

Legal Protection and Challenges of Trademark Registration for Culinary MSMEs: A Case Study of Great Mataram Meatballs in Pekanbaru

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Abstract

The rapid growth of the culinary industry in Indonesia has not been accompanied by adequate awareness among MSME owners to register their trademarks. This condition increases the risk of imitation, counterfeiting, and legal disputes. This study employs a normative legal method with a qualitative approach through an analysis of legislation, literature, and case studies. The findings reveal two forms of legal protection: preventive protection through exclusive rights after registration and repressive protection through civil or criminal lawsuits in cases of infringement. The *Geprek Bensu* case highlights the *first-to-file* principle, while the *Bakso Hebat Mataram* case illustrates the real risks faced by unregistered culinary businesses. Trademark registration is thus essential to ensure legal certainty, protect business reputation, and enhance competitiveness. The government should strengthen public awareness and simplify registration procedures for MSMEs.

Keywords: Legal Protection, Trademark Registration, Culinary Business, Micro, Small And Medium Enterprises (Msmes).

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Introduction

The development of the culinary industry in Indonesia in recent years has shown a rapid increase, both in the large-scale and the Micro, Small, and Medium Enterprises (MSMEs) sector. This sector contributes greatly to national economic growth because it is able to absorb labor and encourage the creativity of local products. However, in the midst of this rapid growth, the awareness of MSME actors on the importance of legal protection is still relatively low, especially in terms of trademark registration. Many business actors think that trademark registration is not an urgent need, but just an administrative formality. Low legal understanding, cost limitations, and lack of socialization from the government are the main factors that cause many culinary businesses to operate without legal protection [1]. This condition poses serious risks, such as imitation, counterfeiting, and legal disputes between business actors.

Normatively, the legal system in Indonesia has provided protection for trademark rights through Law Number 20 of 2016 concerning Trademarks and Geographical Indications[2]. This provision emphasizes that the exclusive right to a trademark is only granted to the party who first legally registered it with the state, as the *principle of first to file* applies universally. Thus, the continuous use of the trademark without going through the registration process does not give rise to legal rights that can be protected [3]. The application of this principle can be seen in various trademark cases that occur in Indonesia, one of which is the dispute between *Geprek Bensu* and *I Am Geprek Bensu*, which shows the importance of legal certainty in trademark registration. This kind of case confirms that without registration, business actors lose the legal basis to maintain their brand identity and have the potential to suffer legal and economic losses [4].

Although a legal framework is already in place, the reality on the ground shows that MSMEs still face major challenges in implementing brand registration. Administrative procedures that are considered complicated, lack of legal knowledge, and high assessed costs are often the main obstacles [1]. In fact, from the perspective of modern business law, a trademark is an intangible *asset* that has high economic value and can be used in license, franchise, or business guarantee agreements [5]. Weak legal awareness and limited access to information have made many MSME actors not see trademark registration as a strategic instrument to protect their businesses in the long term.

This phenomenon is reflected in the case of *Bakso Hebat Mataram* in Pekanbaru, a culinary business that has been widely known by the public but has not officially registered a brand. This condition puts business actors in a weak legal position, because at any time other parties can register the trademark and obtain exclusive rights legally. This certainly has the potential to cause legal disputes, as well as threaten the existence and reputation of the business in the future. This case is a concrete example of how weak legal awareness and delays in trademark registration can have serious consequences for the sustainability of culinary MSMEs in Indonesia.

Thus, legal protection of trademark registration should be seen as a strategic necessity, not just an administrative obligation. Trademark registration has an important role in providing legal certainty, maintaining business reputation, and increasing the competitiveness of MSME actors in the midst of increasingly fierce market competition [5]. Based on this, this research is important to analyze the form of legal protection for trademark registration in the culinary business, as well as identify the challenges faced by MSMEs, especially in the case of *Bakso Hebat Mataram* in Pekanbaru, in order to realize effective and fair legal protection.

Research Problems

Based on the background description that has been submitted, the research problems can be formulated as follows: What is the form of legal protection for trademark registration in the culinary business case study of great meatballs mataram?

Research Methodology

This research is a normative legal research with a qualitative approach that aims to analyze the urgency of trademark registration as a form of legal protection for culinary business actors. This approach is carried out by examining laws and regulations, doctrines, and opinions of relevant legal experts. In its implementation, this research uses two main approaches, namely the legislative approach and the conceptual approach. The legislative approach is used to review the legal provisions that govern trademarks, registration, and legal protection as stipulated in Law Number 20 of 2016 concerning Trademarks and Geographical Indications and Law Number 8 of 1999 concerning Consumer Protection. Meanwhile, a conceptual approach is carried out by examining legal theories and concepts to understand the principles of legal protection, legal certainty, and intellectual property rights [6].

