

The Importance of Geographical Indication Registration for Traditional Knowledge

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Abstract

This study explores the nexus between intellectual property rights and traditional knowledge, emphasizing the significance of safeguarding the latter through the framework of geographical indications. Traditional knowledge, representing intellectual endeavors shaped by specific communities, necessitates protection to ensure its preservation and prevent undue claims. Employing a qualitative approach with a normative juridical perspective, the research delves into the characteristics of geographical indications and underscores the importance of registering them for traditional knowledge. Findings reveal that traditional knowledge can attain registration contingent upon meeting geographical indication criteria. The study underscores the pivotal role of geographical indications in providing international recognition, acknowledging communal ownership, and fostering economic sustainability for traditional knowledge.

Keywords

Protection, Geographical Indication, Traditional Knowledge

Introduction

Indonesia is a country rich in natural resources which have its uniqueness. In addition to natural wealth, Indonesia is also rich in a community culture that can create unique creativity, passed down from generation to generation. Community activities to create distinctive works constitute intellectual property. Copyrights resulting from the processing of knowledge, tradition, and culture are intellectual property that needs legal protection so that ownership rights are fulfilled. The person who created will own the intellectual property rights. Intellectual property rights are property rights that arise from human works, intentions, and copyrights.¹ Intellectual property ownership itself is divided into two types, namely personal ownership and communal ownership. Personal ownership is the ownership of intellectual property rights by an individual or group of individuals. While communal ownership is the ownership of intellectual property rights by a group of people who live permanently in one place.²

The international Intellectual Property Rights Organization, namely the World Intellectual Property Organization (WIPO) describes intellectual property rights as human works originating from the outpouring of energy, initiative, creativity, time and cost to produce works in the fields of industry, science, literature, and art.³ The sacrifices of the creators to produce works need to be appreciated so that the work must be recognized, respected, protected, and appreciated both morally and legally. Intellectual property rights are generally interpreted as rights to property created by human intellectual abilities. Based on this description, intellectual property rights can be interpreted as rights to property in the form of knowledge, art, literature, and technology that are created because of human ability and require the sacrifice of energy, time, cost, and thought so that it has economic value and

¹ Sulasi Rongiyati, "Pelindungan Hukum Hak Kekayaan Intelektual Pada Produk Ekonomi Kreatif," *Negara Hukum* 9, no. 1 (2018): 39–58, <https://doi.org/https://doi.org/10.22212/jnh.v9i1.1001>.

² Yuli Prastyo Adhi, Dewi Sulistyaningsih, and Rini Fidiyani, "Pengelolaan Kekayaan Intelektual Berbasis Kearifan Lokal Sebagai Penguatan Budaya Literasi, Kreativitas, Dan Inovasi," *Jurnal Pengabdian Hukum Indonesia* 4, no. 1 (2021): 18–30, <https://doi.org/https://doi.org/10.15294/jphi.v4i1.49934>. See also Vira Aprillia Santoso, "Legal Protection on E-Commerce Transactions: Problems and Challenges in Global Business". *Semarang State University Undergraduate Law and Society Review* 1, no. 2 (2021): 101-12. <https://doi.org/10.15294/lsr.v1i2.50552>.

³ Rachmadi Usman, *Dasar-Dasar Hukum Kekayaan Intelektual* (Jakarta: Kencana, 2021), pp. 6-7.

benefits that can be enjoyed by those who are interested in it. hold rights to it.⁴

Based on this understanding, traditional knowledge can be regarded as intellectual property. Because people can use their thinking ability to produce material rights which are then referred to as intellectual property rights.⁵ An intellectual property can be said to be traditional knowledge if it grows and is communally owned by a particular community group or community.⁶ According to WIPO, Traditional Knowledge⁷ is

“Know-how, skill, innovations, practices, teachings, and learnings of indigenous people and local communities or a state or states. Traditional knowledge may be associated, in particular, with fields such as agriculture, the environment, healthcare and indigenous and traditional medical knowledge, biodiversity, traditional lifestyles and natural resources and genetic resources, and know-how of traditional architecture and construction technologies.”

Traditional knowledge can be interpreted as knowledge possessed by local communities or traditions that are hereditary. According to Rahmadany and Yusriana, traditional knowledge has been mentioned in several international agreements but has not been explicitly protected by international forums that specifically regulate Intellectual Property Rights. Intellectual Property Rights Regulations in Indonesia do not explicitly regulate the protection of traditional knowledge.⁸

Muchtar Anshary Hamid Labetubun, Rory Jeff Akyuwen, and Marselo Valentino Geovani Pariela have argued in the journal *Sasi*. In the journal, they explained that traditional knowledge needs to be protected in legislation in a *sue generis* because the legal protection of traditional knowledge in the MEA era is closely related to the transfer of traditional science and technology, economic development, and national dignity. The implications of legal protection for traditional knowledge include being recognized by other nations as a nation that respects and maintains traditional knowledge systems,

⁴ Sujana Donandi Sinuraya, *Hukum Hak Kekayaan Intelektual Di Indonesia (Intellectual Property Rights Law In Indonesia)* (Sleman: Deepublish, 2019), pp. 15-16.

