

LEGAL PROTECTION OF TRADEMARKS ON PRODUCTS OF MICRO, SMALL AND MEDIUM ENTERPRISES (UMKM) TO SUPPORT CREATIVE ECONOMIC DEVELOPMENT (A STUDY OF NORTH SUMATRA PROVINCE)

Zulfi Chairi ¹, Saidin ², Tan Kamello ³ and Hasim Purba ⁴

^{1,2,3,4} Universitas Sumatera Utara, Indonesia.

Email: ¹zulfi@usu.ac.id, ²saidin@usu.ac.id, ³tan.kamello@usu.ac.id, ⁴hasim@usu.ac.id

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Abstract

Micro, small and medium enterprises (MSMEs) play a vital role as pillars of the national economy and drivers of the creative economy. However, one of the main challenges faced by MSMEs is the legal protection of their product brands. This research aims to investigate the legal protection for MSME product brands to support the development of the creative economy. The research method used is empirical legal research method. Data collection was conducted through literature studies and surveys on MSMEs in five districts/cities with the highest number of MSMEs in North Sumatra. The data collected was then analyzed through three stages, namely data reduction, data presentation, and conclusion drawing. The results show that legal protection of MSME product marks is very important to support the development of the creative economy, and product mark registration is one way to achieve such protection. However, in a study of 204 MSMEs in North Sumatra, it was found that most MSMEs have not registered their product marks. In addition, there are some MSMEs that have tried to register a brand but faced various problems during the registration process at the Ministry of Law and Human Rights, such as a time-consuming process, difficulties in filling in data, problems with the same brand, and disruptions to the registration website. Therefore, there is an urgent need to improve the trademark registration process and provide better support for MSMEs especially in North Sumatra.

Keywords: Trademark Protection, MSME Products, Development, Creative Economy.

INTRODUCTION

Creative economy development in Indonesia is now a top priority in strengthening national competitiveness and promoting sustainable economic growth. Currently, the creative economy is one of the most dynamic and potential sectors in Indonesia. The creative economy is a new economic era that focuses on creativity and information. The main resources needed in the creative economy are extensive knowledge and ideas possessed by Human Resources (HR). These two factors are the main capital that humans utilize in facing the current creative economy era (Harahap, 2023).

In an effort to develop the creative economy, micro, small and medium enterprises (MSMEs) play an important role as the backbone of the national economy. This is because the creative economy sector is largely dominated by MSMEs that have innovative ideas and unique products. MSMEs have a very important role in the economic growth of a country. MSMEs are often considered the main pillar of the economy because of their ability to create many jobs, support the growth of other industries, and increase social and economic inclusion (Lubis & Salsabila, 2024). The development of MSMEs also needs to be utilized for regional development, as seen in North Sumatra Province.

Based on data listed on the website of the Ministry of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia, it was recorded that the number of registered MSMEs in North Sumatra reached 1,719,091 units. Furthermore, based on

this data, there are 33 districts/cities in North Sumatra, with the largest number of MSMEs in three cities namely Medan, Pematang Siantar, and Binjai, as well as two districts namely Langkat and Deli Serdang. Meanwhile, the least number of MSMEs is in North Nias Regency.

MSMEs account for most of the business volume and job creation in Indonesia. These MSMEs can be private companies or business entities established by Indonesian citizens. The ability of MSMEs to provide benefits and distribute income equitably across society is critical to the success of the national economy (Lubis & Salsabila, 2024). However, one of the main challenges faced by MSMEs is the legal protection of their product brands (Betlehn & Samosir, 2018).

Brands not only serve as product identities but also as valuable assets that can increase business value and competitiveness in the market. For manufacturers, brands are a representation of the company's reputation and an integral part of the business strategy. Every manufacturer uses the brand as evidence or a sign of the product produced or offered. The label printed on the brand serves as a differentiator between products from one company and another (Fatmawati & Aminah, 2023).

Legal protection of the brand is very important to prevent imitation and counterfeiting, which can damage the reputation and reduce the profits of MSMEs. In addition, strong brand protection provides confidence to consumers and business partners, and supports innovation by ensuring intellectual property rights (IPR) are valued and protected (Balqis & Santoso, 2020). Therefore, an in-depth understanding of the legal protection of brands is essential to strengthen the position of MSMEs in the market and support creative economic development.

