

LEGAL PROTECTION SUPPORT TO LOCAL PRODUCT COMMERCIALIZATION BASED ON LOCAL WISDOM AND INNOVATIVE ADVANTAGE IN ORDER TO EXPORT

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ABSTRACT

This research is based on the analysis and deepening of the material from January 2020 to April 2020, is the idea of the author as a researcher who has accompanied local product producers in the research area, especially in local product enclaves which are all in the form of MSMEs, since 2012-2013 (about traditional Indonesian research knowledge), 2014-2016 about herbal products in Central Java and East Java, Indonesia, 2017-2019 about local traditional food and beverage products in Daerah Istimewa Yogyakarta (DIY), Central Java and East Java, Indonesia and currently 2020 still accompanying the research area plus West Java. This research is a juridical normative research, with literature studies and various previous research reports both by researchers and other researchers, using the statutory approach (statue approach) and sociological approach (sociological approach), as well as the deepening of research material by interviewing MSMEs and their leaders. The results of this study in the form of recommendations to overcome problems from upstream to downstream so that most MSMEs who are currently at the level of technological readiness (TKT) 3-4 can immediately go to level 6-7 in the form of strategic steps to lift local products with the support of legal protection and special policies while still raising wisdom local, as well as implementing the optimization of branding and information technology to elevate local products to become export-oriented innovative superior products. So the recommended strategic steps are empower local product producers and assist from upstream to downstream; give reinforcement in innovation capability, provide specific policies and regulations that facilitate and ease administration and production act.

Keywords: Legal Protection, Local Products, Local Wisdom, Innovative Advantage.

INTRODUCTION

Observing the results of previous researches funded by the Directorate General of Higher Education, Ministry of Research, Technology and Higher Education, Republic of Indonesia 2012-2013 (about Indonesian traditional knowledge research in Papua, Bali, Nusa Tenggara, Aceh, Sulawesi); 2014-2016 about herbal products / traditional medicine in Central Java and East Java Indonesia, 2017-2019 about local food products and traditional drinks in Daerah Istimewa Yogyakarta/DIY, Central Java and East Java Indonesia and currently 2020 is requested to continue to accompany the research area plus West Java (2020-2022), the researchers succeeded in motivating and assisting: 1) The Association of Central Java and East Java herbal medicine entrepreneurs; 2) MSMEs in Bantul DIY (ASMAMITRA and the Geographical Indication Protection Society (MPIG) WedangUwuh become notarial associations, and have

succeeded in registering more than 20 owned by associate producer members, 3) MSMEs Association Guyup Rukun Saklawase in Brebes, Central Java, the Trademark registration assistance was successfully conducted for 13 MSME product brands. Currently (2020), researchers (starting September 2020) continue to assist hundreds of MSMEs both in Brebes (120 MSMEs) and Bantul DIY (Asmamitra 120 MSMEs) as well as the new group Citra Mandiri Jogja (70 MSMEs) that facilitate culinary, craft, MSMEs and convection who want to continue to raise local wisdom, as well as MSMEs in Tegal Waru and Bantarsari Bogor, West Java (20 MSMEs).

Researchers have the idea to improve local products which are MSMEs products advancing into the more established business realm with a level of technological readiness that is adaptive to global developments. These researchers' ideas are more focused on regulatory support and policies and support of the economic climate and the ability of IT to provide local performance towards added value equivalent to imported products, which are ready to export with guaranteed product quality and legal.

As is well known, Micro, Small and Medium Enterprises (MSMEs) in the national economy have an important and strategic role. This role can be seen from the statistical data of the Ministry of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia (2019) which states that, "The number of MSMEs units in 2019 is 59.2 million units. A total of 3.79 million MSMEs are ready to go online, and another 8 million are also ready to go online."

Economically, with the excitement of MSMEs in both 'Daerah Istimewa Yogyakarta'/DIY and Central Java, it is hoped that it can improve the real economic sector of society, all MSMEs owners can maintain their business, while all employees directly involved in MSMEs can support all members of their families (Purwaningsih et al., 2017). The problems in this study: 1) what is the strategy to lift local products with the support of legal protection? 2) How is the implementation of optimization of branding and information technology to elevate local products to become export-oriented innovative superior products?