⁵ Sasya Luturmas, Teng Berlianty, and Agustina Balik, “Pelestarian Bahasa Daerah Tanimbar Sebagai Upaya Perlindungan Ekspresi Budaya Tradisional,” *TATOHI: Jurnal Ilmu Hukum* 2, no. 1 (2022): 69–78, <https://doi.org/https://doi.org/10.47268/tatohi.v2i1.897>.

⁶ Arif Lutviansori, *Hak Cipta Dan Perlindungan Folklor Di Indonesia* (Yogyakarta: Graha Ilmu, 2010).

⁷ WIPO, “The Protection of Traditional Knowledge: Draft Articles,” 2014, https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_28/wipo_grtkf_ic_28_5.pdf.

⁸ Rahmadany and Yusriana, “Perlindungan Hukum Terhadap Pengetahuan Tradisional Sebagai Hak Kekayaan Intelektual,” *Jurnal Insitusi Politeknik Ganesha Medan* 5, no. April 1994 (2022): 160–69, <https://doi.org/10.33395/juripol.v5i2.11707>.

increasing the use of traditional knowledge, and protecting traditional knowledge can be one of the driving factors for increasing regional income.⁹

This shows that traditional knowledge has an urgency to be protected in intellectual property. In intellectual property, traditional knowledge has the potential to be legally protected by geographical indication schemes. Intellectual property rights can be explained as rights that are owned by a person individually or by several people or legal entities communally for the results of their creativity in processing reason and thoughts, namely processing ideas and ideas, and turning them into real objects.¹⁰

Although traditional knowledge has the opportunity to be protected in intellectual property rights, the protection of intellectual property rights does not seem to be able to fully protect this Traditional Knowledge. Because most intellectual property rights only protect individual rights, while traditional knowledge protects common (communal) ownership, it is necessary to protect intellectual property rights that recognize communal ownership.¹¹ Traditional knowledge can be described as intellectual work that contains elements of traditional heritage characteristics that are produced, developed, and maintained by a particular community or society. The scope of traditional knowledge is very broad and can cover the fields of architecture, art, plants, and other fields.¹²

Geographical indications are one of the intellectual property rights that have the characteristics of recognizing communal ownership. A geographical indication is a trading name that is associated, used, or attached to the packaging of a product and serves to indicate the origin of the product. The place of origin implies that the quality of the product is strongly influenced by the place of origin so that the product has a unique value in the minds of the public, especially consumers, who know that the place of origin does have special advantages in producing a product.¹³ The regulations governing

⁹ Muchtar Anshary Hamid Labetubun, Rory Jeff Akyuwen, and Marselo Valentino Geovani Pariela, "Perlindungan Pengetahuan Tradisional Secara Sui Generis Untuk Menyongsong Masyarakat Ekonomi Asean," *Sasi* 24, no. 1 (2018): 1, <https://doi.org/https://doi.org/10.47268/sasi.v24i1.113>.

¹⁰ Darwance Darwance, Yokotani Yokotani, and Wenni Anggita, "Dasar-Dasar Pemikiran Perlindungan Hak Kekayaan Intelektual," *PROGRESIF: Jurnal Hukum* 15, no. 2 (2020): 193–208, <https://doi.org/10.33019/progresif.v15i2.1998>.

¹¹ Muthia Septarina, "Perlindungan Hukum Pengetahuan Tradisional Dalam Konsep Hukum Kekayaan Intelektual," *Al' Adl* III, no. 1 (2016): 45–63.

¹² Sri Nurhayati Qodriyatun, "Perlindungan Terhadap Pengetahuan Tradisional Masyarakat Atas Pemanfaatan Sumber Daya Genetik (SDG)," *Kajian* 21, no. 2 (2017): 141–59, <https://doi.org/10.22212/kajian.v21i2.772>.

¹³ Desty Anggie Mustika, "Batik Tradisional Megamendung Di Tinjau Dari Sistem Perlindungan Indikasi Geografis," *Yustisi: Jurnal Hukum Dan Hukum Islam* 5, no. 2 (2018):

Geographical Indications are Article 53 to Article 55 of Law Number 20 of 2016 concerning Marks and Geographical Indications. To implement article 55 paragraph 3, article 60, and article 71 paragraph 5 of Law Number 20 of 2016 concerning Marks and Geographical Indications, Permenkumham Number 12 of 2019.¹⁴