Previous research by Fatmawati & Aminah (2023) analyzed the legal protection of trademarks for MSME players in Indonesia. The findings of this study indicate that one way to provide brand protection to MSMEs is through the registration of their product brands. Given that MSME actors have limitations in terms of capital, assets, and annual sales results compared to non-MSME businesses, the government provides convenience for MSMEs in registering trademarks. This convenience includes a policy of cheaper trademark registration fees for MSMEs compared to non-MSME businesses, cooperation between the Directorate General of Intellectual Property (Dirjen KI) of the Ministry of Law and Human Rights and the Ministry of Cooperatives and MSMEs, providing incentives for financing MSME trademark registration, and collective trademark registration options for MSMEs.

Another study by Betlehn & Samosir (2018) also found similar things. The research found that brand registration is one of the important steps to protect brands in the MSME industry sector. Given that businesses in this sector also face limitations in terms of capital, assets, and annual income compared to non-MSME businesses, the government provides various facilities, such as lower registration fees, cooperation between relevant government agencies, incentives for brand registration, and collective brand registration options specifically for the MSME industry.

The novelty of this research lies in its specific focus on MSME actors in North Sumatra Province. While previous research has discussed the legal protection of marks for MSMEs in general in Indonesia, this research offers new insights by examining the protection of marks specifically in North Sumatra. This approach is important as the economic conditions, regulations, and challenges faced by MSMEs in North Sumatra may differ from other regions in Indonesia. This research aims to investigate the

existing legal protection mechanisms for MSMEs, identify the challenges they face, and evaluate their impact on creative economy development. The results of this study may contribute to facilitating more planned and effective efforts in supporting legal protection for MSMEs, thereby increasing the contribution of MSMEs to the creative economy and national economic growth.

RESEARCH METHOD

This research uses an empirical legal approach. Empirical legal research is a type of non-doctrinal research and is conducted through field research. In empirical legal research, data is collected and processed using appropriate analytical techniques, then presented in descriptive form to reveal legal reality as a social phenomenon. The word "empirical" refers to the idea that truth can be proven in reality, not just metaphysical speculation or philosophical thinking through scientific reasoning. Therefore, empirical legal research invites researchers not only to focus on the normative aspects of law, but also to study the application of law in society as it is (Nurhayati et al., 2021). Data collection was conducted through a survey conducted on MSMEs in five districts/cities with the largest number of MSMEs in North Sumatra, namely Medan, Deli Serdang, Langkat, Binjai, and Pematangsiantar. In addition, the collection also involved literature review from various sources such as books, journals, articles, and relevant legal documents. The collected data was then analyzed through three main stages: filtering and simplifying the data to retain relevant information, compiling and presenting the data in an easy-to-understand format, and finally, drawing conclusions that answer the research questions.

DISCUSSION

The creative economy is an economic sector based on ideas, creativity, and innovation as the main source of added value and competitive advantage. The creative economy plays a role in driving economic growth, creating new jobs, and increasing a country's competitiveness in the global market. The creative economy can also strengthen cultural identity and encourage sustainability through the innovative use of local resources (Fauziah & Amrie, 2023). Law No. 24/2019 is expected to create a conducive environment for creative economic growth, support innovation, and improve Indonesia's competitiveness in the global market (Putra & Akbar, 2022). In creative economic activities, business owners need to produce various creations in their work. Now there are many types of businesses that make up the creative industry including primary, secondary, and tertiary needs. The creative economy and MSMEs are a unity that has a relationship and cannot be separated (Hasan et al., 2021).

Based on the results of the research, the characteristics of the creative economy can be seen in the following table:

Table 1: Distribution of Respondent Business Types Based on Creative Economy characteristics

No	Characteristics	Frequency	Percentage %
1	Creative economy	157	77
2	Not creative economy	47	23
Total		204	100

Source: Primary Data Tabulation, 2024

From the table above, 204 respondents who answered the question of their type of business based on the Creative Economy were 157 respondents with a percentage of 77% and those who answered were not Creative Economy were 14 respondents with a percentage of 23%.

