

The Role of the Local Community in Geographic Indications based on Tourism Intellectual Property

Triyono Adi Saputro¹, Pujiyono², Emmy Latifah³

{3ada.as@gmail.com¹, pujifhuns@gmail.com², emmy.latifah@yahoo.com³}

Faculty of Law, Universitas Sebelas Maret, Surakarta, Indonesia^{1,2,3}

Abstract. A geographical indication is a part of communal intellectual property rights owned explicitly by groups in a community. Due to a lack of legal awareness among business actors, limited information in the community, and a lack of attention from the government and stakeholders, the development of geographical indication in Indonesia has not been evenly distributed, and business actors have not fully obtained this right in various regions. Therefore, an analysis using a descriptive empirical juridical approach is required to investigate these conditions. This analysis is supported by primary and secondary legal materials obtained through a literature review. The analysis results have revealed that the local community plays a significant role in providing legal protection for geographical indications. As the core of geographical indications, the local community cannot be separated, considering the urgency and strong correlation between the aspects as integral parts. In addition, Indonesia's growing number of tourism sectors may provide opportunities for commercializing tourism products. Therefore, tourism can provide a close correlation with intellectual property that can differentiate products on the market, as well as serves as an effort to improve the tourist destination branding by presenting tourism with a distinctive intellectual property-based nature that can attract both domestic and foreign visitors.

Keywords: geographic indication, local community, tourism intellectual property.

1. Introduction

Intellectual property rights are always relevant. Their vital role can legally protect new inventions, innovations, and creations. The rights are also essential for business competition at national and international levels. Despite their quality and popularity, all products are the same without legality and legal umbrellas. With the global business competition becoming more open, the general public and businesspeople must catch up in this era. In addition, they need proper preparation and appropriate strategies to gain market share and segmentation at national and international levels.

Indonesia has been a party to the Paris Convention for the Protection of Industrial Property since 1888 and the Berne Convention for the Protection of Literary and Artistic Works since 1914. Thus, Indonesia ratified several regulations on intellectual property rights, i.e. Law No. 7 of 1987 on Copyright, Law No. 6 of 1989 on Patents, and Law No. 12 of 1992 on Marks. Those measures were taken to protect innovations dan inventions with legal certainty and appreciate them through intellectual property rights registration. Therefore, the measures are critically important so that Indonesians are ready to compete in the global market and businesspeople thrive in the international and national markets.

However, intellectual property rights are paid more attention to by countries due to their considerable influence on the world. As a consequence, they do not only encompass marks, copyright, patent, and industrial designs. Nevertheless, nowadays communal

intellectual property rights, including geographical indications, are paid attention to. In international trade, geographical indications are a new thing being discussed. In the early 20th century, they were known as appellations of origin or indications of source. Then, they were stipulated at the international level by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) in 1994.

In Indonesia, geographical indications were laid down in Law No. 15 of 2001 on Marks. Now, geographical indications and trademarks are stipulated in Law No. 20 of 2016 on Marks and Geographical Indications. Nonetheless, marks and geographical indications are quite different. Geographical indications have developed more slowly than other intellectual properties such as marks, patents, copyright, industrial designs, etc. Data show that there are 118 registered geographical indications across Indonesia[1]. On the other hand, Indonesia has 416 regencies and 98 cities[2]. In other words, many potential geographical indications have not been registered. It stems from the lack of legal awareness, information, human resources, and the government's role in promoting geographical indications.

Geographical indications are any indications that identify products as originating from a particular region and having reputations, characteristics, and quality influenced by nature, labor, or a combination of both. Nevertheless, geographical indications are part of communal intellectual property rights in a region. Geographical indications are communal in a region so the local community plays a key role in protecting them. However, there are hardly well-managed regional businesspeople groups or associations. As a consequence, it is hard to protect geographical indications. The local community has a vital role in protecting geographical indications as geographical indications are communal intellectual property rights, instead of personal ones.

In Sragen, for example, potential geographical indications have not been registered due to several factors, including the local community. On the other side, geographical indications can boost local tourism and improve the image of tourist destinations. Thus, tourism intellectual property and legal protection, i.e. geographical indications, can go hand in hand.

Departing from the background above, this study discusses the potential of combining geographical indications in Indonesia and tourism intellectual property to promote local tourism. This combination offers different products on the market, brands tourist destinations, and helps make and implement tourism policies in regions with intellectual property-based tourism to attract local and foreign tourists.