The legal materials used consist of primary legal materials in the form of laws and regulations, secondary legal materials in the form of literature, journals, and expert opinions, as well as tertiary legal materials such as legal dictionaries and guidelines from the Directorate General of Intellectual Property. The data collection technique is carried out through literature studies by browsing legal documents, books, and scientific journals from official sources and academic portals. Data analysis is carried out in a descriptive-qualitative manner with a deductive reasoning method, which is to draw conclusions from general legal norms to special cases, such as in the case study of Bakso Hebat Mataram. Through this method, researchers seek to interpret the meaning of law contextually and produce logical conclusions that can be accounted for academically [6].

Results

4.1 Legal Protection for Trademark Registration in Indonesia

Legal protection for trademark registration in Indonesia is rooted in the concept of intellectual property rights (IPR), which recognizes trademarks as the result of creations with economic value and a symbol of the identity of business actors. The basis for regulation is contained in Law Number 20 of 2016 concerning Trademarks and Geographical Indications (MIG Law) [2]. In Article 1 number 5, a trademark is defined as a sign that can be displayed graphically to distinguish goods and/or services produced by a person or legal entity from goods and/or services belonging to another party.

The provisions of Article 3 of the MIG Law state that the rights to the trademark are obtained after registration. This principle is known as *the first-to-file* principle, which is that exclusive rights to trademarks are only owned by the party who first officially registered them at the Directorate General of Intellectual Property (DJKI). Thus, the prolonged use of a trademark without registration does not give rise to any legal rights to its use.

According to Betlehn, & Samosir, 2018 [7], the *first-to-file system* is a manifestation of the principle of legal certainty that provides clarity as to who is the legal holder of the trademark. In the context of Indonesian law, this system shifts the old paradigm *of first to use* which is widely practiced informally by small business actors, where rights are considered to arise due to years of use. In fact, normatively, without a registration certificate, legal rights are never born.

The form of legal protection for trademark registration in Indonesia can be divided into two main aspects:

1. Preventive Protection, which is preventive protection so that violations do not occur. In this case, the state gives the owner of a registered trademark the exclusive right to prohibit other parties from using the same or similar trademark on similar products. This protection provides legal certainty while preventing business conflicts from arising.
2. Repressive Protection, which is the protection provided after a violation occurs. The form is in the form of a dispute resolution mechanism through legal channels, both civil and criminal. Article 83 of the MIG Law gives registered trademark owners the right to

file a lawsuit for trademark infringement, while Article 100 contains criminal sanctions for parties who unfairly use the same trademark as that of another party.

Preventive legal protection aims to prevent violations by clearly regulating the rights and obligations of the parties, while repressive legal protection aims to resolve disputes and restore violated rights. In the context of trademark law, registration is a concrete form of preventive protection that provides legal certainty and a sense of security for business actors in carrying out their economic activities.

Thus, the legal system for trademark registration in Indonesia has normatively provided comprehensive protection. However, its effectiveness depends on the legal awareness of business actors to register and government support in providing access and administrative convenience.

4.2 Implementation of Legal Protection for Culinary Businesses

In culinary business practice, brands play a vital role as product differentiators and promotional means that shape public perception of the quality and authenticity of taste. In the culinary sector, many business actors build reputations through word of mouth, but neglect to provide legal protection for their brands. This is a loophole for infringement or impersonation by other parties who want to take advantage of the brand's popularity without permission.

According to Sembiring, et., al. (2025) [5], a brand is an intangible *asset* that has high economic value. For culinary business actors, trademark registration provides legal and business benefits, such as the ease of establishing licensing agreements, franchises, and branch expansion. Registered trademarks can also be used as business credit collateral in financial institutions. Thus, trademark registration not only provides legal protection, but also becomes an instrument of increasing economic value.

However, research by Makbul, et., al. (2023) [1], reveals that most MSMEs in Indonesia, including the culinary sector, do not understand the importance of brand registration. Barriers often faced include lack of socialization, cost limitations, and the perception that the registration process is complicated. This causes trademark registration to still be dominated by middle- and upper-middle-class business actors, while MSMEs tend to ignore it.

The case of *Geprek Bensu vs I Am Geprek Bensu* is a concrete example of the application of the *first-to-file* principle in Indonesia. In the case decided through Supreme Court Decision Number 57 K/Pdt.Sus-HKI/2020, the court emphasized that trademark rights are given to the party who registered first, not the one who used it first [4]. This case is an important lesson for culinary business actors, that the use of trademarks without registration does not have the legal force to prosecute infringement.

In addition, research by Dahayu & Budhisulistiyawati (2020) [8], on the *Brownies Cinta Sragen Branch* business shows that the lack of clarity in legal protection for brands in partnership agreements can trigger conflicts between partners. The same thing is also highlighted by Solehah & Wahyuni (2024) [9], through a study of the *Wedrink Franchise beverage business*, which emphasizes the importance of brand registration to maintain consistency of quality and reputation in the franchise business system.

From the results of these studies, it can be concluded that the application of legal protection against trademarks in the culinary business has a dual function: to protect the exclusive rights of business actors and to ensure the integrity of business relationships. Therefore, trademark registration should be seen as a form of legal responsibility, not just an administrative obligation.

