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Submission date: 15-Aug-2024 07:02PM (UTC+0300)

Submission ID: 2431878662

File name: PUBLISH_608_59-65.pdf (194.9K)

Word count: 3689

Character count: 21529

Product Legality as a Legal Protection Effort for UMKM Industrial Brands in Indonesia

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11

Received : May 15, 2024

Revised : June 15, 2024

Accepted : July 20, 2024

Published : July 27, 2024

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Abstract: This research aims to investigate the role of product legality as an effort to legally protect the brands of the MSME industry in Indonesia. MSMEs play an important role in the Indonesian economy, but often face challenges in protecting their brands. Product legality is an important aspect in protecting MSME brands. The research method used is descriptive by collecting data from related literature and primary sources. The findings show that having products that have clear legality can provide stronger legal protection for MSME brands. A legal trademark registration process that complies with regulations can increase consumer trust, strengthen brand reputation, and reduce the risk of brand infringement. However, challenges such as high costs, complexity of the registration process, and lack of understanding of the importance of product legality are still obstacles for MSMEs. Therefore, there needs to be efforts from the government, non-government organizations and other related parties to provide support and resources to MSMEs in understanding and fulfilling product legality requirements.

Keywords : Legal awareness, MSMEs, Product legality

INTRODUCTION

MSMEs play an important role in the Indonesian economy. MSMEs contribute 60% of the country's economic strength in the Industrial sector. MSMEs function as main actors in economic activities, providing employment opportunities, contributing to the local economy, and empowering communities. In addition, MSMEs create new markets and make a significant contribution to the country's Gross Domestic Product (GDP) and balance of payments. As a job creator, MSMEs are often the main driver in job creation. They are able to absorb a large number of local workers, which helps reduce the unemployment rate. MSMEs provide opportunities for people to become independent entrepreneurs, so that they can increase their own income, which in turn increases purchasing power and consumption at the local and national levels. MSMEs are often concentrated in certain areas, both urban and rural ¹.

The presence of MSMEs can develop the area economically by providing goods and services and opening up other business opportunities. Even though the business scale is small, MSMEs are often a place

¹ Prameswari, Tifania Ayunda. Hak Merek sebagai Upaya Perlindungan terhadap Industri UMKM. Amnesti: Jurnal Hukum, 2021.



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for new innovations in products and processes. This drives competition and progress in the industry as a whole. MSMEs can help reduce economic disparities between urban and rural areas, as well as between various social groups. They provide opportunities for previously marginalized groups to engage in economic activities. MSMEs play an important role in empowering local communities by providing opportunities for individuals and groups to develop skills and organize their own businesses. Although each MSME may contribute only on a small scale, collectively, they can make a significant contribution to a country's Gross Domestic Product (GDP). Many MSMEs are involved in the production of goods and services that are exported to international markets. This helps increase state income from the export sector and also expands the market for MSMEs. Due to the diversity and spread of MSMEs, a country's economy can become more resilient to global economic shocks. MSMEs tend to be more flexible in responding to changes in market and economic conditions².

The problem that occurs is lack of awareness and understanding among MSMEs about the importance of trademark registration and the benefits it provides. The perception among MSMEs is that trademark registration involves high costs, which may deter them from seeking legal protection for their brands. Limited knowledge of intellectual property rights and the potential economic value that comes with trademark protection. Inadequate legal protection and law enforcement mechanisms for MSME brand rights, leading to the risk of infringement and unauthorized use of their trademarks. Examples of traditional products and designs being "stolen" by external parties due to lack of proper trademark protection³.

Trademark registration is an important aspect for MSMEs because it helps protect their products and brings economic value when entering the world of commerce. This is also set on Law no. 20 of 2016 concerning Brands and Geographical Indications, as well as Act No. 15 of 2001 Concerning Brand. Trademark protection ensures that only the owner or rights holder can produce the protected product, providing exclusivity and economic benefits. Brands are assets for MSMEs, because they create a memorable identity, evoke an emotional response from consumers, and have the power to attract customers. Additionally, brands can save business costs and influence consumer purchasing behavior.

