

Effectiveness of Culinary Industry MSME Brand Protection in Batam City

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ABSTRACT

Kata Kunci:
Intellectual Property, Brand, Legal Protection, MSME

Intellectual Property (IP) is a right that originates from the creations of human thoughts, which are expressed in various forms and have economic or commercial value. One form of violation currently quite common in IP is counterfeiting or imitating marks. It is caused by developments in technology and transportation facilities which have caused activity in the trade sector, both goods, and services, to experience very rapid development. This study aimed to determine the effectiveness of brand protection for the MSME culinary industry in the city of Batam. This study uses non-doctrinal or empirical legal research methods with data collection techniques using primary and secondary data obtained through interviews and the results of literature studies. This study concludes that the legal protection of trademarks for MSME culinary industry business actors in Batam City is still ineffective. It cannot be applied to society as a whole, where based on culture, there are still quite a several business actors in the culinary industry in Batam City who still need to register their intellectual property. Many people still need to learn about Law Number 20 of 2016 concerning Marks as a law that all Indonesian people must obey as legal subjects.

ABSTRAK

Keywords:
Kekayaan Intelektual, Merek, Perlindungan Hukum,

Kekayaan Intelektual (KI) merupakan suatu hak yang berasal dari kreasi pemikiran manusia yang diekspresikan dalam berbagai bentuk serta memiliki nilai ekonomis atau komersial. Salah satu bentuk pelanggaran yang saat ini cukup sering terjadi pada KI adalah pemalsuan atau peniruan Merek. Hal ini disebabkan oleh perkembangan teknologi dan sarana transportasi yang

UMKM

menyebabkan aktivitas di sektor perdagangan, baik barang maupun jasa mengalami perkembangan yang sangat pesat. Tujuan dari penelitian ini adalah untuk mengetahui keefektifitasan perlindungan Merek industri kuliner UMKM di kota Batam. Penelitian ini menggunakan metode penelitian non-doktrinal atau metode penelitian hukum empiris dengan teknik pengumpulan data menggunakan data primer dan sekunder yang didapat melalui hasil wawancara dan hasil studi kepustakaan. Kesimpulan dari penelitian ini adalah perlindungan hukum Merek terhadap pelaku usaha industri kuliner UMKM di Kota Batam masih belum berjalan efektif karena belum bisa diterapkan kepada masyarakat secara keseluruhan, dimana berdasarkan kultur masih terdapat cukup banyak pelaku usaha di bidang industri kuliner di Kota Batam yang belum mendaftarkan kekayaan intelektual mereka dan masih banyak juga masyarakat yang tidak menyadari dan mengetahui adanya Undang-Undang Nomor 20 Tahun 2016 tentang Merek sebagai hukum yang harus ditaati oleh seluruh rakyat Indonesia sebagai subjek hukum.

1. INTRODUCTION

Intellectual Property (IP) results from a process of human thinking ability, which is then transformed into an invention or creation with economic or commercial value (Simatupang, 2017). An invention or creation is an object to which a right is attached, which originates from the human mind. These rights are exploited or used by humans to increase welfare (Handiwiyanto & Dewantoro, 2019). The higher and more advanced the level of thinking ability of a person or a nation, the higher and more advanced the knowledge and technology they master, which results in a more productive person or nation producing new creations or inventions. In general, IP can be categorized into 2 (two) main categories, namely, first, copyright, which applies to the fields of art, literature, and science, which include songs or music, books, plays, computer programs, photography, cinematography, and others. Second, namely Industrial Property Rights, which include Trademarks, Patents, Geographical Indications, Trade Secrets, Integrated Circuit Layout Designs, Industrial Designs, and Plant Variety Protection (Suparman et al., 2018).