In the community environment, MSMEs have an important role because the existence of MSMEs is beneficial for entrepreneurial development. MSMEs can also create jobs by utilizing their flexibility and capacity to operate in various scales and sectors. With the development of MSMEs in rural and urban areas, they help reduce unemployment rates and provide employment opportunities for local communities (Kholifah, 2023). Small and Medium Enterprises (MSMEs) play a vital role in Indonesia's national development as they are the main driving force of the economy with a significant contribution to the national Gross Domestic Product (GDP). MSMEs play a key role in poverty alleviation, especially in rural areas, by providing sustainable economic opportunities for communities. Support for MSMEs also helps in diversifying the national economy, reducing dependence on certain sectors, as well as strengthening national competitiveness in the global market. Therefore, the development of MSMEs is not only an important focus of economic policy, but also a cornerstone in efforts to achieve inclusive and sustainable national development goals (Niode & Rahman, 2022).

Based on data published on the website page of the Ministry of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia, it shows that the number of registered MSMEs from North Sumatra is 1,719,091. The data shows that there are 33 districts/cities in North Sumatra with the largest number of MSMEs in 3 cities namely Medan, Pematang Siantar and Binjai and 2 districts namely Langkat and Deli Serdang. Meanwhile, the least number of MSMEs is North Nias Regency.

Law No. 20/2008 on Micro, Small, and Medium Enterprises (MSMEs) is a legal foundation that regulates the development, guidance, and empowerment of micro, small, and medium enterprises in Indonesia. This law aims to create a conducive business climate, increase MSME access to productive resources, and strengthen MSME competitiveness in facing global challenges (Ambarini, 2017). To build company recognition and credibility, it is important to have a clear and strong brand. An effective brand serves as a visual and verbal identity that differentiates a company from its competitors, helping to create a unique impression in the minds of consumers. With a consistent brand name, logo, and design elements, companies can build customer trust and loyalty, and simplify marketing strategies (Aristawidia, 2018).

Brand is one of many industrial assets. Products and brands are related and inseparable because a brand is an identity of a product. Brands are economic wealth for those who own them, individuals or companies that can benefit if used in accordance with adequate management activities (Betlehn & Samosir, 2018). According to Article 2 paragraph 3 of Law No. 20/2016, protected trademarks include marks consisting of images, logos, names, words, letters, numbers, or color arrangements, both in two-dimensional and three-dimensional forms. Trademarks can also be sound, holograms, or a combination of two or more of these elements. The purpose of trademark protection is to distinguish goods and services produced by individuals or legal entities in trading activities (Arifin & Iqbal, 2020).

Based on research on 204 MSMEs, it was found that 14 of them have registered their trademarks at the Ministry of Law and Human Rights. From this data, it is possible to

identify the benefits derived from such brand registration. These benefits are summarized in the following table:

Table 2: Benefits of Trademark Registration

No.	Benefits	Frequency	Percentage %
1.	Protecting the Brand	8	57.2
2.	Get Help	2	14.2
3.	Easy Customer Recognition	3	21.4
4.	None	1	7.2
Total		14	100

Source: Primary Data Tabulation, 2024

Based on the data in the table above, it is known that the biggest reason MSMEs register them is to protect their product brands, which can be seen that 57.2% or 8 respondents answered that the benefit of registering a brand is to protect the brand. Meanwhile, those who answered that they had received assistance were 14.2% or 2 respondents and those who answered that they were easily recognized by customers were 21.4% or 3 respondents. While those who answered that there were no benefits were 7.2% or 1 respondent.

In Indonesia there are still many trademark violations, with the existence of various technologies causing easy falsification of a trademark. So that the legal protection for those who have a trademark is expected to be given a variety of special rights for trademark owners (Satyadi & Disemadi, 2023). Trademark is the result of human intellectual work that serves as a unique identity of a product or service in economic activities. Brands are not only a symbol that distinguishes products or services in the market, but also reflects the value, quality, and reputation built by the owner. With a brand, consumers can identify the origin of the product, understand the expected quality, and trust the product or service based on experience or perceptions that have been formed. Brands also describe the background of the company, including its history, vision, and mission, making it one of the most valuable assets in building long-term relationships with consumers and strengthening its competitive position in the market (Toguan, 2021).

The results of research using a survey method conducted on 204 MSMEs in North Sumatra - in this case the five districts/cities with the largest number of MSMEs: Medan, Deli Serdang, Langkat, Binjai and Siantar - then the data on the distribution of the number of MSMEs that have registered brands in North Sumatra are found as follows:

Table 3: Distribution of Trademark Registration Status to the Ministry of Law and Human Rights

No	Status	Frequency	Percentage %
1	Not Enrolled	178	87.2
2	Enrolled	14	6.9
3	In Process	12	5.9
4	Expired	0	0
Total		204	100

Source: Primary Data Tabulation, 2024

Based on the data in the table above, it is known that of the 204 samples of MSMEs in North Sumatra, it shows that more MSMEs have not registered a brand, reaching 87.3% or 178 MSMEs. Meanwhile, those who have registered a trademark are 6.9% or a total of 14 MSMEs; while registering a trademark there are 5.9% or a total of 12 MSMEs.

