

Raising Legal Awareness in MSME Trade: Protecting and Registering Trademarks

Putri Rumondang Siagian^{1*}, Yati Sharfina Desiandri², Saidin³, Saddam Shauqi⁴, Hilbertus Sumplisius M. Wau⁵, T. Keizerina Devi Azwar⁶

^{1,2,3,4,5,6} Universitas Sumatera Utara, Medan, 20156, Indonesia

* Corresponding author's e-mail : putri.siagian@usu.ac.id

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ABSTRACT

Micro, Small, and Medium Enterprises (MSMEs) as small-scale industries tend to ignore the importance of intellectual property protection, particularly evident in the minimal registration of MSME trademarks with the Directorate General of Intellectual Property. Although the World Intellectual Property Rights (WIPO) recognizes the potential of MSMEs to drive product innovation and creativity, MSME awareness of the use of Intellectual Property Rights remains low. This study uses a normative legal research method, focusing on the study of legal provisions related to MSME trademark registration and protection. A descriptive analytical approach is used to identify and resolve existing legal issues, with reference to relevant laws and regulations. Trademark registration is considered the basis for rejecting similar trademarks filed by other parties for similar goods or services. The "first to file" principle applies in Indonesia, which grants exclusive rights to the first registrant for 10 years. Efforts to increase MSME legal awareness of the importance of trademarks, particularly through registration, are crucial. Legal counseling can be an effective means to increase public understanding, by emphasizing the legal protection and legal certainty provided by trademark registration. The importance of legal counseling as a strategy to increase legal awareness among MSMEs in registering their trademarks needs to be considered. This awareness can ensure that MSMEs understand the importance of brands to their businesses and can manage them legally to maintain their protection. This study recommends the need for further provision and understanding through legal counseling to ensure better legal awareness among MSMEs.

1. Introduction

Micro, Small, and Medium Enterprises (MSMEs) play a fundamental role in supporting the national and global economy. Their contribution to job creation, equitable development, and economic growth has been widely recognized in various countries. In Indonesia, MSMEs are the backbone of the people's economy, with a dominant number of business units spread across almost all sectors. Despite this, MSMEs still face structural challenges, one of which is low legal awareness regarding the protection of intellectual property, particularly trademarks. This low legal literacy has serious consequences because brands are not only legal instruments but also strategic economic assets that protect products from piracy, strengthen sales value, and expand market access (Bafadhhal, Alissa, & Suhermi, 2024).

Trademark protection for MSMEs must be understood not only from a formal legal perspective, but also from the perspective of economic sustainability and long-term competitiveness. International research confirms that trademarks are closely linked to business sustainability and economic performance, particularly for startups. For example, social startups in Germany that registered their trademarks early on were shown to have higher business resilience than those that did not. This fact demonstrates that trademark registration is not merely a legal formality, but a strategic investment for the sustainability of MSMEs (Zulkifli, Yulia, Almusawir, Abdurrifai, & Rizal, 2025).

Besides serving as a legal protection tool, brands also serve as a symbol of credibility that determines a business's performance and internationalization capabilities. Studies in the UK and Irish fashion sectors have shown that MSMEs with registered brands have a greater opportunity to penetrate the global market. Trademark registration not only provides protection from infringement but also increases the trust of consumers and international business partners (Rienda, Ruiz-Fernández, & Carey, 2021). However, the majority of MSMEs in Indonesia still face serious obstacles in registering their trademarks. The main obstacles include limited funds, low legal literacy, and lack of access to information regarding registration procedures. Research in Indonesia shows that despite the normative understanding of the benefits of trademark certification, most MSMEs do not apply for registration. This condition is influenced by a weak understanding of the importance of brand protection, necessitating a more systematic empowerment and mentoring program from the government and relevant institutions (Simatupang, Siregar, & Simamora, 2025).

Another exacerbating issue is the complexity of intellectual property regulations, which are considered complex, expensive, and time-consuming. Weak enforcement of trademark infringement laws further reduces the motivation of MSMEs to register. Legal research in Indonesia confirms that trademark protection for MSMEs does not fully meet the principle of justice, as legal uncertainty and administrative barriers persist. Therefore, the role of the state in expanding access to more easily understood information, expediting administrative processes, and providing legal assistance is crucial to increasing MSME participation in the intellectual property legal system (Waspiyah, Rodiyah, Latifiani, & Arifin, 2020).