The business sector is always related and can never escape IP. Every business must contain IP, such as Trademarks, Patents, Copyrights, and Industrial Designs (Baihaqi et al., 2021). Every good or service has material wealth as well as immaterial wealth. Material wealth is material wealth from an item or service, while immaterial wealth is intangible wealth from an item or service (Roisah, 2014). One part of IP related to the protection of non-material or

immaterial goods or services related to the MSME culinary industry is a brand. All MSMEs generally have brands, both those used in trademarks and those used in service products (Betlehn & Samosir, 2018). In industry and commerce, brands are essential, especially in marketing products to potential consumers. Apart from being used as an asset that can generate profit for the owner, Mark is also used as a tool that can protect the people as consumers from certain quality counterfeit violations. For business actors, a brand is not only a good image and name for a business but is also part of a business strategy. No business actor does not use a brand as an identity for the goods or services he produces or offers. The identity contained in a brand is an identifier and differentiator between a brand and other business brands (Putri et al., 2020).

Trademark protection in Indonesia adheres to a constitutive principle with the first-to-file principle, which requires prior registration through the Directorate General of Intellectual Property (DJKI) to obtain protection for a mark. MSME business actors will lose legal protection for their trademark rights if the goods or services mark has not been registered (Nurhayati et al., 2019). IP legal protection in Indonesia has not become a serious enough concern. It can be seen from the fact that there are still quite a few IP-related legal violations and a low number of IP applications submitted. It is also due to the common understanding of the IP importance for the culinary industry, such as MSMEs (V. S. Sinaga, 2014).

Batam City is the largest city in the Riau Archipelago Province which is well-known as a city with various industries, ranging from culinary to handicrafts. In Batam City, the number of MSMEs is increasing (Maslan, 2014). Based on data obtained from the Ministry of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia, the number of MSMEs registered in Batam City as of June 2022 was 81,575 (Suwarno & Susanto, 2021). This number continues to increase compared to previous years, which were affected by the Covid-19 pandemic. Business actors who in previous years were affected by the Covid-19 pandemic are now recovering and choosing to start their businesses again. Due to the increasing number of MSMEs in Batam City, the risk of an infringement is certainly higher. Especially considering the lack of awareness of MSME business actors in registering their business marks results in a higher risk of infringement on the mark due to not having a guarantee or legal protection for its business mark. (Ukas et al., 2017) have conducted previous research which focuses on the effectiveness of trademark laws on the

list of small and medium industrial trading businesses. That research explains that there is still a lack of public awareness to understand the benefits and importance of trademark registration, so existing rules are also less effective in practice. Furthermore, (Indrawati & Amnesti, 2019) research focuses on the legal protection of trademarks for small business products. It explains the role of the Kebumen Regency Government in accommodating trademark registration for Small Business products in the Kebumen district. Based on the research results that have been done before, there are several different focuses in this study. The author, in this case, focuses more on the effectiveness of legal protection for MSME Brands in Batam City by using Lawrence M. Friedman's legal theory and conducting interviews with several MSMEs in the culinary industry in Batam City.

2. RESEARCH METHODS

The research method used in this study is a non-doctrinal research method or an empirical legal research method. The empirical legal research method is an approach that examines secondary data first. Then it proceeds with research on primary data in the field based on facts and reality through observation and interviews obtained directly in the community (Disemadi, 2022). The reason for using the empirical research method is that one of the characteristics of this research is to analyze the effectiveness of legal protection for the MSME culinary industry trademarks in Batam City. The approach used in this research is statutory. A statutory approach is an approach that is taken by analyzing rules and regulations related to the legal issues raised. This study uses a descriptive-qualitative analysis method by explaining, parsing, and describing based on problems related to research. The data obtained is processed and then analyzed according to the formulation of the problem so that appropriate results are obtained.

3. RESULTS AND DISCUSSION

3.1 MSME Trademark Protection Regulations in Indonesia

Brands are part of IP in addition to copyrights, industrial designs, trade secrets, patents, geographical indications, integrated circuit layout designs, and plant varieties (Bafadhal, 2018). The brand is one part of the creation of IP, which has an essential role in increasing and smoothing trade in goods or services in trading activities that occur in the current development of

globalization (Mu'arifin, 2004). The existence of KI always follows the dynamics of the development of society itself. It also applies to the Indonesian people who inevitably come into direct contact with and intersect with IP issues. Progress in the world of trade, both on a national and international scale, has caused business actors to pay more and more attention to the main objects of trade. Especially in the era of globalization, where the flow of goods rotates very quickly and expands, brands represent the origin and quality of goods or services traded. IP becomes a legal system that binds countries that agree to form the World Trade Organization. The Agreement Establishing the World Trade Organization (WTO Agreement) and the IP system has also been recognized as part of the norms of behavior in an international trade relationship, so the protection of IP is necessary for every trade. In the WTO agreement, there are annexes, one of which regulates IP, contained in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement) (Aulia, 2007).

