

## Relevance of Registration of Geographical Indications with Increasing Competitiveness of Local Products in the City of Semarang



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**ABSTRACT:** Whereas in principle all types of intellectual property rights are protected by law including geographical indications. Legal protection for Geographical Indications is created when the owner registers it with the Minister of Law and Human Rights. Especially in the city of Semarang, the problem regarding the registration of Geographical Indications that occurs is the lack of awareness of the citizens of the city of Semarang to register their Geographical Indications, which actually has the potential to increase the competitiveness of local products in the City of Semarang. This study will address these issues using empirical juridical research methods based on primary legal data. Based on the research results, it is known that legal protection for geographical indications is created when the geographical indication is registered. Geographical indications that have been registered have an impact on strengthening the competitiveness of local products in the City of Semarang, so that the community and the government of the City of Semarang must jointly strive to increase awareness of the registration of geographical indications in the City of Semarang.

**KEYWORDS:** Registration, Protection, Law, Geographical Indications, Local Products.

### A. INTRODUCTION

In general, the classic problem regarding Intellectual Property Rights in Indonesia is the lack of awareness of the Indonesian people to register their innovations and creativity to get legal protection. Even though the results of innovation and creativity have very high economic value. <sup>1</sup>Geographical indications are a type of intellectual property rights protection that has been developed to protect the uniqueness of an area in Indonesia, such as in Indonesia, where the area is very wide, stretching from Sabang to Merauke, so that each region has the diversity and uniqueness of each <sup>2</sup>. This type of protection for Geographical Indications has the peculiarity of other Intellectual Property Rights Protection, which is characterized by communal ownership and usually identifies the area as its trademark. <sup>3</sup>According to Article 1 number 6 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, a Geographical Indication is a sign that indicates the area of origin of goods and/or products due to geographical environmental factors including natural factors, human factors or a combination of these two factors . giving reputation, quality, and certain characteristics to the goods and/or products produced.

Products from Geographical Indications originate from natural resources, handicrafts, or industrial products which show the characteristics of the region of origin. The protection of Geographical Indications aims to protect this uniqueness from counterfeiting or improper use while at the same time providing opportunity and protection to the people of the region producing these unique products, as is the case in the city of Semarang which has the potential to register Geographical Indications.

The city of Semarang is the capital of Central Java Province where there are many interesting tourist destinations such as the historic Lawang Sewu building, the Blendug Church , the Old City, to the Sam Poo Kong Temple. In addition to the several leading destinations mentioned above, the city of Semarang also has other attractions in the field of culinary tourism. The city of Semarang has many unique foods and drinks and is a special attraction for every tourist who travels to Semarang . Mi Kopyok, and Tahu Bakso, these various culinary delights are very well known in Semarang and are often used as souvenirs for tourists. However, it turns out that through field observations, it turns out that not many people in Semarang are aware of the importance of protecting Geographical Indications, especially MSME business actors in Semarang City. As it is known that the protection of Geographical

<sup>1</sup> Ni Ketut Supasti Dharmawan and et al, *Textbook of Intellectual Property Rights* (Yogyakarta: Deepublis, 2016). p. 71.

<sup>2</sup> Winda Risna Yessiningrum, 'Legal Protection of Geographical Indications as Part of Intellectual Property Rights', *IUS Journal of Law and Justice Studies* , 3.7 (2015), 42–53 <<https://doi.org/http://dx.doi.org/10.12345/ius.v3i7.198>>. p. 47.

<sup>3</sup> Padrisan Jamba Irene Svinarky, Ukas, 'The Effectiveness of the Trademark Law and Geographical Indications on the Register of Trademarks for Small and Medium Industries', *Journal of Udayana Law Masters* , 7.1 (2018), 63–73. p. 68.

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Indications is beneficial for producers (SMEs) will also benefit consumers because it guarantees product quality, on that basis, Geographical Indications which are part of Intellectual Property Rights, whose ownership is communal in nature deserve protection. Departing from these problems, this research will specifically discuss what is the Relevance of Registration of Geographical Indications to Increasing the Economic Welfare of Communities in the City of Semarang? and How is the Legal Protection of Geographical Indications Based on Law Number 20 of 2016 concerning Trademarks and Geographical Indications?