Currently, the number of products registered as geographical indications at the Directorate General of Wealth There are 118 Indonesian intellectuals. The registered products are dominated by agricultural products, while there are not many traditional knowledge products. Products that include traditional knowledge, namely Balinese Gringsing weaving, Mandar silk weaving, Sikka ikat weaving, Tanimbar ikat weaving, Alor ikat weaving, Alor Songket weaving, Doyo Benuaq weaving Tanjung Isuy Jempang West Kutai, Silungkang Songket, Bengkulu Besurek batik, Nambo weaving, batik Nitik Yogyakarta, and batik Complongan Indramayu.¹⁵

Nizar Apriansyah has explained the benefits of protecting geographical indications to encourage regional economic improvement. In the journal, he also explained the implementation of laws related to geographical indications. He thinks that there are still weaknesses, such as the role of each party, both central and regional, having not been explicitly stated in the guidance and supervision of geographical indications. This ambiguity has resulted in many obstacles both in pre-registration and post-registration of regional geographical indications.¹⁶

Likewise, Karlina Sofyarto, explained that the protection of traditional knowledge through geographical indications is considered not yet fully effective. Factors that cause traditional knowledge not to be used optimally as an economic resource, namely the communal nature of indigenous peoples who will always prioritize common interests rather than personal interests, the absence of local community knowledge about traditional knowledge, the cost of producing intellectual property is very high, permits in the manufacture of products are sufficient. difficult, quite high competition, and the absence of

70–91,
bogar.ac.id/index.php/YUSTISI/article/view/4401.

<https://doi.org/http://ejournal.uika->

¹⁴ Usman, *Dasar-Dasar Hukum Kekayaan Intelektual*.

¹⁵ DJKI, “E-Indikasi Geografis,” 2022, 2022, <https://ig.dgip.go.id/>. Accessed on 15 Oktober 2022.

¹⁶ Nizar Apriansyah, “Perlindungan Indikasi Geografis Dalam Rangka Mendorong Perekonomian Daerah,” *Jurnal Penelitian Hukum De Jure* 18, no. 4 (2018): 525–42, <https://doi.org/http://dx.doi.org/10.30641/dejure.2018.V18.525-542>.

institutions that facilitate and control that intellectual property is used as a product in the market.¹⁷

The intellectual property of indigenous people and natural resources in Indonesia includes many things, ranging from traditional food, and traditional medicine, to traditional works of art. However, without realizing it, many products of biological resources and local intellectual works of the Indonesian people have been misused, and even intellectual property rights have been registered by foreign parties. Thus, it is necessary to protect traditional knowledge through geographical indications. This has been explained by Turnip through the Bali niche silver case which has been copyrighted by an American citizen. Even though the product is a product of traditional knowledge from Bali. The Balinese people prove their Balinese niche silver ownership by registering geographical indications and it is granted by the DJKI. Therefore, the exclusive rights owned by US citizens over Bali niche silver are considered to have never been registered. Because every culture that has received protection from geographical indications will invalidate the exclusive rights registered in other countries, considering the origin of that culture.¹⁸

Developing countries such as Indonesia only have genetic resources, while developed countries have advanced technology and human resource capabilities. Developed countries use genetic resources and traditional knowledge through information obtained through research in a country without involving the country of origin as a source of direct acquisition of genetic resources and traditional knowledge. Thus it appears as a form of injustice. This is tantamount to the actual theft of genetic resources and traditional knowledge that local people seem to be unaware of.¹⁹

From studies that have described the urgency of protecting traditional knowledge through geographical indications, it is necessary to discuss the characteristics of geographical indications so that traditional knowledge fulfils these characteristics. In addition, it is necessary to further explain the importance of protecting traditional knowledge through geographical indications.

¹⁷ Karlina Sofyarto, "Perlindungan Hukum Hak Kekayaan Intelektual Atas Pengetahuan Tradisional Terhadap Perolehan Manfaat Ekonomi," *Kanun Jurnal Ilmu Hukum* 20, no. 1 (2018): 149–62, <https://doi.org/10.24815/kanun.v20i1.9832>.

¹⁸ R S S Turnip, "Pentingnya Perlindungan Terhadap Pengetahuan Tradisional Dan Ekspresi Budaya Dalam Negara Yang Kaya Akan Budaya," " *Dharmasisya*" *Jurnal Program Magister Hukum Universitas Indonesia*, 2022, 21–33, <https://doi.org/10.28946/sc.v29i1.943>.

¹⁹ Triayu Ratna Dewi and Erma Defiana Putriyanti, "Melindungi Sumber Daya Genetik Dan Pengetahuan Tradisional Dengan Hak Paten Dan Hak Merek," *Populis: Jurnal Sosial Dan Humaniora* 4 (2019): 337–45, <https://doi.org/http://dx.doi.org/10.47313/pjsh.v4i2.697>.