4.3 Analysis of the Case of Great Mataram Meatballs in Pekanbaru

The case of *Bakso Hebat Mataram* in Pekanbaru is a real representation of the condition of culinary MSMEs who do not understand the urgency of brand registration. This business has

been established and widely known by the public, but until now it has not registered the "Bakso Hebat Mataram" brand with DJKI.

From a legal aspect, this condition puts this business in a normatively weak position. Based on the *principle of first to file*, other parties who first register the "Bakso Hebat Mataram" brand will be recognized as legal rights holders. This means that the original owner has no legal right to demand the use of the name. A situation like this has the potential to cause economic losses and a loss of reputation that has been built for years.

According to the results of observations and interviews conducted, there are several reasons why registration has not been carried out. First, business owners do not understand the legal urgency of trademark registration, considering it to be just an administrative formality. Second, there is a perception that the registration process requires a lot of cost and time. Third, there is no assistance from local government agencies or legal institutions that can assist MSME actors in the administrative process of trademark registration.

In fact, DJKI has provided an MSME Collective Brand scheme, which provides ease of costs and processes for small business actors. However, limited information makes this facility not widely utilized. As a result, business actors such as Bakso Hebat Mataram do not get preventive legal protection, and will only react when other parties who use similar names appear.

This condition shows that there is a gap between written law and social reality. The existence of regulations alone is not enough if access to such protection is uneven. Legal protection must be substantive and participatory, where the state actively creates conditions for citizens to make effective use of their legal rights. In this context, local governments and DJKI need to expand legal socialization and provide administrative assistance so that MSMEs such as Bakso Hebat Mataram can get proper protection.

4.4 Legal Evaluation and Implications

Normatively, Indonesia has adequate legal tools to protect business trademarks. However, empirically, the effectiveness of legal protection is still weak due to the gap in understanding and access between large business actors and MSMEs. Many local culinary businesses have only realized the importance of brand registration after a dispute arises. As a result, the law is often present in a repressive manner (after the violation), not preventive (before the violation occurs).

The legal function should ideally be preventive in order to be able to create order and legal certainty without waiting for disputes to arise. Therefore, the state needs to play an active role in fostering economic law through public education, legal counseling, and the provision of free or subsidized trademark registration facilities for MSME actors.

In addition, judicial institutions also play an important role in upholding substantive justice. Cases such as *Geprek Bensu* show that the court has affirmed legal certainty based on the *first-to-file* principle, but in the future there needs to be greater partiality towards small business actors through affirmative policies [4].

In the context of *Bakso Hebat Mataram*, trademark registration is not only important as legal protection, but also as a long-term business strategy. By owning brand rights, this business can expand branches, establish partnerships, and even increase business value. Therefore, trademark registration should be viewed as a legal investment that provides protection, reputation, and legitimacy.

Conclusion

5.1 Conclusion

Trademark registration has a very important role in providing legal protection for culinary businesses in Indonesia. Preventive legal protection through trademark registration guarantees the exclusive right for the owner of the trademark to use and utilize the trademark

in trade activities. This exclusive right protects business owners from imitation, counterfeiting, and unauthorized use practices that have the potential to harm both materially and immaterially.

In addition, repressive legal protection can only be obtained if the trademark is legally registered. The owner of a registered trademark has a strong legal basis to file a civil lawsuit or criminal charges against the infringing party, as shown in the case of *Geprek Bensu vs I Am Geprek Bensu* [4]. This confirms that without registration, business actors do not have legal standing to defend their trademark rights.

However, the reality in the field shows that there are still many culinary MSME actors who face obstacles in registering brands. These obstacles include limited legal understanding, lack of socialization, registration fees that are considered expensive, and the assumption that trademark registration is not an urgent need [6]. As a result, many culinary businesses are vulnerable to losing their identity and reputation, as seen in the case of *Bakso Hebat Mataram* in Pekanbaru which has not registered its brand until now.

Thus, it can be concluded that trademark registration should be seen as a strategic need for culinary businesses. Trademark registration not only provides legal certainty, but is also an important instrument in building reputation, maintaining business sustainability, and increasing competitiveness both at the national and international levels [7].

5.2 Suggestions

Culinary business actors should view brand registration as a strategic need that cannot be postponed. By registering their trademarks, business actors obtain legal certainty, identity protection, and the opportunity to develop their business through licensing or franchising. The government through the Directorate General of Intellectual Property also needs to increase socialization, expand legal education, and simplify registration procedures, including providing incentives or fee waivers for MSMEs to be more encouraged to register their brands. In addition, the role of academics is important in providing critical studies and policy recommendations regarding brand legal protection, especially for the culinary MSME sector, so that research results can be input in the formulation of more effective policies. Consumer awareness also needs to be increased to be more selective in choosing products with registered brands, because the attitude of consumers who care about legality will encourage business actors to be more disciplined in protecting their brands.

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