From a global perspective, the challenges faced by MSMEs in trademark registration are not unique to Indonesia but are a universal phenomenon. International studies have revealed that high costs, legal complexity, and minimal institutional support are the main obstacles to MSME participation in intellectual property protection systems. However, the experience of countries with inclusive policies and efficient legal systems demonstrates that MSMEs can grow more rapidly and contribute significantly to national innovation when brand protection is optimally supported (Zulkifli et al., 2025).

Thus, legal awareness of trademark protection for MSMEs should be viewed as a fundamental strategy, both to protect businesses from losses due to piracy and to strengthen national competitiveness in the global market. Effective trademark protection not only guarantees legal certainty but also encourages a healthy, competitive, and sustainable business climate. Therefore, synergy is needed between the government, academics, legal practitioners, and business actors to build a trademark registration system that is more inclusive, simpler, and provides tangible benefits for MSMEs (Rienda et al., 2021; Simatupang et al., 2025).

In the realm of trade law, the issue of Intellectual Property Rights (IPR) cannot be separated from trade and investment activities. IPR plays a vital role in the development of a knowledge-based economy, while maintaining a healthy business competition climate. IPR protection plays a role in preventing unfair competition practices such as imitation, piracy, and unauthorized use of intellectual works belonging to other parties (Saidin, 2007). This is in line with the provisions in Law No. 7 of 2014 concerning Trade, which defines trade as all activities of transactions of goods and/or services, both domestically and across borders, with the aim of obtaining profit or compensation. Brands in the context of trade function as identities that distinguish the origin of goods or services,

while providing significant commercial value. Certain products even obtain premium prices solely because of the strength of their brands (Indonesia, 2015; Simatupang, 2003).

Every MSME product, whether goods or services, contains elements of both material and immaterial assets. A brand is a form of immaterial assets that serves as a distinguishing mark so consumers can easily recognize a product. Without a brand, consumers would have difficulty distinguishing one product from another. This makes a brand an intellectual creation that significantly contributes to the smooth flow of trade in goods and/or services (Verawati, 2022). Law Number 20 of 2016 concerning Trademarks and Geographical Indications explicitly regulates trademark protection through a constitutive system. This means that trademark rights are only obtained after going through the registration process, and the party who first registers a trademark in good faith is entitled to legal protection. This regulation emphasizes the importance of legal awareness among MSMEs to promptly register trademarks to avoid claims from other parties (Dharmawan & et al., 2016). In relation to protection, Article 21 of the law regulates the concept of "similarity in essence" or "similarity as a whole," which emphasizes the need for trademark distinctiveness in determining the validity of registration (Jened, 2015).

Unfortunately, most MSMEs still consider IPR protection, including trademarks, a low priority because they operate on a small scale. Data from the Directorate General of Intellectual Property shows a low number of trademark registrations by MSMEs. However, according to the World Intellectual Property Organization (WIPO), MSMEs have significant potential for growth through product innovation and creativity. A lack of understanding of the importance of registered trademarks hinders this potential. Therefore, increasing brand awareness and legal literacy is an urgent need for MSMEs to be able to optimally utilize the legal protection system (Betlehn & Samosir, 2018).

2. Method

The research method used in this study is normative legal research. Normative legal research focuses on the study of applicable positive legal norms through a review of relevant laws and regulations, doctrines, and legal principles. This approach was chosen because the problem being studied relates to the registration and legal protection of Micro, Small, and Medium Enterprises (MSME) trademarks, which is essentially a legal issue. Normative legal research is useful for describing, interpreting, and analyzing applicable legal provisions, while also assessing the extent to which these regulations can provide adequate protection for MSMEs in safeguarding their trademark rights. ¹

The type of research used is analytical descriptive. Analytical descriptive research aims to provide a systematic, factual, and accurate overview of the problem under study, followed by an in-depth analysis. In this context, the research is conducted by describing the legal provisions regarding trademark registration and the legal protection inherent in those trademarks, then analyzing their effectiveness and relevance to the conditions faced by MSMEs. Analytical descriptive research not only presents normative descriptions but also emphasizes critical analysis of actual problems, such as obstacles experienced by MSMEs in the trademark registration process, limited legal understanding, and the effectiveness of protection provided by existing regulations. ²

Thus, the use of normative legal research methods with analytical descriptive research types allows this research to comprehensively explore the legal aspects that regulate the registration of MSME trademarks while providing a critical analysis of the problems that arise, so that a complete understanding can be found regarding the urgency and challenges of legal protection of trademarks for MSMEs.

