

Building Business Defense and Value: A Study on Legal Protection of Trademarks, Copyrights, and Industrial Designs for MSMEs

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ABSTRACT

This literature study aims to analyze the strategic role of Intellectual Property (IP) protection for the products and brands of Micro, Small, and Medium Enterprises (MSMEs). The study focuses on three main aspects: the importance of trademark, copyright, and industrial design registration as a preventive legal measure; the legal steps available for enforcement in case of infringement; and the utilization of registered IP to enhance business economic value and competitiveness. The research employs a qualitative method with a normative juridical approach, analyzing secondary data from legislation, books, and scientific articles. The findings indicate that formal registration establishes exclusive rights recognized by the state, creating a strong foundation for legal certainty. In infringement cases, MSMEs can pursue various legal remedies, including civil lawsuits, criminal reports, and administrative actions. Furthermore, registered IP can be transformed into financial assets through licensing, bank collateral, and franchise systems, thereby increasing business valuation and enabling sustainable growth. This study concludes that integrated IP management is a crucial strategy for MSMEs to protect their innovations, enforce their rights, and capitalize on their intangible assets in a competitive market.

INTRODUCTION

The global economy today is characterized by a significant shift towards a model based on knowledge and creativity. In this economic structure, intangible assets such as brands, designs and intellectual property have become crucial components of business competitiveness and sustainability. Protection of these assets through intellectual property law instruments has become standard international business practice. This legal system is designed to grant exclusive rights to creators or owners over their intellectual works, which essentially aims to stimulate innovation and creativity by guaranteeing protection for investments that have been made (Edyson & Rafi, 2024). Protecting the rights and interests of business actors is an important part of efforts to create a fair and sustainable economic system (Darmawan, 2022). Without adequate protection, incentives to innovate may be reduced due to the high risk of imitation and unauthorized exploitation. For economic actors of any scale, understanding and utilizing this system is a strategic step. Neglecting this legal aspect can result

in substantial losses, ranging from loss of market share to damage to a hard-earned reputation. In addition, in contemporary business practice, compliance with legal regulations is also an indicator of professionalism and good business governance (Irfansyah et al., 2024). Therefore, studying the legal mechanisms available to protect intellectual creations is fundamental.

Micro, small and medium enterprises (MSMEs) are often considered the backbone of many countries' economies, including Indonesia (Darmawan et al., 2023). MSMEs contribute significantly to employment and gross domestic product. MSMEs are also considered capable of maintaining regional economic stability through ongoing production and distribution activities (Hardyansah & Putra, 2023). The characteristics of MSMEs, which generally operate in the real sector with tangible products, such as handicrafts, processed foods, and fashion, make them highly vulnerable to imitation and piracy. MSME products are often born from unique creativity and local wisdom, providing added value that should be protected by law. However, in reality,

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many MSME players have not made full use of intellectual property law instruments. The contributing factors are diverse, ranging from limited knowledge, perceptions of high costs, to procedures that are considered complicated. In fact, the ability of business actors to understand managerial and regulatory aspects is also an important factor for business sustainability in the long term (Mardikaningsih et al., 2022). In today's increasingly competitive business ecosystem, product uniqueness and differentiation are key to survival and growth. Formal legal protection serves as a shield to defend this uniqueness from the onslaught of imitation products, which usually offer lower prices and lower quality.

The main focus of this discussion is on the three pillars of intellectual property that are most relevant to MSMEs: trademarks, copyrights, and industrial designs. Trademarks serve as a distinguishing mark that differentiates the goods or services of one business from those of another. Product identity not only serves as a differentiator, but also as a means of communication between producers and consumers in an increasingly competitive market (Negara et al., 2021). Trademark registration gives the owner the legal right to use the trademark exclusively for the registered goods and services, as well as the basis for suing parties who use the same or similar trademarks without authorization. According to Rahardjo (2009), copyright protects works of art, literature, and science that have been realized in a specific form, such as graphic designs on packaging, written works, or advertising music. Meanwhile, industrial design protects the overall or partial appearance of a product that provides aesthetic value. These three instruments complement each other to protect different aspects of an MSME product. A handicraft product, for example, can be protected by copyright for its ornamental patterns, industrial design for its physical form, and trademark for its name and logo.

