

Trademark Registration as Legal Protection for Small Industry of Batik Sragen

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Abstract

Small industry is a pillar of the economy for a region or a nation, its role is very vital in contributing to the per capita income of a region. Attendance is very helpful for the government in carrying out the program launched in terms of poverty alleviation and unemployment reduction. Small batik industry in Sragen is the prima donna product that has been favored so far with the hope of being able to support the regional economy of Sragen. It is undeniable that the existence of the batik industry has been able to last for many years and support the regional economy of Sragen Regency. But the fame has not been able to cover various outside markets due to the absence of business legality for the batik product. The lack of legal awareness of business actors, low information about trademarks, limited human resources and the role of local governments have not been maximized all this time. Therefore, it is necessary to conduct a direct analysis to the field using empirical research methods which combine data on results in the field and based on applicable laws and regulations. The results show that there are still many batik products that have not registered their trademarks with a background of lack of legal awareness of business actors so that it is necessary to provide socialization and direct guidance in the regions in order to assist the registration process of legal protection through trademarks.

Keywords

batik industry; legal awareness; and trademarks.



I. Introduction

Sragen Regency is one of the areas in Central Java which borders Ngawi Regency, East Java Province. The district, known as "Sukowati City" has many excellent potentials that can attract the eyes of visitors or the outside community. Not only the tourism sector which is the leading prima donna in Sragen, but the industrial sector is also growing rapidly every year. This can be seen from the annual development of the number of industries, especially small and medium industry players in Sragen Regency. In the last five years period the number of small and medium industry players (IKM) has always experienced a significant increase and the following is data on industrial development in Sragen Regency from 2016 to 2019.

Table 1. Data for Small and Medium Industries (IKM) 2016 to 2020

No	Industrial scale	Year				
		2016	2017	2018	2019	2020
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Number of small and medium industries (IKM)	17,119	17.181	17,245	17,320	19,568

Source: Department of Industry and Trade of Sragen Regency

Based on these data, it shows that the progress and improvement of small and medium enterprises has a very good process going forward. As the number of industries increases, the other positive impacts received will be even greater. Not only in terms of labor absorption but also the increase in per capita income in the Sragen area itself. So that conditions like this need to be supported by local governments, stakeholders and the local community to be able to continue to pay attention to small business actors in the area so that they continue to grow and be able to compete in outside markets (Irwan Sugiarto, 2019). So when there is information that is useful for business actors, the general public can provide information for the progress and continuity of business actors in the future.

This district, which is famous for educational tourism and cultural heritage or often referred to as the "Sangiran Ancient Human Museum", is not only known for its attractive tourism, the potential of the work of industry players also has an important role in supporting the existing tourism sector. The handicrafts produced by business actors can be used as souvenirs for visitors as souvenirs or mementos from Sragen Regency. Examples of crafts that are commonly used are stone crafts or accessories from Sangiran, Sarong Goyor, Batik and others. So the Sragen area has many superior products which are not only batik but many other products are produced. Besides batik, there are goyor sarongs, processed foods, wayang beber, bird cage crafts, bricks, convection and other handicrafts. So it is not only dominated by batik products, but also many other interesting products from the products of business actors in Sragen Regency.

Seeing the diversity of products produced, it is true that Sragen Regency has a million charms of handicrafts that are ready to enliven the domestic and foreign markets. However, conditions on the ground show that many regional business actors are unable or ready to join the national market because of many obstacles. The obstacles faced by small business actors in the regions are on average the same, which problems not only include those related to finance, marketing, technology, product packaging, administration but also business legality. Small and medium enterprises (IKM) are still in the dark regarding the essence of the legality of the business, the costs and how the process or form is obtained from the registration of the legality of the business.