This novel research lies in the novelty of an inventive nature, improvement and novelty of the implications on science in the legal field. First, inventive novelty can be seen in the idea of rolling out innovative MSMEs creative products seen from legal support, processes, management, innovation substance, IT and the end result that can truly be used as regional superior that elevates local wisdom.

Third, novelty in the legal field means that interdisciplinary perspectives provide support for the achievement of input at the legal level, so far the laws and regulations on traditional knowledge do not yet exist in Indonesia, so the results of this study are expected to provide solid support for regulations and policies, as well as government alignments for the sustainability of MSMEs in their regions in order to expand into the export market.

LITERATURE REVIEW

Local Products, Local Works and Local Wisdom

Local product is a product made from materials originating from within the country, the workforce comes from within the country, the product uses a local brand and finally the

ownership of the company is also local. So, a product can be said to be a local product if it fulfills one or even all four aspects at once (Tofan, 2020).

Law Number 7 of 2014, concerning Trade, in particular article 1 paragraph (7) states that Domestic Products are Goods that are made and / or services are carried out by Business Actors in Indonesia. (Chait, 2019; Wilcox, 2020). The mention of "*local food*" has permeated all types of public discourse about food and eating in a certain place (Trifiyanto, 2019; Hand & Martinez, 2019). In countries where some districts in the West are larger than some states in the East, the concept of "local" must accommodate various perspectives and definitions (Hand & Martinez, 2019; Nurhikmawati & Yuhanna, 2019).

Marketing strategies for MSMEs entrepreneurs so that their products are known not only in the national arena, but also internationally need to be done are: 1) make sure your products have national and international standards, 2) develop marketing products to modern markets, 3) make product packaging as attractive as possible (USAID, 2015; Dewi, 2011). Local wisdom is also a cultural identity in which each individual accepts and respects differences and local wisdom and recognizes those differences (Miller et al., 2009; Prabangkara, 2018). For example, local wisdom about traditional foods contained in the archipelago is a legacy of traditions that can strengthen the identity of the nation of Indonesia universally. Traditional food can be preserved through traditions that are encountered in certain months (Rinawati, et al., 2018; Harsama, et al., 2018).

Local wisdom related to food is not just about food itself, but behind all that, there is a process of how to make food as a taste of cultural heritage. Behind food and culinary issues are copyright and defense of national identity (Setiawan, 2016).

Strategy is an integrated action in the pursuit of competitive advantage. The right marketing is formed from the right combination of quality, price, distribution channels and product promotion activities. Quality improvement, as well as changes in design and creating varied products can stimulate consumers to buy products (Alfons, 2010). Law of the Republic of Indonesia Number 7 of 2014 concerning Trade, especially article 1 paragraph (1) states that Trade is the order of activities related to transactions of Goods and / or services in the country and exceeding national borders with the aim of transferring the rights to the Goods and / or Services to obtain compensation or compensation. Republic of Indonesia Government Regulation Number 80 Year 2019 regarding Trade through Electronic Systems, states that business operators must have a business license. Including business actors with an electronic platform, they also need to have a business license.

The expansion of international trade activities is increasingly important for the survival of companies (Spyropoulou, et.al,2011; Samuels (2015), explains that there are at least 10 (ten) habits of highly successful traders which include: 1) Establishing a trading business for the right reasons, 2) Complete a trader's business plan, 3) Define your goals, 4) Commit to your education with a trading coach, 5) Understand and exploit your unique trading personality, 6) Follow a system, 7) Plan the trade and trade the plan, 8) Measure your performance, 9) Learn the secrets of successful traders, and 10) Add balance to your life. Kieff and Pararedes, (2015; Nijma, 2015) explained, "Transactional View of Property Rights in economy in which contracting is becoming more pervasive, property rights in contractual exchange with an important dimension. Also Property rights bring the power of the state to bear on the relationship between legal strangers."