Risks faced by MSMEs without legal protection is happening vulnerability to infringement and unauthorized use of trademarks, leading to loss of brand identity and market share. This is also related to PP Number 45 of 2016 concerning Types and Tariffs for Types of Non-Tax State Revenue that Apply to the Ministry of Law and Human Rights that difficulty in taking legal action against infringers and seeking redress without proper trademark registration. Limited ability to prevent competitors from using similar or identical trademarks, which can confuse consumers and negatively impact a business's reputation. Inability to fully exploit the economic value of their brand, as trademark registration provides exclusivity and the ability to control the production and distribution of the protected product. Missed opportunities for brand expansion and licensing agreements, as potential partners may be hesitant to collaborate without proper legal protection⁴.

This research aims to analyze efforts to protect the MSME industry through registration of trademark rights. Examines the role of MSMEs in the Indonesian economy and highlights the importance of trademarks for their business. To overcome the lack of understanding and awareness among MSMEs regarding the benefits of trademark registration and the potential economic value it brings. To emphasize

² Jaya, Belardo Prasetya Mega; Fasyehhudin, Mohamad; Naddifah, Wardatun. Kebijakan Pemerintah Tentang Merek Dalam Memberikan Perlindungan Hukum Terhadap UMKM. Jurnal Ilmiah Advokasi, 2022.

³ Masnun, Muh Ali. Menggagas perlindungan hukum usaha mikro kecil dan menengah atas hak desain industri di Indonesia. Dialogia Iuridica, 2020

⁴ Prameswari, Tifania Ayunda. Hak Merek sebagai Upaya Perlindungan terhadap Industri UMKM. Amnesti: Jurnal Hukum, 2021.

the need for legal protection of MSME products, especially trademarks, to prevent infringement and unauthorized use by external parties. This study aims to contribute to the development and growth of MSMEs by promoting the importance of trademark registration and highlighting its role in protecting their brands and stimulating the Indonesian economy⁵

METHODS

Legal research methods that combine normative and empirical approaches. Empirical normative legal research methods integrate elements of both approaches. Researchers use a normative approach to understand the legal basis of a problem and then use an empirical approach to examine how the law is applied in practice and its impact on society. The aim of this method is to provide a more complete understanding of law, which not only considers its theoretical aspects but also its practical aspects in a social context. This allows researchers to identify potential gaps between the law stated in texts and actual legal practice in the field. The advantage of this method is that it allows researchers to gain richer insights into the effectiveness and relevance of law in real social contexts. It can also help in designing policies that are more effective and responsive to community needs. Thus, empirical normative legal research methods combine approach normative and empirical to understand and analyze law holistically, with a focus on both its theoretical and practical aspects. The technique for collecting data is by means of library study, namely the technique of collecting information by examining written sources that are relevant and related to the object being researched. So as to be able to answer the problems faced⁶.

RESULTS AND DISCUSSION

1. Existing Conditions of MSME Brand Registration in Indonesia

At the beginning of 2022, the number of MSMEs registering brands in Indonesia varies from year to year and it is difficult to provide exact figures. However, the Indonesian government has actively encouraged MSMEs to register brands to protect their products from counterfeiting and unfair competition. In 2019, the Indonesian Investment Coordinating Board (BKPM) noted that around 72% of the total registered brands belonged to MSMEs. In subsequent years, this number may have increased as MSMEs' awareness of the need to protect their trademarks has increased.¹

The low level of awareness regarding brand registration for Micro, Small and Medium Enterprises (MSMEs) in Indonesia can be caused by several factors. First, lack of education and information, many MSME owners may not fully understand the importance of trademarks and their benefits in protecting their business. Lack of available education and information about the trademark registration process and the profits generated from trademarks can lead to low awareness. Second, costs and complicated processes. The trademark registration process often involves significant costs and administration. For MSMEs with limited resources, the cost and complexity of the process may be a significant barrier. Third, distrust of legal protection, some MSME owners may feel that the brand registration process does not provide sufficient protection or doubt its effectiveness in protecting their brand from infringement. Fourth, lack of law enforcement, even after a trademark is registered, law enforcement against trademark infringement is

⁵ Abidahsari, Irma, et al. Pendaftaran Hak Merek Sebagai Upaya Perlindungan Hukum Terhadap Industri UMKM. Prosiding *Serina*, 2021

⁶ Betlehn, Andrew; Samosir, Prisca Oktaviani. Upaya Perlindungan Hukum Terhadap Merek Industri UMKM Di Indonesia. *Jurnal Law and Justice*, 2018

not always effective in Indonesia. This may reduce incentives for MSME owners to protect their brands officially⁷.

