



The Urgency of Trademarks for Home Industry Processed Food Producers: Developments and Challenges

R Benny Riyanto 

Universitas Negeri Semarang, Semarang, Indonesia
bennyriyanto@mail.unnes.ac.id

Ridwan Arifin 

Universitas Negeri Semarang, Semarang, Indonesia
ridwan.arifin@mail.unnes.ac.id

Karsinah 

Universitas Negeri Semarang, Semarang, Indonesia
iinkarsinah@mail.unnes.ac.id

Nurul Fibrianti 

Universitas Negeri Semarang, Semarang, Indonesia
nurulfibrianti@mail.unnes.ac.id

Alamul Fikri Al Farouq

Universiti Kuala Lumpur Business School, Malaysia
alamifikri@unikl.edu.my

Abstract

In the rapidly evolving landscape of the global food industry, home industry processed food producers play a crucial role in contributing to local economies and meeting the diverse culinary preferences of consumers. However, as these producers strive for recognition and market presence, the importance of



Copyrights © Author(s). This work is licensed under a Creative Commons Attribution-NonCommercial 4.0 International License (CC BY-NC 4.0). All writings published in this journal are personal views of the author and do not represent the views of this journal and the author's affiliated institutions.

trademarks cannot be overstated. This paper explores the urgency of trademarks for home industry processed food producers, shedding light on the myriad benefits and challenges associated with establishing and protecting distinctive brand identities. The research delves into the significance of trademarks in enhancing consumer trust, fostering brand loyalty, and ensuring market competitiveness for home industry processed food products. It investigates the potential economic impact of trademark infringement and counterfeiting, emphasizing the need for legal frameworks and enforcement mechanisms to safeguard the intellectual property of these small-scale producers. Additionally, the paper discusses the role of trademarks in facilitating market access, both domestically and internationally, by analyzing case studies and industry examples. It explores the correlation between a strong trademark strategy and increased market share, ultimately illustrating how trademarks can serve as powerful tools for differentiation and value creation in a crowded marketplace. Furthermore, the study addresses the challenges that home industry processed food producers may face in the trademark registration process, such as financial constraints and lack of awareness. It offers practical insights and recommendations to empower producers in overcoming these obstacles and establishing a robust trademark strategy. In conclusion, this paper advocates for the urgent adoption and prioritization of trademark strategies by home industry processed food producers. By doing so, these producers can not only protect their intellectual property but also thrive in an increasingly competitive global food market, ensuring the longevity and success of their businesses.

KEYWORDS *Legal Protection, Trademarks, Micro and Small Enterprises*

Introduction

In the context of home-based processed food production, the products are often susceptible to imitation and counterfeiting due to their ease of production, cost-effectiveness of raw materials, and the use of simple equipment. These products are primarily crafted and developed by small and micro-entrepreneurs, who are responsible for the entire process from creating recipes, manufacturing, to branding their products,

commonly referred to as trademarks.¹ Trademarks are a familiar concept in society, as every producer of goods employs their own trademarks to name their products, aiming to establish recognition among the general public. In the realm of Intellectual Property Rights, trademarks hold significant importance, serving as identifying marks to distinguish the products of one individual or legal entity from those of others.² Furthermore, trademarks also function as promotional tools, ensuring product quality, and indicating the origin of goods or services.³

A trademark is one of the intellectual properties protected by the state, regulated by Law Number 20 of 2016⁴ concerning Trademarks and Geographical Indications. Trademarks can be protected by the state when

¹ Ardhanariswari, Kartika Ayu, Ari Wijayani, and Ninik Probosari. "Strategi Branding Melalui Sosial Media dan Perlindungan HKI pada UMKM Kopi Wonogiri." *Prosiding Seminar Nasional Pengabdian Masyarakat*, 2021. See also Dana, Pandu Dewa, et al. "Pendampingan Penguatan Strategi Branding Umkm Kue Basa Dan Kue Kering "Fahmi Jaya Kue"." *Jurnal Pengabdian Masyarakat Berkarya* 2, no. 3 (2023): 105-110; Dumitriu, Dan, et al. "A perspective over modern SMEs: Managing brand equity, growth and sustainability through digital marketing tools and techniques." *Sustainability* 11, no. 7 (2019): 2111; Suryani, Tatik, Abu Amar Fauzi, and Mochamad Nurhadi. "Enhancing brand image in the digital era: Evidence from small and medium-sized enterprises (SMEs) in Indonesia." *Gadjah Mada International Journal of Business* 23, no. 3 (2021): 314-340.

² Hakim, Miftahur Rahman, and Nur Kholidah. "Hak merek sebagai jaminan gadai untuk permodalan UMKM industri kreatif kerajinan batik." *Pena Justisia: Media Komunikasi dan Kajian Hukum* 18, no. 2 (2020); Fitri, Rahma, Candra Irawan, and Randy Pradityo. "Legal Reform through Strengthening Protection of Communal Intellectual Property in the Enggano Community in Bengkulu Province". *Journal of Law and Legal Reform* 4, no. 2 (2023): 271-84.

³ Prameswari, Tifania Ayunda. "Hak Merek sebagai Upaya Perlindungan terhadap Industri UMKM." *Amnesti: Jurnal Hukum* 3, no. 2 (2021): 97-104; Waspiyah, Waspiyah, Rodiyah Rodiyah, Dian Latifiani, and Ridwan Arifin. "How Economic Rights for SMEs Protected? Analysis of National and International Property Rights Law". *Indonesian Journal of Advocacy and Legal Services* 2, no. 1 (2020): 71-88.