Innovative Ability in Increasing the Level of Technology Readiness (TKT)

Technology Readiness Level (TKT) is a measure of the level of technological readiness which is interpreted as an indicator that shows how ready or mature a technology can be applied and adopted by users or prospective users (Hermanu, 2016).

Measurement and determination of the level of technological readiness is needed to push the readiness of innovation to the commercialization stage and reduce the risk of failure in the use of innovation products (Regulation of Minister of Research, Technology and Higher Education, Republic of Indonesia No. 29 of 2019).

Innovation products include three things, namely a novelty that causes significant changes, innovation must be able to be used or used by users, and innovation must be able to provide commercial value (Baradono, 2019). Research conducted by Yang et al. (2017); Johansson (2002) implies that, "*Companies that manage product development well can increase the likelihood of success in integrating eco-design into product development.*"

Law Number 20 of 2016 concerning trademark and Geographical Indications. Article 1 paragraph (1) explains that, a Mark is a sign that can be displayed graphically in the form of a picture, logo, name, word, letter, number, arrangement of colors, in the form of 2 (two) dimensions and/or 3 (three) dimensions, sound, hologram, or a combination of 2 (two) or more of these elements to distinguish goods and / or services produced by persons or legal entities in the trading of goods and/or services.

Law No. 13 of 2016 concerning Patents, Article 1 explains that "*Patents are exclusive rights granted by the state to investors for the results of their inventions in technology for a certain period of time carrying out their own inventions or giving approval to other parties to carry it out.*" Neilson (2018), the inability to capture the value is caused by the poor alignment of the local institutional environment with the main company strategy. Research conducted by Delphine Marie-Vivien (2017) in the southern state revealed that, Geographical Indications (IG) is used as a tool for economic, social, territorial and ecological development.

RESEARCH METHOD

Local wisdom is formed as a cultural superiority of the local community and geographical conditions in a broad sense. Local wisdom is a product of the past culture that deserves to be continually held on to life.

This research is a normative juridical research that emphasizes secondary data from literary study, relevant research report, journal, and previous research report conducted by researchers for 7 years (2012-2019) conducting research on traditional knowledge & product themes local (MSMEs). Literature data sources, observations, results of interviews related to MSMEs organizations. The research subjects are policies and regulations related to local products.

RESULTS

Strategies to Raise Local Products and Support Legal Protection

In the Law of the Republic of Indonesia Number 20 of 2008 Concerning Micro, Small and Medium Enterprises, article 3 states that, Micro, Small and Medium Enterprises aim to grow and develop their businesses in the framework of building a national economy based on equitable

economic democracy. In Law No. 7 of 2014 concerning Trade, in particular Article 1 paragraph 16 it is stated that, export is the activity of removing Goods from Customs Regions.

Government Regulation Number 80 of 2019 concerning Trade. Through the Electronic System plays a role in encouraging the development of e-commerce (electronic commerce or e-commerce) that is sustainable in the country (Barus, 2019).

Relation to local products which are in fact the products of MSMEs actors, policies that should be applied: 1) MSMEs licensing policies and investments as well as policies related to regulations from upstream to downstream (from legality of business entities to legality of products), and 2) policies in the pharmaceutical field; be a policy in the field of pharmacy, don't let the MSMEs land on herbs also be worked on by pharmaceutical factories so that MSMEs will also fall if competing with factories; 3) policies that are based on strengthening local products by raising local wisdom and pioneered for independence and export.

Also in the design both packaging and product designs must be accompanied so that they are protected by law (not similar to registered designs or infringements), attract consumers, and are worthy of export sales. May, the leader of ASMAMITRA (February 2020) stated that it needs various facilities, both e-commerce and other relief facilities such as taxes and others so that MSMEs can rise and at least survive in the local area, but if possible, they can go export because in ASMAMITRA there are already small exports-excellent as many as 3 producers. Maryadi founding and leader of MSMEs Bantul DIY (January 2020) stated that MSMEs needs to be facilitated from upstream to downstream, provide convenience, if possible free of all costs, needs to be accompanied by the legality of business entities and products to be independent, vigorous promotion, even export to foreign countries. Handayani leader of Society for the Protection of Geographical Indications (MPIG) Wedang Uwuh stated that he was ready to go forward and hoped that assistance from the relevant agencies would run smoothly both for the Regional Government and Department of Cooperatives and MSMEs, which is certainly burdensome for MSMEs.