In a country, legal protection of IP is essential as a right to work produced by human intellectual abilities. Therefore, the necessary guarantee of adequate legal protection for IP following the TRIPs Agreement clarifies the position of IP protection as a related issue in the field of trade. The aim is to provide IP protection and rights enforcement procedures by implementing actions toward healthy trade (Lobo & Wauran, 2021). Indonesia's participation as a country that is a member of the WTO has consequences for implementing the provisions of the TRIPs agreement, following the provisions of Law Number 7 of 1994 concerning the ratification of the agreement to form a world trade organization (Agreement Creating the World Trade Organization) (Rohendi, 2014). Indonesia must include various international agreements in the conventions ratified as a member country of WTO. Various regulations in the field of IP have been implemented in society. However, the implementation of these laws still needs to improve, even though the Indonesian state has excellent potential if developed, which can generate benefits for the state (Yanto et al., 2020).

The business sector is always related and unseparated from IP, where every business carried out must contain IP, such as Marks, Patents, Copyrights, and Industrial Designs. Every good or service has material and immaterial wealth (Heniyatun et al., 2020). Material wealth is material wealth from an item or service, while immaterial wealth is intangible wealth from an item or service. One part of KI related to the protection of immaterial assets of goods or services

in the MSME culinary industry is a brand. All MSMEs generally have a brand, both those used in trademarks and those used in service products. In industry and commerce, brands are critical, especially in marketing products to potential consumers. Besides being used as assets that can generate profits for the owner, brands are also used to protect the public as consumers from counterfeiting violations of certain qualities ([Permata et al., 2019](#)).

The new MSME criteria are regulated in Articles 35 to Article 36 of Government Regulation MSME. Based on this article, MSMEs are grouped based on business capital criteria or annual sales results. The criteria for working capital are for establishing or registering MSME activities that were established after the GR MSME came into effect. The capital criteria consist of the following: 1) Micro Enterprises have business capital up to a maximum of IDR 1,000,000,000.00 (one billion rupiahs), excluding land and buildings for business premises; 2) Small Businesses have business capital of more than IDR 1,000,000,000.00 (one billion rupiahs) up to a maximum of IDR 5,000,000,000.00 (five billion rupiahs), excluding land and buildings for business premises; and 3) Medium Enterprises have business capital of more than IDR 5,000,000,000.00 (five billion rupiahs) up to a maximum of IDR 10,000,000,000.00 (ten billion rupiahs), excluding land and buildings for business premises.

The nominal value of the criteria above is changeable according to economic developments. In addition to the criteria for business capital and annual sales results, ministries or state agencies may use other criteria such as turnover, net worth, investment value, number of employees, incentives and disincentives, local content, and application of environmentally friendly technology according to the criteria of each business sector, for specific interests (Article 36 GR MSME).

Brands and MSMEs are related to one another and cannot be separated. MSMEs in the national economy generally have a role as the leading actor in economic activity ([Saputra et al., 2021](#)). The Government and Regional Governments in the context of fostering a business climate are stated in Article 7 of Law Number 20 of 2008 concerning Micro, Small, and Medium Enterprises (MSME Law) in the form of establishing laws and policies covering aspects of (1) facilities and infrastructure; (2); business information (3) funding; (4) business opportunity; (5) trade promotion; (6) partnership; (7) business licensing; and (8) institutional support. In addition, the Government and Regional Governments are also ordered by the MSME Law to facilitate business

development in the fields of (1) marketing; (2) production and processing; (3) design and technology; and (4) human resources. Then in Article 14 paragraph (1) letter d and Article 20 letter e, the Government and Regional Government MSME Law are also mandated to facilitate the ownership of intellectual property rights for MSME products and designs in domestic and export business activities and encourage MSMEs to obtain certificates of rights to intellectual property.