Another factor that causes low legal awareness of MSME trademark rights in Indonesia is cultural awareness, in some cases, awareness of the importance of trademarks may be lacking in local business culture, especially among MSMEs that operate in a more traditional environment. The next factor is limited resources and priorities, many MSME owners may focus more on daily operations and overcoming other challenges in running their business. Therefore, trademark registration may not be a top priority for them. To increase the level of trademark awareness and registration among MSMEs, efforts are needed that involve better education, streamlining the registration process and costs, increasing law enforcement, and building a culture that understands the value of trademark protection for businesses.

2. The Urgency of Legal Protection for MSME Industrial Brands in Indonesia

Legal protection of MSME industrial brands in Indonesia has an important urgency. Here are several reasons why legal protection of MSME industrial brands is very important. MSMEs are often targets for product counterfeiting because they are vulnerable to this illegal practice. Legal protection of industrial brands can help prevent counterfeiting and protect the reputation and integrity of MSME products. By having a registered and legally protected brand, MSMEs can increase their competitiveness in the market. Consumers tend to trust products with brands that are recognized and protected by law. Legal protection of industrial brands can encourage MSMEs to innovate more in their products and services. They will feel safer investing time and resources in developing their brand because they know they will be legally protected. With that brand legally protected, MSMEs can more easily enter local and international markets. A well-known and legally protected brand can help build a positive image and open doors to wider business opportunities. Trademarks are a form of intellectual property rights that must be protected in accordance with Law no. 20 of 2016 concerning Brands and Geographical Indications.

Legal protection of MSME industrial brands helps prevent unauthorized use or misuse of brands by other parties. As in Law no. 20 of 2016 concerning Brands and Geographical Indications. By having a legally protected brand, MSMEs have legal certainty regarding the ownership and rights to their brand. This helps reduce the risk of future brand-related legal disputes. MSMEs play an important role in Indonesia's economic growth. By providing legal protection for MSME industrial brands, the government can help increase the contribution of MSMEs to overall economic growth. Therefore, legal protection of the MSME industrial brand is very important to ensure the sustainability and growth of MSMEs in Indonesia and to strengthen their position in the global economy.

3. Government Efforts to Encourage Brand Rights Ownership for MSME Industries in Indonesia

The Indonesian government has made various efforts to encourage ownership of brand rights for the MSME industry in Indonesia. Some of the efforts made by the government to encourage ownership of MSME Industrial Brand Rights in Indonesia are through education and information, facilities and accessibility, increasing legal awareness, brand registration incentives, law supervision and enforcement, brand registration incentives, law supervision and enforcement, as well as collaboration with other parties. private sector and international government institutions provide educational programs and information to MSMEs about the importance of owning and protecting their brand rights. This includes counseling, seminars and training on the benefits and process of trademark registration.

⁷ Nasution, Latipah. Efektifitas HKI Sebagai Pelindung Industri Kreatif dan UMKM di Tengah Pandemi Covid-19. Adalah, 2020.

Some of the efforts made by the government to increase legal awareness include increasing the accessibility and ease of the trademark registration process for MSMEs. This is done by providing online services, technical assistance and administrative support for MSMEs who wish to register their brands. Increased Legal Awareness The government collaborates with private institutions and organizations non-governmental organizations to increase legal awareness about the importance of protecting brands. This is done through public campaigns, social media, and educational programs. The next effort is related to Trademark Registration Incentives. The government provides incentives, such as fee waivers or subsidies, for MSMEs who register their brands. This aims to encourage MSMEs to protect their brands despite the costs associated with the registration process. The next effort is to carry out supervision and law enforcement. The government is also increasing supervision of brand violations and law enforcement against counterfeiting or misuse of brands. This is done to protect MSMEs from unfair competition and protect their intellectual property rights. Apart from government efforts made by external parties, these efforts are also carried out involving external parties, one of which is collaboration with the private sector and international institutions. The government is working with the private sector, international organizations and research institutions to develop more effective policies and strategies in encouraging MSME industrial brand rights ownership. With this series of efforts, the government hopes to provide adequate support to MSMEs to protect their brands, increase their competitiveness in the market, and strengthen the contribution of MSMEs to Indonesia's overall economic growth (Nurahman et al, 2022). This also supports implementation Act No. 15 of 2001 Concerning Brand.