Sutrisno, Central Java MSMEs, hopes that the production factors can be overcome well, such as capital assistance, machinery, competent human resources, so that the business legality and branding completeness such as trademark, e commerce, examples of MSMEs export clusters as a role model, and various facilities like tax. Lukmanul, chief judge of Bantarsari Bogor village, West Java (Jan 2020), wants the campus to play a role in assisting local products to be more commercial and able to go global. Related regulations that need to be harmonized include: Law No. 20 of 2016 concerning Trademarks and Geographical Indications, 2) Law No. 13 of 2016 concerning Patents, 3) Law No. 30 of 2000 concerning Trade Secrets, 4) Law No. 31 of 2000 concerning Industrial Design, 5) Law No. 20 of 2008 concerning MSMEs from upstream to downstream, 6) Law No. 19 of 2016 concerning e-commerce information and technology, 7) Law No. 7 of 2014 concerning trade, 8) Government Regulation Number 80 of 2019 concerning Trade Through Systems Electronic, and 9) Regulation of the Head of the Republic of Indonesia Drug and Food Supervisory Agency No. 35 of 2013 concerning procedures for certifying how to make traditional medicines that are good barcode in drug and food control.

Dornis (2017) the common core of protective purposes in trademark and unfair competition law is information economization. Product sales must have strong branding capabilities, especially for new products. Lei (2013) states that innovative companies with large trademarks in the market and have good trademark management capabilities, can increase the

interest of investors to deposit their shares in extraordinary amounts. Therefore, according to Glaser (2008), *"Trademark management strategy must prioritize market demand and become a supply chain, in contrast to the general demand chain focus"* (Agostino, 2014; Maina, 2019).

So the recommended strategy are: 1) empower local and damping product producers from upstream to downstream; give reinforcement in innovation capability, 2) give specific policies and regulations that facilitate and ease administration and production, 3) create pilot clusters with assistance and facilitation both in production factors and the level of technological readiness, and 5) harmonization of regulations related to investment, trade, IPR, MSMEs and organic regulations related to exports.

Optimization of Branding and Information Technology Becoming an Export-Oriented Innovative Leading Product

Empowering company internal branding can be one of the keys to success in increasing company turnover. Metharom (2015) states, *"The perceived quality of the trademark through sales promotion will increase the willingness of consumers to pay (WTP) private labels (PL)."*

According to Arrigo (2015), a co-branding strategy by selecting the best location for flagship stores, for example in luxury branding will improve trademark positioning with the sense of place to be obtained. Small, et.al (2007) explained that, the international branding strategy can be used to improve trademark performance and finance companies abroad.

Jayakumar (2016) explained that, Companies that want to apply e-commerce can make strategies using behavioral economic principles including confirmation bias, framing effects, reference points, loss avoidance principles, heuristics and certain rules to influence customer decisions making that will benefit the company (Kremez, 2019).

Traditional knowledge (Purwaningsih, 2017) is the work of traditional communities (*adat*) which can be in the form of cultural customs, works of art, and technology that have been used for generations since their ancestors. Kotler and Kevin lane Keller (2016), explained that: *"Trademarks identify the maker of a product and allow consumers to assign responsibility for its performance to that maker or distributor."* According to Peter & Olson (2010), a company's trademark awareness strategy depends on how well known the trademark is.

It is necessary to study strategies to protect and promote the local products of these indigenous peoples so that they have the competitiveness while still raising local wisdom (Purwaningsih, 2014). It is necessary to strengthen local wisdom on the products of indigenous people which is a reflection of the work of ancestral intellectuals who, although local, should be protected and promoted vigorously, especially in order to compete in the global era. (Purwaningsih et al., 2017). According to Cravens & Piercy (2009), explains that, types of Innovations: (1) Transformational innovation, that is radically new and the value created is substantial.