Currently, regulations regarding Mark in Indonesia are in Law Number 20 of 2016 concerning Trademarks and Geographical Indications (TGI Law). With the repeal of Law Number 15 of 2001 concerning Mark, the law can no longer be used and can be substituted with the TGI Law (Djaja, 2013). One of the new things "introduced" in the TGI Law is the inclusion of 3-dimensional shapes (3D Shape), holograms, and sound into the scope of the definition of Mark, namely Article 1 number (1), which is used as a basis for reference concerning brands that can be protected. Following the law substituting Law Number 15 of 2001 concerning Brands.

One form of trademark protection is in Article 1, paragraph (5) of the TGI Law, namely by carrying out registration. The article on the TGI Law explains that the right to a mark is an exclusive right that the state gives to owners of marks registered in the General Register of Marks for a certain period. The mark can be used alone or by other parties with a permit (N. A. Sinaga & Ferdian, 2020). In registering a mark, the right to a mark protected by law is given to the brand owner. Mark Registration aims to obtain legal certainty and legal protection of trademark rights, which this mark registration can be done at DJKI. DJKI is a mark registration agency that must register a mark for which the trademark owner is applying for registration.

The trademark registration arrangement is in Articles 20, Articles 21, and Articles 22 of the MIG Law. A brand is not allowed to conflict with state ideology, laws, and regulations, decency, religion, public order, or morality, have similarities with traditional cultural expressions, intangible cultural heritage, or names or logos that have been a hereditary tradition (Dewinta & Astariyani, 2016). A mark has a validity period of 10 (ten) years from the date of receipt and is renewable for the same period of 10 (ten) years. The brand extension process can be carried out directly by the brand owner or their proxies, either electronic or non-electronic (Prameswari, 2021). The renewal process can be carried out 6 (six) months before the expiration of the mark.

Arrangements regarding the extension of this mark are in Article 35 to Article 40 of the TGI Law.

3.2 Legal Politics of Trademark Protection Regulations in Indonesia

The formation of laws and regulations must be carried out based on the principles of forming good laws and regulations, which include: the right forming institution or official; clarity of purpose; suitability between content, type, and hierarchy; usability and effectiveness; can be implemented; openness; and clarity of formulation. Every formation of a statutory regulation must consider the legislation's effectiveness in society, both philosophically, sociologically, and juridically (Afif, 2018). **Philosophically**, Indonesia is a constitutional state as outlined in Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia and strengthened by the presence of Pancasila, which has precepts and is related to one another as the primary foundation. The constitutional state is referred to in the 1945 Constitution of the Republic of Indonesia, and Pancasila is a country that upholds the rule of law to uphold truth and justice. No power cannot be accounted for. Thus, the presence of regulations regarding Marks should correctly enter one of the regulatory sequences enforced in Indonesia (Siallagan, 2016).

Because Indonesia is a state based on law, all activities require legal certainty, including Marks which also require legal certainty. This legal certainty can be provided in the form of a law that regulates marks. Therefore, the TGI Law appeared to guarantee Marks' legal certainty. Regulation regarding marks is also needed as proof that MSME actors who own brands for their creations get protection and legal certainty in receiving benefits from registering their marks (Masnun, 2019). So, in that case, the MIG Law is one of the proofs that Indonesia provides legal protection by the rule of law that has been in effect since Indonesia's independence. The substance regarding trademark regulation in Indonesia starts from Indonesia's willingness to ratify TRIPs as one of the regulations that will legally protect intellectual property rights and aim to provide persuasive contracts for producers of intellectual works to continue to innovate in developing other works.

