMEs and Trade Service ⁴¹of The Wonogiri Regency, and the One Stop Integrated Services and Investment Service (DPMPSTP). DJKI acts as a facilitator of the trademark registration program, is responsible for receiving, processing, and approving or rejecting trademark registration applications,

plays a role in law enforcement and trademark protection, and manages the national database of registered trademarks. Manpower and Industry Service of The Wonogiri Regency acts as a facilitator to assist MSMEs in registering their brands by providing letters of recommendation to the assisted SMEs, which will later have an impact on subsidizing the cost of trademark registration, reducing the registration fee from initially IDR 1,800,000.00 to IDR 500,000.00.

²¹In the context of the author's research on Micro, Small and Medium Enterprises (MSMEs) in Wonogiri Regency, the author had the opportunity to conduct interviews with several MSME actors, namely Tofu Producer Pak Sunardi, Kikayu, Agis Production, Farida Enha, Mete Pancajaya, and CV. Hikari Agro Makmur. All sources were willing to be interviewed by the author and were willing to appear in the author's thesis writing. The sample in this research is considered to be representative and related to the problems studied.

a. Tahu Pak Sunardi

Mr. Sunardi and his partner had already started a tofu business, but there were obstacles because his partner died so they had to stop production temporarily. In September 2017, Mr. Sunardi created a tofu production business in Karang Lor RT02/RW01, Manyaran, Wonogiri. Mr. Sunardi has not yet registered a brand for his tofu business. As a business owner, Mr. Sunardi is willing to be a resource for the author's research.

b. Kikayu

Kikayu is a wooden craft business that specializes in producing table accessories which was founded by Faishal Amri. This business start operating between the end of 2021 and the beginning of 2022 in Turen RT02/RW01, Punduh Sari, Manyaran, Wonogiri. The reason behind establishing this business was inspired by the surrounding environment, where he was encouraged by the presence of many wood craftsmen such as gamelan makers around his house. This aroused his interest in trying something similar in the hope of being able to sell his work both directly and online. Initially, Kikayu covered a wide range of wooden products, but now focuses more on workbench accessories. Currently, Kikayu is in the process of registering its brand. Previously, he had applied for trademark registration but was rejected because there were similar trademarks

that had already been registered. Faishal Amri, as a business owner, is willing to be a resource for the author's research.

c. Agis Production

Agis Production, a business operating in the advertising, printing and documentation sector, was founded by Agus Priyono in May 2000. The business office is located on Jl. Jendral Sudirman No.9, Donoharjo, Wuryorejo, Wonogiri. Since its founding, Agis Production has become one of the trusted providers of advertising and printing services and provides extensive services for documentation and promotional needs for various business entities and organizations in Wonogiri. Agis Production has never registered its brand.

d. Farenha

Farenha, a business that focuses on ecoprint production, was founded by Farida Eryani in 2018. Realizing that high-priced ecoprints would not be affordable for the lower middle class, Mrs. Farida studied independently through online sources and communities to master affordable ecoprint production techniques. Thanks to these efforts, Farenha is now able to produce ecoprints that are in demand by various groups. This business has been running for several years and has customers from various regions. Farenha is located in Gunung Kukusan RT3/RW9, Giriwono, Wonogiri, and now has 10 educated and trained production employees. Farenha has not yet registered its brand but plans to do so.

e. Mete Pancajaya

Mete Pancajaya is a business founded in 1994 by Suharni, located at Tukluk RT02/RW01, Kerjo Lor, Ngadirojo, Wonogiri. This business focuses on cashew production and employs around 5-6 employees to support its operations. Mete Pancajaya has developed its footprint in the cashew industry in Wonogiri and its surroundings since its establishment in 1994. Mete Pancajaya has not yet registered its brand.

f. CV Hikari Agro Makmur

CV Hikari Agro Makmur is a company engaged in the production of technological machines for agriculture, forestry, livestock and other sectors. Founded by Gimanto, this company started from a hobby and desire to solve technological problems in the surrounding environment. Located in Songopuro, Sidokarto, Girimarto, Wonogiri, this company started operating in 2010 as an initial business before transforming into CV in 2013. CV Hikari Agro Makmur has created various tools and machines to help farmers in the production process, both on farm or off farm. The product brand that has been registered by CV Hikari Agro Makmur is known as Japintech. The company now has around 5-15 employees dedicated to developing technology.