⁴ Karim, Asma, and Dayanto Dayanto. "Perlindungan Hukum Dan Pengembangan Potensi Indikasi Geografis Minyak Kayu Putih Pulau Buru." *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 5, no. 3 (2016): 381-398.

registered by their owners. Registering a trademark serves as evidence for the rightful owner, and it can also be used to prevent others from using the same trademark in the trade of similar goods or services.⁵ Equally important, trademark registration serves as the basis for rejecting the registration of a similar trademark by another party for similar goods or services. A trademark is an identifying symbol used to differentiate the products or services of one individual or legal entity from those of others. Moreover, a trademark serves as a promotional tool, a guarantee of product quality, and an indicator of the origin of goods or services. Given its functions, the protection of trademarks is highly significant. Through Law Number 20 of 2016, the state provides protection for all trademarks by requiring their registration.⁶ However, in practice, the facilities provided by the state are not yet accessible to small and micro-businesses engaged in the production of home-based processed food due to a lack of understanding regarding the importance of trademarks, the consequences of non-registration, and the complex and costly trademark registration procedures.

Based on field observations, many home industry processed food products do not register their trademarks, even though these trademarks could receive legal protection from the state if registered. Producers often use trademarks merely as symbols or names for their products to make them known and recognizable to the public.⁷

⁵ Taufikulloh, Muhammad Daffa, and Bangun Wijayanto. "Sistem informasi manajemen fasilitas sertifikasi halal, hak merek, kemasan produk pelaku usaha UMKM." *Jurnal Teknik Informatika (JUTIF)* 1, no. 1 (2020): 35-43.

⁶ Khoironi, Iffan Alif. "Implementasi Pendaftaran Merek Sebagai Bentuk Perlindungan Hukum Pada Home Industry Eggroll." *Unnes Law Journal* 2, no. 2 (2013): 129-136; Hasibuan, Puspa Melati, Zulfi Chairi, and Aflah Aflah. "Legal Protection of Brand Rights for Micro, Small, Medium Business Product (MSMES) in Medan Selayang District, Medan City." *International Journal of Social Service and Research* 2, no. 6 (2022): 577-585.

⁷ Elvita, Lola. "Aspek Yuridis Hapusnya Hak Indikasi Geografis dan Indikasi Asal Ditinjau dari Undang-Undang Merek (Studi Perkebunan Lada)." *Notarius* 8, no. 2

The majority of producers are unconcerned about trademark registration. They tend to perceive the need for trademark protection only when their products have gained popularity and their trademarks are at risk of being appropriated by others. However, it is worth noting that the cost of litigating trademark infringement in court is significantly higher than the expense of registering a trademark in the first place.

Producers often refrain from registering their trademarks due to a lack of awareness regarding the benefits of trademark registration and the consequences of not doing so. Additionally, the perceived high costs and complex registration procedures discourage them from taking the necessary steps. More troublingly, some producers are unaware that their trademarks must be registered to receive legal protection from the state.⁸

Kenteng Village is a village in the Bandungan District, Semarang Regency, Central Java Province, Indonesia, with significant potential for development. Situated along the tourist route towards Gedong Songo and providing an alternative route to the Temanggung and Wonosobo

(2015): 180-206. *See also* Sarmilah, Milah. "Legal Protection Against Geographical Indications of Registered Brands by Others Who Have No Rights." *Jurnal Scientia Indonesia* 5, no. 2 (2019): 75-89; Waspiah, Waspiah, Rodyah Rodyah, Dian Latifiani, and Dede Alvin Setiaji. "Advanced Training of Intellectual Property Documents of Industrial Designs for Goyor Sarong Craftsman in Pemasang District". *Indonesian Journal of Advocacy and Legal Services* 1, no. 2 (2020): 169-192; Sulistianingsih, Dewi, et al. "The future challenges on economic value of intellectual property on geographical indication products in the era of globalization." *AIP Conference Proceedings*. Vol. 2573. No. 1. AIP Publishing, 2022.

⁸ Tavinayati, Tavinayati, et al. "Perlindungan Terhadap Hak Kekayaan Intelektual Indikasi Geografis Hasil Pertanian Lahan Basah Sebagai Produk Khas Propinsi Kalimantan Selatan." *Badamai Law Journal* 1, no. 1 (2016): 80-100. *See also* Potimbang, Ilham. "Strengthening Law and Protection System of Geographical Indications in Maintaining the Value of a Local Product in the Globalization Era." *Proceedings of the 3rd International Conference on Indonesian Legal Studies, ICILS 2020, July 1st 2020, Semarang, Indonesia*. 2021; Setyawan, Andry, Dewi Sulistianingsih, and Ivan Bhakti Yudistira. "Non-Traditional Trademarks in Indonesia: Protection under the Laws and Regulations (An Intellectual Property Law)." *Journal of Indonesian Legal Studies* 2, no. 2 (2017): 123-130.

Regencies, Kenteng Village is renowned for its economic productivity in the Semarang Regency. The village's real sectors that support the local economy encompass agriculture, trade, services, tourism, food processing, and cultural sectors, especially in the Micro, Small, and Medium Enterprises (MSMEs).⁹

MSMEs in Kenteng Village play a vital and strategic role in the national economy. They are known for their resilience during economic crises, and they significantly contribute to the village's economic growth. Among these, the food processing MSMEs in Kenteng Village stand out as pioneers of distinctive regional delicacies in the Bandungan area. These businesses leverage local resources to create high-value food products. The fertile land in Kenteng Village is extensively used by local residents for cultivating flowers and vegetables.

Notable food processing MSMEs in the village include those specializing in purple yam products, tofu and tempeh, soy milk, assorted fried snacks, "untir-untir" (a type of snack), Torakur or date-flavored tomatoes, as well as traditional beverages known for their health benefits, such as Jenggelek, Bier Pletok, Bandrek, and others. All of these products are manufactured on a small scale within households, aiming to improve the local economy.

