

Intervention of Intellectual Property Rights on Household Industry Productivity¹

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Abstract

All seaweed farmer groups can naturally train their members. Even local governments have provided services for increasing the productivity of home industry of seaweed farmers as regional superior products, but there has been no IPR intervention action on superior products in order to provide protection and encourage the type of seaweed processing business to obtain IPR. Research uses this normative and empirical legal research. This means that legal material data is used in reviewing and tracing various rules regarding IPR in the productivity of Industrial Seaweed RT in Rote Ndao Regency. Research shows that branded processed seaweed food products are fostered and developed by local governments, but IPR intervention is not carried out by regional governments to protect and encourage each type of product to develop regional superior products. The legal impact on unbranded seaweed food products in Rote Ndao District is that the community does not yet feel secure by not having IPR from the types of products available.

Keywords: IPR Intervention, Industrial Productivity RT, Seaweed

Abstrak

Semua kelompok usaha petani rumput laut dapat melatih anggotanya secara alamiah. Pemerintah daerah sekalipun telah memberikan layanan bagi peningkatan produktivitas industri rumah tangga petani rumput laut sebagai produk unggulan daerah, akan tetapi belum ada tindakan intervensi HAKI atas produk unggulan dalam rangka memberikan perlindungan dan mendorong jenis usaha olahan rumput laut agar memperoleh HAKI. Penelitian ini menggunakan penelitian hukum normatif dan empiris. Artinya data dan bahan hukum dipakai dalam mengkaji dan menelusuri berbagai aturan mengenai HAKI dalam produktivitas Industri RT Rumput laut di Kabupaten Rote Ndao. Penelitian menunjukkan produk makanan olahan rumput laut tanpa merek dibina dan dikembangkan oleh pemerintah daerah, namun intervensi HAKI tidak dilakukan oleh Pemerintah daerah guna melindungi dan mendorong setiap jenis produk untuk mengembangkan produk unggulan daerah. Dampak hukum terhadap produk makanan olahan rumput laut tanpa merek di Kabupaten Rote Ndao adalah masyarakat belum merasa terjamin dengan belum memiliki HAKI dari jenis produk yang ada.

Kata Kunci: Intervensi HAKI, Produktivitas Industri RT, Rumput Laut

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Introduction

The term seaweed is commonly known in the world of commerce. The study results from Bank Indonesia, state that this term is a translation of the word "seaweed". Seaweed has been known and utilized by humans since Shen Nung's imperial era around

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2700 BC. Seaweed at that time was used as medicine and food ingredients by eastern people. Then in 65, BC seaweed was used as an ingredient for beauty tools during the Roman Empire. Seaweed used as fertilizer since the 4th century was then used massively after the 12th century by France, Ireland, and Scotland. Along with advances in technology and knowledge of seaweed that is increasingly developing, the use of it is not only as food, medicine or cosmetics. Spanish, French, and English seaweed are used as raw material for glassmakers, while in Ireland, Norway and Scotland seaweed are treated as plant fertilizer.

Economically, new seaweed was used around 1670 in China. Utilization of seaweed in Indonesia was first discovered by Europeans in 1292 who navigated Indonesian waters, that residents inhabiting islands in the archipelago had been collecting marine algae for centuries for vegetables, but their use was limited and limited only for fisherman families. It was stated that officially the development of seaweed cultivation in Indonesia had been initiated since the 1980 to stimulate the economic growth of coastal areas. (Aslan, 1998) The seaweed cultivation business itself is an effort that aims to increase and increase the income of farmers (coastal communities) by controlling the development and harvesting of seaweed. According to the Ministry of Maritime Affairs and Fisheries that the development of seaweed cultivation is alternative empowerment of coastal communities that have advantages in terms of the products produced. Certainly, this has various uses.

The Directorate General of Small and Medium Industry has stated that the development of seaweed as an extracted product is widely used as food, additives, or auxiliary materials in the food, pharmaceutical, textile, paper, paint, and other industries. Seaweed is also used as fertilizer and animal feed or fish component. In Indonesia, the development of the seaweed processing industry as food (*agar-agar*) began in 1930, in 1989 the *keragenan* industry developed and began in 1993, so according to Widyastuti, (2010) it has developed into the alginate industry. Fisheries in Indonesia have grown and developed in the form of large-scale community-owned fisheries and government-owned and nationally or privately owned fisheries. The Eastern Region of East Nusa Tenggara Province, especially Rote Ndao Regency has the potential to grow seaweed on a large scale because some parts of Rote are dominated by coastal villages.