Method

The type of research used is qualitative research. Qualitative research is research that focuses its attention on general principles that underlie the manifestation of symptom units that exist in human life, or patterns that are analyzed by socio-cultural phenomena using the culture of the community concerned to obtain an overview of patterns applicable.²⁰ This research was conducted using a normative juridical approach because the library materials used as the main material are primary legal materials consisting of basic norms or rules, basic provisions or regulations, and laws and regulations.²¹

Essential Criteria for Geographical Indications in Safeguarding Traditional Knowledge

Traditional knowledge is intellectual work in the field of knowledge and technology that contains elements of traditional heritage characteristics that are produced, developed, and maintained by a particular community or society. Traditional knowledge has the following characteristics:²²

- a. Created and maintained by a communal community.
- b. Related to the cultural identity and heritage of indigenous/traditional people.
- c. Passed down from one generation to the next.
- d. Codified in written, oral, or other forms.
- e. Easy to expand and not static.

Indonesian traditional knowledge is very diverse. Broadly speaking, Traditional knowledge can be divided into:²³

- a. Technical Skills

The knowledge that comes from indigenous peoples about how to make a product. Example: how to make batik Lasem.

²⁰ Burhan Ashshofa, *Metode Penelitian Hukum* (Jakarta: Rineka Cipta, 2010).

²¹ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat* (Jakarta: Raja Grafindo Persada, 2016), pp.13-14.

²² M. Hawin and Budi Agus Riswandi, *Isu-Isu Penting Hak Kekayaan Intelektual Di Indonesia* (Yogyakarta: Gajah Mada University Press, 2017), p. 90.

²³ Rizkita Kurnia Sari, "Perlindungan Hukum Terhadap Pengetahuan Tradisional Marosok Sebagai Budaya Masyarakat Di Sumatera Barat," *Media Nusantara XVIII*, no. 1 (2021): 89–100, <https://doi.org/https://doi.org/10.30999/medinus.v18i1.1237>. See also Maulindayani Maulindayani. "Eksistensi dalam Pembaruan Hukum Acara Perdata di Indonesia". *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal 1*, no. 1 (2021): 65-71. <https://doi.org/10.15294/ipmhi.v1i1.49859>.

- b. Skills, namely the ability to know how to make something that was created or discovered by the indigenous people. Example: skills in making traditional weapons such as kris.
- c. Agricultural knowledge, namely knowledge discovered or created by indigenous peoples related to agriculture. Example: the Subak system in Bali, namely the irrigation system to irrigate rice fields in Bali.
- d. Ecological knowledge is this traditional knowledge related to traditional astronomy. Example: how to predict the weather seen from the appearance of objects in the sky.
- e. Medical knowledge including related drugs and healing procedures, as well as knowledge related to Genetic Resources; This knowledge relates to treatment including related drugs and healing procedures, as well as knowledge related to Genetic Resources. Examples: are various kinds of herbs such as turmeric acid, Kencur rice and others.
- f. Skills in making traditional crafts This traditional knowledge is related to the skills to make a product that comes from these indigenous peoples. Example: batik, Songket cloth, woven cloth.

All of this traditional knowledge must meet the characteristics that have been stipulated in the law governing geographical indications. The law that deals with geographic indications are Law no. 20 of 2016. In that law, specifically Article 1 point 6 of Law Number 20 of 2016 it is explained that a Geographical Indication is a sign that shows the area of origin of an item and/or product due to geographical environmental factors including natural factors, human factors or the combination of these two factors gives reputation, quality, and certain characteristics to the goods and/or products produced.

Referring to the definition of Geographical Indications contained in the provisions of Article 1 number (6) of the Law on Trademarks and Geographical Indications, traditional knowledge can be said to be a work that will receive Intellectual Property protection in the field of Geographical Indications if it meets the following requirements:²⁴

- a. There is a sign indicating the area of origin of a product

A sign as a geographical indication can be in the form of a place name or other sign indicating the place of origin of the product. The sign can be in the form of words, pictures, or a combination of both, which can indicate the origin of the product, the name of the goods associated with the name of the geographical origin used to produce. Example: Batik Nitik Yogyakarta. The word Yogyakarta is used as a sign or indication of a producing area. Geographical names have certain characteristics and

²⁴ Usman, *Dasar-Dasar Hukum Kekayaan Intelektua*, pp. 260-266.

characteristics that are different from other geographies. Apart from being a distinguishing mark, special aspects of the name of the origin of the goods must also have economic value. This means that the name of origin does not only function as a differentiator between one product and another, but it must also be clear that this place of origin has a great influence on improving the quality or quality of the goods so that in the future it will increase the selling price of the product.

b. Protected objects

Handicraft products are often referred to as artisanal products, handicraft products, traditional creative crafts, or works of art or traditional craftsmanship. There is no universally agreed definition of handicraft, but the following general characteristics can be identified:

- 1) The product is produced by craftsmen, entirely by hand or with the aid of hand tools or even using machines, provided that the craftsman's direct manual contribution remains the most substantial component of the finished product.
- 2) The product is a representation or expression that is a symbol of the craftsman's culture.
- 3) Products include a wide range of goods made from raw materials.
- 4) Product characteristics are utilitarian, aesthetic, artistic, creative, cultural, decorative, functional, traditional, or religious and social which are symbolic and significant.
- 5) There are no special restrictions on the quantity of production, and no two parts are exactly alike.

c. The area of origin of the product is influenced by geographical environmental factors including natural factors, human factors, or a combination of the two factors.