Juridically, the ratified TRIPs also aim to protect IP conventionally and related to IP, which has broad influence in an era that is side by side with technology. As a result of Indonesia's availability to ratify TRIPs, it also requires Indonesia to establish regulations governing trademarks and geographical

indications. Thus, in 1961, Indonesia established legislation regarding marks in the form of Law Number 21 of 1961 concerning Company Marks and Commercial Marks (1961 Trademark Law), then changed to Law Number 15 of 2001 concerning Trademarks 2001. After undergoing two amendments, to balance the progress of the times and fill a legal vacuum, the laws and regulations regarding marks were amended in 2016 to become Law Number 20 of 2016 concerning Trademarks and Geographical Indications (TGI Law).

Sociologically, the development of trade in goods and services in Indonesia in recent years has increased significantly due to the development of information technology and transportation facilities, which have resulted in the rapid development experienced by activities in the trade sector, both goods, and services. It has affected the progress of the TGI Law as one of the provisions in the sources of Indonesian law. The trend in applying the TGI Law, considered a legal guide and protector for MSMEs, will increase the flow of trade in goods and services, which takes place in line with national economic growth. As one of the intellectual property works closely related to economic and trade activities, Mark plays a vital role. With the increasingly intense and increasing flow of globalization in all fields, regulations in the field of IP, especially on Marks, are always required to meet existing developments and run effectively (Atmadja, 2015).

One of the considerations for promulgating the MIG Law in 2016 can be seen in the preamble considering letter c of the MIG Law. It states that Law Number 15 of 2001 concerning Marks still has deficiencies and has not been able to accommodate the development of community needs in the field of marks and geographical indications. It also is not sufficient to guarantee the protection of local and national economic potential, so it needs to be replaced (Sanjaya, 2016). In addition, Indonesia's participation in ratifying the Convention on the Establishment of the World Trade Organization (WTO), which also contains an agreement regarding the Trade Aspects of IP in the TRIPs agreement which has been ratified by Law Number 7 of 1994 concerning Ratification of the Agreement Establishing the World Trade Organization, demands that Indonesia be able to comply and make it an obligation for Indonesia to carry out the contents of the international agreement and adjust the applicable Trademark law to the provisions in the international agreement that has been ratified. The ratification of this regulation encourages Indonesia's participation in ratifying the Paris Convention, which was ratified by

Presidential Decree Number 15 of 1997 and the Trademark Law Treaty (Budiman, 2019).

There are several improvements in the TGI Law compared to the previous regulations, namely, the emergence of protection for new types of marks or what are known as non-traditional marks. Under the MIG Act, the scope of protected marks includes sound, three-dimensional and holographic marks. Simplifying the Mark registration process and procedures is a form of improvement carried out by improving services to the Mark applicant community to make it easier for applicants to carry out Mark registration. Arrangements regarding the minimum requirements for this application make it easy to submit an application by simply filling out the application form, attaching a label or sample of the brand being applied for registration, and paying the application fee (Pradita, 2019). This change to the flow of the Mark registration process is intended to speed up the completion of the mark registration process. Trademark owners are given an additional opportunity to be able to extend their trademark registration for up to 6 (six) months after the expiration of the trademark registration period with the intention that registered trademark owners do not quickly lose their rights to their Trademark as a result of delays in applying for an extension of trademark registration. Furthermore, criminal sanctions for violations of Marks in the previous Trademark Law were felt to be unable to deter perpetrators from committing violations or counterfeiting Marks which could endanger the health and safety of a person's life. Such as trademark violations in the field of cosmetics, medicines, spare parts, or oils and lubricants, which are very detrimental, so that with this, the provisions regarding sanctions are exacerbated, especially those that threaten human health and the environment, and can result in death (Gunawan, 2014).

3.3 The Effectiveness of Implementation of Culinary Industry MSME Brand Legal Protection in Batam City

IP is a right that comes from the creation or processing of human thought, resulting in a product or process that is beneficial to humans. In simple terms, IP can be interpreted as the right to enjoy economically the results of intellectual creativity, where this IP is the key to competition and the development of a business. This understanding of IP does not stop at business protection alone

but also protecting a business from intellectual property disputes (Hidayah, 2017).