### B. RESEARCH METHODS

This study uses an empirical juridical research method, namely a legal research that makes primary data the main research data. <sup>4</sup>Primary legal data was obtained through field observations and interviews with MSME actors in the city of Semarang. <sup>5</sup>In addition to using primary data, this study also uses secondary data as research supporting data. <sup>6</sup>The analytical approach used is analytical descriptive, which is an analytical method by describing research objects to answer research problems.

### C. DISCUSSION

#### 1. Relevance of Registration of Geographical Indications and Increasing Competitiveness of Local Products in the City of Semarang

Communities and local governments who own potential geographic indications will receive *a recovery* for their hard work, time and money if the geographic indication product has been marketed with an increase in the economic value of the product. In practice, one of the objectives of registering potential geographic indications is to improve the economy of the people in the area of origin. This economic value arises because the use of geographic indications marks/labels on a product can provide a clear picture of the quality and quality of a geographic indication product which will later give it a good reputation in the world. public. This will indirectly add to the economic value of registered geographic indication products and guarantee legal certainty for these products if they are later claimed by other parties. <sup>7</sup>

With the registration of several potential geographical indications in the city of Semarang, it can be seen that there has been an increase in economic value which has produced positive results since the potential geographical indications were registered, including; Increasing the number of producers or producing communities who are directly involved in creating potential geographic indication products; There are several potential geographic indication products that have been registered to receive a premium price; With so many potential registered geographical indications to increase exports of local regional products. <sup>8</sup>

Geographical indications are protected after registration, through applications that can be filed by; An institution that represents the community in a certain geographical area that operates goods and/or products; Provincial or district/city regional government.

The people of the Semarang area must have legal awareness and arrange several strategies so that the potential of Geographical Indications in Semarang can be registered immediately and be able to improve the welfare of the people of the Semarang area. It is necessary to regulate production systems, control methods, compliance in accordance with geographical indication documents and guidance and supervision of the Regional Government so as to improve people's welfare and realize national independence. <sup>9</sup>

In addition, it is necessary to build legal awareness for the protection of geographical indications, which must begin by taking strategic actions, namely: <sup>10</sup>

- 1) Conducting education on legal awareness of geographical indications Legal awareness of geographical indications is not only aimed at the public, but also towards central and regional government apparatus related to issues of geographical indications. The central and regional governments must begin to make careful planning in development programs and provide adequate budgets in the APBN/APBD, and implement them in accordance with potential geographical indications in their respective regions. Of course, the first time is to provide an understanding of Law Number 20 of 2016 concerning Marks and Geographical

<sup>4</sup> Zainudin Ali, *Legal Research Methods* (Jakarta: Sinar Graphic, 2009).

<sup>5</sup> Zainal Askin Amirudin, *Introduction to Legal Research Methods* (Jakarta: Raja Grafindo Persada, 2012).

<sup>6</sup> Depri Liber Sonata, 'Normative and Empirical Legal Research Methods Typical Characteristics of Legal Research Methods', *Fiat Justitia Journal of Legal Studies*, 8.1 (2014), 15–35 <<https://doi.org/https://doi.org/10.51749/jphi.v2i1.14>>.

<sup>7</sup> Triassic Palupi Kurnianingrum, 2016, *Protection of Economic Rights over Geographical Indications*, Research Center for the Expertise Agency of the Republic of Indonesia DPR, Jakarta, p.20

<sup>8</sup> A. W Syafar, 'Building Regional Competitiveness Through Instinctive Competencies Based on Superior Commodities', *Journal of Entrepreneurs*, 3.1 (2013), 1–11.

<sup>9</sup> Yatini Yatini Mieke Yustia Sari, Nuzulia Kumalasari, Sigit Nugroho, 'The Optimization of Geographical Indication Protection in The Realization of National Self-Sufficiency', *Padjadjaran Jurnal Ilmu Hukum*, 7.1 (2020), 85–101 <<https://doi.org/https://doi.org/10.22304/pjih.v7n1.a5>>. p. 87.