Basically, batik products produced by small businesses in the Sragen area can compete and enliven in the foreign market, but the problem lies in the identity of the product which has not been protected by a trademark. The potential of Sragen batik products is very good, so it is very regrettable when one day it is recognized or imitated by other competitors, this condition can be the first step which results in danger for the product because it is starting to be imitated by outside competitors. Even though the prospect of the batik business is promising for the future, as much as possible the existing obstacles must be resolved by cooperating with the local government to help provide assistance or free trademark facilities. Therefore, I am interested in discussing the problems that exist in Sragen regarding batik products which still do not get protection from intellectual property law (IPR) through

trademarks by conducting direct surveys and using empirical research methods. The hope from the analyst is that I can find the main problem that causes the batik industry in Sragen not to have business legality and in the future all small and medium enterprises (IKM) in Sragen will get official legal protection.

II. Research Methods

This research was conducted based on the results of field analysis which was the result of direct interviews with small and medium industry business actors in Sragen Regency. The resource persons in this study were Batik business actors in Masaran District and Plupuh District. On the other hand, there were several resource persons in this study who helped in the research process, namely from the local government of the Industry and Trade Office of Sragen Regency. So this research is an empirical research that uses the basis of the study from various perspectives of sources in the field. This is the batik business actor in Sragen Regency and the Sragen Regency Regional Government.

III. Results and Discussion

Small and medium industries or often known as IKM are the pillars of the economy of a region and a nation that have a vital role in various aspects (Tohar, M. 2007). His presence in the midst of the community is a tangible form of efforts to minimize local unemployment and be able to create a field that is very beneficial for the general public. Various creativity and innovations are always displayed with a combination of new ideas that have more economic value so that the resulting product not only has aesthetic value but also the value of the function provided. The various types of products produced are also very diverse and have their own uniqueness, where the results of business actors are also able to meet the needs of society in general. Not only from clothing, but also handicrafts that are able to turn various materials or goods into products that have a high selling value. The prices given are also very varied which can be adjusted to the needs of each consumer.

Economic actors, basically have very important functions. Because it has two functions at once, namely as a supplier of all the needs of the community, both primary, secondary and tertiary. At the same time, they also function as absorbers of community labor, which can economically increase purchasing power. (Ansari, T. 2019)

The role of small and medium industries (IKM) cannot be considered mediocre, basically the role in the business world is important as a major player in the economic sector. The products produced are not only products that have use value, but aesthetic value is always prioritized to attract outside consumers. Creating products that can attract consumers is actually not an easy thing, it takes various strategies and efforts to make the resulting products sell well with the maximum possible profit. Change is always given and excellence is always given in the hope of being able to give consumers a sense of satisfaction for the product itself. The reality on the ground is that it is hoped that all products can be good and protected by clear laws so that they can enter various market segments in areas spread throughout Indonesia (Directorate General of Intellectual Property, 2020).

Small and medium industry products have actually been able to provide new colors in the existing market segmentation spaces. Novelty and unique products have always been the hallmark of the products produced by small and medium industry business actors. Basically, it is undeniable that the weakness of small and medium business actors' products is not the products produced, but other aspects that make small business actors' products experience delays in entering national and international markets. For example, simple promotions,

standard product packaging, business legality that is not yet owned, and the absence of product names (brands) that are officially registered through the protection of intellectual property rights. The main key so that a product can be recognized by outsiders is that the resulting product has a clear identity in the form of a trademark and business identification number (NIB). When a product already has both, it is very easy for the product to enter new market segments that can attract new consumers (Rui Andriano, Amzul Rifin and Bunasor Sanim, 2020). But on the other hand, when the product is as good as any if it does not have an identity or business identification number (NIB), the product will be difficult to recognize by consumers and the public will prefer products with products that have guaranteed quality and are registered with the Directorate General of Intellectual Property (DJKI). Indonesia (Emaya Kurniawati et al, 2008).

The link between a brand and a business actor's product can't actually be separated at all, because no matter how good the product is, but it doesn't have a business name yet, it will have difficulty promoting. A brand is a product of goods and services made by a person or legal entity by being given a certain mark as a differentiator (identity) with other goods and services. Certain marks are identifications for related goods and services (Sujana Donandi, 2019). On the other hand, brands also have a role as identification, promotional tools, instructions for the origin of goods, and the basis for building an image by providing guarantees for the quality of a product.