Geographical indications are related to an area, region, or country that causes a product to be unique due to its relationship with the geographical environment. Geographical environmental factors as well as natural factors and human factors are single entity that influences the quality or characteristics of the goods produced. The application for registration of geographical indications will describe the relationship between the goods and/or products produced and the geographical environment, including natural factors and human factors or a combination of both that affect the characteristics and quality of the goods and/or products produced in the area of origin of the goods. Natural factors in the form of soil type, landscape, water availability, altitude, and climatic conditions can affect the product and its quality. Example: natural dye for Lasem batik which is produced from the roots of the noni tree (pace). The red color is like chicken blood. The red color is influenced by water in the

Lasem area which has different acidity levels from other areas. Given that the Lasem area is a coastal area, it is close to the sea. The human factor is local wisdom that has developed in certain cultural, social, and economic contexts. This can affect the way society manages or creates products. Socio-cultural conditions of the community have an influence on the products produced. Example: the culture of the Chinese community which is created in the Lasem batik motif. The influence of natural and human factors can produce a distinctive product that has a special quality unique to the place of origin, implying that the same product with the same characteristics cannot be found elsewhere.

The above is related to the concept of "*terroir*". Terroir is a French word) that has been adapted into English. The word means a combination of natural factors, such as soil, climate, and environment, as well as human factors that give a product its unique characteristics. Natural factors are soil type, landscape, water availability, altitude, and climatic conditions, which can affect production/cultivation (plants, animals) and quality, for example, Lasem batik. Natural factors in the Lasem area has an influence on the quality of Lasem batik, namely by utilizing local plants to be used as natural dyes. Meanwhile, the human factor in Lasem batik can be seen from the motif model. Lasem batik motifs are influenced by the acculturation of Chinese culture who came as traders and then stopped and interacted with local communities in the port city of Lasem.²⁵

d. The resulting product has a reputation, quality, and characteristics

The indication of the origin of an item is important, because of the influence of geographical environmental factors, including natural factors, human factors, or a combination of these two factors in a certain area where the goods are produced can provide characteristics, quality, and certain characteristics of the goods. The characteristics, quality, and characteristics of goods that are maintained and can be maintained for a certain period will give birth to a reputation (fame) for these goods, which in turn allows these goods to have high economic value.

One form of the reputation of a product is that the product is known and referred to by the name of the location (area of origin, geographic or traditional name) which in the consumer's understanding indicates the place where the product is produced. It usually implies that the product has been in production for a long time, and is well-known and appreciated. The specific quality of a product is usually recognized through its easily recognizable taste, texture, color, and other components. Traditional

²⁵ Helen Ishwara, L.R. Supriyanto Yahya, and Xenia Moeis, *Batik Pesisir Pusaka Indonesia* (Jakarta: Kepustakaan Populer Gramedia, 2011), pp. 137-138.

knowledge as a product created by traditional society certainly has a reputation. Known for a long time and appreciated as the culture of the people.

The characteristics of a product are usually determined by physical characteristics, chemical characteristics, organoleptic characteristics or nutritional content, and others, depending on the type of product. If a product has a reputation as a product originating from a certain geographical area, and this reputation has existed for a long time, there is a high chance that the product also has special qualities and certain characteristics, then the possibility of obtaining geographic indication protection is also quite large.

However, applying for registration of geographic indications of traditional knowledge is not easy. Because, in the application for registration, the applicant must include a document description of the geographical indication. The geographical indication description document contains information, including the reputation, quality, and product characteristics related to the geographical factors of the product for which **the geographical indication is requested**. The process of making these documents is not easy because Indonesia has not included many databases of superior products that have the potential to be protected into geographical indications, so it is difficult to describe the history and traditions of using geographical indications, including recognition from the community regarding their benefits. In addition, the applicant will have difficulty determining the boundaries of the area to be included in the area description. If it is not appropriate to enter the borders of the territory, it will cause conflicts between local authorities in the border areas.²⁶

From the description above, it can be seen the characteristics of this Geographical Indication, namely:²⁷

- 1) Signs of origin of an item based on geographic area
- 2) Product name is influenced by geographical factors of certain regions
- 3) Geographical indications are the communal intellectual property
- 4) The rights are collective
- 5) Products have certain characteristics, qualities, characteristics, and reputations

²⁶ Mas Rahmah, "The Protection of 'Batik' Craft under Geographical Indication: The Strategy for Developing Creative Industry in Indonesia," *WIPO-WTO Colloquium Papers*. Volume 7 (2016), https://www.wto.org/english/tratop_e/trips_e/colloquium_papers_e/2016/wipo_wto_coll_oquium_2016_e.htm.