<sup>10</sup> Candra Irawan, *Registration of Geographical Indications as an Instrument for Legal Protection and Increased Competitiveness of Regional Products in Indonesia*, Proceedings of the 3rd UNISBANK National Seminar on Multi-Discipline Science & Call Papers (Sendi\_U 3), 2017, *Journal of Unisbank Geographical Indications.pdf*, (accessed 19 June 2021)

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Indications, the urgency, benefits and challenges on a national and international scale through training/workshops, mentoring, seminars, focus group discussions (FGD), comparative studies, monitoring, evaluating and fostering, providing legal protection, and facilitating the development, processing and marketing of geographically indicated goods and/or products;

- 2) Identify potential geographic indications Identification of potential geographic indications must be carried out by each local government (provincial/regency/city). Activities that can be carried out include: mapping and inventorying potential geographic indication products; The elements of geographical indication, among others: having a strong and effective management system; excellent and consistent product quality; strong marketing and promotion system; able to supply market needs in sufficient quantities and sustainably.<sup>11</sup>
- 3) Carry out registration of geographical indications, introduction to the public (national and international), production and commercialization of geographical indications Geographical indications are protected by law after being registered through an application that can be submitted by; an institution that represents the community in a certain geographical area that operates goods and/or products; and provincial or district/city regional governments.

Regarding the period of protection of geographical indications as explained in article 61 paragraph (1) it states that " *Geographical indications are protected as long as reputation, quality and characteristics are maintained which form the basis for the protection of geographic indications on a product* ". The economic welfare of the local community can be realized by maintaining the reputation of the geographic indication products that are produced.

All of these legal processes are aimed at carrying out legal protection of geographical indications in the city of Semarang in order to strengthen the local economy of the city of Semarang. Strengthening the local economy is one of them by empowering the community to develop the local potential of an area. In this regard, the protection of Geographical Indications is urgently needed to realize the strengthening of the local economy based on Intellectual Property. <sup>12</sup>So that by increasing the awareness of the people of Semarang city, especially SMEs in the city of Semarang to register their Geographical Indications, this will directly have an impact on increasing the competitiveness of local products in the city of Semarang.

### 2. Legal Protection of Geographical Indications Based on Law No. 20 of 2016 concerning Trademarks and Geographical Indications

Legal protection for Geographical Indications can be found in the Arrangements regarding Geographical Indications which are regulated in detail and strictly in Law Number 20 of 2016 concerning Trademarks and Geographical Indications, in 4 chapters namely in chapters VIII-XI and 16 Articles, in the Law This law regulates the period of protection, substantive examination, supervision and development of Geographical Indications, which have been clearly regulated with their respective sections, which are different from the old Law Number 15 of 2001, which does not yet have a section on these rules. This shows that normatively the regulation is better.<sup>13</sup>

Geographical Indication is a sign indicating the area of origin of goods and/or products which due to geographic environmental factors including natural factors, human factors or a combination of the two factors give reputation, quality and certain characteristics to the goods and/or products produced. The intended Geographical Indication Products can be in the form of natural resources; handicraft items; or industrial products, so Geographical Indications in Law Number 20 of 2016 concerning Trademarks and Geographical Indications have a definition that can be described as a sign indicating the area of origin; An item/and or product; Due to geographic environmental factors; Including natural factors, human factors or a combination of the two factors. Providing reputation, quality and certain characteristics of the goods and/or products produced.<sup>14</sup>

In the regulation of Geographical Indications it is stated that Geographical Indications provide many benefits, among others; Protect products and producers of Geographical Indications members against fraud, misuse and counterfeiting of Geographical Indications; Improving the bargaining position of products and the ability to enter new markets at the national and international levels; <sup>15</sup>Increase added value, increase employment, improve product quality, increase production, increase product diversification opportunities; Provide clear information to consumers about the type, quality and origin of the products they buy; Increase promotion opportunities to gain a better reputation; Increase the income and welfare of business actors; Improving the economy and accelerating regional development; Maintaining environmental sustainability to ensure the existence of product

<sup>11</sup> Mareci Susi Afrisca Sembiring, 'Legal Protection of Andaliman (Merica Batak) as a Geographical Indication in Toba Samosir Regency', *Legal Issues*, 46.4 (2017), 318–3 27 <<https://doi.org/10.14710/mmh.46.4.2017.318-327>>. p. 321.