2. Factors that Inhibit ²⁹the Implementation of Trademark Registration for Micro, Small and Medium Enterprises (MSMEs) in Wonogiri Regency and ¹⁸the Solution

¹⁸Based on the results of research conducted, several factors were found that influence the implementation of brand registration by MSMEs in Wonogiri Regency, namely:

a. Lack of knowledge regarding trademark registration

The lack of knowledge regarding trademark registration among MSMEs in Wonogiri Regency is often associated with a lack of understanding ¹⁹of Law Number 20 of 2016 regarding Trademarks and Geographical Indications. This factor can hinder the progress of MSMEs in developing and expanding their markets because they do not have adequate legal protection for their brand identity. Some MSME players such as Tahu Pak Sunardi and Mete Pancajaya do not yet fully understand the importance of trademark registration. Mr. Sunardi believes that his business does not need a brand because the scale of the business is still small. Agis Production experienced confusion regarding trademark registration. According to Agus Priyono, owner of Agus Production, brand registration is very important for certain products because it can be an effective tool in winning competition in the market.

b. Low legal awareness

The low legal awareness of MSMEs in Wonogiri Regency regarding brand registration is one of the challenges they faced in developing their business. Many MSMEs do not fully understand the importance of legally protecting their trademarks. This is due to the limited information available regarding the procedures and benefits of trademark registration. There are doubts about the extent to which trademark registration will protect them from trademark infringement, especially if they operate locally or on a small scale. As one of the MSMEs in Wonogiri Regency, Mr. Sunardi, as a tofu business owner, does not know for sure about the importance of registering his trademark. Pak Sunardi still doesn't feel the need for a trademark because his business still operates on a small scale.

c. Complicated registration procedure

In the trademark registration process, there are procedures that must be followed so that the trademark can be registered with DJKI. The procedure for registering a new trademark begins with the following steps. First, register an account on the website merk.dgip.go.id. Next, click the "Add" button to create a new application. Fill in all available forms with the required information. Upload required support data according to specified requirements. Then, order a payment code by clicking the "Generate Billing Code" option and make payment according to the billing code before 23.59 on the same day. Finally, if all the information has been filled in correctly, click "Finish" and the application has been accepted by DJKI. The requirements that must be met when registering a trademark are the existence of a brand label/label, the applicant's signature, a letter of recommendation for the micro and small enterprises assisted by the Department or the original official micro and small enterprises assistance letter (for micro and small business applicants), and a stamped MSE statement (for applicants micro businesses and small businesses). Based on the results of interviews with sources, the requirements and procedures for registering a brand were not yet known to several sources.

d. Lack of information about available facilities

The Department of Manpower and Industry provides facilities ³⁸for Micro, Small and Medium Enterprises (MSMEs) in the trademark registration process. This facility has a significant impact on brand registration costs, where the general fee is IDR 1,800,000 per class and the special fee for MSEs is IDR 500,000 per class. With this facility, it is hoped that more MSMEs will be able to protect their trademarks officially without exorbitant costs. Several sources such as Tahu Pak Sunardi, Agis Production, and Mete Pancajaya were not aware of the existence of brand registration facilities provided by the Department of Manpower and Industry. Farenha had little knowledge of the facility. Meanwhile, Kikayu and CV Hikari Agro Makmur have known and used letters ²⁷of recommendation from the Department of Cooperatives, Micro, Small and Medium Enterprises, Industry and Trade (before the current industry department was moved and merged with the manpower department). This shows the importance of information conveyed to MSME players so that they can take advantage of the facilities available to protect their trademarks.

Problem solutions are very important in the context of business development, especially for MSMEs. The following are solutions related to several factors that influence the implementation of trademark registration by MSMEs in Wonogiri Regency:

a. Increasing knowledge and education regarding brand registration for MSMEs in Wonogiri Regency

Increasing knowledge and education regarding brand registration is very important for MSMEs in Wonogiri Regency. Through outreach activities held regularly by the local ¹⁹government with material on trademark registration procedures, the benefits of trademark protection, the legal implications of trademark registration, as well as how to use trademarks effectively in business development, MSMEs can be given a better understanding of the importance of trademark registration. This socialization should be carried out periodically at least once every 6 months.