¹ Erwinsyahbana and Ramlan, "Penelitian Kualitatif Bidang Ilmu Hukum Dalam Perspektif Filsafat Konstruktivis."

² Sihombing and Haditia, *Penelitian Hukum*.

3. Results and Discussion

Legal awareness among Micro, Small, and Medium Enterprises (MSMEs) regarding the importance of trademark registration remains a major challenge to national economic development. Research in Surakarta revealed that although MSMEs are familiar with trademarks in their marketing activities, few understand that trademarks can be legally protected through official registration. The main obstacles that arise are unfamiliarity with procedures, classification of goods and services, document requirements, and costs. These factors discourage MSMEs from initiating the registration process. Therefore, even if trademarks are used in trade, their legal status remains unprotected in the event of a dispute (Destyarini, Rahmawati, & Annisa, 2023). Regulations regarding trademark protection are clear, as stipulated in Law Number 20 of 2016 concerning Trademarks and Geographical Indications, and strengthened through the Job Creation Law. However, implementation of these regulations has not been optimal. Several local governments have attempted to provide fee subsidies and free registration services, but the perception that trademark registration is expensive and time-consuming remains a persistent barrier among MSMEs. This emphasizes that policy alone is not sufficient; access to services and more intensive support are needed to ensure effective legal implementation (Djulaeka & Pratiwi, 2022).

Business owners' understanding of the benefits of registered trademarks is actually quite good, particularly in the context of legal protection. A registered trademark grants its owner exclusive rights, which can be used as protection against counterfeiting and as a valuable asset for licensing. However, registration rates remain low because many MSMEs are discouraged by complex bureaucracy and administrative requirements. The lack of technical assistance and legal outreach often leads to them being unaware of the concrete steps to take after understanding the need for trademark registration (Maesa, Suryamizon, & Nazar, 2023). Socialization and training programs initiated by universities and community organizations have proven effective in raising awareness among MSMEs. After participating in these programs, many business owners who were previously unaware that trademark registration was possible began to show seriousness about applying for trademark registration. However, there is a gap between this increased understanding and concrete action. High costs and complicated administrative procedures remain the dominant obstacles preventing MSMEs from realizing their intention to register their trademarks (Destyarini et al., 2023).

Digital transformation presents a significant opportunity to expand access to trademark registration services. The Directorate General of Intellectual Property (DJKI) has provided an online platform that allows businesses to submit applications, monitor status, and access procedural guidance online. Despite this convenience, other obstacles such as limited digital literacy, poor internet infrastructure, and a lack of supporting facilities prevent most MSMEs from optimally utilizing technology (Putri & Syamsir, 2024). Research conducted in Jambi emphasized that brands are not only product identities but also legal assets with long-term economic value. Registered trademark ownership provides legal protection against counterfeiting and can increase business competitiveness. However, low legal awareness leaves MSMEs highly vulnerable to brand piracy or imitation, ultimately detrimental to their well-being (Hidayat, Muskibah, & Fathni, 2022).

Theoretically, trademarks in intellectual property law serve as a means of distinguishing between products, as well as guaranteeing reputation and quality. Sardjono (2012, p. 45) states that owning a registered trademark not only strengthens legal standing but also serves as a business strategy capable of expanding the market. Similarly, Hartanto (2016, p. 72) asserts that the *first-to-file system* stipulated in Law Number 20 of 2016 often results in significant losses for MSMEs, as exclusive rights are granted to the first party to register, not the first to use. This situation further emphasizes the urgency of trademark registration from the outset of a business's operations. The importance of trademark registration can also be seen from an economic perspective. Djumhana and Djubaedillah (2014, p. 133) explain that a registered trademark is *an intangible asset* that can be used as collateral for credit, licensing, or franchising. Without legal protection, MSMEs lose the opportunity to optimize

the economic value of their trademarks. Unfortunately, limited legal knowledge and digital literacy remain obstacles, despite the availability of online facilities (Saidin, 2015, p. 98).