2. Research Method

This research employed the descriptive empirical juridical approach. For this reason, Law No. 20 of 2016 was used to reveal actual problems. In addition, other regulations on geographical indications and intellectual property were analyzed to describe the condition in a regency in Central Java[3]. This library research used primary and secondary legal sources such as books, law journals, and the Internet.

3. Literature Review

3.1 Local Community

There are various definitions of the local community. First, it refers to the community that lives or earns their living around the factory, office, warehouse, training facility, rest area, or other fixed assets of a company[4]. The local community plays a vital role in planned communication so that they support an organization. Thus, the community lives in a region to earn their living in any activities. The activities are carried out in various sectors, including

industry in the region where the local community lives. The scope or meaning of the local community is as wide-ranging as its implementation.

Second, the local community reflects the interconnection of a concept, value, norm, and social structure to reach a consensus on common goals[5]. To rephrase it, the community cannot live without a value, concept, and social structure after reaching a consensus on their goals in a region. Therefore, the local community has common goals and consensus wherever they live.

Thus, the community plays an important role in providing an organization in a region to reach consensus and common goals. On the other hand, in community-based tourism, ecotourism requires facilities made and managed by the local community and conserves the environment and local culture[6]. In this respect, the local community is vital to industry, ecotourism, and so forth.

3.2 Geographical Indications

Geographical indications are communal intellectual property rights. In Indonesia, geographical indications have developed more slowly than other intellectual properties such as marks, patents, copyright, industrial designs, etc. Nonetheless, geographical indications can help promote products made by the local community in national and international markets. Hence, geographical indications can promote and protect products made by the local community.

Geographical indications are part of intellectual property rights showing the correlation between a product and its origin. The correlation cannot be separated from the nature influencing the reputation of the product. In addition to the dominant role of nature, as intellectual property, geographical indications need human intervention[7]. Thus, geographical indications are closely related to a place of origin, raw materials, and producers (the local community). In other words, the local community is vital to geographical indications. Legal protection cannot be provided if in conducting their business, the local community has no community-based economic enterprise, center, organization, or association in a region.

Under Law No. 20 of 2016, a geographical indication is any indication that identifies goods and/or a product as originating from a particular region of which its geographical environment factors, including nature, labor, or the combination of both factors are attributable to a given reputation, quality, and characteristics of the produced goods and/or product[8]. Hence, there are four keywords: name; product; geographical origin; and reputation, quality, or characteristics. Geographical indications also include nature, labor, or their combination attributable to the product.

3.3 Tourism Intellectual Property (IP Tourism)

Intellectual property tourism (IP Tourism) combines intellectual property (IP) and tourism, in which intellectual property is involved in tourism product development. For this reason, stakeholders in tourism must understand the commercial value of the intellectual property they produce, create, or innovate to draw tourists[9]. In this respect, intellectual property and tourism can promote different products with geographical indications in national and international markets.

Intellectual Property Rights are exclusive rights within the scope of technology, science, or art, and literature. The rights are given to protect the creations of the mind[10]. In intellectual property rights, the most important part is the creation. They can be artistic, industrial, or scientific works. The creations can also be a combination of those three works, each of which uses different terms.

According to Law No. 10 of 2009, Tourism shall mean many types of tour activities supported by facilities and services provided by the community, businesspeople, Government, and Regional Government[11]. It can be concluded that tourism intellectual property is a right given over a new creation in tourism. It is also given over a new creation in cultural tourism, nature tourism, educational tourism, etc. Tourism intellectual property can create new and different products on the market.

4. Results and Discussions

4.1 The role of the local community in geographical indications

Geographical indications are communal intellectual property rights in a particular region. In addition, a geographical indication identifies a product as originating from a region in which its geographical environment factors such as nature, labor, or the combination of both are attributable to the reputation, quality, and characteristics of the product. In this regard, the application of geographical indications may only be filed by a group, center, community, or association with the same product in the same region. Under Article 53 paragraph 3 of Law No. 20 of 2016, the application for geographical indications may be filed by any entity representing a society in a certain geographical area and the provincial or regency/municipal government. In other words, the applicant for geographical indications is a community-based economic enterprise, center, local community, etc. In this respect, they must be independent and manage geographical indications without any intervention from the local government[12].