According to data obtained from the Regional Government of Rote Ndao Regency specifically the Office of Marine and Fisheries and the Office of Cooperatives and Small and Medium Enterprises, Industry and Trade, Rote Ndao Regency there are 13 (thirteen) seaweed processing industry groups among seaweed farmers. Everything spreads in various sub-regency in Rote Ndao Regency. The business groups are assisted by the Rote Ndao District Fisheries Agency which is provided business capital by the Ministry of Maritime Affairs and Fisheries.

Table 1. Seaweed Household Business Groups in Rote Ndao Regency

Number	Districts	Group name	Amount
1	Rote Barat Laut	Usaha Salamku & Usaha Sabar	2
2	Rote Timur	Maju Bersama, Cinta Samudera & Usaha Kawanku	3
3	Rote Barat	Pantai Selatan & Usaha Satu Hati	2
4	Lobalain	Kuda Laut	1
5	Rote Barat Daya	Setia	1
6	Pantai Baru	ItaEsa, Sama Rasa, O'Odaro & Pete-Pete	4
Amount			13

Source: Office Marine & Fisheries Service, 2018.

Seaweed commodity is one of the commodities that have economic value that is very promising in encouraging the economic growth of seaweed farmers. All groups that pursue business in home industries are coastal communities. All of them try manually to increase regional and original income and also income in each household.

The business development of these processing groups has not grown well due to limited human resources, weak capital and processing technical training to become value-added products in the local and regional markets, as well as not registering merchandise products as a condition in the world trade system (**Radhika, 2018**). The proceeds of the processed seaweed farmer's household industry include seaweed *dodol*, seaweed flour, seaweed gelatin, seaweed pilus, seaweed syrup. All types of processed products of the home industry have to be registered to obtain brand rights as required by the provisions of Law Number 15 of 2001 concerning Trademarks. Therefore, Sutedi has stated that the provision requires that each brand must be registered so that each producer is guaranteed legal protection against the rights to his trademark (**Sutedi, 2009**).

Based on positive law in Indonesia IPR must be registered. According to Saidin states that the registration of IPR is one of the brands as a legitimate proof of a registered brand, brand registration is also useful as a basis for rejection of the same brand as a whole or the same principally requested by other people for goods or similar services, and as a basis to prevent other people from using the same brand in principle or as a whole in the circulation of goods or services (**Saidin, 2010**).

Purwaningsih outlines various problems that arise related to the brand that currently often occur in Indonesia that is the practice of imitating a trademark that is a businessman with bad intentions in terms of dishonest competition such as this manifests the use of efforts to use brands well-known existing ones so that the brand of the goods or services they produce is essentially the same as the brand or service that is well-known to create an impression as if the goods they produce are such well-known products and also the practice of counterfeit trademarks, namely dishonest competition carried out by entrepreneurs who do not have good intentions by producing goods by using a brand that is widely known in the community that is not their right that gives a

good influence on an item because it is considered as a producer of quality goods. (Sreedharan, 2010).

Furthermore, Sudargo (1995) has stated that many trademarks that are well-known or have a brand image are falsified by some people to benefit from the similarity or imitation of the trademark. Thus seaweed-processed food products in Rote Ndao Regency, Pantai Baru Sub-regency, there are four processed seaweed food business groups that market processed products in the local market. What happens in the field is that only one business group that has a legally registered brand of processed food, while the other three groups do not have each registered brand. This is certainly against the law number 15 of 2001 which is concerned with a trademark that requires each brand has to be legally registered. By doing so, each producer can be guaranteed a legal protection against the rights to the brand.

The IPR intervention is understood as a manifestation of the actions of the regional government to register all its superior products so that they could be freely marketed without being claimed by other parties in the trading system. Certainly, in this respect, the role of the local government is absolutely expected in Rote Ndao Regency-NTT in promoting and marketing the results of regional superior products, especially industrial products related to processed seaweed into a typical food from Rote Ndao-Regency NTT. This means that IPR intervention in this research is a concrete form of government support in supporting and acknowledging and appreciating the work of the processed household industry from seaweed. So if the local government of Rote Ndao Regency does not see all the superior products that have been produced by the community in order to obtain IPR, then the products of the sea will not be developed.

Research Problems

In accordance with the description in the background, the problem can be formulated: *First*, what is the impact of IPR intervention on the productivity of the Seaweed Household industry in Rote Ndao Regency? and *Second*, what are the inhibiting factors of IPR Intervention on the productivity of the Rote Ndao Regency Seaweed Industry?

