

Effectiveness of Legal Protection in Preventing Intellectual Property Infringement by Micro and Small Enterprises

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Abstract: *Micro, Small, and Medium Enterprises (MSMEs) play a crucial role in Indonesia's economy, yet they often face challenges in protecting their intellectual property rights (IPR), particularly trademarks. This study aims to analyze the effectiveness of legal protection for trademarks owned by MSMEs and identify the barriers they encounter. Employing a normative juridical approach combined with empirical research, data were collected through document analysis, interviews, and surveys involving MSME actors in Surabaya and Mojokerto. The results reveal that despite the existence of comprehensive IPR regulations, the effectiveness of trademark protection remains limited. Key obstacles include a lack of understanding among business actors, complex registration procedures, and insufficient legal literacy. Survey findings show that over 50% of respondents perceive inadequate knowledge as the main barrier to trademark protection, followed by procedural complexities. Although costs were less of a concern, many MSMEs still fail to register their trademarks, leaving them vulnerable to infringement. This study concludes that while Indonesia's legal framework for IPR is well-established, its implementation requires significant improvement through enhanced education, streamlined procedures, and strengthened enforcement. Strengthening these aspects is essential to empower MSMEs, encourage innovation, and boost their competitiveness both domestically and internationally.*

INTRODUCTION

Micro, Small, and Medium Enterprises (MSMEs) are a rapidly growing industrial sector in Indonesia and serve as one of the main drivers of the national economy. This is reflected in data from the Ministry of Industry, which shows that in 2016, the MSME sector contributed 60.34% to Indonesia's Gross Domestic Product (GDP). In the same period, the MSME sector also absorbed 97.22% of the national workforce, demonstrating its strategic role in supporting Indonesia's economic and social development (Ismail et al., 2023).

In era of accelerating globalization, where innovation and creativity are essential to maintaining competitive advantage, the protection of intellectual property rights (IPR) has become a necessity rather than an option. Intellectual Property encompasses a range of rights, including trademarks, copyrights, patents, industrial designs, trade secrets, layout designs of integrated circuits, and geographical indications. Although MSMEs typically operate on a smaller scale, they frequently utilize trademarks, whether for goods (trademarks) or services (service marks), as a vital part of their business identity.

Trademark is a sign that can be represented graphically, including images, logos, names, words, letters, numbers, color compositions, in two or three-dimensional form, sounds, holograms, or combinations thereof, used to distinguish the goods or services produced by one person or legal entity from those of another. Legally, a trademark functions not only as a product identifier but also as a tool to protect the intellectual property rights of its owner. This protection is crucial for preventing misuse or infringement that could harm the trademark owner or mislead consumers, as noted in Richard Stim's *Intellectual Property Law*, trademarks serve as guarantees of quality for consumers and foster brand loyalty (Stim, 2024).

In Indonesia, trademark infringements and disputes are still prevalent, posing risks not only to the financial viability of MSMEs but also to their reputation and sustainability. The legal system's effectiveness in protecting trademarks is therefore of paramount importance. Despite the existence of relevant regulations, MSMEs and business actors in Indonesia still face significant challenges in registering and defending their trademarks (Jaman, 2024). For instance, the trademark dispute between BYD Indonesia and PT Worcas Nusantara Abadi (WNA) over the "Denza" mark underscores the urgency of reinforcing IPR protection to foster a fair and competitive business environment.

Worcas Nusantara Abadi Limited Company, a company specializing in traditional Indonesian food and beverages, registered the "Denza" trademark with the Directorate General of Intellectual Property (DGIP) on July 3, 2023, under registration number IDM001176306 in Class 12, which includes vehicles and apparatus for transportation by land, air, or water. This registration grants protection until July 3, 2033. In contrast, BYD filed for the same mark in Indonesia on August 8, 2024, also under Class 12. However, BYD claims prior international use of the mark "Denza," which is globally recognized (SYL, 2025). The case is currently ongoing in court, and it is expected to be both time-consuming and costly.