The importance of trademark registration for MSMEs cannot be underestimated. Registered trademarks become legal assets that can be transferred, inherited, or used as fiduciary collateral. More than just an identity, registered trademarks build consumer trust and form the basis for brand equity development. Consumer trust is often influenced by the quality of interactions between sellers and buyers on online platforms (Darmawan, 2022). From a legal perspective, ownership of a registered trademark certificate provides a strong position in disputes. Without registration, a business only has rights based on first use, which is more difficult to prove and has a more limited scope of

protection compared to rights based on registration (first to file). Registration creates legal certainty and facilitates the enforcement of rights in the event of infringement. For MSMEs that aspire to go digital or export products, registered trademark ownership is often a requirement of e-commerce platforms or the regulations of the export destination country. This shows that the development of digital commerce also requires adaptive regulations that are capable of protecting various interests in the online business ecosystem (Noor et al., 2023; Mujisulistyo et al., 2024; Negara et al., 2024). Therefore, compliance with regulations is an important part of the responsibility of business actors in conducting business activities sustainably (Mardikaningsih & Hariani, 2021).

On the other hand, copyright and industrial design provide automatic protection when the creation is realized in tangible form, although registration is still recommended for evidentiary purposes. The development of digital technology has also made creative works easier to disseminate through various online platforms (Infante & Mardikaningsih, 2022). Copyright protects the expression of ideas, not the ideas themselves, making it particularly suitable for protecting artistic or literary works produced by MSMEs. Industrial design protects the visual appearance of products, which is often the main attraction for consumers, especially in the fashion, jeweler, and furniture industries. By registering industrial designs, MSMEs can prevent others from producing goods with the same or very similar appearances, which could mislead consumers. The synergy between these three forms of protection creates a comprehensive legal defense for SME products, ranging from names and logos (trademarks), shapes and ornamentation (industrial design/copyright), to marketing content (copyright).

A fundamental problem faced by many SMEs is the low level of awareness and understanding of intellectual property rights and their strategic benefits for business. Registered intellectual property rights are also often the basis for the development of business models such as licensing and franchising (Putra & Wibowo, 2023). This is also related to the level of legal literacy among the public, which still needs to be improved so that business actors better understand their rights and obligations in economic activities (Indarto et al., 2023). Many MSME players view intellectual property as the domain of large companies with abundant financial resources. This perception is reinforced by the assumption that the process of registering trademarks, copyrights, or industrial designs is complicated, time-consuming,

and costly. As a result, formal legal protection efforts are often overlooked and considered not a top priority in the business development stage. In fact, this delay creates great vulnerability. When an SME product becomes popular and gains a place in the market, parties often quickly emerge to imitate or counterfeit the product. Without valid legal documents, the original business owner will face great difficulty in stemming the tide of piracy and lose momentum to dominate the market. Thus, managing intangible assets has become an important part of modern business strategies oriented towards long-term growth (Mardikaningsih & Darmawan, 2021).

When intellectual property violations occur, MSMEs that do not have registered rights face serious obstacles in pursuing legal action. Protection for injured parties requires clear evidence of ownership so that the dispute resolution process can proceed effectively (Anugroh et al., 2023). The protection of personal data and platform user rights is also an important issue that affects the level of public trust in digital services (Oluwatosin, 2024). This trust is often a determining factor in the success of a business in maintaining long-term relationships with consumers (Fared et al., 2021). The process of proving ownership is a difficult initial step. Although the Copyright Law recognizes protection from the moment a work is created, proving the date of creation without a registration certificate can be a complex issue in court. Similarly, in trademark disputes, the party that registers first generally has a stronger legal position than the party that only claims to be the first user. In addition, legal measures such as filing a lawsuit for damages or requesting a seizure of collateral require proof of valid ownership rights. Legal costs, which include lawyers' fees, court fees, and execution costs, are also a real obstacle for MSMEs with limited capital. The uncertainty of the outcome of a case, coupled with the heavy costs, often causes MSMEs to remain silent and accept their losses.

Another problem lies in the strategy of utilizing intellectual property, which is still defensive in nature and has not been developed into an offensive instrument to increase business value. Business data and information management is also an important factor in formulating the right business strategy (Ali & Darmawan, 2023). Most MSMEs, even if they register their rights, only see them as administrative documents or mere certificates. In fact, registered intellectual property rights are intangible assets with economic value. These assets can be licensed to other parties to generate royalties, used as collateral to

obtain financing from banks, or taken into consideration in business partnerships and franchises. The inability to see the economic potential of intellectual property certificates leads to lost business development opportunities. Furthermore, in the digital ecosystem, original content protected by copyright can be a very effective marketing tool. However, without an understanding of fair use limitations and mechanisms for reporting violations on digital platforms, MSME content is vulnerable to misuse by other parties or, conversely, MSMEs may inadvertently violate the rights of other parties.