Research Methods

This research covers the types of normative and empirical legal research because this study uses secondary data and primary data in reviewing and tracking the norms and regulations governing the argumentation and concept of Haki intervention on the productivity of RT Seaweed Industry in Ndao Regency. This means that the types of legal research used are data sources, data collection techniques, data processing, and analysis, which are always known in empirical juridical research, as well as legal norms, legal principles and legislation governing IPR. Data obtained, then processed, and analyzed qualitatively by describing the data produced in the form of sentence descriptions or explanations. Data analysis is then followed by drawing conclusion inductively; i.e. a way

of thinking based on general facts Specific conclusions are the proceeded. These are the answer to the problems. Some suggestions are then offered.

Discussion

Impact of IPR intervention on the productivity of the Seaweed Household industry in a business competition in Rote Ndao Regency

The concept of intervention is interpreted as an effort by the regional government to participate in providing protection and recognition and encouraging each regional superior product to be produced in order to support the development of regional superior products through productive efforts of the home industry. Especially related to processed seaweed products into food that can be marketed in the competition of international and national trade. In general, the impact of IPR interventions can be seen from beforehand that many processed seaweed products are developed as superior regional products but because more farmers sell directly to hoarders so that other processed grass products are increasingly scarce (Slamet, 2017).

Intellectual Property Rights intervention will appear if local governments are very pro-active in encouraging community members, especially seaweed farmers to develop processed seaweed products as products that are seeded from Rote Ndao Regency. However, the results of the study show that the local government of the Rote Ndao Regency itself did not know that the seaweed household industry had been marketed everywhere. Certainly, the regional government wants its superior products to be developed. It is obligatory to encourage seaweed farmers to produce products that are processed by seaweed producers.

According to Sudarmanto (2012), the law in the field of intellectual property includes communal rights and personal rights. The protection carried out on these two rights still faces many obstacles. This requires serious attention from the government and stakeholders and there must be a real solution that must be done to welcome the free market in the future. There should be a breakthrough in the field of law to be able to protect the Indonesian economy, one of which is through the protection of intellectual property and fair business competition. Laws in the field of intellectual property with business competition law are complementary.

The development of free markets without realizing it directly has provided opportunities and opportunities for all members of the community both at home and abroad. According to (Client,2018) in the NISCAIR-CSIR Online Periodical Repository Journal, mentioning that at the same time, the level of further government regulation in the IPR sector must be carefully balanced so as not to overly restrict innovation that relies on data. The opportunity is an opportunity to compete in trading goods and services that are produced beyond the borders of a country more quickly, more easily, and at very cheap prices. So that it can produce economic and social activities significantly.

This can be proven by the many foreign products that spread in the domestic market. Intellectual Property Rights is the economic fundamentals of a nation (Nugroho,2015). In addition, (Sinungan,2011) describes the economic progress of a nation as seen from how much IPR is owned by the nation. The more IPR owned, the faster the economic growth will be achieved by the country. Intellectual Property Rights owned can be used as a benchmark in seeing the progress and development of a nation's economy. So that the increasing number of intellectual property rights owned by a nation can be used as a driver of economic development and increase the competitiveness of products produced from within the country. According to Shahid Alikhan, the application of the IPR system is a springboard of modern economic systems at the national level and at the same time is a catalyst for development. In addition, IPR is an asset for science-based economic growth in the upcoming free market era.

The role of IPR in a business competition in the industrial production of household seaweed farmers in Rote Ndao Regency cannot be ruled out. The existence of a similar IPR legal regime owned by the two legal regimes includes the aim of advancing the national economic system in the era of free trade and globalization, encouraging innovation and creativity as well as improving people's welfare. So Lindsey (2011) has stated that the existence of IPR for each type of production processed by seaweed households can directly relate to the protection of the application of ideas and information that has commercial value.

Saliman (2011) has stated that IPR for this type of production is a system of providing legal protection for intellectual works that cover a wide range from traditional knowledge to superior programs of each region in Indonesia that are very rapidly developing such as computers and internet in today's digital business era (Kikuchi,2005). Certainly, IPR is the right to enjoy the results of human intellectual creativity economically because the existence and Business Competition Law should be seen as legal provisions that are complementary or mutually complementary for the harmony of Indonesia's national legal system (Mulyani, 2014).

Intellectual property rights include exclusive communal rights consisting of economic rights and moral rights. Economic rights are rights owned by an inventor and designer to benefit from inventions and industrial design works. These economic rights develop with commercial use of rights. Commercial rights are obtained on the grounds that realizing ideas and ideas in a writing, then continued with a product finding in the field of technology (patents) and industrial design work, of course, requires a sacrifice of time, effort, and cost. Therefore, the results of an intellectual work finding must be managed commercially, in order to return capital and gain profits. Moral rights are the right to protect personal interests in the Inventor (inventor) and the reputation of the designer. IPR is one of the tools to trigger potential economic benefits to encourage the growth of industrial products, and in general, IPR can encourage national economic growth through the creation of a healthy business climate. So we can compete with KI (Intellectual Property) and IPR-based industrial products from other countries.