<sup>12</sup> Dayanto Dayanto Asma Karim, 'Legal Protection and Development of Potential Geographical Indications of Buru Island Eucalyptus Oil', *Rechts Vinding Journal: National Legal Development Media*, 5.3 (2016), 381–3 98 <<https://doi.org/http://dx.doi.org/10.33331/rechtsvinding.v5i3.151>>. p. 387.

<sup>13</sup> Sudaryat, *Intellectual Property Rights, First Printing* (Bandung: Oase Media, 2010). p. 91.

<sup>14</sup> Endang Purwaningsih, *Intellectual Property Rights (HKI) and Licenses* (Bandung: Mandar Maju, 2012). p. 82.

<sup>15</sup> Bambang Kesowo, *Introduction to Understanding Basic Conceptions Around Intellectual Property Rights (IPR)* (Jakarta: Sinar Graphic, 2021). p. 79.

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characteristics and quality; Maintaining the preservation of the nation's culture related to the quality and reputation of a Geographical Indication item.<sup>16</sup>

Maintaining the existence of regional superior products that have a unique taste, unique shape, of course, requires strong efforts to protect them. This is where the importance of protecting Geographical Indications for a regional superior product, which according to the law can be protected by registering it. The Law on Trademarks and Geographical Indications stipulates that Geographical Indications cannot be owned by one person, but collectively by the community producing the Goods of Geographical Indications. This distinguishes Geographical Indications from other proprietary procedures for Intellectual Property Rights, such as individually owned trademarks, patents, copyrights, industrial designs and trade secrets. Communities in the area of Geographical Indications may appoint an agency to represent them to register Geographical Indications. Any person who produces goods or products with Geographical Indications located in the territory of origin of the Geographical Indications may use a Geographical Indication mark if the goods produced comply with the requirements for registration of Geographical Indications. Arrangements for the use of Geographical Indications are regulated by each institution representing the area.

Not all Geographical Indications can be registered. Article 56 paragraph (1) of Law Number 20 of 2016 concerning Marks and Geographical Indications states that an Application for Geographical Indications cannot be registered if; contrary to state ideology, laws and regulations, morality, religion, decency and public order; Mislead or deceive the public regarding reputation, quality, characteristics, source of origin, product manufacturing process, and/or use; Is a name that has been used as a plant variety that is used as a similar plant variety, unless there is an additional equivalent word indicating a similar Geographical Indication factor.

Added to Article 56 paragraph (2) of Law Number 20 of 2016 concerning Marks and Geographical Indications that the application for Geographical Indications is rejected if ; Documents describing Geographical Indications cannot be verified; and/or Has overall similarities with registered Geographical Indications.

After obtaining legal protection for Geographical Indications through registration, the term of protection for Geographical Indications is as long as reputation, quality and characteristics are maintained which form the basis for the protection of Geographical Indications for an item, as stipulated in Article 61 paragraph (1) of Law Number 20 of 2016 regarding Marks and Geographical Indications.

### D. CONCLUSION

Based on the results of the study it was concluded that Semarang City has a great opportunity to get geographical indications because Semarang has its own characteristics that other cities do not have. Geographical indications have priority protection over marks in Law Number 20 of 2016 concerning Marks and Geographical Indications. Registration of Geographical indications is directly proportional to the increase in the competitiveness of local products in the City of Semarang, so that the community together with the local government are expected to form institutions such as: establishment of producer associations, cooperatives and communities for the protection of geographical indications as parties entitled to apply for geographical indications

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<sup>16</sup> H.OK Saidin, *Legal Aspects of Intellectual Property Rights* (Jakarta: Raja Grafindo Persada, 2007). p. 57.

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