Thus, the local community plays a major role in the application of geographical indications to ensure legal certainty. As geographical indications are communal intellectual property rights, they cannot be separated from the local community. Geographical indications cannot be applied or managed without the local community. Despite the government's role in the application, the local community is needed to manage and protect geographical indications in a region.

In Sragen, for example, the geographical indication has not been registered. There, fossil stones at the Sangiran Museum are processed into unique and different handicrafts such as ivory replicas, animal replicas, ancient human replicas, woman accessories, and so forth. The center was established in 1985 and is located in Krikilan Village, Kalijambe Sub-district, Sragen. Until now, it still produces handicrafts[13]. It is not easy to exist for such a long time. There are several obstacles to the application of geographical indications: Human Resources and the Role of the Local Government and Community. Poor human resources, the lack of knowledge, and the absence of the handicraft enterprising community and the role of the government and the local community are obstacles to geographical indications[14].

The above case in sragen district is in connection with the registration of the law Number 20 of 2016 statute on brands and geographical indications in article 56 section 1 and 2[8]. Under article 56 section 1, it describes indications that are contrary to the ideology of the state, the rules of legislation, morality, religion, decency, and public order; Misdirecting or outmaneuvering the public about its reputation, quality, characteristics, source origin, manufacturing of goods, and or use; And it isa name that has been used as a variety of plants and is used for varieties of plants of the same type, unless it has been added as an equivalent of words which indicate a type of geographical indication factor it is therefore unregistered. Regarding the products found in the sangiran stone crayons in sragen, it is possible to obtain registration because so far it does not conflict with state ideologies, religions, misleads communities, and not the varieties of plants that have been used by other products.

Furthermore, according to article 56 section 2, it also explains that in a new product the geographic indication would be rejected if the geographic description of the indications

rights should be disseminated to businesspeople. Geographical indications can enhance competitiveness, boost profits, and expand segmentation and networks.

This condition reflects the effectiveness of the law, a theory developed by Anthony Allot. Law is effective if it can discourage behavior that is disapproved of and eliminate disorder[20]. The local community can promote geographical indications in a region and prevent a product from being duplicated or claimed. Therefore, the local community should be established or empowered to promote communal intellectual property rights or geographical indications. The community can help businesspeople and the local government promote geographical indications in a region.

4.2 Tourism intellectual property-based geographical indications

Geographical indications have been recognized in Indonesia since Law No. 15 of 2001 on Marks was passed. Now, geographical indications are stipulated in Law No. 20 of 2016 on Marks and Geographical Indications. However, geographical indications have developed more slowly than other intellectual property rights such as patents, copyright, marks, industrial designs, etc. In 2008, Bali Kintamani Arabica Coffee was registered as the first geographical indication in Indonesia. It is the only registered geographical indication even though geographical indications have been recognized since 2001. It shows that geographical indications have not been popular among the general public and businesspeople and have developed more slowly than other intellectual property rights.

Thus, it takes time to implement and disseminate geographical indications across Indonesia. In Sragen, for example, the geographical indication has not been registered due to the lack of information, poor human resources, the minor role of the local government and community, and the absence of the local community. Sangiran handicrafts have been made since 1985, but their geographical indication has not been registered[21].

Essentially, tourism cannot be separated from tourism law, including in Indonesia. Thus, Indonesia's government should address issues of intellectual property rights and tourism. Besides, local businesspeople should understand intellectual property rights over local products inspired by local wisdom. In addition, the issue in Sragen is related to tourism so an effective solution is needed. On the other hand, the tourism industry has a significant impact on promoting local wisdom. The tourism industry produces products or goods and services by involving productive economic activities to support it directly and indirectly[22].

The involvement can promote flagship tourist destinations in each regency/city. Therefore, tourism-based geographical indications can promote local tourism and local tourist destinations. For this reason, intellectual property rights can enhance competitiveness in the tourism industry[23].

Bali is the role model for tourism intellectual property-based geographical indications. In 2008, Bali Kintamani Arabica Coffee was registered as the first geographical indication[24]. It shows that geographical indications need human resources and the role of the local government and community in Bali. In addition, Bali is known as the Paradise of Tourism, Paradise Island, and Paradise of the World so its beauty and potential support tourism. Thus, Bali represents tourism intellectual property-based geographical indications.