Talking about IPR and Business Competition Law there are two sides that must be understood. According to (Sudarmanto,2012) describes that First, concerning the protection of intellectual rights as a form of incentives and rewards in order to spur creativity and innovation in developing art, science, technology and trade that are expected to improve the quality of civilization. Arrangements regarding IPR provide opportunities for inventors or rights holders to be able to take advantage of the results arising from human intellectual abilities. Second, business competition law talks about protecting the climate from competing fairly for the opening of economic opportunities, innovation and business opportunities for all parties. In principle, this law will provide an opportunity for business certainty for all people by freeing the market for efficient and fair competition to give consumers the best alternative choice in the market (Purba, 2005).

Both of these laws must collaborate with each other in improving the economy in Indonesia. The IPR law encourages the better creativity and innovation of the Indonesian people. The IPR law also maintains that the results of creativity and innovation are not used by others who are not entitled to such intellectual property for their own benefit. Whereas the Business Competition Law protects the fair competition climate so that it will spur business people to carry out creativity and innovation in developing products in a more qualified business world and can compete with foreign products (Heinz,2017).

Intellectual Property Rights have become the most important part of a country to maintain industrial excellence and trade. It is recognized that the economic growth of a country is very dependent on its trade sector which is ultimately determined by its comparative advantage. So Djumhana (2003) has stated that comparative advantage is very dependent on technological capabilities. One of the elements is in the field of intellectual property coverage. So, intellectual wealth is one of the most important parts of international relations. Intellectual Property Right becomes very important to stimulate the pace of the world economy which ultimately brings prosperity to humanity.

Revitalization of IPR in Indonesia carried out by the government is needed by issuing policies and legal breakthroughs that can raise public awareness of IPR and issue policies in the form of "pick up the ball" so that people who are less able to protect their intellectual property can be well protected and enforced IPR law is more effective. The increasing number of intellectual property of Indonesian people who are protected, it will be able to drive the pace of the Indonesian economy in the era of free markets. In addition, the need for encouragement from a healthy business competition climate is created by the enforcement of optimal and fair business competition law, so that the Indonesian economy gets stronger.

Seaweed-processed food products by groups of households in the Rote Ndao Regency area are still very small. Most of the production of seaweed farmers is only to be planted and sold directly to seaweed buyers or hoarders. While some household food processing groups choose to produce the results of seaweed farmers to be used as snacks

or snacks that are produced and sold to buyers according to their hobbies and interests without seeing it as a business opportunity to help generate income in the household. Knowledge gained is very natural because all processed products are carried out only as part of the results of creativity or hobbies of housewives. The longer it has been sharpened, the more it has now become part of the business that adds income to their own domestic life because many of the processed industrial products have been marketed and have become typical souvenirs from Rote Ndao Regency.

The local government in Rote Ndao Regency has also provided business capital support and has always provided guidance for farmers in seaweed business so that they still have the superior product output. The number of seaweed farmer business groups spread throughout the sub-districts and villages in Rote Ndao Regency. In addition, each group has various types of seaweed food processing business products, namely seaweed *dodol*, crackers that have a mixture of seaweed, and other snacks that have basic ingredients such as seaweed sticks and so on. The progress of various business productivity of the home industry is only to develop a hobby in providing a taste for processed foods from marine products.

The development of processed seaweed production every year has increased. This is in line with the market or consumer demand. The results of the research obtained are various kinds of seaweed processed products whose brands have been registered but have not yet obtained intellectual property rights.

Table 2 Number and type of home-based processed food business the group of seaweed farmers in the Rote Ndao District

No	Group name	Start operation	Type of business	Amount	Income/year		
					2016	2017	2018
1	<i>O'Odaro</i>	2010	<i>Tepung agar-agar & Pilus</i>	3	12	9	11
2	<i>ItaEsa</i>		<i>Dodol Rumput Laut</i>		million	million	million
3	<i>Pete - Pete</i>		<i>Agar-agar dan Sirup</i>				
4	<i>Satu Hati</i>	2014	<i>Sirup</i>	3	8	12	15
5	<i>Salamku</i>		<i>Tepung agar-agar</i>		million	million	million
6	<i>Maju Bersama</i>		<i>Dodol Cita Rasa</i>				
7	<i>Mandiri</i>	2015	<i>Tepung Agar-agar</i>	3	11	15	17
8	<i>Buah Hati</i>		<i>Sirup</i>		million	million	million
9	<i>Sama Rasa</i>		<i>Pilus Rumput Laut</i>				

Source : Department of Marine and Fisheries, Rote Ndao, 2018

The above data provide information on the development of the number of seaweed entrepreneurs in Rote Ndao District, specifically the Pantai Baru Subdistrict, the researchers found that each business group obtained an increase from the sale. This proves that by using only the results of recommendations from the Food and Drug Supervisory Agency which describes the halal types of products processed from seaweed, each business group experiences an increase in the marketing of its products. This means

that each group appears by showing all regional superior products so that the government should make a breakthrough by intervening in registering each type of product.