The dynamics of trade in the digital age have fundamentally changed the landscape of business competition, where geographical boundaries are becoming increasingly blurred. E-commerce platforms and social media enable MSMEs to reach a wider market at a relatively low cost. The development of digital technology has also given rise to various forms of electronic transactions that require legal protection for the parties involved (Ali et al., 2024). However, the flip side of this convenience is an increased risk of cross-border intellectual property infringement. Therefore, it is necessary to understand the ethical and legal boundaries in the use of digital information so as not to cause legal problems in the future (Muhammad et al., 2023). A leading product from an SME in a particular region can easily be photographed, copied, and resold by other parties on the same or different platforms without the permission of the original owner. This study is important to provide an understanding of the preventive measures that SMEs can take before entering the digital market, such as registering rights and proactively monitoring online platforms. Understanding the Digital Millennium Copyright Act (DMCA) or similar complaint mechanisms on local platforms is practical knowledge needed to protect digital assets.

The Indonesian government has shown its commitment to promoting intellectual property protection for MSMEs through various programmers, such as registration assistance and cost subsidies. A systematic academic study is needed to evaluate the effectiveness of these programmers and identify gaps between policy and implementation in the field. In addition, regulatory developments at the national level, such as the revision of the Trademark and Industrial Design Law and the ratification of international agreements, require SMEs and their advisors to update their knowledge. A review of the latest literature is necessary to synchronize understanding with the applicable legal framework, so that the

recommendations produced are relevant and applicable. Without updating the review, advocacy may be based on regulations that are no longer valid or are not in line with contemporary business practices.

Globally, the economic value of the creative and knowledge-based industries continues to show significant growth. To participate in and benefit from the global value chain, Indonesian MSMEs must strengthen the legal foundations of their businesses. Well-protected intellectual property is the ticket to collaborating with larger business partners, whether in partnership, licensing, or franchise schemes. For investors and financing institutions, a well-managed intellectual property portfolio is a positive indicator of the professionalism and growth prospects of a business. Therefore, this study does not merely discuss legal protection aspects, but also examines how these legal aspects are integrated with business strategies to create sustainable competitive advantages. This understanding will bring a new perspective for MSMEs to view intellectual property not as a burden, but as a long-term strategic investment.

This study aims to analyse the strategic role of trademark, copyright, and industrial design registration in forming solid preventive legal protection for Micro, Small, and Medium Enterprises. Furthermore, the study will identify and describe the procedures and legal steps available to MSMEs as rights holders to respond to and remedy losses resulting from intellectual property infringement. The third objective is to explore various strategies for utilizing registered intellectual property rights as intangible assets to increase economic value, expand markets, and build profitable business partnerships. Contributively, this research is expected to enrich the literature on business law and the creative economy, while providing an applicable framework for MSMEs, supporting institutions, and policymakers to formulate effective intellectual property-based empowerment programmes.

RESEARCH METHOD

This research is essentially a literature study, a qualitative approach that focuses on interpreting and gaining a deep understanding of social phenomena through the analysis of documents and written texts. As explained by Bryman (2012), qualitative research aims to explore the meaning, concepts, definitions, characteristics, metaphors, symbols, and descriptions of something. In this framework, all data used is secondary, meaning that it is obtained

from existing sources and is not produced directly by researchers through interviews or observations. The primary data sources for this study consist of various forms of written texts, including regulations or laws applicable in Indonesia related to intellectual property, legal and economic textbooks written by experts, and scientific articles published in national and international journals that have undergone a peer-review process. The sources were selected purposively with the main criteria being topic relevance, author or publisher credibility, and adequate publication year to ensure the accuracy of legal information and the latest conceptual developments.

The analysis technique applied in this literature study is qualitative content analysis as developed by Krippendorff (2004). This method does not merely count the frequency of word occurrence but attempts to interpret the meaning contained in the text material systematically. The analysis process begins with the collection and in-depth reading of all selected literature sources. Next, a coding process is carried out to identify themes, patterns, key concepts, and relationships between concepts that emerge from these various sources. For example, codes can be assigned to descriptions of the benefits of trademark registration, infringement lawsuit procedures, or licensing strategies. The next stage is categorization, where similar codes are grouped to form broader and more coherent analytical categories.