4. Evaluation and Weaknesses of Government Efforts in Encouraging Brand Rights Ownership for MSME Industries in Indonesia 22

There are several weaknesses in the efforts made by the government to increase and encourage ownership of brand rights for the MSME industry in Indonesia, namely (1) Lack of Socialization and Education: The government is often lacking in providing socialization and education to MSMEs regarding the importance of having brand rights. Many MSMEs do not realize the strategic value of having a registered brand, so they tend to ignore it. (2) High Costs: The process of trademark registration and protection of intellectual property rights (IPR) in Indonesia tends to be expensive, especially for MSMEs with limited budgets. This can be a big obstacle for MSMEs who want to secure their brand. (3) Complicated Process: The trademark registration process in Indonesia is also known to be complicated and time consuming. MSMEs often don't have the human resources or expertise necessary to navigate through this process themselves, so they can feel blocked. (4) Low Legal Awareness: Many MSMEs do not understand the concept and importance of intellectual property rights in a legal context. They may not realize that without a registered trademark, they are vulnerable to brand infringement from other parties. (5) Weak Law Enforcement: Even though the government has laws regulating trademark rights and other IPRs, law enforcement is sometimes still weak. This can cause MSMEs that have protected their brands to remain vulnerable to violations by other parties. (6) Limited Access to Information: MSMEs often find it difficult to obtain adequate information regarding the trademark registration process and the steps that must be taken to protect their trademarks. Lack of access to this information can prevent MSMEs from taking the necessary steps.

To overcome these weaknesses, the government needs to increase outreach and education efforts to MSMEs about the importance of brands and intellectual property rights, simplify the trademark registration process, provide incentives or financial assistance for MSMEs to obtain brands, strengthen law enforcement related to trademark infringement, and increase MSMEs' access to information regarding brand protection in accordance with implementation. This also supports implementation Act No. 15 of 2001 Concerning Brand.

5. Solutions to Facing Weaknesses in Government Efforts to Encourage Brand Rights Ownership for MSME Industries in Indonesia

To overcome weaknesses in the government's efforts to encourage ownership of MSME industrial brand rights in Indonesia, the following steps can be taken, namely (1) Regulatory Reform: The government can carry out regulatory reform to simplify and speed up the brand registration process for MSMEs. This includes reducing registration fees and simplifying administrative procedures to make them more accessible to MSMEs. (2) Outreach and Education Program: The government needs to increase outreach and education programs for MSMEs regarding the importance of having brand rights. This can be done through seminars, workshops, social media campaigns and educational materials that are easy to understand. (3) Free Consultation Services: The government can provide free consultation services to MSMEs related to brand protection and other intellectual property rights. This will help MSMEs understand the steps they need to take to protect their brand at no additional cost. (4) Providing Financial Incentives: The government can provide financial incentives to MSMEs who successfully register their brands, such as subsidies for registration fees or financial assistance for the registration process. (5) Strengthening Law Enforcement: The government must strengthen law enforcement against brand violations, including counterfeit products and piracy. This move will provide greater protection to MSMEs and encourage them to protect their brands. (6) Collaboration with Private Parties and Non-Governmental Organizations: The government can collaborate with private parties and non-governmental organizations that have expertise in the field of brand rights and intellectual property to provide assistance to MSMEs. (7) Online Infrastructure Development: The government can develop online infrastructure to make it easier for MSMEs in the digital trademark registration process. This includes developing a platform that is easy to access and allows MSMEs to take care of all processes online. By taking these steps, it is hoped that the government can overcome weaknesses in encouraging ownership of brand rights for the MSME industry in Indonesia and create an environment that is more conducive to the growth of the MSME sector.

CONCLUSIONS

Creating legally valid business products is an important step for MSMEs to protect their brands. By having clear business legality, MSMEs can obtain legal protection for their brands through various mechanisms provided by intellectual property rights law. The industrial brand registration process becomes easier and more effective when MSMEs have officially registered business legality. This allows MSMEs to take advantage of stronger legal protection against brand infringement, both at the national and international level. Apart from that, the legality of a valid business also gives confidence to consumers and business partners regarding the validity of the MSME brand. This can improve brand image and reputation, as well as help MSMEs to build better relationships with customers and other stakeholders. Thus, business legality can be considered a strategic step in efforts to legally protect the brands of the MSME industry in Indonesia. Through this step, MSMEs can strengthen their position in the market, increase competitiveness and encourage sustainable business growth. In this case, government support through efforts and evaluations to encourage an increase in the quantity of MSMEs that carry out product legality is very necessary.

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