Indonesia has implemented several legal frameworks to protect intellectual property, particularly for MSMEs, including Law No. 20 of 2016 on Trademarks and Geographical Indications, and Law No. 28 of 2014 on Copyright. These laws are designed to provide comprehensive protection for innovation and creativity. The Indonesian government has shown a strong commitment to fostering a conducive legal environment for business, especially MSMEs, so they may safeguard their trademarks and innovations from infringement, thereby enhancing economic growth and global competitiveness.

Despite these efforts, the implementation and effectiveness of IPR laws remain problematic in practice. This research seeks to provide a deeper understanding of the legal framework for trademark protection in Indonesia, particularly as it pertains to MSMEs. The study aims to identify the strengths and weaknesses of existing regulations and propose improvements to enhance trademark protection for small enterprises. Moreover, it analyzes the effectiveness of law enforcement mechanisms and the obstacles MSMEs face in asserting their rights.

This research is expected to provide a substantive contribution to the development of more effective policy frameworks for the protection of intellectual property rights, particularly in the

context of micro, small, and medium enterprises (MSMEs). By fostering greater awareness and understanding among MSME actors regarding the importance of trademark protection, this study aims to support the creation of a more equitable and sustainable business ecosystem—one that encourages innovation and enhances the competitiveness of MSMEs in both domestic and international markets.

Aligned with this objective, the present study seeks to address two principal research questions: first, what is the legal framework governing the protection of intellectual property rights for MSMEs in Indonesia; and second, to what extent are the current enforcement mechanisms effective in responding to intellectual property rights violations.

METHODOLOGY

This research adopts a normative juridical approach in conjunction with an empirical approach (Marzuki, 2013). The normative juridical approach is utilized to analyze statutory regulations, legal doctrines, and legal principles pertaining to the protection of Intellectual Property Rights (IPR) for Micro and Small Enterprises (MSEs). This approach is fundamental for comprehending the prevailing legal framework and evaluating the extent to which these norms effectively safeguard trademark rights against infringements within business practices. The empirical approach is employed to examine primary data obtained through observations and interviews conducted with actors within the micro, small, and medium enterprise (MSME) sector. This approach seeks to acquire a factual understanding of the effectiveness of legal implementation in practice, including the challenges encountered by MSE actors in the processes of trademark registration and the enforcement of their rights. The data utilized in this study comprise both primary and secondary sources. Primary data are collected through interviews and questionnaires administered to MSE actors, whereas secondary data are obtained through a comprehensive literature review, encompassing statutory regulations, judicial decisions, scholarly journals, and legal textbooks.

RESULT AND DISCUSSION

Definition and Concept of Intellectual Property Rights (IPR)

Intellectual Property Rights (IPR) are fundamentally understood as legal rights derived from intellectual creativity that yields products of societal value. These rights confer upon individuals the legal authority to reap the benefits of their inventive efforts, embodying the core principle that every individual deserves equitable remuneration for their labor and creativity. IPR governs subject matter originating from human intellectual endeavors, encompassing intangible assets produced through cognitive and inventive processes, such as musical compositions or literary works. Understanding "*Intellectual Property Rights*" involves recognizing three core elements: rights, property, and intellect. Within this framework, property signifies an intangible asset that may be owned, transferred, sold, or purchased. Intellectual Property relates to the legal entitlements associated with the results of intellectual and creative endeavors, such as technological inventions, scientific advancements, artistic creations, literary works, and trademarks (Hidayat et al., 2022). Consequently, IPRs constitute the legal authority granted over intellectual outputs, regulated through established legal norms and frameworks.

Within Indonesia's civil law framework, which is influenced by the Dutch *Burgerlijk Wetboek* (BW), property is categorized into tangible and intangible assets. Article 499 of the Indonesian Civil Code defines property as "anything that can be possessed or subjected to proprietary rights." As explained by Professor Mahadi, this definition encompasses both physical

objects and legal rights over non-physical entities, with the latter pertaining to the realm of intellectual property rights (Saidin, 2015). In Western civil law traditions, property is typically classified according to the following categories (Syahrani, 2006):

1. Immovable and movable assets;
2. Perishable and durable assets;
3. Fungible and non-fungible assets;
4. Divisible and indivisible assets;
5. Tradable and non-tradable assets.

