

Legal Protection of Brands on Regional Food Products for the Bernung Community in Lampung Province

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Abstract

Bernung is one of the villages in Gedong Tataan District, Pesawaran Regency, Lampung Province. The majority of the people of Bernung Village are entrepreneurs in the culinary sector, especially culinary delights made from bananas and cassava. Bananas and cassava are basic ingredients that are also commonly grown by the Bernung Community. Local village officials have conducted a lot of training for the Bernung Village Community in order to improve the quality of the culinary products produced. Apart from improving product quality, what is also no less important is increasing public awareness regarding the protection of intellectual property rights from the efforts they undertake to protect people's intellectual property rights. The method used is to provide legal education regarding the importance of legal protection regarding intellectual property rights to the people of Bernung Village, Pesawaran Regency, Lampung. This legal counseling was carried out by the Community Service Team from the Faculty of Law, Sang Bumi Ruwa Jurai University. The impact of this legal education can be felt directly by the Bernung Village Community, and several others have even implemented it directly by registering their trademarks with the Directorate General of Intellectual Property, Ministry of Law and Human Rights.

Abstrak

Perlindungan Hukum Merk terhadap Produk Makanan Khas Daerah bagi Masyarakat Bernung di Lampung. Bernung merupakan salah satu desa yang berada di Kecamatan Gedong Tataan, Kabupaten Pesawaran, Provinsi Lampung. Masyarakat Desa Bernung mayoritas menjadi pelaku usaha pada bidang kuliner, terutama kuliner berbahan dasar pisang dan singkong. Pisang dan singkong merupakan bahan dasar yang juga umum ditanam oleh Masyarakat Bernung. Aparat desa setempat telah banyak melakukan pelatihan-pelatihan kepada Masyarakat Desa Bernung dalam rangka meningkatkan kualitas produk



kuliner yang dihasilkan. Selain meningkatkan kualitas produk, yang juga tidak kalah penting adalah meningkatkan kesadaran bagi masyarakat mengenai perlindungan hak kekayaan intelektual dari usaha yang mereka lakukan dalam rangka melindungi hak kekayaan intelektual masyarakat. Metode yang digunakan adalah dengan melakukan penyuluhan hukum mengenai pentingnya perlindungan hukum tentang hak kekayaan intelektual kepada Masyarakat Desa Bernung, Kabupaten Pesawaran, Lampung. Penyuluhan hukum ini dilakukan oleh Tim Pengabdian dari Fakultas Hukum Universitas Sang Bumi Ruwa Jurai. Dampak dari adanya penyuluhan hukum ini dapat langsung dirasakan oleh Masyarakat Desa Bernung, bahkan beberapa lainnya juga langsung mengimplementasikannya dengan mendaftarkan merk dagang mereka ke Direktorat Jenderal Kekayaan Intelektual Kementerian Hukum dan Ham.



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INTRODUCTION

Bernung is one of the villages in the Gedong Tataan sub-district, Pesawaran Regency, Lampung Province, Indonesia. The population of Bernung Village based on data from <https://dukcapil.pesawarankab.go.id/> as of January 2021 is 5,289 people. Gedong Tataan itself is the capital of Pesawaran Regency. Located in the middle of urban areas, bordering Way Lima District, Negeri Katon District, and Padang Cermin District. A total of 558 residents work in the health sector (Pesawaran, 2022)

Bernung Village itself is one of the villages located in the middle of Gedong Tataan District. Many of the people of Bernung Village are entrepreneurs, especially in the culinary sector, including processed banana and cassava foods. Bananas and cassava are also the two main ingredients produced by farmers living in Bernung Village. In order to improve the standard of living of the people of Bernung Village, the Village government has made various efforts, one of which is providing assistance to improve the quality of the products produced. However, considering that our country is a country of law, efforts are also needed to protect the intellectual property rights produced by the Bernung Village Community. In relation to culinary businesses, one of the most appropriate types of intellectual property rights to be socialized is brand rights.