Restaurants, restaurants, cafes, snack businesses, or what can be called MSMEs engaged in the culinary industry are some of those that commercialize their culinary products. The culinary industry sector can potentially be one of the most significant contributors to national income in the creative economy sector. This development is not only due to culinary potential but is also supported by the recent rapid growth of the information and communication technology sector. Starting from marketing that can be done at low prices through social media, coupled with the support of businesses engaged in food delivery, such as Grab Food, Go-Food, and other online-based food delivery services .

To see the effectiveness of implementing a Mark legal protection in Batam City, the author uses the theory put forward by Lawrence M. Friedman. He describes the force of law enforcement based on three elements or components, namely Legal Structure, Legal Substance, and Legal Culture. First is the legal structure, an institution or agency created by the legal system with various functions supporting its operations. From an institutional point of view, a lawful provision can be adequate if the institutional arrangement related to this provision has carried out its rights and obligations (Nasution, 2020).

In this case, the DJKI, as the government, supervisor and providing policy for the implementation of legal protection for trademarks, has carried out its rights and obligations. DJKI routinely carries out various protection efforts, and efforts to build public awareness by holding various activities regarding the importance of intellectual property for MSME actors in Batam City, such as having training, general discussions, or also socialization as recently carried out, namely in June 2022 in Harris Batam Center Hotel, Batam City. Based on its structure, DJKI has carried out its rights and obligations as an institution.

Second, Legal Substance, namely in terms of the legal system output, in this sense in the form of decisions and decrees, and laws and regulations that were born from this system. Community involvement in the formation of law will impact the effectiveness of the enactment of the law. In this case, the MIG Law is the latest Trademark law which is the result of improvements to the previous Trademark law. The substance of the article can achieve the expected goals if it is by the principles of forming proper laws and regulations as determined in the science of legislation and following the purpose of creating a

legal provision. With these provisions, the substance of a statutory regulation can be said to be excellent and effective. The provisions of Article 1 point 5 of the TGI Law are at the core of Mark protection by providing guarantees to brand owners with an exclusive right in the form of a brand certificate with a period determined by the law that can be extended. Thus the brand owner has the right to use his brand or give permission to other parties to use the mark through a license agreement.

Protection of IP in terms of legal substance is in the form of legal protection for IP that meets the requirements in efforts to prevent and take action. This protection is in the form of preventive and repressive protection, where preventive legal protection can be carried out through a mark registration (Kusumastuti et al., 2019). The registered mark will receive legal protection within ten (10) years and is retroactive from the date of receipt of the relevant mark registration. Repressive legal remedies are contained in the arrangements regarding criminal acts in the provisions of laws and regulations. Repressive legal protection is carried out in the event of a violation of trademark rights through civil lawsuits and criminal charges. In this case, the TGI Law has strictly regulated Mark, so the law's substance can be said to be excellent and effective (Anugrahwati, 2014).

Third, Legal Culture is a legal culture in the form of a set of values that will determine when, where, or why people come to the law. This culture plays a vital role related to the level of legal awareness and compliance of the community. Legal awareness is a process that includes elements of legal knowledge, legal attitudes, legal understanding, and legal behavior. In this case, it can be behavior related to the legal system (Kautsar & Muhammad, 2022).

Looking at the indicators described by Lawrence M. Friedman above, it can be said that the legal protection of trademarks for MSME culinary industry entrepreneurs in Batam City needs to be adequate. It is because the implementation in society still needs to be comprehensive. Based on culture, many culinary industry business actors in Batam City still need to register their intellectual property. Moreover, many people are still unaware of and aware of the existence of the TGI Law as a mandatory law—obeyed by all Indonesian people as legal subjects. Because a legal provision can be adequate if the culture and society follow these provisions, the legal protection regarding Marks in Batam City has not been adequate yet. It can be seen from the results of

interviews that have been conducted with several culinary industry SMEs in Batam City as follows:

No.	Actor Name	MSME Name	MSME criteria	Logo	Registered Description
1.	Kurniasih	RM. Nusantara Baru	Small Business		Registered
2.	Kartika Anggraini	Pempek Ananda	Micro Business		Unregistered
3.	Rafhi Rio	Outstrip Cafe	Micro Business		Unregistered
4.	Yahya Sako	Levres Cafe	Micro Business		Unregistered
5.	Mulya Dwi Wulansari	MulMul Kitchen	Micro Business		Unregistered

The first interview was conducted with Mrs. Kartika Anggraini, the owner of UMKM *Pempek Ananda*. She said that the Trademark had not been registered because she did not know how to register her business and also due to financial constraints, where she was afraid that the registration process would require a hefty fee.