So the existence of a brand is very strong in the competition of a business, if the product does not have a brand then the product will not get space in the hearts of consumers. So, by being given legal protection of a brand for a product, it is hoped that it will not only be an identification but also provide a guarantee for the quality of the product so that consumers can know the position of the business actor and the name of the product being traded. This is very appropriate if it is related to batik products in Sragen, where when the product has entered the market but there is no legal protection, it will be very loss-making, because the potential to be imitated or recognized by competitors is very easy.

In addition to the tourism potential which is an attraction in Sragen Regency, there are other potentials possessed by the area and become a magnet for outsiders who visit Sragen Regency. The potential is the industrial sector, which in the Sragen area has various types of superior products that have their own characteristics compared to other regions. Various examples of superior products in Sragen Regency are batik, goyor sarongs, convection, bricks, bamboo crafts, stone crafts and processed foods. The results of these products are scattered in various sub-districts in Sragen Regency, so that they are not only in one location but are in various areas according to the potential of the products owned by the region. For example, the batik industry is located in two sub-districts, namely Masaran District and Plupuh District, which is spread over several villages. Another example is the processed food industry in Gesi and Sragen sub-districts, so that almost the average village has the potential for superior products that are different from other villages.

Based on the data that I obtained at the Department of Industry and Trade through interviews with Tri Warsono as the Industrial and Trade Counselor, it shows that Sragen batik products which have superior potential are located in two different sub-districts, namely batik in Masaran District with 466 business actors and batik in Plupuh District amounting to 557 business actors. According to these data, the batik produced is very diverse, which is not only written batik but there are stamped, printing, and combination batik. The motifs produced are also diverse, each batik is very unique where the design can be adjusted to the needs of consumers or according to the creations of the batik business actors themselves. Even though the business age of batik entrepreneurs is no longer young, their market share should also be able to enter various regions in Indonesia and outside Indonesia. But the

reality on the ground shows that in comparison to the number of batik business actors who have registered the legality of special brand businesses, it is 30:70, this comparison shows that there are still many batik business actors who have not registered their trademarks with a total of 70% compared to the number of batik business actors who have registered. Its trademarks account for 30% of business actors. Problems like this are caused by many things in the field and the problems are very different. Based on the results of an interview with Sunarni as a batik business actor, it shows that many problems that arise in registering a trademark are caused by several things as follows:

3.1. Lack of Legal Awareness of Business Actors

The principle of business actors in general focuses on making products then selling and obtaining appropriate profits and obtaining consumer subscriptions is considered sufficient. Regarding other supporting matters that have an important role, less attention or attention is paid to them. Most of the business actors focus on profit alone, even though there are still many other aspects that need to be considered and they are ignored. The main thing is the business license number (NIB) and the trademark of the product. At first glance a brand may be taken for granted which is important having a name already done. In fact, if examined more deeply the brand has a very important existence in the sustainability of a product. Not only as an identity, but a brand is also a promotional tool to attract new consumers with a long enough protection period of 10 (ten) years.

The conditions in the field in Sragen Regency are also the same, where the average batik business actors have a view that when the product is finished and ready to be sold, it means that the product is worth selling. But the reality is not like that, where when the product already has a business license number and a new trademark, a product can be sold on the market and used by consumers directly. The knowledge of business actors is actually very diverse and different, when they have made a name with a label on the fabric or batik product, it means that the name is official and can be traded on the market. Regarding the long term, if the brand is being sued or the motive that already has them (business actors) has not yet thought about it because the main focus is profit and product behavior. So on average, batik business actors in Plupuh and Masaran sub-districts do not understand the essence of trademarks in detail, both the requirements, the registration process, the costs and the length of the protection period for how many years they still do not understand this. So in this case it can be concluded that the lack of legal awareness of batik business actors in Sragen is the main trigger for the many batik products that have not been protected by legal protection of intellectual property rights (IPR) until now (Triyono, et al. 2020).