Based on interviews conducted with Kenteng Village's Secretary, Ms. Ana, it is evident that Kenteng is strategically positioned for economic development, particularly in the food processing sector. This strategic location is due to the fact that Kenteng Village is situated along a busy route frequently travelled by tourists heading to Gedong Songo, Temanggung, or Dieng through the alternative Sumowono route. According to the information provided, various food processing businesses are operating in Kenteng Village. However, there is a significant lack of

⁹ Masnun, Muh Ali. "Reorientasi Pengaturan Pemberdayaan Hukum Usaha Mikro Kecil Menengah Melalui Hak Atas Merek Kolektif." *Jurnal Wawasan Yuridika* 3, no. 2 (2019): 217-234.

awareness among the local community regarding the legality and economic value of trademarks. Trademarks serve as an economic means to introduce products to the general public. Nonetheless, for MSME participants, trademarks are often perceived as nothing more than a name and are not considered to require legal protection. This perspective was revealed during interviews with MSME participants. Interestingly, these MSME participants believed they had registered trademarks; however, when cross-referenced on the Intellectual Property Database (PDKI) website, their trademarks could not be found. Upon further inquiry, it was revealed that they had actually pursued halal certification, not trademark registration. The MSME participants lacked an understanding of what trademarks are. This aligns with the fact that many MSMEs have yet to register their trademarks.

Trademarks are often viewed solely as names, and the MSME participants were unaware that trademarks are a form of intellectual property eligible for legal protection from the state. From an economic perspective, trademarks serve as a means to market products, ensuring that product quality is recognized by the wider public. Therefore, legal protection for product trademarks is of significant importance. In light of this situation, the community engagement team will provide assistance to enhance the awareness of our MSME partners regarding the economic and legal aspects of trademark ownership. This support aims to enable our MSME partners to further develop their businesses and access larger markets securely and with legal protection.

Kenteng Village is a community that has been under the guidance of UNNES (Universitas Negeri Semarang), and this collaboration has been in place since 2012, primarily through the implementation of Community Service (KKN) programs and the involvement of faculty members in assisting Micro, Small, and Medium Enterprises (MSMEs). It's worth noting that MSMEs are closely tied to the concept of intellectual property, particularly trademarks. The products manufactured in Kenteng Village

have product names (trademarks), but the local community has yet to fully comprehend the significance of these trademarks, both from a legal and economic perspective. This lack of awareness is particularly prevalent among business operators in Kenteng Village.

The collaborative alliance between Universitas Negeri Semarang (UNNES) and Kenteng Village has been formalized through a Memorandum of Understanding (MoU) between UNNES's Research and Community Service Institute (LPPM) and Kenteng Village. This strategic partnership involves various activities, including community engagement initiatives, which significantly contribute to the enduring sustainability of UNNES's commitment to its designated "Partner Village." Notably, these endeavors align seamlessly with the institution's Community Service Program (MBKM), serving as an integral facet of UNNES's Tri Dharma mission, particularly in fostering student involvement in community service activities.

In light of the aforementioned contextual backdrop, it is prudent to offer guidance to Micro, Small, and Medium Enterprises (MSMEs) in Kenteng Village pertaining to trademarks. This advisory initiative seeks to augment awareness concerning the legal and economic ramifications associated with trademarks. By imparting such knowledge, the objective is to fortify the understanding of the critical role trademarks play in safeguarding the quality and safety of processed food products. Consequently, this concerted effort aims to cultivate a salubrious business environment, affording protection to entrepreneurs and consumers alike.

Trademarks Regime: Development and Challenges in Indonesia

In accordance with Law Number 20 of 2016, a trademark is defined as a symbol that may manifest as a symbol, name, word, letters, numbers, color combinations, or a fusion of these elements. Crucially, it must

exhibit distinctiveness and find application in the commercial activities related to goods or services. The requirement of distinctiveness is paramount, as it is this unique characteristic that renders the trademark identifiable to the public. This distinctiveness plays a pivotal role in delineating one trademark from another, especially concerning similar products, ensuring clear differentiation in the marketplace.¹⁰

In the realm of trademarks, three primary categories exist, each serving distinct purposes:

1. Trademark for Goods

The first category pertains to trademarks designed for goods. This type of trademark is utilized to distinguish products traded by an individual, a collective group, or a legal entity from similar products in the market. Essentially, it serves as a unique identifier, differentiating the origin of the goods and ensuring consumers can readily recognize and associate the product with a specific source.

2. Service Mark

Another crucial classification is the service mark, employed specifically for services offered by individuals, groups, or legal entities. Similar to trademarks for goods, service marks play a vital role in distinguishing services from others in the marketplace. They serve as distinctive symbols or identifiers, ensuring that consumers can discern one service provider from another based on the unique characteristics associated with a particular service mark.

3. Collective Trademark

The third type of trademark is the collective trademark, utilized for products or services sharing common characteristics and traded collectively by multiple individuals or legal entities. This type of trademark distinguishes itself by representing a collective source rather

¹⁰ Fitriani, Selvi Nurma, and Dyah Ochterina Susanti. "Perlindungan Hukum Pemegang Hak Merek yang Sesuai dengan Karakteristik Hak Merek." *Jurnal Rechts* 11, no .2 (2022): 239-256.

than an individual entity. It symbolizes a group effort in trade, allowing consumers to identify products or services originating from a collective association of entities, emphasizing shared attributes and quality standards.¹¹

Furthermore, the differentiation among these three types of trademarks — for goods, service marks, and collective trademarks — lies in their distinct applications, whether for individual products, services, or collective trade efforts, each playing a crucial role in the broader landscape of intellectual property protection.

Trademarks, encompassing combinations of symbols, names, words, letters, numbers, or color arrangements, embody a distinctiveness that sets them apart within the realm of intellectual property. The use of such distinct trademarks fulfills multifaceted functions crucial to various aspects of business operations: *Firstly*, trademarks serve as recognizable identifiers, playing a pivotal role in distinguishing the products or services of an individual or legal entity from those offered by others. This distinct identity contributes significantly to brand recognition and consumer preference.