All household industry business groups in the Rote Ndao Regency feel and want a production that is able to compete with the market because they are very confident that all types of products produced have tastes that are very different from other regions, for example, the taste of each product is endeavored to produce in other regions, but because they do not have expertise in controlling their fish, they cannot compete in the demands of consumers or buyers. Of course, it is expected that all can be registered in order to obtain intellectual property rights for their creations or works (Idris,2010). In fact, this helps superior products in the area of Rote Ndao Regency.

Through IPR intervention, local governments should take precautions to ensure that seaweed-processed food products, especially from the local government-authorized work units such as the Marine and Fisheries Service and the Rote Ndao District Industry and Trade Office, can provide direction and information for each type of product superior can be registered with the IPR. During this time the activities carried out by the local government work unit were only in the form of a comprehensive data collection on business groups, and should then disseminate information to business groups about the importance of IPR registration of processed food products. In addition, it is necessary to facilitate business groups that have not registered IPR so that it is directed to be immediately registered. So in the future, they can avoid social inequality and the government facilitates business groups to promote the results of seaweed-processed food products so that it can be recognized by the public. Certainly, the efforts made cause the local government to seek to increase legal awareness of the installation of brands in processed seaweed food products. Therefore, people begin to realize about food products that will be produced so that many business groups can be seen as valuable or valuable when their products are marketed.

Curative legal protection is first, litigation efforts are carried out by one or several parties who feel harmed by another party by taking legal action. Second, Non-Litigation Efforts are the resolution of this problem outside of the court on the basis of finding solutions to problems that occur in the inner field or in other words mediation (Rizal, 2009). Case examples that have occurred in Rote Ndao Regency, where there are two business groups that have the same brand, because during the training and establishment of a business group held by Rote Ndao Regency's Marine and Fishery Service in 2010, the two groups had the same brand so that from the related office brought together the two business groups to solve the problem by helping one group to propose another brand.

The occurrence of legal violations of brand rights has an important role in the smooth and increasing trade in goods or services in trade and investment activities. A brand with its brand image can meet consumer's need for a sign or distinguishing feature which is very important and is a guarantee of the quality of a product because the brand

becomes a kind of "initial seller" for a product to consumers. In the current era of competition, we cannot limit the entry of products from abroad into the country or vice versa from domestic to foreign countries. Brands as company assets will be able to generate large profits if utilized by paying attention to business aspects and good management. With the increasing importance of the role of this brand, the brand needs to put legal protection as an object to which it relates to the rights of individuals or legal entities.

In Indonesia, the rights to the brand are based on the first use of the brand. Those who register their marks are considered by law to be the first brand users of the brand unless otherwise proven and are considered entitled to the mark concerned. The purpose of brand registration is to provide protection for the registration of the mark which is considered by law as the first user of unauthorized use by other parties. The brand registration system in Indonesia is the registration process with a prior examination to the Director General of Intellectual Property Rights (compare Kur's thoughts, Annette in the Journal of IPR (JIPR)). It is worth mentioning that before being registered, the brand is first examined about the brand itself and an application for its registration is accepted by the registration if it has fulfilled the requirements both formal and substantive which has been determined by the Trademark Law, which is about the existence of differentiator.

The success of brand law enforcement cannot be achieved by relying solely on laws that regulate brand issues alone. The success of brand law enforcement requires the support of other elements, especially institutions/agencies engaged in the field of brands. Legal protection against registered trademarks is absolutely given by the government to holders and users of brand rights to guarantee, namely business certainty for producers and attracting investors to foreign trade brands, while legal protection provided to local trademarks is expected to someday be able to develop extends internationally.

Brand violations usually have the motivation to get profits easily, by trying, imitating, or faking brands that are already well-known in the community. These actions can be detrimental to other parties with interests such as society, both producers and consumers. Many are harmed besides the state. A brand owner or brand licensee can sue someone without permission to use his trademark. Here what is meant by brand violation is a violation of the rights of the registered trademark and service mark of the owners in the form of violations of civil rights or criminal offenses of the brand.