Then the following interview was conducted with UMKM *Outstrip Cafe*, where Mr. Rafhi Rio, the owner, said that he had not registered his business because he was afraid that the registration process would take time and require high costs. He said he had attended a seminar on trademark intellectual property, but he felt that there was no compelling reason to register his business mark yet. Furthermore, as the owner of *Levres Cafe*, Mr. Yahya Sako also expressed the opinion that the Trademark has not been registered for his business because the registration process will take a long time.

Furthermore, Mrs. Mulya Dwi, the owner of UMKM *MulMul Kitchen*, believes that the registration of her business mark has not been done because she does not know if a mark can only be protected if it has been registered. Moreover, she does not know what the function of the existence of registration is. Hence, she feels there is no need to carry out registration. In addition, she also believes that it is okay to have the same brand as other people's businesses because, in fact, in the city of Batam, many businesses have the same brand but can still run their business as usual.

Meanwhile, Mrs. Kurniasih, the owner of *RM Nusantara Baru* and one of the MSMEs that has registered their business mark, thinks that she is carrying out trademark registration for her business because trademark registration for a business is vital. After all, the business mark will be protected from plagiarism violations by registering. She realizes that imitation of someone else's Mark is not good and cannot be normalized, so she chooses to register her business mark. He also mentioned that knowledge regarding registration procedures and the legal protection of Marks was obtained through seminars held by DJKI.

Based on the results of the interviews described above, it can be concluded that the author obtained a fact where only 1 (one) out of 5 (five) MSMEs had registered their business mark to DJKI. From the results of these interviews, it was also found that several factors had influenced the not yet-carried-out registration, namely, among others: the knowledge factor, in which the business actor did not have knowledge regarding intellectual property or how to register his business Mark; cultural factors, namely the feeling of having the same brand as other people is a common thing; as well as economic factors, namely related to finance.

4. CONCLUSION

Regulations regarding Trademarks in Indonesia are currently regulated in the Law Number 20 of 2016 concerning Trademarks and Geographical Indications (TGI Law) . The article on the TGI Law explains that the right to a mark is an exclusive right that the state gives to owners of marks registered in the General Register of Marks for a certain period. The mark can be used alone or by other parties who have been granted a permit. One of the considerations for the promulgation of the TGI Law in 2016 can be seen in the preamble considering letter c of the TGI Law, which states that in Law Number 15 of 2001 concerning Marks, there are still deficiencies and are considered unable to

accommodate the development of community needs in the field of marks and geographical indications and are not sufficient to guarantee the protection of local and national economic potential so that they need to be replaced. In addition, Indonesia's participation in ratifying the Convention on the Establishment of the World Trade Organization (WTO), which also contains an agreement on Trade Aspects of IP in the TRIPs agreement, has required Indonesia to be able to comply and make it an obligation for Indonesia to carry out the contents of the international agreement and adjust the Trademark law that applies to the provisions in the international agreement that has been ratified. Looking at the indicators explained by Lawrence M. Friedman, it can be said that the legal protection of trademarks for MSME culinary industry business actors in Batam City needs to be more adequate because it cannot be applied to society as a whole. Based on culture, many business actors in Batam City's culinary industry still need to register their intellectual property. Moreover, many people still need to be aware of and aware of the MIG Law as a law that all Indonesian people must obey as legal subjects. Because a legal provision can be said to be effective if the culture and society concerned are following the provision. Therefore, the legal protection regarding Marks in Batam City has not been adequate yet.

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