Indonesia ratified the Uruguay Round Agreements, including the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), through Law No. 7 of 1994. TRIPs mandates member states to harmonize their IPR systems with international standards. While TRIPs does not require identical legal systems, it establishes minimum standards that all signatories must implement. TRIPs (Kartadjoemena, 2000).

Although the 1945 Constitution of Indonesia (UUD 1945) does not explicitly regulate IPR, relevant provisions can be found under Chapter XA on Human Rights. Article 28C(1) of the Constitution affirms that:

"Every person shall have the right to develop himself/herself through the fulfillment of his/her basic needs, to receive education, and to benefit from science and technology, arts, and culture, for the improvement of his/her quality of life and for the welfare of humankind."

Moreover, Article 28D(1) of the Constitution of Indonesia (UUD 1945) guarantees legal certainty and equal treatment before the law. Such guarantees instill a sense of security in creators and innovators, enabling them to freely exercise their rights without fear of infringement.

Governance of intellectual property rights (IPR) reflects a profound connection with the fundamental principles set forth in constitutional provisions, particularly Article 28C Constitution of Indonesia (UUD 1945) (Wijaya et al., 2021). This article highlights the critical role of human development, the fulfillment of essential needs, and the deployment of knowledge and culture in fostering societal advancement. In the realm of intellectual property, several pivotal elements drawn from Article 28C provide a foundation for shaping the establishment, protection, and effective utilization of intellectual property systems. These elements are detailed as follows:

1. Self-development. Intellectual property represents a reflection of human self-development, particularly in the creation of various intellectual works such as inventions, creative works, designs, and various images and formulas for business and commercial purposes.
2. Basic needs. The expression of creativity resulting in intellectual works constitutes one of the basic human needs, with these works meeting the demands of others and thereby creating interactions between parties.
3. Scope of utility: science, technology, arts, and culture. Science, technology, arts, and culture represent the fields involved in the creation of intellectual works. Every individual needs to utilize these fields. Intellectual property is a system encompassing a broad range of areas, from traditional forms to digital innovations.
4. Improvement of quality of life. Intellectual property constitutes a private right of the individual concerned. At the initial stage, individuals seek to protect and defend their rights, for instance, by filing patents for inventions or registering other intellectual creations, or in some cases, by choosing not to seek formal protection.
5. Welfare of humanity. Protected intellectual property can contribute significantly to economic growth and, consequently, to the welfare of humanity.

The regulation of Intellectual Property Rights (IPR) in Indonesia is rooted not only in constitutional provisions but also articulated through a comprehensive body of implementing legislation aimed at safeguarding the creative expressions and innovations of its populace. The overarching legal framework encompasses a series of statutes governing distinct forms of intellectual property, including copyrights, trademarks, patents, and industrial designs, thereby ensuring robust and systematic protection for creators and rights holders.

Law No. 28 of 2014 on Copyright serves as a cornerstone in the legal protection of artistic and literary works. It delineates both moral and economic rights vested in creators, empowering them with enforceable claims against unauthorized exploitation of their intellectual output. Similarly, Law No. 20 of 2016 concerning Trademarks and Geographical Indications establishes a comprehensive regime for the registration, protection, and enforcement of trademark rights (Tambunan et al., 2023). By safeguarding brand identity and consumer trust, this statute plays a critical role in maintaining the integrity of goods and services within the commercial sphere. Law No. 13 of 2016 on Patents further fortifies the legal infrastructure for protecting technological innovations. It prescribes the rights conferred upon inventors for novel inventions and sets forth procedural mechanisms for patent registration, thereby incentivizing research, development, and technological advancement through legal exclusivity. Additionally, Law No. 31 of 2000 on Industrial Designs provides protection for the aesthetic elements of industrial products, promoting innovation and creativity while shielding original designs from unauthorized appropriation (Ida Ayu Mas Indriani et al., 2021). Collectively, these legislative instruments are intended to operationalize a coherent and effective IPR regime, thereby fostering an environment conducive to the flourishing of Indonesia's creative economy.