So the optimization steps include: 1) the readiness of the production factors; 2) the facilitation of the production process to produce quality products; 3) the legality of the business is strengthened policy support; 4) IT assistance and the acquisition of complete branding and exports (e-commerce facilitation, the level of technological readiness improvement, technology access and machine assistance, registering and promoting products with registered trademarks, improved skills to understand export pioneering).

CONCLUSION

Main strategies are: 1) empower local product producers and assist from upstream to downstream; give reinforcement in innovation capability 2) give specific policies and regulations that facilitate and ease administration and production 3) create pilot clusters with assistance and facilitation both in production factors and the level of technological readiness; 4) stakeholder support in the commercialization and synchronization of the role of regional governments and government 5) harmonization of regulations related to investment, trade, IPR, MSMEs and organic regulations related to exports.

Optimization steps include: 1) certainty of production factor readiness 2) facilitation of the production process to produce quality products 3) legal certainty of business legality strengthened special policy support 4) maximize IT assistance and the acquisition of complete branding and exports (e-commerce facilitation, the level of technological readiness improvement, access to technology and machine assistance, registering and promoting products with registered trademarks, improved skills to understand export pioneering), 5) making MSMEs integrated services per district area accessible online and concise administration, and (6) creating role model MSMEs clusters.

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REFERENCES

- Agostino, M.C., & Trivieri, F. (2014). Geographical indication and wine exports. An empirical investigation considering the major european producers. *Food Policy*, 46(1), 22–36.
- Alfons, M. (2010). *Implementation of protection of geographical indications of local community products in the intellectual property perspective*. Retrieved from <https://prasetya.ub.ac.id/berita/Melindungi-HAKI-Produk-Lokal-dengan-Implementasi-Indikasi-Geografis-1661-id.html>
- Arrigo, E. (2015). The role of the flagship store location in luxury branding: An international. *International Journal of Retail & Distribution Management*, 43(6), 518–537
- Baradono, S. (2019). *Katsinov: Aids measuring level of readiness of product innovations*. Retrieved from <http://technology-indonesia.com/teknologi-a-z/umum/katsinov-alat-bantu-mengukur-tingkat-kesiapan-produk-inovasi/>
- Barus, K. (2019). *Government issues government regulations number 80 Year 2019 to encourage online trade of products*. Retrieved from <https://www.industry.co.id/read/58571/pemerintah-terbitkan-pp-nomor-80-tahun-2019-untuk-dorong-perdagangan-produk-secara-daring>
- Chait, J. (2019). *Locally grown food*. Retrieved from <https://www.thebalancesmb.com/what-does-locally-grown-really-mean-2538258>
- Delphine, M.V., & Biénabe, E. (2017). The multifaceted role of the state in the protection of geographical indications: A worldwide review. *World Development*, 98(1), 1–11.
- Dewi, T.K.S. (2011). Local wisdom of traditional foods: Reconstruction of Jawad manuscripts and their functions in society. *Manuskripta*, 1(1), 161-182.
- Dornis, T.W. (2017). *Trademark and unfair competition conflicts, historical comparative, doctrinal and economic perspectives*. United Kingdom: University Printing House.
- Glaser, S. (2008). The role of branding in the value chain. *International Journal of Physical Distribution and Logistics Management*, 38(9), 726–36.