Secondly, trademarks act as potent promotional tools, facilitating the promotion of products merely by invoking the trademark. The symbolic power of a trademark becomes an integral part of marketing strategies, enhancing brand visibility and market presence. *Thirdly*, trademarks function as a quality assurance mechanism. Consumers come to associate certain trademarks with specific standards of quality, fostering trust and

¹¹ Putri, Salsabilla Cahyadini Indira, Mercy MM Setlight, and Anastasia E. Gerungan. "Prinsip First to File dalam Pendaftaran Merek Dagang di Indonesia." *Lex Privatum* 11, no. 4 (2023). See also Khoironi, Iffan Alif. "Implementasi Pendaftaran Merek Sebagai Bentuk Perlindungan Hukum Pada Home Industry Eggroll." *Unnes Law Journal* 2, no. 2 (2013): 129-136; Irawaty, Irawaty, et al. "Increasing Understanding of the Urgency of Trade Secrets for Business to Gen Z at SMAN 1 Semarang." *Jurnal Pengabdian Hukum Indonesia (Indonesian Journal of Legal Community Engagement)* 6, no. 2 (2023): 289-304.

confidence in the products bearing them. This trust is pivotal for sustaining customer loyalty over time.

Moreover, trademarks serve as indicators of the origin of a product or service. By associating a particular trademark with a specific entity, consumers can make informed decisions based on the perceived reputation and credibility of that source.¹²

The diverse functions of trademarks underscore their vital role in the business world, particularly in cultivating consumer loyalty. The ability of consumers to recall and identify products through their names or trademarks reinforces the enduring impact of these distinctive symbols in shaping brand loyalty and influencing purchasing behavior.

Trademarks, characterized by combinations of symbols, names, words, letters, numbers, or color arrangements, encapsulate a distinctiveness that sets them apart within the vast realm of intellectual property. These unique trademarks play a vital role by serving various functions, each contributing to their significance in the business landscape.

Firstly, trademarks function as recognizable identifiers, acting as discernible markers that distinguish the products or services of an individual or legal entity from those of competitors. This distinct identity

¹² Sugito, Elisa, and Erwin Syahrudin. "Sejarah Perbandingan Sistem Pendaftaran Paten di Amerika Serikat dengan di Indonesia." *Batulis Civil Law Review* 2, no. 1 (2021): 16-23. For further comprehensive discussion, *also see* Donges, Alexander, and Felix Selgert. "Do legal differences matter? A comparison of German patent law regimes before 1877." *Jahrbuch für Wirtschaftsgeschichte/Economic History Yearbook* 60, no. 1 (2019): 57-92; Martinez, Catalina, and Dominique Guellec. "Overview of recent changes and comparison of patent regimes in the United States, Japan and Europe." *Patents, Innovations and Economic Performance: OECD Conference Proceedings*. 2004; Antons, Christoph. "Intellectual Property Law in Southeast Asia: recent legislative and institutional developments." *Journal of Information, Law & Technology* 1, no. 1 (2006): 1-12; Van Lam, Ngo, and Thitapha Wattanapruttipaisan. "Intellectual property creation as invention patents for development and competitiveness in ASEAN." *The Journal of World Intellectual Property* 8, no. 5 (2005): 625-661.

fosters brand recognition, enabling consumers to make informed choices based on established familiarity.¹³

In addition to their role as identifiers, trademarks serve as powerful promotional tools. The mere mention of a trademark can effectively promote products, becoming an integral aspect of marketing strategies. The symbolic power of a trademark enhances brand visibility and aids in establishing a strong market presence.

Furthermore, trademarks act as a guarantee of product quality. Over time, consumers come to associate specific trademarks with consistent standards of excellence. This association forms the basis of trust and confidence in the products bearing those marks, serving as a testament to the enduring quality assurance function of trademarks.

Lastly, trademarks function as indicators of the origin of a product or service. By associating a particular trademark with a specific entity, consumers can make informed decisions based on the perceived reputation and credibility of that source, contributing to a more transparent marketplace.

In summary, the multifaceted functions of trademarks underscore their pivotal role in the business world. Their capacity to function as recognizable identifiers, promotional tools, quality assurance mechanisms, and indicators of origin collectively contributes to the cultivation of consumer loyalty, emphasizing the enduring impact of these distinctive symbols in shaping brand perception and influencing consumer behavior.

Trademark Violations and Legal Protection

¹³ Wulandari, Ratih Agustin, and Raimon Efendi. "The Function of Trademark and Legal Protection for MSME's in the Covid-19 Era." *International Journal of Management and Business (IJMB)* 1, no. 1 (2020): 24-30; Mashdurrohatun, Anis, and Latifah Hanim Gunarto. "The Urgency of Legal Protection to the Trademarks in the Global Era." *Jurnal Pembaharuan Hukum* 5, no. 3 (2018).

Trademark violations occur due to economic motives aimed at gaining maximum profit without making the necessary investments. Trademark violations can take several forms, including:¹⁴

- a. Unauthorized Use of Well-Known Trademarks: Using well-known trademarks without permission from the trademark owners is an easy way to counterfeit a product. This practice has become prevalent in today's market, where consumers often favor branded products. Regardless of the actual quality of the product, consumers tend to choose items with famous trademarks. This has led to the proliferation of counterfeit products in the market, often marketed as "Superior Quality" (KW) or with similar designations. These products are typically priced lower to cater to a specific market segment. High demand for inexpensive products, driven by the allure of well-known brands, has resulted in the proliferation of counterfeit goods in the market.
- b. Imitating Well-Known Trademarks: Manufacturers take advantage of consumers' lack of attention to detail when purchasing products. They create products with trademarks similar to well-known brands, often duplicating design elements, color schemes, lettering, or numbers. The aim is to deceive consumers into buying these products, capitalizing on their lack of vigilance and making them sell successfully in the market.

This situation has inflicted considerable damage upon manufacturers who have invested substantial efforts in producing high-quality products and establishing a robust reputation within the community. The crux of trademark violations lies in the pursuit of profits within the trade of goods, often manifesting through the illicit use of well-known trademarks. The rapid market success of products adorned with renowned marks results in

¹⁴ Juwita, E. Nita. "Penindakan Terhadap Kejahatan Hak Merek Sebagai Bentuk Perlindungan Hukum Konsumen dan Pemilih Hak Merek." *Jurnal Ekonomi, Sosial & Humaniora* 3, no. 2 (2021): 76-83.

significant and immediate financial gains. Parlugutan Lubis, an official from the Directorate General of Intellectual Property Rights, attests that trademark violations predominantly involve the unauthorized utilization or imitation of well-known trademarks for promotional purposes. While undertaken with a focus on short-term financial gains, these actions prove highly injurious to both consumers and legitimate trademark proprietors in the long run.