3.2. Little Information Regarding Brand Regulations

The development of trademarks was initially formed in 1961 through Law Number 21 of 1961 concerning Corporate and Commercial Marks, which was later changed and in effect until now is Law Number 20 of 2016 concerning Marks and Geographical Indications (IG). Seeing this shows that the presence of the brand has existed for decades before and should have been accepted or known by the general public, both business actors and non-business actors. The hope is that the general public can provide information to business actors regarding the essence of trademarks for business actors.

The reality on the ground shows that there are still many business actors in the Sragen area who know and fully understand that the role of the brand is very important for the sustainability of their business. As a form of impact, currently many business actors have not registered their products through trademarks because they do not know the role of the mark, the registration process, registration fees and the requirements for registering the mark itself.

Indeed, it is undeniable that the lack of information about brands can be one of the reasons why there are still many business actors who do not know the existence of a mark and register their products through trademark legal protection.

3.3. Limited Human Resources (HR)

Business actors actually have various and different levels or educational backgrounds which are very varied. There are businesses that are the result of heredity from the family, there are business actors who do not receive an education, there are graduates from elementary school, junior high school, high school or college graduate. So it should be underlined that the level of study of business actors is not the same from one business actor to another.

The establishment of a business is the same, there are businesses that are started from the beginning and then develop into large ones, existing businesses are just continued or businesses that are passed down from generation to generation from the previous family. In the process of business activities, almost on average, business actors only focus on making products, selling these products, and earning the highest profit. So that business actors do not pay attention to other things that have an important role in the process of making the product itself. Examples are business legality, packing, financial administration, and effective and efficient promotion. So all this time, business actors have paid more attention to the profit of the product produced without looking at other aspects. In fact, if viewed from other aspects, it is very supportive and useful in promoting these products in new market segments.

This condition occurs in the field due to the limitations of human resources (HR) itself, this is because in addition to the lack of information obtained related to the essence of the brand for business actors. On the other hand, the limited role of human resources (HR) makes it difficult for them to understand the urgency of trademarks for the products they have produced so far. As a form of impact, business actors do not fully understand the mark, the requirements for trademark registration, the trademark registration process and the cost of registering the mark itself. So it is very unfortunate when there is a product that has potential but limited information and human resources (HR).

3.4. The Role of Local Government Has Not Been Maximized

Apart from the lack of information obtained by local business actors regarding the essence of the brand and the limited human resources (HR) of business actors. On the other hand, there are external reasons, namely the local government of Sragen Regency and stakeholders who are also the reasons for the delay of business actors to register legal protection of trademarks. The presence of local governments actually has an important role in supporting the success of business actors in gaining access to large business developments in creating product diversification and obtaining new market segments. However, apart from that, the local government can also assist in informing about the essence of the brand to batik businesses in Sragen through various forms of activities, such as: brand training, brand technical guidance and brand socialization.

Activities such as the above are very helpful for Sragen regional business actors in understanding and correctly understanding trademarks from all aspects, the registration process, trademark fees, trademark registration requirements and the administration of the trademark management itself. Such conditions are very necessary for business actors to encourage legal protection of trademarks and the immediate process of trademark registration. But the reality so far shows that in the field the role of the government has not been maximized because there are still many batik business actors who have not registered their business products through trademarks. Based on this description, it can be concluded

that the role of local government is very much needed by batik business actors in the Sragen area to facilitate and support the success of business actors in the future.