Effectiveness of Intellectual Property Law Enforcement Mechanisms in Indonesia

The protection and enforcement of intellectual property rights have become increasingly vital in the context of global economic integration and technological advancement. In Indonesia, the mechanisms for enforcing are essential not only for safeguarding the interests of rights holders but also for promoting innovation, creativity, and economic growth (Huda & Turisno, 2024). Despite the existence of comprehensive legal frameworks and institutional structures, challenges persist in ensuring the effective realization of these protections.

Protection of intellectual property rights provides significant benefits for micro and small enterprises in Indonesia. First, intellectual property protection offers legal assurance for MSMEs over the creations and innovations they produce. By securing legitimate rights, MSMEs are able to prevent other parties from copying or using their products without authorization, thereby promoting fairness in business competition. Second, registration can increase the commercial value of products produced by MSMEs. Intellectual property certificates not only serve as proof of ownership, but also as assets that can strengthen the bargaining position of MSMEs in the market. With legal protection, micro and small business actors are more confident in marketing their products, which in turn can attract more customers and increase sales. Third, protection of intellectual property encourages innovation among micro and small business actors. With the guarantee that their work will not be copied by others, micro and small business actors have more encouragement and motivation to invest in research and development to create new and innovative products. This can certainly increase business competitiveness and help micro and small business actors to survive in an increasingly competitive industry. Fourth, intellectual property rights also open up opportunities for access to international markets. By having an intellectual property certificate for the products being marketed, micro-entrepreneurs can more easily enter the global

market, because many countries require registration of intellectual property rights as one of the requirements for distributing and marketing products in their region. This allows micro and small entrepreneurs to expand their market reach not only in Indonesia but also in other countries and increase the country's foreign exchange earnings.

Despite an increasing awareness among micro and small enterprises of the critical role that intellectual property (IP) registration plays in securing legal protection and enhancing the commercial value of their products, the practical implementation remains fraught with significant challenges (Qin, 2024). The process of registering IP rights continues to be impeded by various factors, including limited dissemination of information, inadequate comprehension of procedural requirements, restricted access to competent legal assistance, and the perception of prohibitive costs associated with registration. Additionally, the absence of systematic support mechanisms from relevant authorities and the inherent complexity of administrative procedures exacerbate these difficulties. Consequently, a substantial number of products developed by micro and small enterprises remain unregistered, rendering them susceptible to intellectual property infringements and undermining their ability to leverage broader market opportunities.

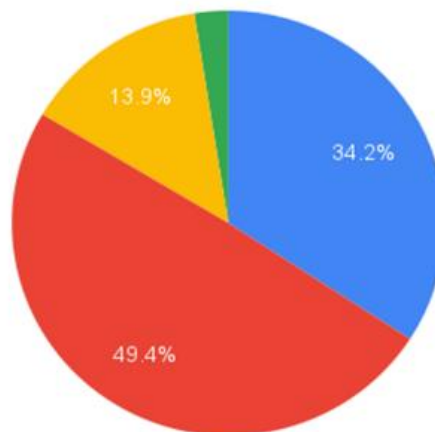


Figure 1. Business Actors' Perspectives on Trademarks as Elements of Intellectual Property