This scenario has paved the way for business operators to exploit consumer preferences by offering products labeled as "authentic replicas" under well-known trademarks or brands, closely mimicking the original. These items are typically priced at a considerable discount, targeting consumers on a budget who are drawn to such affordable alternatives. Some enterprises may even market these products at elevated prices to create an illusion of prestige. Consequently, a delicate equilibrium is established between the supply of these imitation products and the demand from consumers seeking affordability or a semblance of luxury.

Consumers who place a premium on perceived prestige find satisfaction in owning items adorned with well-known or closely resembling trademarks, even if they are not authentic. Meanwhile, businesses capitalizing on this situation effortlessly generate substantial profits, capitalizing on the established reputation of well-known trademarks.

Conversely, legitimate trademark owners bear significant losses. Despite their earnest efforts in building a brand's image and reputation, others enjoy the benefits without commensurate effort. Moreover, numerous consumers are misled into purchasing products featuring well-known trademarks, only to discover later that these items are counterfeit, further compounding the losses suffered by genuine trademark proprietors.

In the context of legal protection, the imperative significance of trademarks necessitates state intervention for the protection of this form

of intellectual property. Law No. 15 of 2001, specifically addressing trademarks, serves as the legal framework regulating the safeguarding of intellectual property rights in the form of trademarks. Trademark rights, as defined by the law, represent an exclusive privilege conferred by the state upon the owner of a registered trademark, duly recorded in the General Trademark Register, for a stipulated duration. This exclusive right empowers the owner to utilize the trademark personally or authorize others to do so.

The fundamental tenet underpinning trademark protection is the "first to file" principle. According to this principle, the individual or entity that first registers a trademark is accorded legal protection. Consequently, in the event of multiple registrations for identical trademarks by different entities, the initial registrant prevails as the rightful recipient of protection under the law.

Integrating Registered Trademarks in Micro, Small, and Medium Enterprises (MSMEs) of Kenteng Village

Trademark rights, essential for protecting intellectual property, find legal fortification through state-sanctioned trademark registration processes. The act of registering a trademark serves as multifaceted protection for the rightful owner. Primarily, it stands as tangible evidence, cementing the owner's legitimate claim to the registered trademark with legal authority. Furthermore, the registered trademark serves as a foundational element in the rejection of applications from other entities seeking to register identical or substantially similar trademarks for similar goods or services. This function ensures the preservation of the distinctiveness and exclusivity of the registered trademark in the marketplace. Additionally, the registered trademark acts as a robust basis

for preventing unauthorized usage of identical or substantially similar trademarks by others in the marketing of comparable goods or services. Importantly, this protective measure is accessible not only to individual applicants but also extends to legal entities and groups, fostering a comprehensive system of trademark protection that accommodates various stakeholders.

If the owner does not register their trademark, there is a risk that others can still use the trademark, promote their goods/services using the trademark, and the owner cannot prevent others from using the same trademark. To qualify as a trademark, it must meet the essential requirement of having sufficient distinctiveness. In other words, the sign used must have the power to distinguish the goods or services produced by one company from those of other companies. Thus, a trademark cannot be registered if it lacks distinctiveness (according to Indonesian Trademark Law, Article 5 (b)).¹⁵

Registered trademarks are protected by law for a period of 10 (ten) years, starting from the date of acceptance of the relevant trademark application. Upon the owner's request, the protection period of a registered trademark can be extended for the same period each time.

Registered trademarks can be transferred or assigned through inheritance, wills, gifts, agreements, or other means permitted by the

¹⁵ Marlyna, Henny, and Agus Sardjono. "Does the Trademark Protection Regulation Protect Consumers against Counterfeit Products? Analyzing the Theories of Trademark and Indonesian Trademark Law." *Pertanika Journal of Social Sciences & Humanities* 27, no. 2 (2019); Purwaningsih, Endang. "Role of Trademark in Improving Legal and Competitive Awareness." *Law Reform* 16, no. 1 (2020): 1-18. See also Sujadmiko, Bayu, Desi Aini, and Muhammad Saputra. "How Indonesia Harmonize the International Trademark System." *Proceedings of The International Conference on Environmental and Technology of Law, Business and Education on Post Covid 19, ICETLAWBE 2020, 26 September 2020, Bandar Lampung, Indonesia*. 2020; Darwance, Darwance, and Sudarto Sudarto. "The Legal Politic of Regulation for Trademark Registration Systems in Indonesia." *Berumpun: International Journal of Social, Politics, and Humanities* 4, no. 1 (2021): 70-81.

applicable laws and regulations. The owner of a registered trademark is also entitled to grant a license to another party, with an agreement stating that the licensee will use the trademark for some or all types of goods or services. The licensing agreement must be registered with the Directorate General of Intellectual Property, and the legal consequences of registering a licensing agreement apply to the parties involved and third parties.

The state has facilitated trademark protection by enacting Law No. 15 of 2001 concerning Trademarks. However, many food product producers do not register their trademarks. The reasons for this can vary. Small and micro-level entrepreneurs often exhibit characteristics of being unfamiliar with legal regulations and the importance of trademarks, and they may not consider the long-term consequences. Their primary goal is to make their products sell and maximize profits. They may not anticipate their business growing, their trademark becoming well-known to the public, or the possibility of franchising through licensing, and they may not think about potential misuse of their trademark by irresponsible parties.

The failure to register trademarks is due to the unfamiliarity of small and micro-business owners with the importance of trademark registration. Factors contributing to the non-registration of trademarks by small and micro-entrepreneurs include:

- a. Lack of understanding of the importance of trademark registration, its functions, and the legal consequences if a trademark is not registered.
- b. Producers may not know that their trademarks need to be registered to receive protection.
- c. They may find trademark registration procedures to be complex and costly. Checking if a particular trademark is already owned by someone else can be time-consuming and expensive.