The lack of public awareness campaigns by the government and legal institutions also exacerbates the low legal awareness of MSMEs. Subekti and Tjitrosudibio (2013, p. 54) emphasize that legal protection for trademarks is an integral part of MSME empowerment, which will increase national competitiveness. Therefore, collaboration between institutions, universities, and community organizations needs to be expanded to ensure more equitable distribution of public awareness programs.

Law Number 20 of 2016 also regulates trademark protection for up to ten years, extendable. However, Ramli (2010, p. 112) states that a lack of understanding of the long-term benefits of this protection often discourages MSMEs from registering. However, legal protection for trademarks also supports national interests, particularly in increasing the competitiveness of Indonesian products in the global market (Gautama, 2010, p. 67). From a fairness perspective, Darwance (2018, p. 88) asserts that many MSMEs are disadvantaged because larger companies register their trademarks more quickly, even though they have long used the same trademark. This suggests the need for affirmative action policies in the form of fee subsidies or collective registration. Damian (2014, p. 120) adds that exclusive rights to a trademark are absolute, so only registration can provide certainty of protection.

Legal culture also plays a significant role. Harahap (2011, p. 135) explains that business actors in Indonesia tend to ignore legal protection and focus more on production and marketing. As a result, trademark registration is seen as a secondary need. However, in modern business practices, registered trademarks increase investor confidence and strengthen the bargaining position of MSMEs in the market (Sardjono, 2012, p. 152). Trademarks themselves have several levels of recognition, ranging from *normal marks*, *well-known marks*, to *famous marks*. These recognition standards reflect differences in consumer perceptions of product quality and reputation (Syafi'i, Nugroho, & Rahayu, 2021). In the context of MSMEs, strengthening trademarks is essential to building product identity and enabling them to compete in the global market. A similar situation was also described by Indrawati and Setiawan (2020), who emphasized the importance of trademark protection for MSME products, which are typically produced by individuals or small businesses. According to a report by the Indonesian Ministry of Law and Human Rights (2024), the number of intellectual property registration applications in the 2019–2021 period was only around 76,294, despite the total number of MSMEs in Indonesia reaching 65.4 million. This figure demonstrates a significant gap between potential and legal awareness.

A trademark that is substantially or entirely identical to a trademark already filed by another party for comparable goods or services may be refused on the grounds of trademark registration. In addition to providing economic benefits from the product produced and providing a unique identity to the product through branding, trademark registration can prevent third parties from using the same mark in the purchase and sale of goods and/or services, either in whole or in part. The trademark registration system consists of two parts:

1. Declarative registration system.

The declaratory system, also known as the first user system, allows trademark owners, even those whose marks are not yet registered, to request cancellation from the party claiming to be the first user.

2. Constitutive registration system.

This system, which requires trademark owners to register their trademarks to obtain legal protection, is known as the "first to file" system. There are further requirements for trademark registration. These requirements are generally outlined in Article 4 of Law Number 20 of 2016, which reads as follows:

- a. The applicant or his proxy submits an application for trademark registration in Indonesian, either electronically or manually.
- b. In accordance with paragraph (1), the Application must contain: a. the date, month, and year of the application; b. the full name, nationality, and address of the applicant; c. the full name and address of the Attorney, if the Application is submitted through an Attorney; d. the color, if the Trademark for which registration is requested uses color elements; e. in the case of an Application submitted with Priority Rights, the name of the country and the date of the first Trademark application; and f. the class of goods and/or class of services and a description of the type of goods and/or services.
- c. The applicant or his legal representative signs the application.
- d. The application as referred to in paragraph (1) is submitted by attaching proof of payment of fees and brand labels.
- e. Trademark registration fees are set for each class of goods and/or services.
- f. The Brand Label attached is in the form of Brand characteristics if the Mark as intended in paragraph (4) has three (three) dimensions.
- g. In the case of a Brand as referred to in paragraph (4) in the form of sound, the Brand label attached will be in the form of a notation and sound recording.
- h. The application as referred to in paragraph (1) must be accompanied by a statement of ownership of the trademark for which registration is being requested.