²⁷ Usman, *Dasar-Dasar Hukum Kekayaan Intelektual*, p. 267.

The Importance of Geographical Indication Registration for Traditional Knowledge

Knowledge Registration of traditional knowledge in geographical indications is due to considerations. The considerations that make the need for the protection of Geographical Indications include:²⁸

- a. The number of products that require GI protection and the public's desire for legal protection, given the rich natural resources and diverse cultures.
- b. The element of Indonesia's very strategic geographical location has a uniqueness in GI products.
- c. Indonesia's strategic position in international trade is in the form of a wide market and has a very large population.
- d. Indonesia is a member of the WTO and the Trips agreement, to fulfill these obligations, regulations are needed in the field of Geographical Indications.

The purpose of the act of registering traditional knowledge in the field of geographical indications is to obtain protection. Such protection will benefit the lives of traditional communities. Protecting traditional knowledge is very important because traditional knowledge is the identity of the community that owns it. When traditional knowledge disappears, the identity of the community that owns it disappears. Furthermore, there are several reasons to protect traditional knowledge.²⁹ There are 5 reasons why traditional knowledge needs to be protected, namely:³⁰

- a. Justice, which is a concept that refers to the benefits received by holders of traditional knowledge when their knowledge is used and commercialized and received in the form of compensation.
- b. Conservation is a form of protection of traditional knowledge that refers to the protection of the environment, biodiversity, and long-term agricultural projects.

²⁸ Sekhar Chandra Pawana and Erico L. Hutahuruk, "Optimaliasasi Pemajuan Kebudayaan Daerah Melalui Indikasi Geografis," *Justicia Sains: Jurnal Ilmu Hukum* 6, no. 2 (2022): 228–47, <https://doi.org/10.24967/jcs.v6i2.1584>.

²⁹ Reh Bungana Beru Perangin-angin, Ramsul Nababan, and Parlaungan G. Siahaan, "Perlindungan Pengetahuan Tradisional Sebagai Hak Konstitusional Di Indonesia," *Jurnal Konstitusi* 17, no. 1 (2020): 178, <https://doi.org/10.31078/jk1718>. See also Hariyanto Hariyanto, Herlambang Sejati, and Puneet Iyer. "The Principle of Justice as a Judges' Considerations in the Concept of Third-Party Responsibility Against Cooperative Legal Action". *The Digest: Journal of Jurisprudence and Legisprudence* 4, no. 1 (2023): 65-94. <https://doi.org/10.15294/digest.v4i1.75027>.

³⁰ Karlina Sofyarito, "Perlindungan Hukum Hak Kekayaan Intelektual Atas Pengetahuan Tradisional Terhadap Perolehan Manfaat Ekonomi," *Kanun Jurnal Ilmu Hukum* 3, no. 2 (2018): 119–28, <https://doi.org/https://doi.org/10.24815/kanun.v20i1.9832>.

- c. Advancing customs and culture (preservation) and increasing the level of public trust and understanding of traditional knowledge, both within and outside the community.
- d. To stem biopiracy so as to ensure a balance of rights between creators and users of traditional knowledge. According to Moni Wekesa, there are at least three important factors that must be considered to prevent the exploitation of traditional knowledge:³¹
 - 1) Documentation of traditional knowledge is done by making basic data of traditional knowledge,
 - 2) It is necessary to source the material to be applied for legal protection to the Director General of intellectual property,
 - 3) Parties who wish to obtain legal recognition need to have proof of agreement, ownership, and profit sharing from the owners of traditional knowledge.
- e. As a means to appreciate the importance of product development that includes traditional knowledge.

In developed countries, traditional knowledge is often used as the entrance to the modern industry such as pharmaceuticals, agriculture, natural pesticides, and others. Meanwhile, for developing countries, there is an awareness that by making effective use of biological wealth and the traditional knowledge it possesses, traditional knowledge can become a stimulus for economic growth. This is an important reason why traditional knowledge must be maintained, developed, and protected.

Countries that have the potential for local wisdom-based wealth are fighting for legal protection of traditional knowledge, which is a very important issue. However, traditional knowledge itself is theoretically very likely to be protected. Two ways can be used to protect traditional knowledge, namely: protection through legal use and protection through non-legal use. Protection of traditional knowledge through binding laws, such as intellectual property rights laws, rules that manage genetic resource issues, especially traditional knowledge, contracts, and customary law.³²

Protection in the form of geographical indications is one of the intellectual property rights protection systems in Indonesia that provides protection against signs that identify a country, region or area within the region as the origin of the goods, where the reputation, quality and characteristics of the goods are highly determined. by the geographical factors

³¹ Labetubun, Akyuwen, and Pariela, "Perlindungan Pengetahuan Tradisional Secara Sui Generis Untuk Menyongsong Masyarakat Ekonomi Asean."