The pie chart above illustrates the results of a survey on the understanding of the importance of brand protection for micro and small businesses. This survey was conducted on 100 respondents consisting of 50 micro and small business actors in Simolawang Village, Mojokerto Regency, and 50 business actors in Surabaya City. From the survey results, it can be seen that the majority of respondents, namely 49.4%, admitted to having a sufficient understanding of the importance of brand protection. This shows that almost half of the respondents have a sufficient level of understanding, although not yet fully in-depth. This means that they already know the need for brands to protect their business, but may not yet understand all the legal aspects or the brand registration process in detail. A total of 34.2% of respondents indicated that they have a comprehensive understanding of the significance of brand protection. This is a promising statistic, as it demonstrates that over one-third of respondents have acknowledged the critical role brand protection plays in ensuring the survival and long-term viability of their businesses in an increasingly competitive market. Moreover, 13.9% of respondents conceded to an inadequate understanding of the mechanisms of trademark protection. This highlights the persistence of a subset of business actors who, despite being acquainted with the terminology of "trademark," do not possess a comprehensive awareness of its legal function in protecting business rights and mitigating the risk of infringement by third parties. Last 2.5% of respondents exhibited a total

absence of understanding concerning the critical importance of trademark protection. Despite the relatively small proportion, this cohort warrants particular attention, as they constitute a key demographic for targeted educational and legal literacy programs. The absence of such fundamental knowledge may significantly undermine the resilience and continuity of their business activities.

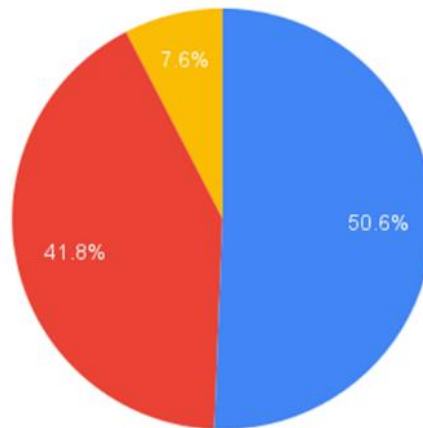


Figure 2. Legal Barriers to Trademark Protection for Micro and Small Enterprise

The diagram above illustrates the results of a survey regarding the primary obstacles faced by micro and small business actors in protecting their trademarks. The survey involved 100 respondents, consisting of 50 micro and small business operators from Simolawang Village, Mojokerto Regency, and 50 from the city of Surabaya. Respondents were asked to select one of three main challenges: registration costs, lack of understanding, or complicated and lengthy procedures. Based on the data presented in the pie chart, the most significant obstacle identified by respondents is the lack of understanding regarding the importance of trademark protection. A total of 50.6% of respondents selected this option. This figure indicates that more than half of the business actors, both from rural and urban areas, do not possess adequate knowledge concerning the significance of intellectual property rights, particularly trademarks. This condition reflects a substantial need for increased education and outreach efforts to raise awareness about trademark protection among micro and small business operators. In the second position, 41.8% of respondents identified complicated and lengthy procedures as their main challenge. This finding confirms that, despite some awareness of the importance of registering trademarks, the lengthy administrative processes, bureaucratic complexities, and extended processing times often constitute serious barriers. This aspect should receive considerable attention from the government or relevant institutions to simplify procedures, expedite services, and provide special assistance for micro and small enterprises. Meanwhile, only 7.6% of respondents indicated that registration costs constituted the primary obstacle. This relatively small percentage suggests that cost is not the dominant factor preventing business actors from protecting their trademarks. It may imply that existing programs such as fee subsidies or special registration tariffs for micro, small, and medium enterprises (MSMEs) have been effective in alleviating the financial burden on business operators.