Tourism intellectual property-based geographical indications in Bali or other regions in Indonesia can support development in each region. The geographical indications offer different products on the market to brand tourist destinations, formulate tourism policies, and draw local and foreign tourists. In this respect, tourism intellectual property-based geographical indications indirectly have a significant impact on a region. Thus, tourism and

the tourism industry in a region can be promoted, attracting more tourists and facilitating development in the region.

5. Conclusion

This study has identified that the local community plays a key role in how the geographical indications of new inventions in a region are registered. The community does not only provide businesspeople with the opportunity to manage and protect geographical indications in the future. The local community can help the government realize geographical indications in a particular region. Tourism intellectual property-based geographical indications can brand a unique tourist destination that draws local and foreign tourists. In addition, tourism intellectual property-based geographical indications can show different products on the market to formulate tourism policy.

6. Reference

- [1] D. Jenderal Kekayaan Intelektual, "E-Indikasi Geografis," *Direktorat Jenderal Kekayaan Intelektual Kemenkumham RI*, 2022. <https://ig.dgip.go.id/>
- [2] B. Bina Adwil, "KEMENDAGRI MUTAKHIRKAN KODE, DATA WILAYAH ADMINISTRASI PEMERINTAHAN DAN PULAU DI SELURUH INDONESIA," *Kementerian Dalam Negeri*, 2022. <https://ditjenbinaadwil.kemendagri.go.id/berita/detail/kemendagri-mutakhirkan--kode-data-wilayah-administrasi-pemerintahan--dan-pulau-di-seluruh-indonesia>
- [3] B. Bachtiar, *Metode Penelitian Hukum*, 1st ed., no. 1. Tangerang Selatan: UNPAM Press, 2018.
- [4] P. K. Gani, "Komunitas Lokal," *LSPR*, 2014. [https://www.lspr.edu/pritakemalgani/komunitas-lokal/#:~:text=Secara definisi%2C komunitas lokal itu,peran komunitas lokal sangat penting.](https://www.lspr.edu/pritakemalgani/komunitas-lokal/#:~:text=Secara%20definisi%20komunitas%20lokal%20itu,peran%20komunitas%20lokal%20sangat%20penting.) (accessed Sep. 25, 2022).
- [5] J. Thontowi, "Komunitas Lokal Perspektif HAM dan Hukum Nasional," *Unisia*, vol. 28, no. 57, pp. 237–253, 2005, doi: 10.20885/unisia.vol28.iss57.art3.
- [6] D. Aswita, S. Samuda, and N. Andalia, "Strategi Pemanfaatan Komunitas Lokal Dalam Pantai Teupin Layeu Iboih," *J. Ilmu Sos. dan Hum.*, vol. 6, no. 2, pp. 159–167, 2017.
- [7] E. B. M. Safitri, and I. N. Seftiniara, *Perlindungan Hukum Indikasi Geografis*, I. Bandarlampung: Pusaka Media, 2019.
- [8] D. RI, *Undang-Undang No. 20 Tahun 2016 Tentang Merek dan Indikasi Geografis*, no. 1. 2016, pp. 1–74. [Online]. Available: <https://peraturan.bpk.go.id/Home/Details/37595/uu-no-20-tahun-2016>
- [9] D. Jenderal Kekayaan Intelektual, "Yasonna Laoly: Pariwisata Berbasis Kekayaan Intelektual Dorong Pemulihan Ekonomi Nasional," *Direktorat Jenderal Kekayaan Intelektual Kemenkumham RI*, 2022. <https://dgip.go.id/artikel/detail-artikel/yasonna-laoly-pariwisata-berbasis-kekayaan-intelektual-dorong-pemulihan-ekonomi-nasional?kategori=Berita Resmi Paten>
- [10] G. Ganefi, "Perlindungan Hak Kekayaan Intelektual Terhadap Industri Kreatif Dalam Meningkatkan Industri Pariwisata Berbasis Budaya Lokal," *Tanjungpura Law J.*, vol. 3, no. 1, p. 88, 2019, doi: 10.26418/tlj.v3i1.34497.
- [11] D. RI, *Undang-Undang Nomor 10 tahun 2009 tentang Kepariwisataaan*, vol. 369, no. 1. 2009, pp. 1689–1699. [Online]. Available:

<http://dx.doi.org/10.1016/j.jsames.2011.03.003><https://doi.org/10.1016/j.gr.2017.08.001><http://dx.doi.org/10.1016/j.precamres.2014.12.018><http://dx.doi.org/10.1016/j.precamres.2011.08.005><http://dx.doi.org/10.1080/00206814.2014.902757>