³² Regina Dupampa, "Kajian Yuridis Terhadap Pengetahuan Dan Ekspresi Budaya Tradisional Dalam Sistem Hak Atas Kekayaan Intelektual," *Lex Privatum* 7, no. 7 (2018): 74–81, <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/22399>.

concerned. The protection of GI in Indonesia is regulated in Law Number 20 of 2016 concerning Marks and geographical indications and is described in Permenkumham No. 12 of 2019 concerning Geographical Indications.

Legal protection of geographical indications has two characteristics of ownership, namely communal or collective ownership.³³ Communal ownership character means that it belongs to the community that belongs to the area indicated on the record. After registering traditional knowledge products that have the potential for geographical indications and protection through geographical indications, the public has the exclusive right to distribute and trade the legal products, other local communities are prohibited from using them in their products. The exclusive rights granted are a befitting gift to intellectual property creators.³⁴

Communal character means that the legal protection of the geographical indication product becomes the common property of the community where the geographical indication product is located. A geographical indication product that has been registered and has received legal protection, the community in the geographical indication product area has the right to trade the product so that other people who are not included in the registered geographical indication product area are not allowed to use the same product name on their product. Protection of various kinds of geographical indication products in Indonesia basically must provide legal certainty for these products, namely by making legal rules that protect the geographical indication products. The importance of legal protection for a geographical indication product in intellectual property rights is basically to protect Indonesian products in national and international trade. Legal protection through Geographical Indications will provide legal clarity regarding the relationship between goods and producers as their owners so that promotions can be carried out openly without fear of the possibility of unauthorized use by other parties.³⁵

³³ Adi Tiaraputri, "Arti Penting Pendaftaran Kopi Liberika Kabupaten Intelektual Komunal the Importance of Registration for Liberica Coffee in the Regency of Meranti Archipelago , Riau," *Jurnal Gagasan Hukum* 03, no. 02 (2021): 172–87, <https://doi.org/https://doi.org/10.31849/jgh.v4i01>.

³⁴ Lily Karuna Dewi and Putu Tuni Cakabawa Landra, "Perlindungan Produk-Produk Berpotensi Hak Kekayaan Intelektual Melalui Indikasi Geografis," *Kertha Semaya: Journal Ilmu Hukum* VOL 7 NO 3 (2019): 1–17, <https://doi.org/10.24843/km.2019.v07.i03.p02>.

³⁵ Anak Agung Ngurah Tresna Adnyana, "Perlindungan Hukum Terhadap Produk Indikasi Geografis Dari Tindakan Peniruan," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 8, no. 1 (2019): 49, <https://doi.org/10.24843/jmhu.2019.v08.i01.p04>. See also Michael Gerry, and Rina Elsa Rizkiana. "Good Governance Implementation by PERMA 1/2019 in Letter Evidence Submission Regulation For E-Litigation Cases". *The Digest: Journal of Jurisprudence and Legisprudence* 4, no. 1 (2023): 47–64. <https://doi.org/10.15294/digest.v4i1.68121>.

The existence of registration in the field of geographical indications of traditional knowledge will maintain its sustainability which has been considered as regional property so that it can be shared, communally. Ownership is communal, which means it can be utilized by the area to which the rights owner is entitled. So parties outside the area of rights holders are not allowed to plagiarize or claim the traditional knowledge products. Further minimizing disputes over product ownership claims. The claim of traditional knowledge is very possible so if the registration is granted, it means that the product belongs to the applicant so that other regions cannot recognize it. Geographical indication protection protects communal ownership. This is different from the protection of property rights in other fields, such as copyrights, patents, integrated designs, and others. Communal ownership of traditional knowledge is philosophically a right that is naturally attached to communities that have been creating, using, maintaining, maintaining, and developing traditional knowledge in a long tradition across generations and becoming a part of the social identity of the community concerned. With the registration of geographical indications of ownership of traditional knowledge as communal ownership. Communal ownership of geographical indication products by the geographical community is directly related to the existence of geographical indication products whose rights are recognized by law. This community culture is a social community or social root that has been passed down from generation to generation with self-supporting cultivation and knowledge to maintain, maintain the special characteristics or uniqueness of geographical indication products. Recognition of communal ownership rights for geographical indication products has been recognized in international law (TRIPs Agreement) and National Law (Mark and Geographical Indication Law).³⁶

The protection of traditional knowledge is aimed at maintaining the economic and moral rights of holders of traditional knowledge. Traditional knowledge is a commodity that has an important role in the economy for the community so it is very important to protect it to avoid counterfeiting practices. Legal protection through geographical indications is beneficial for the economic development of a nation, by providing an opportunity for producers to jointly maintain and improve the quality of their products, and consolidate or even increase prices in the market. A reputation built for geographic indications can be an important marketing tool in strengthening a product's position in the market as well as for penetrating new markets.