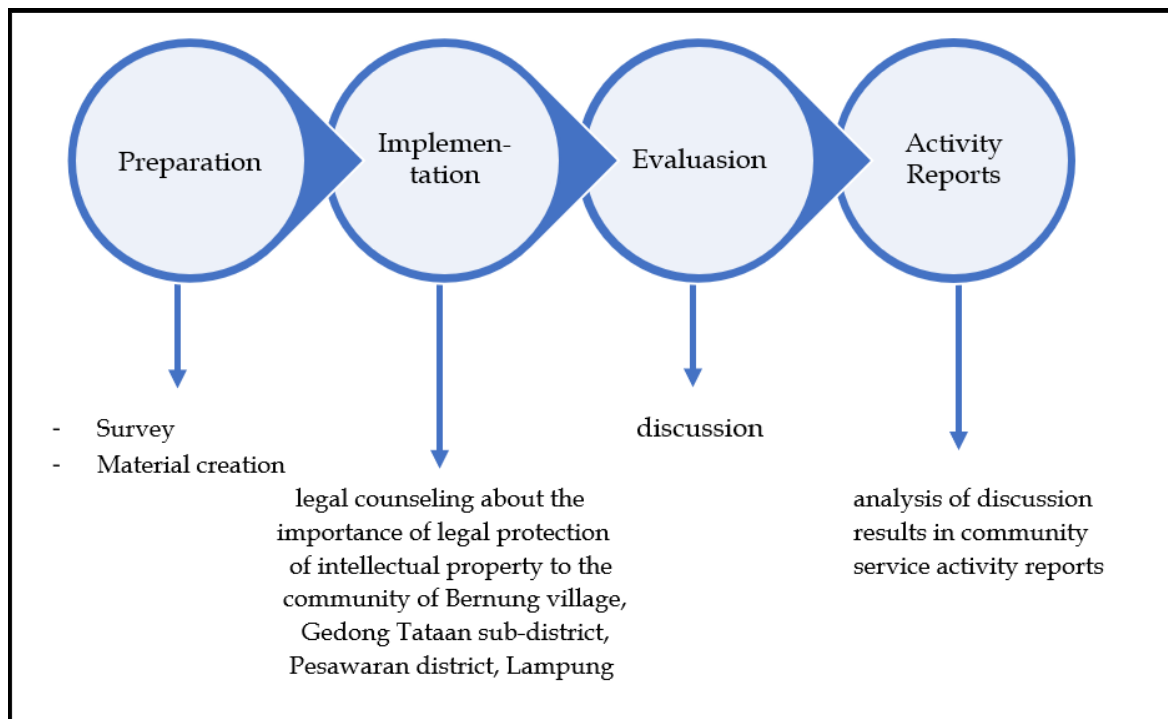
Siti Wardah, in her research conducted in Sungai Luar Village, Batang Tuaka District, Indragiri Hilir Regency, Riau, revealed the importance of registering trademark rights for MSMEs. In his conclusion, Wardah said that the people of Sungai Luar Village generally do not understand brand rights, even though branding issues are an important business problem. Trademark registration can provide legal protection for business owners to prevent other parties from using their trademark (Wardah, 2023). Iin Indriani also conducted similar research in Cijengkol Village, Sukabumi, West Java. In his conclusion, Iin said that it is important to protect intellectual property through existing legal instruments, one of which is trademark rights and patent rights (Indriani et al., 2021).

Brands have strategic and important value, both for producers and consumers. For producers, namely to differentiate from other similar products, apart from that, brands are also used to build the company's image in marketing (Sukro, 2019). Oktaviarni also conveyed the importance of protecting intellectual property rights, that assistance is needed, apart from just socializing the importance of protecting intellectual property rights, so that the benefits can also be felt directly by the community. (Oktaviarni et al., 2021). Rahmadany also conducted similar legal counseling in Bandar Labuhan Village, Tanjung Morwa District. The aim is to educate the public regarding the importance of trademark registration for MSMEs to avoid problems, one of which is trademark counterfeiting carried out by irresponsible parties (Rahmadany & Erwany, 2022).

Based on the studies above, it can be concluded that socialization regarding the protection of intellectual property rights is very important to be carried out in regions, one of which is also carried out in Bernung Village, Gedong Tataan District, Pesawaran Regency, Lampung Province. The benefits of registering intellectual property include: identification marks to distinguish it from other similar products, a means of trade promotion and guarantees for the quality of goods or services (Anugrahwati, 2017).

\IMPLEMENTATION METHOD

The method for implementing service to the Bernung Village Community is carried out in several stages as follows (Dewi et al., 2022):



Gambar 1. Implementation Method



Information:

1. Preparation

The preparation process for implementing community service begins with carrying out observations in the field (Ayu, 2021), namely in the environment of Bernung Village, Gedong Tataan District, Pesawaran. Next, request permission from the Head of Bernung Village to carry out community service activities within the Bernung Village Office. Conduct interviews with Bernung Village officials and several local community representatives to gather the information needed to determine the theme of community service activities. Next, problem identification is carried out to then formulate an appropriate theme which will be included in the discussion material that will be presented during the implementation of community service activities (Ristawati et al., 2021).

2. Implementation

At this stage, it means that the activity plan is realized as the implementation of community service activities, namely carrying out activities in the form of legal education with the theme "The Importance of Legal Protection Regarding Intellectual Property Rights for the Community of Bernung Village, Gedong Tataan District, Pesawaran Regency, Lampung."