Drawing from on-site observations, particularly focusing on home industry food producers within the context of "Jenang Kudus," for instance it becomes evident that small and micro-entrepreneurs possess a

limited understanding of the regulatory landscape. Their comprehension is predominantly centered around the necessity of acquiring product permits from the Health Department to secure PIRT (Household Food Industry) labels. While their product names are duly recorded by the Health Department, there exists a notable gap in awareness and understanding regarding the imperative for trademark registration with the Directorate General of Intellectual Property (Ditjen HKI) of the Ministry of Law and Human Rights. This registration, distinct from the PIRT label, functions as a separate identifier, signifying approval beyond the Health Department's jurisdiction, a facet that remains inadequately socialized and comprehended.

Conducted surveys and direct interviews with village officials and community partners reveal that the challenges faced by these entrepreneurs can be categorized into two interconnected aspects: (1) Community Awareness and (2) Product Legality. The lack of awareness about the distinct requirements for trademark registration and the overarching legal framework contributes to uncertainties surrounding the legitimacy of their products. These aspects, collectively, highlight the need for a more comprehensive and well-disseminated educational initiative to bridge the existing knowledge gap and fortify both community awareness and product legality in tandem.

a. Community Awareness

The university is expected to bridge the gap between entrepreneurs' expectations and the current situation by providing assistance in intellectual property rights (IPR) awareness and guidance in trademark registration. This is especially relevant because many processed food products being sold lack a registered trademark, and sometimes there isn't even a recognizable symbol, logo, or label. Product names are often only displayed in-store or partly affixed to finished products like purple yam sticks, crisps, and crackers.

The community doesn't fully understand how to create a distinctive trademark. While most store names differ from each other, they are usually based on the owner's name. People don't grasp that, from an economic standpoint, the created trademark must be compelling and have high selling power, which can help boost sales. Intellectual property, in general, involves the protection of applied ideas and information as a right and has commercial value. From a legal perspective, the product names referred to as trademarks are intellectual property with economic value, and they can be legally protected by the state. Protection for trademarks is necessary because trademarks not only differentiate products but are also assets for business owners that can be licensed to others.

Community awareness of both aspects, the legal and economic aspects, is currently lacking among entrepreneurs in Kenteng Village. This corresponds to research findings by Meli Hertati Gultom, which states that people often underestimate the importance of trademark registration.

b. Product Legality

Referring to the definition of a trademark according to Law No. 20 of 2016, a trademark is a graphical symbol that can be presented as an image, logo, name, word, letter, number, color combination, two-dimensional and/or three-dimensional form, sound, hologram, or a combination of two or more of these elements. It's used to distinguish products and/or services produced by individuals or legal entities in the trading of goods and/or services. A trademark is one type of intellectual property, which is a form of wealth in the form of rights protected by law, and others are prohibited from using this right without the owner's permission.

Artisans of batik, in this context, refer to individual and family-owned home-based businesses that produce and sell processed food and other products from their homes. As time progresses, small and micro-businesses, especially in the food processing sector, experience rapid

growth. Therefore, there is a need for assistance and facilitation for small and micro-businesses regarding the legality of their products, including trademark registration. Registration for trademark protection is necessary, but the somewhat time-consuming and costly procedures can be problematic for small and micro-business owners. As a result, the facilitation of trademark registration will be conducted by the service team.

TABLE 1. Issues Faced by Community Service program Partners

Issue	Activities
Public Awareness	<p>The public's awareness of the legal aspects of trademarks is very low, leading to the absence of registered trademarks among the community. Moreover, the community lacks an understanding of the economic value associated with trademarks. From an economic perspective, trademarks act as brands that make products easily recognizable, facilitating marketing efforts and potentially increasing revenue.</p> <p>As a result, the activity undertaken by the agents is to raise awareness and empower Small and Medium Enterprises (SMEs) regarding the importance of trademarks, both from legal and economic standpoints.</p>
Product Legality	<p>The products of SMEs (Small and Medium Enterprises) do not have registered trademarks with the Directorate General of Intellectual Property (DGIP). As a result, their products cannot access a broader market. The activity that will be carried out is to provide facilitation and assistance in registering their trademarks with the Directorate General of Intellectual Property (DGIP) to ensure the protection of these SMEs' trademarks.</p>

Based on the issues identified in the field, the service team and partners have collaborated to address several problems within SMEs (Small and Medium Enterprises) in Kenteng Village. The issues that will be addressed together are as follows:

1. Strengthening the Understanding of Legal and Economic Aspects of SME Products

Legal aspects of SME products, particularly the protection of trademarks, are crucial because they support product marketing. Legal and economic aspects are interconnected, making SMEs more competitive. Therefore, the service team will focus on enhancing the understanding of legal aspects related to the trademarks held by SMEs. During this phase, SME entrepreneurs will be educated on the importance of protecting Intellectual Property (IP) in the form of trademarks for their business sustainability. IP ownership is a private right, and whether it is registered or not is the owner's choice. However, there are many benefits to trademark protection. Trademarks serve as brand identity and help identify the product's manufacturer, differentiating it from other businesses. IP cannot be separated from economic issues. A better understanding of increasing the economic value of trademarked products will be provided to underline the significance of trademarks. Marketable trademarks can enhance sales revenue. Essentially, a trademark is a type of property. A trademark is only valuable when it has exclusive rights. Without these rights, people are free to imitate and counterfeit other people's trademarks. In developed countries, without IP protection, business operators feel unsafe in their activities.

2. Assisting in Trademark Search

Trademark search is performed before a trademark is submitted for protection by the government. The purpose of a trademark search is to determine if the trademark used by SMEs has been registered by someone

else. Additionally, it can help avoid trademark registration rejections. Trademark searches are conducted through the Directorate General of Intellectual Property (DGIP). The service team will provide a tutorial on how to search for trademarks and verify if trademarks have been registered by other parties. This includes a class on DGIP's goods and services classification.

3. Facilitating Trademark Registration

The final step in this community service activity is to facilitate the submission of trademark protection applications. Activities will include filling out trademark registration forms, preparing the necessary requirements, and making the application fee payment. All these activities will be guided and facilitated by the service team.