³⁶ Purnama Hadi Kusuma and Kholis Roisah, "Perlindungan Ekspresi Budaya Tradisional Dan Indikasi Geografis: Suatu Kekayaan Intelektual Dengan Kepemilikan Komunal," *Jurnal Pembangunan Hukum Indonesia* 4, no. 20 (2022): 107–20, <https://doi.org/https://doi.org/10.14710/jphi.v4i1.107-120>.

Because being registered as a geographical indication means that the product can be protected from counterfeit or imitation products. Keep in mind that preventing counterfeit products, means that manufacturers can prevent the appearance of low-quality goods that can damage the image of the original product.³⁷

Protection through intellectual property, one of which is a geographical indication, gives monopoly rights. With this monopoly right, the owner of the intellectual property can enjoy the economic benefits of the intellectual property he gets. The importance of legal protection for a geographical indication product is very important considering that a geographical indication product sold in the community has economic value that can increase economic growth in the production area of the geographical indication product. Geographical indications, which are a part of intellectual property rights, are becoming increasingly interesting to discuss further because of the role of intellectual property rights today that determines the acceleration of national development, especially in the current era of globalization.³⁸ Registration of geographical indications will provide legal certainty for holders of rights to traditional knowledge that has been registered in carrying out their business activities and prevent violations of these rights. Legal certainty is guaranteed in Law no. 20 of 2016.

Protection of Intellectual Property Rights with Geographical Indications will be effective when the goods or objects are introduced abroad so that Traditional Knowledge can be protected and not claimed by other countries. The importance of Geographical Indications, one of which is to protect reputation from misuse by counterfeiters from outside the geographical zone, or by producers (within the geographical zone) who produce lower quality goods or products. A well-maintained product reputation can provide economic benefits. Consumers are willing to pay the price for such well-known products thanks to information about the quality, origin, and traditions of geographical indications, thereby developing a strong sense of loyalty. In addition, the local community can benefit from the direct and indirect effects that geographical indications have in the area. Thus, the registration of traditional knowledge products in the field of geographical indications is useful for business actors to avoid plagiarism and protect consumers from fear, as a

³⁷ Muhammad Zainul Arifin, "Perlindungan Rendang Sebagai Sebuah Indikasi Geografis Dalam Ruang Lingkup Pengetahuan Tradisional Dan Pemajuan Kebudayaan," *Jurnal Simbur Cahaya Wijayaa Fakultas Hukum Universitas Sriwijaya* 3 (2021): 187–201, <https://doi.org/10.28946/sc.v27i2.1036>.

³⁸ Godlieb N Mamahit and Harly Stanly Muaja, "Perjanjian Lisensi Antara Pemilik Hak Terdaftar Dengan Penerima Lisensi Menurut Undang-Undang Nomor 20 Tahun 2016 Tentang Merek Dan Indikasi Geografis," *Lex Privatum* 5, no. 9 (2017): 171–79.

means for product marketing, rural area development, and a means of law application in the economic field. Protection will be provided on the condition that the reputation, quality, and characteristics of the product are still maintained.³⁹

Based on Article 61 paragraph (1) of Law No. 20 of 2016, the protection of geographical indications will last as long as the characteristics still exist and the quality is maintained continuously. To find out that these characteristics still exist, a government regulation instructs them to fill out a book of requirements from the applicant for registration of geographical indication products.⁴⁰ Thus the preservation of traditional knowledge is maintained. This is because the community will try to maintain the reputation, quality, and characteristics of traditional knowledge so that it always gets protection. This is very important for traditional knowledge considering that traditional knowledge is local wisdom that needs to be preserved to stay awake and not experience extinction.

Conclusion

Geographical indications have certain characteristics. The characteristics of geographical indications include: a sign of origin of an item based on a geographical area, the name of the product is influenced by geographical factors of a particular area, a geographical indication is communal intellectual property, the rights are collective, and the product has certain characteristics, qualities, characteristics, and reputation. Products that have these characteristics are very likely to get protection through geographical indications. The protection of traditional knowledge through geographical indication is very important. The importance of protecting knowledge through indications including international recognition so that it is not claimed, recognizing communal ownership following the characteristics of traditional knowledge, and providing economic benefits and sustainability of traditional knowledge.

³⁹ Darwance, Rafiqah Sari, and Muhammad Syaiful Anwar, "Penyusunan Struktur Kepengurusan Masyarakat Perlindungan Indikasi Geografis (MPIG) Sebagai Tahapan Pendaftaran Nanas Bikang Di Bangka Selatan Sebagai Indikasi Geografis," *Jurnal Pengabdian Kepada Masyarakat* 3, no. 1 (2019): 37–53, <https://doi.org/http://dx.doi.org/10.26623/kdrkm.v3i1.4682>.

⁴⁰ Undang-Undang Nomor 20 Tahun 2016 Tentang Merek Dan Indikasi Geografis.

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