3. Evaluation

In this session, discussions were held regarding the problems faced by the people of Bernung Village, especially in relation to legal protection regarding intellectual property rights for the people of Bernung Village, the advantages and disadvantages of not registering intellectual property for the people of Bernung Village. In this way, the community service team can analyze the reasons and obstacles faced by the community as evaluation material for analysis. (Anggraeny et al., 2021)

4. Activity Reports

The preparation of the final report is carried out after carrying out legal counseling and obtaining the results of the evaluation of the activities carried out. (Anggraeny et al., 2021) This activity report was then submitted to the Institute for Research and Community Service (LPPM) Sang Bumi Ruwa Jurai University.

RESULTS AND DISCUSSION

Regional food products are very important for the advancement of the local economy, especially to improve the welfare of the local community. The presence of superior products that have unique value for a particular location must be maintained. The presence of superior products that have unique and unique values must be maintained to increase selling value and added value.

Bernung is one of the villages in Gedong Tataan District, Pesawaran Regency, Lampung Province. The majority of the Bernung Village community are business people in the culinary field, especially banana and cassava-based culinary. Bananas and cassava are basic ingredients that are also commonly grown by the Bernung community. Food products made from bananas and cassava are highly favored by the general public in Indonesia because of their distinctiveness and taste. This has led to an increase in processed banana and cassava products in Bernung Village.

Basically, intellectual property products must obtain legal protection to ensure that they can be protected during the process of making, creating, selling, and marketing, as well as during the process of purchasing and meeting the needs of consumers or society. Individual creators and inventors, individuals and commerce, science and technology, and society and civilization are four elements that can be used to look at legal protection efforts for intellectual property rights.

The results obtained from the implementation of community service regarding the importance of legal protection regarding intellectual property rights for the people of Bernung Village, Gedong Tataan District, Pesawaran Regency are to provide the community with an understanding of the importance of protecting intellectual property as a form of protection to avoid negative things in trade, benefits for the community if they have registered their intellectual property rights, as well as losses if they do not register their intellectual property rights.

In the presentation of the material, several forms of intellectual property rights were explained, including: brands, patents, industrial designs, copyrights, geographical indications, trade secrets, and integrated circuit layout designs. It is important to protect this intellectual property because it can provide economic benefits for the owner and encourage innovation and creativity for society. In relation to culinary businesses, the most inherent rights are brand rights. Brands have an important role in selling a product, especially products sold by Micro, Small and Medium Enterprises (MSMEs). In addition, brands help make it easier for consumers to remember the type and quality of a particular product (Fathanudien, Anthon; Anugrah, 2022).

In Law Number 20 of 2016 concerning Marks and Geographical Indications, it is stated that a brand is a sign that can be displayed graphically in the form of an image, logo, name, word, letter, number, color arrangement, in 2 (two) dimensions and/or 3 (three) dimensions, sound, hologram, or a combination of 2 (two) or more of these elements to differentiate goods and/or services produced by individuals or legal entities in goods and/or services trading activities (Indonesia, 2016).

The book *Intellectual Property Rights, Especially Patent and Trademark Law*, by Harsono Adisumarto defines a trademark as a product identifier that can differentiate one good or service from another. Thus, a trademark can be understood as an identifying



symbol that sets one's property apart from that of others. (Putu Eka Krisna Sanjaya & Gde Rudy, 2018) Trademarks are intellectual property rights that must be protected. According to Article 1 Number 1 of the MIG Law, the definition is as follows: "A trademark is a symbol used to identify goods and/or services produced by individuals or organizations engaged in the trading of goods and/or services. This symbol can be displayed graphically in the form of pictures, logos, names, words, letters, numbers, color arrangements, sound, holograms, or a combination of two or more of these elements." (Sulastri et al., 2018)

The article's contents suggest that the trademark function is crucial for both the trademark holder and customers who use particular brands' goods or services. Consequently, it is essential to safeguard trademark rights. Because some parties aren't allowed to use it, customers aren't hurt, and the trademark owner is protected thanks to this kind of protection. (Sari et al., 2022)

A trademark is an identifying or distinctive mark or characteristic of a product (goods or services) that must be legally protected by the business owner. (Suryadi, 2022) It's crucial to be aware that, regarding the protections available to trademark owners, the right to a new trademark is acquired following registration, as per Article 3 of the MIG Law.

Thus, a trademark owner must first register his trademark with the Ministry of Law and Human Rights' Directorate General of Intellectual Property ("DJKI") in order to be able to earn rights and get protection for it. (Arifin & Iqbal, 2020)

The trademark registration request or application is essentially governed by Permenkumham 67/2016 and its modifications. The applicant or his or her attorney must apply to the Minister of Law and Human Rights ("MOLHR") in two copies in Indonesian.