The solutions provided by the service team involve providing assistance to SMEs in Kenteng Village, particularly in registering their trademarks. The detailed targets to be achieved are as follows:

- 1) Improved knowledge among partner beneficiaries about the legal awareness and the economic value of product trademarks.
- 2) Increased awareness among partners about registering their trademarks with the Directorate General of Intellectual Property of the Ministry of Law and Human Rights.
- 3) Registration of the partners' trademarks with the Directorate General of Intellectual Property.
- 4) Protection of the legal status of products owned by the partners.

In summary, the problems and solutions to be addressed in the community service activities can be seen in Table 2.

TABLE 2. Problems and Offered Solutions

Issue	Partner's Issues	Offered Solutions
Community Awareness	1. Lack of knowledge and awareness among	Conducting workshops and awareness campaigns for

Issue	Partner's Issues	Offered Solutions
	<p>partners regarding product legality protection.</p> <p>2. The understanding that a brand represents valuable economic assets is not yet present in the community. From an economic perspective, a brand makes products easily recognizable, facilitating marketing and increasing sales.</p>	<p>small and micro-businesses (UMK) in Kenteng Village to enhance their understanding and awareness of the importance of trademark legality protection and the economic value increase of products with registered trademarks.</p>
Product Legality	<p>The non-registration of home industry products owned by the partner</p> <p>The service team assists small and medium enterprises (SMEs) and partners in tracing trademarks in the Intellectual Property Database, providing guidance throughout the trademark registration process.</p>	<p>The team of volunteers assists small and medium-sized enterprises (SMEs) and partners by providing guidance and support in searching for trademarks in the Intellectual Property Rights Database, as well as offering mentoring.</p>

Conclusion

In the endeavor to bolster comprehension regarding the significance of trademark registration and to offer assistance to small and micro-business owners (SMEs) in securing their trademarks, effective education emerges as a vital component. Despite the inherent challenges and associated costs linked with the trademark registration process, the enduring advantages it bestows far surpass the initial investment. It is imperative that the protective shield extended by government-sanctioned trademark registration is not squandered due to a lack of knowledge about the procedural intricacies involved. Consequently, elevating awareness and fostering a deep understanding of the characteristics and benefits of trademark protection becomes crucial, particularly among SMEs. This knowledge empowers them to leverage their exclusive rights and shield their trademarks from imitation and infringement. By doing so, SMEs can instill greater confidence in marketing their products and bolster their competitiveness within the market landscape. Recognizing the pivotal role of intellectual property rights, especially trademarks, lays the foundation for constructing a robust and healthy business ecosystem.

References

- Antons, Christoph. "Intellectual Property Law in Southeast Asia: recent legislative and institutional developments." *Journal of Information, Law & Technology* 1, no. 1 (2006): 1-12.
- Ardhanariswari, Kartika Ayu, Ari Wijayani, and Ninik Probosari. "Strategi Branding Melalui Sosial Media dan Perlindungan HKI pada UMKM Kopi Wonogiri." *Prosiding Seminar Nasional Pengabdian Masyarakat*, 2021.
- Dana, Pandu Dewa, et al. "Pendampingan Penguatan Strategi Branding Umkm Kue Basa Dan Kue Kering "Fahmi Jaya Kue"." *Jurnal Pengabdian Masyarakat Berkarya* 2, no. 3 (2023): 105-110.
- Darwance, Darwance, and Sudarto Sudarto. "The Legal Politic of Regulation for Trademark Registration Systems in

- Indonesia." *Berumpun: International Journal of Social, Politics, and Humanities* 4, no. 1 (2021): 70-81.
- Donges, Alexander, and Felix Selgert. "Do legal differences matter? A comparison of German patent law regimes before 1877." *Jahrbuch für Wirtschaftsgeschichte/Economic History Yearbook* 60, no. 1 (2019): 57-92.
- Dumitriu, Dan, et al. "A perspective over modern SMEs: Managing brand equity, growth and sustainability through digital marketing tools and techniques." *Sustainability* 11, no. 7 (2019): 2111.
- Elvita, Lola. "Aspek Yuridis Hapusnya Hak Indikasi Geografis dan Indikasi Asal Ditinjau dari Undang-Undang Merek (Studi Perkebunan Lada)." *Notarius* 8, no. 2 (2015): 180-206.
- Fitri, Rahma, Candra Irawan, and Randy Pradityo. "Legal Reform through Strengthening Protection of Communal Intellectual Property in the Enggano Community in Bengkulu Province". *Journal of Law and Legal Reform* 4, no. 2 (2023): 271-84.
- Fitriani, Selvi Nurma, and Dyah Ochtorina Susanti. "Perlindungan Hukum Pemegang Hak Merek yang Sesuai dengan Karakteristik Hak Merek." *Jurnal Rechts* 11, no. 2 (2022): 239-256.
- Hakim, Miftahur Rahman, and Nur Kholidah. "Hak merek sebagai jaminan gadai untuk permodalan UMKM industri kreatif kerajinan batik." *Pena Justisia: Media Komunikasi dan Kajian Hukum* 18, no. 2 (2020).
- Hasibuan, Puspa Melati, Zulfi Chairi, and Aflah Aflah. "Legal Protection of Brand Rights for Micro, Small, Medium Business Product (MSMES) in Medan Selayang District, Medan City." *International Journal of Social Service and Research* 2, no. 6 (2022): 577-585.
- Irawaty, Irawaty, et al. "Increasing Understanding of the Urgency of Trade Secrets for Business to Gen Z at SMAN 1 Semarang." *Jurnal Pengabdian Hukum Indonesia (Indonesian Journal of Legal Community Engagement)* 6, no. 2 (2023): 289-304.
- Juwita, E. Nita. "Penindakan Terhadap Kejahatan Hak Merek Sebagai Bentuk Perlindungan Hukum Konsumen dan Pemilih Hak Merek." *Jurnal Ekonomi, Sosial & Humaniora* 3, no. 2 (2021): 76-83.