Through qualitative content analysis, this study attempts to synthesize findings from various literature sources to answer the research questions that have been set. This synthesis is carried out by comparing, contrasting, and connecting the different perspectives of various authors, then drawing common threads to construct a comprehensive and well-founded argument. This process allows researchers to not only describe existing information, but also to perform critical interpretation and construct new knowledge based on literature findings. The validity of the findings is ensured through source triangulation, namely by comparing and checking the consistency of information from various types of documents (regulations, books, journals) and from various authors. This methodological approach is considered appropriate because it is in line with the exploratory and interpretative research objectives to examine the legal and strategic dimensions of intellectual property protection for MSMEs.

RESULT AND DISCUSSION

Preventive Legal Protection through Trademark, Copyright, and Industrial Design Registration

In the development of a people-based economy, the existence of a clear legal foundation is a determining factor in the resilience and sustainability of business activities. A formal legal foundation is a key prerequisite for building a sustainable business defense system for Micro, Small and Medium Enterprises (MSMEs). Protection of MSME products includes protection of goods and/or services. Every product, whether goods or services, has material and immaterial assets. Intellectual Property Rights (IPR), especially trademarks, are immaterial assets for MSME products that require legal protection (Saputra et al., 2021). The registration of intellectual property for MSMEs includes trademarks, copyrights, and industrial designs, which serve as the foundation for effective preventive legal protection because this process establishes exclusive rights recognized by the state before commercial disputes or conflicts arise. The management of copyright and intellectual property is not only seen as legal protection, but also as part of the management of business assets that have long-term economic value (Mardikaningsih & Darmawan, 2023). Within the Indonesian legal framework, these three instruments are regulated in specific laws that provide different but complementary characteristics of protection. Trademarks are regulated in Law No. 20 of 2016 concerning Trademarks and Geographical Indications, copyrights are regulated in Law No. 28 of 2014 concerning Copyright, while industrial designs have a legal basis in Law No. 31 of 2000 concerning Industrial Designs. The synergy between these three legal regimes creates a comprehensive safety net. Trademarks serve to lock in commercial identity and business reputation, copyright protects creative expressions attached to products, packaging, and marketing materials, while industrial designs secure the external appearance or aesthetics of products that are key differentiators in the market. This preventive protection arises concretely from the act of registration because the status of rights becomes clear, administratively traceable, and ready to be legally enforced when indications or potential violations arise in the future. This entire mechanism places IPR registration as an initial instrument that determines the legal position of MSMEs in a competitive business ecosystem.

Strengthening legal protection for business identity cannot be separated from the applicable trademark legal regime. In the realm of trademark law, the principle adopted by the Indonesian legal system is the "first-to-file" principle, or "whoever

registers first is entitled". This principle is explicitly regulated in Article 3 of Law Number 20 of 2016, which states that trademark rights are granted to the first applicant to file an application. Trademark protection is also closely related to efforts to protect business reputation from counterfeiting and trademark abuse, which are on the rise in the era of international trade (Yani et al., 2023). The legal consequences of this principle are enormous for MSMEs, as it emphasizes the urgency of registering as early as possible. A person or legal entity that registers a sign first has a great chance of obtaining exclusive rights to that trademark, unless it can be proven that there was bad faith in the registration or that the trademark is essentially similar to a well-known trademark belonging to another party as stipulated in Article 21. The trademark certificate issued by the Directorate General of Intellectual Property serves as strong formal evidence of ownership of a distinctive sign for certain goods and/or services. This document provides a solid legal basis for seeking various legal remedies such as the cessation of all infringing acts, the withdrawal of products from circulation, the payment of damages, and actions to restore reputation through civil or criminal channels. The term of trademark protection is ten years from the date of receipt of the application and can be renewed repeatedly, providing long-term legal certainty for MSMEs to build and accumulate brand equity consistently. This protection pattern shows that a trademark is not just a commercial symbol, but a strategic legal asset with long-term value.

In order for trademark rights to obtain full legitimacy, the legal system provides a layered and structured registration procedure. The trademark registration procedure itself is designed with strict stages to ensure the validity and uniqueness of the registered trademark. The existence of a clear brand identity also helps businesses build consumer trust and increase product competitiveness in an increasingly open market (Wibowo et al., 2023). After the application is submitted, a formal examination of the administrative requirements is carried out. Next, a substantive examination is conducted to assess whether the trademark meets material requirements such as having distinctive character, not conflicting with laws and regulations, religious morality, decency, or public order. The two-month announcement period under Article 14 of the Trademark Law provides an opportunity for third parties to file objections if they feel aggrieved. This mechanism serves as an additional filter that prevents the registration of trademarks that are

descriptive, generic, or parasitic on other existing trademarks. For MSMEs, understanding these stages is important in order to prepare a strong trademark from the outset, avoid rejection, and minimize potential objections from competitors. Successful registration ultimately creates a legal asset that can be transferred, inherited, or used as an object of commercial agreements such as licenses and trusts. Thus, this administrative process is not only technical in nature but also has direct implications for the economic value of the trademark.