Based on the previous explanation, it shows that the brand is one part of the field of intellectual property rights (IPR) which plays an important role in protecting a business actor's product. In the field of intellectual property rights (IPR) there is an important theory in the protection of intellectual property rights (IPR) presented by M. Robert C. Sherwood. The theory includes several important things related to the urgency of protecting intellectual property rights (IPR), one of which is trademarks. According to M. Robert C. Sherwood, the theory of legal protection includes the following (Khoirul Hidayah, 2018):

a. Reward theory

In this theory more focus on the creator or inventor should be given an award for the efforts made including appreciation for the achievements of the intellectual work. This emphasizes that someone who finds a new finding can be given an appreciation in the form of legal protection for the product. If this is related to the batik industry products in Sragen, it can be applied because with the existing potential, legal protection should have been given to the product.

b. Recovery theory

This second theory explains that the inventor or creator is entitled to reciprocity from the work produced, because during the process it takes time, money and energy. So in this case, when a business actor obtains or finds a work, feedback must be given in the form of the rights he must receive. If in the case of small and medium industries (IKM) Batik in Sragen already has problems with processing and information, then the local government should immediately assist the local government to obtain legal protection for their work through trademark registration.

c. Incentive theory

In this case, it is explained that for the inventor or creator of the work to be given incentives for the achievements that have been produced by the creator. If it is related to the potential of batik products in Sragen which clearly has a big opportunity but has not been protected, then the local government can provide a stimulus in the form of assistance in registering the results obtained for the safety and guarantee of the product.

d. Risk theory

This theory emphasizes more on the process carried out in finding or creating a work that needs to be recognized and appreciated because it contains risks for the inventor himself, so that when there is a new finding, assistance and appreciation should be given immediately. If it is related to the small and medium-sized batik industry (IKM) in Sragen, it is true that making a business can survive and process until now is not an easy thing and contains various risks. So it is appropriate if business actors are able to produce new batik products and have great prospects for the future so that they are immediately assisted in the processing of intellectual property rights (IPR) registration through trademarks.

e. Economic growth stimulus theory

The theory of intellectual property rights (IPR) explains that with legal protection for a product, it can become a tool for development in economic growth in a region or country. So indirectly when the product is protected through intellectual property rights (IPR), the product has a role in increasing the per capita income of a region. If all the batik products owned by Sragen Regency can be protected through trademark registration, then these products can also contribute to the region in increasing regional income, alleviating unemployment and poverty in the Sragen area.

According to the above analysis related to the correlation between the theory of intellectual property rights (IPR) legal protection and the potential for batik products in

Sragen which have not been registered with trademark legal protection, it can be seen that there is a very strong correlation between each of these theories. If all the batik products in Sragen Regency can be protected with trademarks, they will receive many positive impacts, not only for business actors, the general public but also the government itself. It is true that if there is potential for a product but it is not protected, it is very unfortunate, because it will shorten the life of the product in the market and is very easy to be recognized or imitated by outside competitors very quickly and easily.

In addition to its great impact in contributing to the development of an area, a brand also has many benefits if a product registers a product that is produced through legal protection, especially trademarks. Based on Article 36 of the Regional Government Law, it is stated that one of the parameters of a region's economic potential can be seen from the economic growth and superior potential of the region itself. So in this case superior products including batik have a strong correlation in the economic parameters of a region so that they need to be supported and assisted in increasing the growth of small industries in the Sragen area so that they become more advanced, can compete in the national market and increase the competitiveness of these products in foreign markets. Following are some of the benefits obtained for batik business actors in Sragen by registering their products through trademarks as a whole and from an early age, while the benefits obtained are as follows (Directorate General of Intellectual Property, 2020):

a. As legal evidence of a registered mark

The first benefit is obtained when a product already has legal protection through trademark registration, the positive impact is that it already has legal or official evidence for the product produced. So when one day the product is recognized or claimed by another party, it cannot be because the product has been registered earlier with the legal protection of intellectual property rights (IPR) specifically for trademarks.

This can be used as a basis for business actors, especially small and medium-sized batik industries (IKM) in Sragen which have not been registered so that they cannot have official or legal evidence in the form of an intellectual property rights certificate (IPR). So it is very unfortunate when a new product has been able to enter various markets but does not yet have valid evidence, it is very easy for competitors to admit, imitate or duplicate the product. This condition is very vulnerable and very dangerous for business actors in the future, because it will shorten the life of the product in the market.

b. As a basis for rejection of the same brand

Basically, trademark registration is carried out to provide identity for a product that has not received legal protection through intellectual property rights (IPR), so that when a product already has an identity with a name and business license number (NIB) it will be safe and comfortable when the product has been entered to the market and used by consumers. So apart from being the identity of a product, a brand can also be used as a material or basis for rejection when one day there is a problem with the brand that is recognized or used by others.