- Karim, Asma, and Dayanto Dayanto. "Perlindungan Hukum Dan Pengembangan Potensi Indikasi Geografis Minyak Kayu Putih Pulau Buru." *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 5, no. 3 (2016): 381-398.
- Khoironi, Iffan Alif. "Implementasi Pendaftaran Merek Sebagai Bentuk Perlindungan Hukum Pada Home Industry Eggroll." *Unnes Law Journal* 2, no. 2 (2013): 129-136.
- Marlyna, Henny, and Agus Sardjono. "Does the Trademark Protection Regulation Protect Consumers against Counterfeit Products? Analyzing the Theories of Trademark and Indonesian Trademark Law." *Pertanika Journal of Social Sciences & Humanities* 27, no. 2 (2019).
- Martinez, Catalina, and Dominique Guellec. "Overview of recent changes and comparison of patent regimes in the United States, Japan and Europe." *Patents, Innovations and Economic Performance: OECD Conference Proceedings*. 2004.
- Mashdurrohatun, Anis, and Latifah Hanim Gunarto. "The Urgency of Legal Protection to the Trademarks in the Global Era." *Jurnal Pembaharuan Hukum* 5, no. 3 (2018).
- Masnun, Muh Ali. "Reorientasi Pengaturan Pemberdayaan Hukum Usaha Mikro Kecil Menengah Melalui Hak Atas Merek Kolektif." *Jurnal Wawasan Yuridika* 3, no. 2 (2019): 217-234.
- Potimbang, Ilham. "Strengthening Law and Protection System of Geographical Indications in Maintaining the Value of a Local Product in the Globalization Era." *Proceedings of the 3rd International Conference on Indonesian Legal Studies, ICILS 2020, July 1st 2020, Semarang, Indonesia*. 2021.
- Prameswari, Tifania Ayunda. "Hak Merek sebagai Upaya Perlindungan terhadap Industri UMKM." *Amnesti: Jurnal Hukum* 3, no. 2 (2021): 97-104.
- Purwaningsih, Endang. "Role of Trademark in Improving Legal and Competitive Awareness." *Law Reform* 16, no. 1 (2020): 1-18.
- Putri, Salsabilla Cahyadini Indira, Mercy MM Setlight, and Anastasia E. Gerungan. "Prinsip First to File dalam Pendaftaran Merek Dagang di Indonesia." *Lex Privatum* 11, no. 4 (2023).

- Sarmilah, Milah. "Legal Protection Against Geographical Indications of Registered Brands by Others Who Have No Rights." *Jurnal Scientia Indonesia* 5, no. 2 (2019): 75-89.
- Setyawan, Andry, Dewi Sulistianingsih, and Ivan Bhakti Yudistira. "Non-Traditional Trademarks in Indonesia: Protection under the Laws and Regulations (An Intellectual Property Law)." *Journal of Indonesian Legal Studies* 2, no. 2 (2017): 123-130.
- Sugito, Elisa, and Erwin Syahrudin. "Sejarah Perbandingan Sistem Pendaftaran Paten di Amerika Serikat dengan di Indonesia." *Batulis Civil Law Review* 2, no. 1 (2021): 16-23.
- Sujadmiko, Bayu, Desi Aini, and Muhammad Saputra. "How Indonesia Harmonize the International Trademark System." *Proceedings of The International Conference on Environmental and Technology of Law, Business and Education on Post Covid 19, ICETLAWBE 2020, 26 September 2020, Bandar Lampung, Indonesia*. 2020.
- Sulistianingsih, Dewi, et al. "The future challenges on economic value of intellectual property on geographical indication products in the era of globalization." *AIP Conference Proceedings*. Vol. 2573. No. 1. AIP Publishing, 2022.
- Suryani, Tatik, Abu Amar Fauzi, and Mochamad Nurhadi. "Enhancing brand image in the digital era: Evidence from small and medium-sized enterprises (SMEs) in Indonesia." *Gadjah Mada International Journal of Business* 23, no. 3 (2021): 314-340.
- Taufikulloh, Muhammad Daffa, and Bangun Wijayanto. "Sistem informasi manajemen fasilitas sertifikasi halal, hak merek, kemasan produk pelaku usaha UMKM." *Jurnal Teknik Informatika (JUTIF)* 1, no. 1 (2020): 35-43.
- Tavinayati, Tavinayati, et al. "Perlindungan Terhadap Hak Kekayaan Intelektual Indikasi Geografis Hasil Pertanian Lahan Basah Sebagai Produk Khas Propinsi Kalimantan Selatan." *Badamai Law Journal* 1, no. 1 (2016): 80-100.
- Van Lam, Ngo, and Thitapha Wattanapruttipaisan. "Intellectual property creation as invention patents for development and competitiveness in ASEAN." *The Journal of World Intellectual Property* 8, no. 5 (2005): 625-661.

- Waspiah, Waspiah, Rodiyah Rodiyah, Dian Latifiani, and Dede Alvin Setiaji. "Advanced Training of Intellectual Property Documents of Industrial Designs for Goyor Sarong Craftsman in Pernalang District". *Indonesian Journal of Advocacy and Legal Services* 1, no. 2 (2020): 169-192.
- Waspiah, Waspiah, Rodiyah Rodiyah, Dian Latifiani, and Ridwan Arifin. "How Economic Rights for SMEs Protected? Analysis of National and International Property Rights Law". *Indonesian Journal of Advocacy and Legal Services* 2, no. 1 (2020): 71-88.
- Wulandari, Ratih Agustin, and Raimon Efendi. "The Function of Trademark and Legal Protection for MSME's in the Covid-19 Era." *International Journal of Management and Business (IJMB)* 1, no. 1 (2020): 24-30.

DECLARATION OF CONFLICTING INTERESTS

The authors state that there is no conflict of Interest in the publication of this article.

FUNDING INFORMATION

This research and program funded by Universitas Negeri Semarang

ACKNOWLEDGMENT

None

HISTORY OF ARTICLE

Submitted : June 12, 2023

Revised : August 28, 2023; September 22, 2023

Accepted : October 10, 2023

Published : November 27, 2023