- [12] A. Agung *et al.*, *PERLINDUNGAN HUKUM ATAS HAK KEKAYAAN INTELEKTUAL*, vol. 2, no. 2. 2021.
- [13] T. A. Saputro, Y. T. Muryanto, and S. Suraji, “Geographical Indications As An Alternative To Save The Potential Product Of Micro, Small And Medium Enterprises (MSMEs) In Sragen Regency,” *J. IUS Kaji. Huk. dan Keadilan*, vol. 8, no. 3, pp. 420–436, Dec. 2020, doi: 10.29303/IUS.V8I3.832.
- [14] T. A. Saputro, Suharno, and A. Khaerudin, “Prospek Pendaftaran Indikasi Geografis pada Produk Kerajinan Industri Kecil Menengah (IKM) Sangiran Kabupaten Sragen,” *Kaji. Huk. Univ. Janabadra*, vol. 3, no. 1, pp. 411–421, 2018.
- [15] B. Sragen, *KABUPATEN SRAGEN DALAM ANGKA DALAM ANGKA 2022*, Pertama. Sragen: BPS Sragen, 2022.
- [16] S. Asfiyah, “Perlindungan Hukum Potensi Indikasi Geografis di Kabupaten Brebes Guna Pengembangan Ekonomi Masyarakat Lokal,” *Jurna; Idea Huk.*, vol. 1, no. 2, pp. 111–124, 2015, [Online]. Available: www.dgip.go.id/
- [17] I. I. Isnani, “Identifikasi Dan Pemanfaatan Indikasi Geografis Dan Indikasi Asal Melalui Program Pembinaan Pada Masyarakat,” ... *Pengabd. Huk. Indones. (Indonesian J. ...)*, no. 6, 2019, [Online]. Available: <https://journal.unnes.ac.id/sju/index.php/JPHI/article/view/35216>
- [18] R. Suhargon, “ANALISA HUKUM TERHADAP PENTINGNYA PENDAFTARAN HAK MEREK DAGANG BAGI UMKM DALAM RANGKA MENINGKATKAN PEREKONOMIAN RAKYAT (Berdasarkan Undang-Undang No.20 Tahun 2016 tentang Hak Merek dan Indikasi Geografis),” *J. MUQODDIMAH J. Ilmu Sos. Polit. dan Humaniora*, vol. 3, no. 2, p. 67, 2019, doi: 10.31604/jim.v3i2.2019.67-73.
- [19] A. Agung Sagung Shinta Anandita and I. Gusti Ngurah Darma Laksana, “PERAN PEMBENTUKAN SENTRA KEKAYAAN INTELEKTUAL (KI) OLEH KANTOR WILAYAH KEMENTERIAN HUKUM DAN HAM PROVINSI BALI,” *J. Kertha Negara*, vol. 8, no. 2, pp. 1–16, 2002.
- [20] D. T. Cahyaningsih, “Mengurai Teori Effectiveness of Law Anthony Allot,” *J. RechtsVinding*, vol. 1, no. 2, pp. 1–7, 2020.
- [21] E. Ernifiati, “PERKEMBANGAN MUSEUM SITUS SANGIRAN DAN PENGARUHNYA TERHADAP ILMU PENGETAHUAN TAHUN 1974-2004,” *J. Indones. Hist.*, vol. 1, no. 2, pp. 118–124, 2012.
- [22] P. Kusuma Sanjiwani, “HAK KEKAYAAN INTELEKTUAL DALAM INDUSTRI PARIWISATA Studi Kasus: Perlindungan Hukum Pemanfaatan Local Genius dalam Produk Pengusaha Lokal,” *J. Ilm. Hosp. Manag.*, vol. 7, no. 1, pp. 13–18, 2016.
- [23] T. Nanayakkara, “Role of Intellectual Property in Enhancing the Competitiveness of the,” *World Intellect. Prop. Organ.*, vol. 1, no. 918, 2020, [Online]. Available: https://www.wipo.int/export/sites/www/sme/en/tourism/tourism_ip.pdf
- [24] N. Asiah, C. Epriyani, A. Kurnia, K. Ramadhan, S. G. Hidayat, and A. Apriyanto, *Profil Kopi Arabika Kintamani Bali*, Pertama. Bali: AE Publishing, 2022.