It is known that the rights to the brand are special rights granted by the state to registered trademark owners. Because it is a special right, the other party cannot use the registered mark without the permission of the owner. People who are interested in using other people's brands must first enter into a license agreement and register it with the Office of Intellectual Property Rights. If without entering into a license agreement, but directly making the same brand in principle or in its entirety with the registered trademark of another person and use on the same goods or services without brand registration, then this is a violation of the Right to Trademark. So the form of the

violation is an impersonation of a registered brand. Another term for the violation is known as the term "brand piracy". The form shows the difference with the object of cancellation of brand registration because in the cancellation there is also a reason that the registered brand has similarity in principle or in its entirety with the registered trademark of the person who sues.

Article 3 of Law Number 15 the Year 2001 stipulates that "rights to brands are exclusive rights granted by the state to brand owners registered in the General Register of Marks for a certain period of time by using the brand itself or giving permission to other parties to use it". The behavior of the people who violate the brand shows that there is still a low understanding of applicable legal norms, especially those listed in Law No. 15 of 2001 concerning with trademark or better known as legal awareness.

Economic conditions are also the reason why people tend to be more interested in buying counterfeit products. They do this because they are more concerned with the prices offered from these fake products even though the quality is far different from the original product. It is worth mentioning that legal awareness is an awareness or values contained in humans about existing law or about the law that is expected to exist. Actually, the emphasis is the values of legal functions and not a legal assessment of concrete events in the community concerned. The Anti-Counterfeiting Indonesian Society (MIAP) has said that the brand violation mode is now more sophisticated and difficult to enforce its law enforcement efforts (**Margono, 2012**).

The current brand law does not recognize and does not provide the means to be able to take action for violating the brand with the new mode. According to Zakiyah, in the *Vinding Rehts Journal*, Vol.1 No.2, MIAP has three modes of brand violation: First, unauthorized use of a brand that is the same as the trademark of another registered party. Second, the unauthorized use of a brand similar to the other party's registered trademark. Cases like this are often known as Passing Off. The Passing Off action is not a form of ordinary brand violation and is even considered to be no violation of the registered mark. Actors produce a product that uses a different brand but uses certain elements or parts so that its appearance resembles the appearance of products belonging to other parties that are already well-known and registered. Consumers tend to look more at a physical appearance and are not too careful about seeing or checking brands. This action is detrimental to consumers because they do not get the product that suits what they are looking for. Third, the unauthorized use of a brand that is the same or similar to the trademark of another person registered. However, the brand is used for different types of products. MIAP encourages relevant government institutions to accommodate the new mode of brand violation mode so that it can provide legal certainty. The violation of the brand rights is motivated to get profits easily, by trying to imitate or to fake brands that are already well-known in the community. From these actions, the people are harmed both the producers and consumers, besides that the State is harmed as well.

These are the legal impacts on branded seaweed food products in Pantai Baru District of Rote Ndao Regency. First, the branded product directly has binding legal force. With the registration of brands on processed seaweed food in Pantai Baru District of Rote Ndao Regency, it can make these processed products into products that have legal power over the products they sell. So there is very little possibility of the practice of imitation of brand rights by other parties.

Second, branded products are more recognizable in the community in this respect the consumers. It is easier for the community as consumers to recognize a product if it has a brand that can be guaranteed in terms of the quality of the registered brand. Brands help in local and regional marketing activities. In this respect, the brand also plays an important role in marketing a product, because if there is a brand, the community can distinguish one product from another so that the community can know which product is genuine and which one is not.

Third, Brands help consumers distinguish one product from another because brands have distinctive features. The distinctive characteristics of a brand are very much needed so that the community is able to distinguish a brand from another brand, while the distinctive character is very punishing the brand that is avoiding the product from the practice of imitating a trademark (**Rongiyati, 2018**).

The legal impact is first, i.e. every type of production that does not have a brand right can be copied by anyone and cannot be claimed by the original owner. Certainly, the original owner or a previous one will experience loss of intellectual property rights to the type of production of processed seaweed. So an effort is needed from various parties so that each type of product produced must be registered in order to obtain intellectual property rights in the form of brands. Because the legal impact is very potential for every creation that is experienced or can occur on the part of seaweed processed food business groups in Rote Ndao Regency. The Trademark Law provides a criminal threat to anyone who uses the same Brand in its entirety or the same in principle. Both forms of action are classified as crimes. The amount of the criminal threat is determined in the provisions of Articles 90 and 91, as follows:

1. Article 90 reads "Anyone who intentionally and without rights uses the same Mark in its entirety with a registered Mark owned by another party for goods and/or services similar to those produced and/or traded, subject to imprisonment for a maximum of 5 (five) years and/or a maximum fine of Rp.1,000,000,000.00 (one billion rupiah) ".
2. Article 91 reads: "Anyone who intentionally and without rights uses the same Mark in principle with a registered Mark owned by another party for goods and/or services that are produced and/or traded, subject to a maximum imprisonment of 4 (four) year and/or a fine of no more than Rp. 800,000,000.00 (eight hundred million rupiahs)"

This provision will have the nature of binding if there is already a product that has intellectual property rights in the form of a brand. Because if it does not exist yet when

claiming the results of the creation, the law does not have the binding right to sue each other. Even the law on intellectual property rights recognizes every person who first registers and who has ownership of the invention.