The application for trademark registration shall contain at least:

- a. date, month, and year of application;
- b. full name, nationality, and address of the applicant;
- c. the full name and address of the proxy if the application is filed through a proxy;
- d. the name of the country and the date of the first request for the mark in the case of an application filed with Priority Rights;
- e. label of the mark;
- f. color if the mark applied for registration uses color elements; and
- g. class of goods and/or class of services, and a description of the type of goods and/or type of services.

Next, the following documents must be attached to the application when it is filed by the applicant or his attorney: (Arief et al., 2022)

- a. proof of payment of registration fee;



- b. 3 pieces of brand label, with the smallest size of 2 x 2 cm and the largest size of 9 x 9 cm;
- c. a statement of trademark ownership;
- d. power of attorney, if the application is submitted through a power of attorney;
- e. proof of priority rights, if using Priority Rights and its translation in Indonesian.

Either electronically or manually may submit the application. If the application is submitted electronically, the applicant or proxy must use the Directorate General of Intellectual Property's official website to fill out the form and upload the required files. In the meanwhile, if the application is not submitted online, the applicant or proxy sends the aforementioned documents to the MOLHR together with a written application.

According to Article 9 of the Minister of Law and Human Rights Regulation 67/2016, the Minister of Law and Human Rights then verifies the formality and completeness of the trademark registration application that it has received. The applicant or attorney is then given opportunity to complete it within a period of two months from the date of mailing the notification letter if the requirements are not complete, provided that it is done so within 30 working days of the application being received. (Lobo & Wauran, 2021)

After then, the application is deemed withdrawn if it is not finished by the deadline. In the meantime, the MOLHR announces the acceptance date of applications in the Official Trademark Gazette once they have satisfied the necessary requirements.

The benefits that people get by registering their trademarks include: (Arifin & Iqbal, 2020)

1. Becomes a differentiator between one product and other similar products. Even brand registration can also be used as a tool to win competition in capturing the consumer market (Oktaviani, 2023).
2. Prevent the practice of product piracy or brand use without permission.
3. Disseminate information to the public that if there are parties who use a brand without permission, they can be subject to criminal sanctions in the form of imprisonment or fines. In addition, the owner of a registered trademark can file a lawsuit against another party who unlawfully uses a mark that is substantially or completely similar for similar goods or services in the form of a claim for compensation, and/or termination of all actions related to the use of the mark (Khoironi, 2013).
4. Encourage innovation and creativity both for themselves and other entrepreneurs because they are not allowed to use the same brand.

The "Right to Trademark" is a state-granted exclusive right that allows the owner of a registered trademark to use the trademark themselves or authorize third parties to use it for a specified amount of time after the brand is recognized as a registered trademark. In terms of intellectual property law, Indonesia essentially follows the "first to file" approach, which essentially means that the party that files a trademark registration request first will be the one who has it registered. We can therefore infer, in response to

your inquiry, that a trademark can only be legally protected if it has been registered with the Directorate General of Intellectual Property Rights.

The following is documentation of community service activities in Bemung Village, Pesawaran Regency:



Figure 2: Implementation of Legal Counseling by Presenters



Figure 3: Bemung Village community as participants in legal education

The achievements of community service activities carried out through legal education regarding the importance of legal protection regarding intellectual property rights for the community in Bernung Village can be seen from the enthusiasm of community members who held discussions during the outreach process. The discussion session was opened twice, with a total of 6 questions from the 32 participants present. Participants even asked the presenters to directly accompany them in the trademark registration process. This registration can also be done online via the website of the Director General of Intellectual Property, Ministry of Law and Human Rights of the Republic of Indonesia (Wiga Maulana Baihaqi et al., 2021).

Through this community service activity, the community has understood intellectual property rights, especially "trademark.". Through the brand, the Bernung community can use the brand as a differentiator of its products from other similar products so that it has the selling value of the brand. Through differentiation in each similar product or service offered, customers can certainly choose what brand of products to use according to the quality of each product. Until the end, the Bernung community can compete healthily to improve the quality (Sander et al., 2021) of Bernung specialty food products made from bananas or cassava.

CONCLUSION

Community service regarding legal education regarding the importance of legal protection regarding intellectual property rights for the people of Bernung Village, Gedong Tataan District, Pesawaran Regency, has been carried out. This activity produces two benefits at once, namely providing understanding to the Bernung Village Community in protecting their intellectual property in the form of brands as well as providing information on how to register a trademark with the Director General of Intellectual Property, Ministry of Law and Human Rights. Advice given to Bernung Village officials to help provide assistance in registering trademarks, and to the people of Bernung Village to immediately register the brands of each product they own to receive proper protection.

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