- b. Providing data collection regarding the number of MSMEs who have registered their brands

Procurement of data collection carried out by the Cooperatives and SMEs and Trade Service and the Manpower and Industry Service regarding the number of ⁹ MSME actors who have registered their brands could be one solution to encourage ⁹ MSME actors who have not yet registered their brands, to immediately register their brands. With the data collected, the two agencies can identify the level of awareness and understanding of MSMEs regarding the importance of trademark registration so that they can provide appropriate counseling to MSMEs whose trademarks have not been registered.

- c. Simplification of the trademark registration process

Brand registration carried out by MSMEs in Wonogiri Regency is carried out independently via the website <https://merek.dgip.go.id/> which is managed by DJKI. Simplifying the brand registration process is one solution to encourage more MSMEs to register their brands. The DJKI website includes information regarding the requirements, procedures and costs for registering a brand, but the registration method is not explained clearly so that MSMEs experience confusion when registering their brand. This can be overcome by providing clear guidance and simplifying procedures regarding the steps required in the trademark registration process.

CONCLUSIONS AND SUGGESTION

²⁶ A. Conclusion

Based on the research results in the previous chapter, it can be concluded that: ³³

1. The regulations regarding trademark registration contained in Law Number 20 of 2016 regarding Trademarks and Geographical Indications ⁵¹ are sufficient to provide a clear legal basis for the trademark registration process, but the implementation of trademark registration for MSMEs in Wonogiri Regency has not been implemented properly. Even though the Government, through the Department of Manpower and Industry of Wonogiri Regency, has provided a facility in the form of a subsidy to reduce trademark registration fees from initially IDR 1,800,000.00 to IDR 500,000.00 for MSMEs who have a letter of recommendation for coached SMEs, MSMEs have not yet used this facility effectively. Several MSMEs in Wonogiri Regency already know the importance

of trademark registration, but trademark registration and understanding of intellectual property are still not optimal.

2. The implementation of trademark registration for MSMEs in Wonogiri Regency is influenced by several factors, including lack of knowledge regarding trademark registration, low legal awareness, complicated registration procedures, and lack of information about available facilities. The culture of society which tends to be simple and reluctant to face difficulties as well as a lack of interest in seeking information are the main factors that cause brand registration for MSMEs to not be implemented properly. To overcome this challenge, a solution is needed, namely increasing knowledge and education regarding brand registration for MSMEs in Wonogiri Regency. Apart from that, it is very important to collect data regarding the number of MSME players who have registered their brands so that the Cooperatives and SMEs and Trade Service and the Manpower and Industry Service can identify the level of awareness and understanding of MSME players regarding the importance of trademark registration. Simplifying the trademark registration process is also one solution to encourage more MSME players to register their brands because complicated registration procedures can prevent MSME players from registering their brands.

B. Suggestion

Based on the discussion that the author has outlined above, several suggestions need to be made as follows:

1. The government and institutions ⁵²related to intellectual property rights and the empowerment ³⁷of MSMEs such as the Directorate General of Intellectual Property Rights, the Manpower and Industry Service, and the Cooperatives and SMEs and Trade Service need to hold outreach regarding brand registration so that MSMEs in Wonogiri Regency can understand the trademark registration procedures, the benefits of brand protection, Legal implications of trademark registration, as well as how to utilize trademarks effectively in business development. The Manpower and Industry Service and the Cooperatives and SMEs and Trade Service need to collect data regarding the number of MSMEs in Wonogiri Regency that have registered their brands.

2. MSMEs in Wonogiri Regency need to increase their understanding of the importance of trademark registration in protecting the identity and reputation of their business by actively seeking information regarding the steps that must be taken to register their trademark. It is important for MSMEs to take advantage of available online services to obtain the assistance and information needed to register a trademark for their business, thereby speeding up the registration process and reducing the risk of errors or omissions that could hamper the trademark registration process.

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