The explanation of Article 4 indicates that registration and fulfillment of related requirements are prerequisites for trademark protection, which is not automatic. However, supervision and protection of unregistered trademarks are not regulated by law. Applications for trademark registration can be accepted or rejected by the Minister at any time. As long as the applicant can prove that the trademark is not a rejected and unregistered trademark, the applicant can still file objections and rebuttals to the rejection. Based on Articles 20 and 21 of Law Number 20 of 2016, there are several requirements for trademarks that cannot be registered and are rejected:

Article 20 paragraph (1) A mark cannot be registered if:

- a. contrary to state ideology, law, morals, religion, decency, or public order;
- b. the same as, related to, or only mentions the goods and/or services for which registration is requested ;
- c. contains elements that can mislead the public about the origin, quality, type, size, kind, purpose of use of goods and/or services that must be registered or is the name of a protected plant variety for similar goods and/or services;
- d. contains information that does not correspond to the quality, grade or efficacy of the goods and/or services produced;
- e. does not have any distinguishing power; and/or
- f. is a common name and/or symbol belonging to the public.

Meanwhile, in Article 21 paragraph (1), the application is rejected if the mark is substantially or entirely similar to:

- a. Registered trademarks belonging to another party or submitted in advance by another party for similar goods and/or services;

- b. Well-known brands owned by other parties for similar goods and/or services;
- c. A well-known brand owned by another party for goods and/or services of a different type that meet certain requirements; or
- d. Registered geographical indication.

Article 21 paragraph (2) Application is rejected if the Mark:

- a. constitutes or resembles the name or abbreviation of a famous person's name, photo, or the name of a legal entity belonging to another person, except with the written consent of the authorized person;
- b. is an imitation or resembles the name or abbreviation of the name, flag, symbol, or symbol or emblem of a country, or national or international institution, except with the written approval of the competent authority; or
- c. is an imitation or resembles an official sign or stamp or seal used by a country or government agency, except with written approval from the competent authority.

Trademark registration is one way to protect MSME trademarks under the Trademark Law. This is because the trademark registration system in Indonesia adheres to the first-to-file principle, namely that the person who first registers a trademark will obtain exclusive rights to the trademark for ten (10) years, and after that no one may use it without the consent of the owner or holder. (Lindsey, 2002)The number of MSME trademarks in Indonesia as stated in Law Number 20 of 2016 concerning Trademarks and Geographical Indications is relatively low. Letter a in the preamble to the 2016 Trademark Law mentions MSME Trademarks, which reads, "In the era of global trade, in accordance with international conventions that have been ratified by Indonesia, especially protection of domestic industry, micro, small, and medium enterprises, justice, and healthy business competition, all of which are facilitated by the use of trademarks and geographical indications.

The 2016 Trademark Law maintains healthy economic competition while providing stability and legal protection for Indonesian SMEs. If large industries do not use their dominant position to suppress MSMEs, which should collectively drive the economy, then healthy competition among business actors can be realized. The government must use the 2016 Trademark Law as a tool to protect business actors, especially MSMEs operating in large industries or other legitimate businesses, because this makes it difficult to take what MSMEs already have, such as intellectual property, which is protected by law. The government simplifies trademark registration. (Mega Jaya et al., 2022) Efforts to increase MSME legal awareness of brands, especially regarding trademark registration, are crucial. The general public, especially MSMEs, must understand that trademark registration provides legal certainty and legal protection for brand owners. Providing legal assistance is one way to help the community as MSMEs become more legally aware. According to Soerjono Soekanto, legal awareness is knowledge of human values regarding current or anticipated laws. Its infiltration is based on legal functions and not on analysis of specific events in the relevant communities.(Soekanto, 1982)