CONCLUSION

The legal framework for the protection of Intellectual Property Rights (IPR) for Micro, Small, and Medium Enterprises (MSMEs) in Indonesia has been established through various laws that provide a legal basis for safeguarding the rights of creators and innovators. Law Number 28 of 2014 on Copyright, Law Number 20 of 2016 on Trademarks and Geographical Indications, and Law Number 13 of 2016 on Patents all play significant roles in offering legal assurance for MSMEs. With this legal framework, MSMEs are able to protect their works and innovations while simultaneously enhancing their competitiveness in the market. However, the enforcement of intellectual property rights in Indonesia still faces several challenges. Despite the existence of clear regulations, implementation on the ground is often suboptimal. A lack of socialization efforts, low legal awareness among MSMEs, and obstacles in the enforcement process have contributed to the ineffectiveness of intellectual property protection. Weak enforcement may lead to violations of intellectual property rights, thereby harming small and medium enterprises and hindering innovation growth. Overall, although the legal framework for protecting intellectual property for micro, small, and medium enterprises has been enacted to provide a strong legal foundation, its effectiveness still requires improvement. Further efforts are needed in terms of socialization, legal education, and stricter enforcement to ensure that micro-entrepreneurs can optimally benefit from intellectual property protection. These improvements would have a positive impact on innovation development and the competitiveness of small and medium enterprises in Indonesia.

REFERENCES

- Hidayat, T., Muskibah, M., & Fathni, I. (2022). Pendaftaran Merek Sebagai Bentuk Perlindungan Hukum Pada UMKM. *Zaaken: Journal of Civil and Business Law*, 3(3). <https://doi.org/10.22437/zaaken.v3i3.18845>
- Huda, M. A., & Turisno, B. E. (2024). MSME Development to Increase IPR Valuation. *International Journal of Social Science and Human Research*, 7(07). <https://doi.org/10.47191/ijsshr/v7-i07-40>
- Ida Ayu Mas Indriani, Ni Made Jaya Senastri, & Ni Made Puspasutari Ujianti. (2021). Perlindungan Hukum atas Desain Industri Berdasarkan Undang-Undang No 31 Tahun 2000. *Jurnal Interpretasi Hukum*, 2(2), 297–301. <https://doi.org/10.22225/juinhum.2.2.3430.297-301>
- Ismail, K., Rohmah, M., & Ayu Pratama Putri, D. (2023). Peranan UMKM dalam Penguatan Ekonomi Indonesia. *Jurnal Neraca: Jurnal Pendidikan Dan Ilmu Ekonomi Akuntansi*, 7(2), 208–217. <https://doi.org/10.31851/neraca.v7i2.14344>
- Jaman, U. B. (2024). Empowering MSMEs: Unravelling the Essence of Business Law and Brand Protection in Indonesia. *Jhbhc*, 103–117. <https://doi.org/10.30996/jhbhc.v7i2.10651>
- Kartadjoemena, H. S. (2000). *Substansi Perjanjian GATT WTO dan Mekanisme Penyelesaian Sengketa*. UI Press.
- Marzuki, P. M. (2013). *Penelitian Hukum, Edisi Revisi*. Kencana Prenada Media Grup.
- Qin, H. (2024). Challenges and Countermeasures in Intellectual Property Management for Small and Medium Enterprises. *Applied Science and Innovative Research*, 8(3), p123. <https://doi.org/10.22158/asir.v8n3p123>
- Saidin, O. (2015). *Aspek Hukum Hak Kekayaan Intelektual*. Rajawali Press.
- Stim, R. (2024). *Patent, Copyright & Trademark* (G. Secor, Ed.; 18th ed.). Nolo.
- Syahrani, R. (2006). *Seluk-beluk dan Asas-asas hukum Perdata* (3rd ed.). Rineka Cipta.
- SYL. (2025, February 3). *Dinamika Sengketa Merek Denza antara BYD vs PT WNA: Pelindungan Kekayaan Intelektual yang Adil*. Direktorat Jenderal Kekayaan Intelektual Indonesia.

-
- Tambunan, M., Panjaitan, B., & Siahaan, N. (2023). Legal Protection of Copyright Based on Law Number 28 of 2014 Concerning Copyright. *Journal of Social Research*, 2(4), 1355–1362. <https://doi.org/10.55324/josr.v2i4.807>
- Wijaya, A. U., Kusnadi, S. A., Gandryani, F., & Purwaningtyas, F. D. (2021). Philosophical Values of Pancasila on the Intellectual Property Rights Regulation in Indonesia. *Journal of Law, Policy and Globalization*. <https://doi.org/10.7176/JLPG/113-04>