In addition to MSMEs that have not registered their trademarks, there are also those that have tried to register their trademarks but faced several obstacles during the registration process at the Ministry of Law and Human Rights. The survey results found that the obstacles of MSMEs when registering product brands to the Ministry of Law and Human Rights are as follows:

Table 4: Obstacles During Trademark Registration

No.	Obstacles	Frequency	Percentage %
1.	Long registration process	12	46.2%
2.	Not available	8	30.7%
3.	Filling in data	1	3.8%
4.	Many use the same brand	4	15.5%
5.	Website that often errors	1	3.8%
Total		26	100

Source: Primary Data Tabulation, 2024

Based on the data in the table above, it can be seen that 46.2% or 12 respondents answered that the registration process was long. Meanwhile, those who answered no were 30.7% or 8 respondents. While those who answered filling in the data were as many as 3.8% or a total of 1 respondent and those who answered that many used the same brand were 15.4% or a total of 4 respondents and registration websites that often err were experienced by 1 person with a percentage of 3.8%.

Trademark is a right protected by Intellectual Property Rights (IPR). Trademarks have long been used as a tool to distinguish goods and services produced by one company from other similar companies. In addition, brands are also used to give identity to the products made, with the aim of showing the history of the product (Fatmawati & Fatimah, 2023). Intellectual Property Rights (IPR) are granted to creators and investors to protect their copyrighted works and innovations from legal violations, such as imitation, counterfeiting, and the use of unregistered brands. IPRs include copyrights, brands, patents, and industrial designs that allow rights holders to prevent others from using their works or innovations without permission. With this protection in place, creators and investors can be better protected from actions that violate their rights, as well as encourage increased innovation and investment in various sectors (Gultom, 2018).

Legal protection of MSME product brands is an important step in supporting creative economic development, as protected brands provide assurance of intellectual property rights, prevent counterfeiting, and help MSMEs build identity and reputation in the market. With brand protection, MSMEs can be more confident in innovating and competing, which in turn drives creative economic growth and strengthens their position in local and global markets. The legal protection of brands for micro, small, and medium enterprise (MSME) products is regulated by Law of the Republic of Indonesia Number 20 Year 2016 on Trademarks and Geographical Indications, which plays a crucial role in supporting the development of the creative economy. This law

grants exclusive rights to registered brand owners, including MSMEs, to use and protect their brands from unauthorized use by other parties. The trademark registration process ensures that MSME brands gain official legal recognition, provides protection against copyright infringement, and ensures sanctions for violators. In addition, the protection of geographical indications in this law supports local products with regional characteristics, increasing the competitiveness of MSMEs. With these legal protections in place, MSMEs can be more confident in developing their creative products, contributing to the innovation and growth of the creative economy in Indonesia.

CONCLUSION

Legal protection of MSME product brands is very important in supporting the development of the creative economy. Brand protection not only guarantees intellectual property rights and prevents counterfeiting, but also assists MSMEs in building their identity and reputation in the market. One of the main ways to protect MSME brands is through product brand registration. However, of the 204 MSMEs studied in North Sumatra, most have not registered their brands, with 87.3% or 178 MSMEs unregistered. In contrast, only 6.9% or 14 MSMEs have registered their brands, and 5.9% or 12 MSMEs are still in the registration process. In addition, the few MSMEs that have tried to register their brands face various obstacles at the Ministry of Law and Human Rights. A total of 46.2% or 12 respondents complained about the long registration process, while 30.7% or 8 respondents did not experience any problems, 3.8% or 1 respondent experienced difficulties in filling in data, 15.4% or 4 respondents faced problems with the same brand, and 3.8% experienced interruptions in the registration website. The main reason for MSMEs to register a brand is to protect their product brand, with 57.2% or 8 respondents stating that the main benefit of brand registration is brand protection. In addition, 14.2% or 2 respondents felt that they had received assistance, 21.4% or 3 respondents felt that brand registration made their products more recognizable to customers, and 7.2% or 1 respondent felt that they did not benefit from brand registration.

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