Meanwhile, Malaysia has taken various strategic steps to raise legal awareness among MSMEs regarding the importance of trademark registration. The government, through the Intellectual Property Corporation of Malaysia (MyIPO), actively organizes outreach programs, seminars, and training aimed at educating MSMEs about intellectual property rights, including the trademark registration process (Karim, 2022). The legal basis used is the Trademarks Act 1976 , which regulates the rights and obligations of trademark owners, the registration process, and the dispute resolution mechanism related to trademarks in Malaysia. However, significant challenges remain, particularly among MSMEs who do not fully understand the benefits of trademark registration and the procedures involved. Lack of legal literacy and limited access to official information prevent some

MSMEs from optimally utilizing available facilities (Karim, 2022). Furthermore, an intellectual property management (IPM) approach is one of the recommended strategies to improve MSMEs' understanding of their intellectual property. Abdullaah et al. (2010) emphasized that IPM encompasses three main value chains: IP creation, IP protection, and IP commercialization. By implementing this approach, MSMEs in Malaysia can view trademarks not merely as product identities, but as valuable business assets that can increase competitiveness and provide legal protection against potential infringements. This understanding is expected to encourage MSMEs to be more proactive in registering their trademarks, utilizing intellectual property rights as a business strategy, and maximizing their economic potential (Abdullaah et al., 2010).

Singapore is known for its efficient, transparent, and accessible trademark protection system. The Singaporean government, through the Intellectual Property Office of Singapore (IPOS), regulates trademark protection under the Trademarks Act 1998, which covers registration procedures, the rights and obligations of trademark owners, and dispute resolution mechanisms. Research by Mashdurohatun and Gunarto (2019) shows that the Singaporean government has created a conducive environment for MSMEs to register their trademarks. Various proactive policies and integrated administrative mechanisms enable the trademark registration process to be fast, simple, and reliable, allowing MSMEs to obtain clear legal protection for their products. This system not only strengthens the position of MSMEs in the domestic market but also supports their readiness to compete in the global market (Mashdurohatun & Gunarto, 2019).

However, challenges remain, particularly related to the utilization of the system by newly developing MSMEs. Mashdurohatun and Gunarto (2019) emphasize the need for ongoing education and outreach efforts to ensure that all MSMEs are aware of the importance of trademark registration as part of their business strategy. This education includes understanding registration procedures, the rights and obligations of brand owners, and the potential for commercializing trademarks as economic assets. With this approach, Singaporean MSMEs can maximize legal protection and sustainably enhance their competitiveness. Legal consultations can help the general public understand the value of a brand for their company, how to ensure its operations are protected by law, what constitutes good faith in trademark registration, and how to conduct business. An additional benefit of trademark registration is that it can boost the production of MSMEs through significant market expansion and equip them to face trade and commercial competition at the national and global levels. Regular consultations, conducted in an interactive lecture style, are one tactic that can be applied in these legal consultations. This is followed by a discussion or question-and-answer session with counseling participants and encouragement to develop a follow-up plan for emerging issues.

4. Conclusion

A trademark is an indicator of similar goods or services produced or traded by an individual, group of individuals, or legal entity used to distinguish them from similar goods or services produced by other parties. A trademark can also serve as a guarantee of quality or as a means of building brand awareness in the context of trade in goods and services. A trademark plays a crucial role in identifying a company, product, or business, so company owners must take legal steps to secure the existence of the trademark in order to protect their rights as trademark owners. There are two different systems for registering trademarks: the declarative system and the constitutive system. Trademark protection is not automatic; registration and compliance with relevant regulations are prerequisites. However, the supervision and protection of unregistered trademarks are not protected by law. Indonesia adheres to the first-to-file principle, which states that the first person to register a trademark will receive it. This exclusive right is granted for ten (10) years, after which no one may use the trademark without the permission of the owner or holder.

To increase legal awareness among MSMEs regarding trademark registration, legal counseling is needed to educate the public about the value of brands for businesses, how to manage their operations to ensure legal protection, and what constitutes good faith in trademark registration and business operations. Because trademark legal protection is not yet a primary concern in Indonesia, more comprehensive legal consultations regarding trademark registration for MSMEs are needed. This is due to the high number of trademark disputes and the low number of trademark registration applications submitted. Furthermore, public awareness of the importance of brands in the creative sector is still low. Brands prioritize commercial interests over legal and technical concerns. In addition to harming the state, inventors, and society, trademark infringement also impacts economic, socio-cultural, and legal relations, and can even trigger international political turmoil.

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