This condition is very detrimental to the smoothness and growth of a product if there are products that are already in demand by many people but do not have a clear identity and business number. This is similar to the condition of the batik products of business actors in Sragen, which on average do not yet have a trademark. So it is very vulnerable to be imitated by competitors or used by competitors under their own name. This situation is not something new, but it has existed for a long time, but there are still many general public or business actors who do not clearly know the impact that will be obtained if the product is recognized by another party with a new name.

c. As a basis to prevent others from using the brand

The last benefit is the existence of legal protection for trademarks, other than as legal evidence and the basis for rejection of the same mark. On the other hand, the existence of a brand can also be used as a basis for anticipating others to use the brand. This is because a trademark that is officially registered at the Directorate General of Intellectual Property (IPR) cannot be used by other people without the permission of the party who owns the mark. So when a product that already has an official trademark, it should not be used by anyone else.

This is related to the existing conditions in the Batik Small and Medium Industry (IKM) in Sragen Regency which is still weak in its position in the market, because products that do not yet have officially registered trademarks cannot take precautions when other people or competitors use or make products. The legal power of the batik product is still weak because it has not been registered through the legal protection of intellectual property rights (IPR). So it is very vulnerable when a product does not have business legality or legal protection, the potential to be imitated or recognized by competitors is very easy. So as much as possible, the potential products belonging to the Sragen Regency, especially batik, should be registered as trademarks so that the safety and security of these products is maintained in the future.

Based on the description above, it can be concluded that by registering a mark, it can provide definite and clear legal guarantees for the products produced by the business actors themselves. The benefits received are not only the ownership of official proof of brand ownership which can be used as a basis for rejection of the same brand but also a basis for prevention of owned products from being used arbitrarily by other parties or competitors. Considering that the potential of small and medium batik industry (IKM) in Sragen is still wide open, it is hoped that the local government will

Seeing the great potential to grow and develop existing products in Sragen Regency, especially the batik industry in Masaran and Plupuh Subdistricts, in order to anticipate the existence of batik products that have not been protected by intellectual property rights (IPR). Efforts or solutions are needed to deal with this problem so that batik products in Sragen Regency get legal protection in various ways. According to the results of an interview with Rohandi Latif as an industry analyst, he explained ways that can be done such as: socializing regulations on brands to batik business actors, increasing legal awareness of batik business actors, direct guidance or assistance to batik businesses, and providing facilitation programs for trademark registration for batik entrepreneurs on a regular basis.

IV. Conclusion

The existence of batik small and medium industries (IKM) in Sragen has an important role in supporting government programs in terms of reducing unemployment and alleviating regional poverty. In addition, the existence of the batik industry is also a center of interest for the Sragen area in the eyes of the outside community, the unique motifs, designs and colors produced are able to attract the attention of consumers to use and wear these batik products. Even though batik products in Sragen are regional superior products, it turns out that so far there are still many products sold in the market that have not received legal protection of intellectual property rights (IPR) in the field of trademarks. The comparison between the number of business actors and the products registered is still far from equal distribution of trademark registrations in Sragen Regency. The various problems that exist in the regions are very diverse, from the lack of legal awareness of business actors, little information about brand regulations, limited human resources (HR), and the limited role of local governments in dealing with trademark issues for batik industry players in Sragen Regency. One of the

efforts that can be done by the local government and stakeholders is by registering Sragen batik products through the legal protection of intellectual property rights (IPR) of trademarks at the Directorate General of Intellectual Property (DJKI). Based on the analysis of the application of intellectual property rights (IPR) protection theory by M. Robert C.

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