Balancing Rights and Obligations between Traditional Cultural Expressions Stakeholders

It is not easy for Indonesia as a developing country to implement the IPR regime. because Indonesia has specificity in the characteristics of its people. Society in Indonesia is a communal society that places shared interests higher than individual interests, even though that does not mean that individuals lose their rights. As well as the habit of helping, it is one of the prominent features in local communities such as in Indonesia (Widihastuti, 2013).

When associated with the application of IPR in Indonesia. The characteristics of Indonesian society are very different from the issue of protecting the economic interests of individual rights holders in the IPR system. Many local communities do not care about IPR protection efforts. IPR is individualistic and the Indonesian people are communal people who value togetherness. Both are conflicting so that the application of IPR in Indonesia has many obstacles. The concept of IPR brought in Indonesia is not right for the culture in Indonesia (Rongiyati, 2018). This has become a challenge for the government to form legislation that is in accordance with the communal culture in Indonesia.

Protection in the field of intellectual property is indeed very important and needed in backing up Indonesia's economy in free trade today. Keep in mind that protection in the field of intellectual property in Indonesia must include two rights, namely communal rights and personal rights. In its development, personal rights are grouped into two, namely copyright and industrial property rights (Andy, 2015).

It is important to recognize the characteristics of each of these rights, namely communal rights and personal rights. By recognizing the characteristics of these two rights, we can determine the form of protection that is suitable for each of these rights. Protection of consumers must be done as an effort to build the Indonesian economy. According to the author, there is a number of things that can be done to protect intellectual property in Indonesia. First, legislation needs to be established that fits the needs of the local community. Second, documentation of Indonesian intellectual property must be carried out. Third, the active role and commitment of stakeholders are needed to protect Indonesia's intellectual property. Fourth, improvements in institutions. Fifth, build a legal culture for the community (Yoseph, 2018).

The first inhibiting factor is that the local government of Rote Ndao Regency does not yet have local regulations related to the management of regional superior product development that can be intervened through IPR as a form of protection and development of household industry by seaweed farmers. Certainly, these rules are needed to overcome various problems that have occurred or will occur mainly because

regional regulations are one of the tools that can be used to protect the rights of citizens. This means that the idea of establishing these regional regulations must regulate intellectual property must be made in accordance with the conditions and needs of the local community, especially the development and growth of competition in the processed industry type production of seaweed farmers (**Greene, 2018**). The culture of the people in each region is very different. So there should be more specific arrangements related to local wisdom in Rote Ndao Regency. So that there should be special rules or regulations in protecting seaweed farming communities in order to accommodate various interests of the local community in Rote Ndao Regency. As stated by (**Sardjono, 2013**), that the government can consider the formulation of legislation including regional regulations that must be sui generis which regulates the issue of foreign people's access to biological resources and related traditional knowledge, and the distribution of benefits that occur because of that access.

The second inhibiting factor, despite the documentation of the types of superior products in the Rote Ndao Regency area, has not yet been intervened through IPR and needs to be tested in its implementation so that it becomes an example of the importance of intellectual property in the region. Because IPR intervention must also pay attention to communal rights in determining the types of superior products. The aim was to claim the types of communal rights in each group in the area in Rote Ndao District. Of course, this is not implemented in counteracting the registration of communal rights, so that what is done by foreigners and disseminating the benefits of communal rights to the community in Rote Ndao Regency can occur. This hope is that in solving IPR problems there needs to be an active role from stakeholders. The joint commitment of stakeholders has become the basic capital in changing the IPR regime in accordance with conditions in each region in Indonesia.

According to Sudarmanto (2012), stakeholders are actors, coaches, promoters, and referees. The four stakeholder groups must work together well to be able to protect intellectual property in Indonesia. The meaning of perpetrators is the designer, inventor, creator, applicant for IPR, craftsmen, industrial society, IPR implementers, and others. Trainers are ministries, non-ministries, officers, relevant regional governments, universities and research institutes, intellectual property consultants, and so on. Promoters consist of associations (craft, industry, and trade), cadets, entrepreneurs/inventors, NGOs, and so on. While the referee is the IPR office, court, supreme court, police, and prosecutor (**Sukarmi, 2014**).