- Hand, M.S., & Martinez, S. (2019). *Just what does local mean?* Retrieved from <http://www.choicesmagazine.org/magazine/article.php?article=108>
- Harsama, M., Harmayani, E., & Widyaningsih, Y.A. (2018). *Potential of Traditional food of kelombeng cake as a tourist attraction in special region of Yogyakarta. Home Economic Journal*, 1(2), 40-47.
- Hermanu, A.I. (2016). *Indicator of technology readiness level measurement.*
- Jayakumar, T. (2016). Behavioral lessons from flipkart's big-billion day sale. *Competitiveness Review*, 26(4), 453–75.
- Johansson, G. (2002). Success factors for integration of ecodesign in product development. *Environmental Management and Health*, 13(1), 98–107.
- Kieff, S., & Paredes, T.A. (2015). *Perspectives on commercializing innovation.* New York: Cambridge University Press.
- Kotler, P., & Armstrong, G. (2016). *Principles of marketing.* Edinburgh gate England: Pearson education limited.
- Kotler, P., & Keller, K.L. (2016). *Marketing management.* Edinburgh Gate England: Pearson Education Limited.
- Kremez, Z. (2019). E-commerce structures for retail and service franchises. *Asia Pacific Journal of Marketing and Logistics.*
- Lei, X.H., Ye, T., & Abimbola, T. (2013). The role of branding capability for innovative companies. *Nankai Business Review International*, 4(4), 329–48.
- Maina, W.F. (2019). Producers valuation of geographical indications-related attributes of agri-food products from semi-arid lands in Kenya. *Heliyon*, 5(2), 12-18.
- Metharom, K.T.P. (2015). Influencing the willingness to pay for private labels: the role of branding. *Asia-Pacific Journal of Business Administration*, 7(3), 197–215.
- Miller, K., & Gearon. (2009). *Culturally and linguistically diverse classroom.* Toronto: Multilinguas matters.
- Neilson, N., Wright, J., & Aklimawati, L. (2018). Geographical indications and value capture in the Indonesia Coffee Sector. *Journal of Rural Studies*, 59(1), 35–48.
- Nijman, V. (2015). Cites-listings, EU eel trade bans and the increase of export of tropical eels out of Indonesia. *Marine Policy*, 58(1), 36–41.
- Nurhikmawati, A.R., & Yuhanna, W.L. (2019). Utilization of vinyl waste into bags and souvenirs based on creative economy. *Social services II National Seminar 2019 Synergy and Strategy of Academics, Business and Government in Realizing Progressing Community Empowerment in the Industrial Era 4.0.*
- Prabangkara, H.S. (2018). Yogyakarta culinary, from identity to commodities. *Lensa Budaya*, 13(2). 120-122.
- Purwaningsih, E. (2014). *Potential and strategy of traditional medicine / herbal development towards herbal medicine industry in central and east Java.* Laporan Hasil penelitian MP3EI. Jakarta: Universitas Yarsi.
- Purwaningsih, E. (2017). *Legal protection of traditional foods through trademarks and geographical indications towards commercialization of competitive products.* PT UPT Research Reports for Year I-III, Jakarta: Universitas Yarsi.
- Rinawati, T., Meiriyanti, R., & Puspitasari, D. (2018). *Srabi's role as a typical food to maintain local wisdom values.* *Dinamika Sosial Budaya*, 19(2), 300-307.
- Samuels, J. (2015). *The traders' pendulum, the 10 habits of highly successful traders.* New Jersey: John Wiley & Sons, Inc.
- Setiawan, R. (2016). Understanding traditional culinary in the archipelago a critical review. *Respons*, 21(1), 113-140.
- Small. (2007). Multiple roles for branding in international marketing. *International Marketing Review*, 24(4), 384–408.
- Spyropoulou, S., Skarmeas, D., & Katsikeas, C.S. (2011). An Examination of branding advantage in export ventures. *European Journal of Marketing*, 45(6), 910–35.
- Tofan, A.Y. (2010). *Local product development.* Retrieved from <https://www.its.ac.id/id/pengembangan-keberagaman/>
- Trifiyanto, K. (2019). The future of local product: influence analysis of consumer ethnocentrism, package design and label of halal to purchase intention of local product. *FokusBisnis: Media Pengkajian Manajemen Dan Akuntansi*, 17(2), 15-24.
- USAID. (2015). *Local works.* Retrieved from <https://www.usaid.gov/localworks>

Yang, C.H., & Tsou, M.W. (2017). Does an own-brand produce higher profitability? Evidence from Taiwan's manufacturing firms. *Journal of Business and Industrial Marketing*, 32(7), 925–936.