Other obstacles related to inventors, such as for patents. In patent protection requires active action from the inventor to obtain protection. The patent regime requires the public to actively submit a protection request. Local people who want to ask for patent protection must take various administrative steps and beforehand they must prepare a document that contains patent specifications and desired claims (Ansori, 2011). Local people also have difficulties in making patent drafting as one of the formal patent filing requirements that are in accordance with what is desired by the Patent Office. This

is the most obvious obstacle in obtaining patent protection. The tradition of local people in general who are not familiar with the authenticity of writing that has cultural values. The behavior patterns of traditional community members in Rote Ndao Regency are determined by traditional norms that are recognized and obeyed which are generally known as adat.

Every effort cannot be separated from obstacles as well as all government actions. Empowering and fostering seaweed home industry business groups need to intervene IPR in Rote Ndao Regency, especially starting from production, distribution, and consumption so that it can provide encouragement for *Usaha* groups to have enthusiasm in developing regional superior products. Through the production of the Rote Ndao Regency government through the technical service, in addition to having to intervene IPR in guiding and empowering every business opportunity, especially the seaweed home industry in order to have superior regional products. The government distribution should also be present to carry out IPR interventions, especially looking at each sale result so as not to harm the business group. However, through government consumers, they do not have a target in terms of giving a label to their products so that they have the potential to be traced by other parties in terms of intellectual property rights.

Government efforts to intervene through IPR, to overcome this, especially after providing production licensing services and helping to register intellectual property rights but have not been there for matters of intervention. However, with the spirit of the business group, it is continuously improved so that the regions still have superior products. For example through regional development exhibitions at both the provincial and district and sub-district and village levels. Everything is empowered like a race so that the seaweed home industry group has enthusiasm in terms of production and distribution. Through these activities, many parties tried to find out the types and types of superior products from each group.

Even though the partnership between local government work units in Rote Ndao Regency, it is very minimal in the effort to empower seaweed home industry groups, all creativity between groups to show the capability and uniqueness of each product always gives positive hope for Rote Island at national and international levels through the products. Especially in terms of providing understanding related to the procedure for obtaining intellectual property rights to each production result.

The results of interviews with researchers with a number of seaweed industry business groups in each village showed that the local government through technical services had assisted them in terms of equipment and training of group members but to produce more and control the market had not been implemented because it was hampered by IPR to existing production (**Slamet, 2017**). So, all groups expect assistance and concern for the government to continue to assist them in terms of registering intellectual property rights of each type of production that exists.

According to observations in the field, it is difficult for many type of equipment to reach by each group of production, especially boxes or packets of production. So as to

save costs, the groups work with people outside the region to help to produce package leather so that they label each type of production. The average equipment is only for production but the distribution does not yet exist. It is hoped that the Rote Ndao Regency government prepares equipment in terms of leather to help with the distribution. Especially the process of ownership of intellectual property rights of each type of production that has been produced by the existing seaweed farmer industry business groups (Raju, 2017).

Conclusion

The intervention of IPR on the industrial productivity of household seaweed farmers in the Rote Ndao Regency area must be understood as an effort of the regional government to protect and encourage each type of superior product, especially for every type of home industry product to compete globally to develop superior products in the Regency of Rote Ndao. So that it does not cause various gaps in gaining trust with consumers or buyers. To overcome this problem, the regional government is obliged to intervene in IPR in an effort to protect the law of each type of product so that it does not cause problems in business competition.

Inhibiting factors from the absence of IPR intervention by local governments, according to the results of the study found that many superior products in the Rote Ndao Regency area have not been legally protected, especially regulating the management of regional superior yields to be intervened through IPR. The results of the types of production vary, but there are no legal issues in the sales and business competition system. Nevertheless, there should be a more serious effort to increase the production yield of each type of production both in terms of marketing, human health and in terms of improving superior product development in Rote Ndao Regency.

Suggestion

The government of Rote Ndao Regency needs to issue regulations in the form of regional regulations in order to intervene through IPR while paying attention to the management of seaweed farmers' business groups as the development of regional superior programs according to the type of production to have intellectual property rights. In addition, every production from seaweed farmers needs to be labeled with the name of Rote Island in order to introduce Rote Island as the leading producing region through the type of production of seaweed farmers in Rote Ndao Regency.

There should be decimation of the results of this study so that each type of production from processed products in the home industry does not have an effect on health and marketing of production. It is necessary to provide guidance for business groups so that in addition to having intellectual property rights for each type of production must have a distinctive label with Rote Island as a superior product development area in Rote Ndao District. The business of Seaweed Farmers Group knows

more about the use of brand rights so that the products produced have high competitiveness and products.

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