Apart from trademarks, the creative aspects of a business also require adequate legal protection within the framework of intellectual property. Meanwhile, copyright provides protection that is different in nature but equally important for the creative aspects of MSME products. Law Number 28 of 2014 concerning Copyright protects various works that are manifested in tangible forms and are often an integral part of MSMEs. Technological developments and digital innovations have also encouraged an increase in the production of creative works that need to be managed ethically and responsibly so as not to cause legal conflicts in the future (Radjawane & Mardikaningsih, 2022). These works include graphic design packaging, product catalogues, product photography, promotional materials such as advertising videos, simple software applications, and digital content published on social media or websites. Unlike trademarks, according to Article 4 of the Copyright Law, copyright arises automatically when a creation is realized in tangible form without reducing the restrictions in accordance with the provisions of the legislation. Although it is automatic, the registration of creations at the Directorate General of Intellectual Property provides very strong evidence. A copyright registration certificate produces official data that facilitates verification of ownership and establishes a legal priority date, which is crucial in the event of future disputes. The automatic nature of this registration reinforces copyright as a flexible protection instrument for MSMEs.

Understanding the scope of copyright requires an examination of the types of rights attached to a creation. The rights attached to a creation are divided into economic rights and moral rights, both of which provide preventive protection from different perspectives. Economic rights, as regulated in Article 9 of the Copyright Law, allow rights holders to grant or prohibit other parties from making commercial use of their creations, such as reproduction, publication, or adaptation. These rights form the basis for MSMEs to commercialize their work while

prohibiting piracy of their artistic or literary works. On the other hand, moral rights, as regulated in Article 5, are permanently attached to the creator and cannot be transferred. They include the right to demand attribution on their work and to preserve the integrity of the work from changes that damage its integrity. The duration of economic rights protection varies depending on the type of creation, but for most works relevant to MSMEs, such as works of art or photography, protection applies for the lifetime of the creator plus seventy years. This long period ensures that the creative marketing assets of MSMEs are protected for future generations of businesses. This arrangement provides certainty of long-term protection for works that have economic value and business reputation.

In addition to trademarks and copyrights, protection of the visual aspects of products is also specifically accommodated in the national legal system. The third regime, namely industrial design, specifically protects the visual aspects of a product, which are often the main attraction for consumers. The uniqueness of a product's appearance is often an important strategy to attract consumers' attention and strengthen the product's position in the market (Wibowo et al., 2023). Law No. 31 of 2000 concerning Industrial Designs provides protection for creations in the form of shapes, configurations, or compositions of lines or colors, or lines and colors, or a combination thereof, which are three-dimensional or two-dimensional, give an aesthetic impression, can be realized in three-dimensional or two-dimensional patterns, and can be used to produce a product, goods, industrial commodities, or handicrafts. Industrial design refers to the external appearance (aesthetic impression) of a product. With this right, you can prohibit others from manufacturing, using, selling, importing, exporting, and distributing products that have been granted industrial design rights (Manurung & Helianny, 2021). The main requirement for obtaining protection is novelty, meaning that the design has not been previously disclosed anywhere. Furthermore, according to Article 3, industrial designs that are solely determined by the technical function of the product cannot be granted protection. An industrial design certificate grants the owner exclusive rights for ten years from the date of application, allowing MSMEs to control the manufacture, use, sale, import, export, and licensing agreements for the design. This provision emphasizes that industrial designs play an important role in maintaining the uniqueness of SME products.

Industrial design protection is highly relevant to

business sectors that emphasize aesthetic value. In an increasingly competitive economic environment, design innovation is often a key differentiating factor between one product and another in the market (Zulkarnain et al., 2024). For MSMEs engaged in sectors that rely on visual differentiation, such as household appliances, accessories, furniture, or fashion, industrial design registration is a highly strategic preventive measure. This measure effectively prevents competitors from imitating the shape or appearance of protected products, which can damage the competitiveness and profit margins of the original business. Without industrial design protection, SME flagship products can be easily replicated and sold at lower prices, eroding market share and distorting consumers' perception of quality. Registration prior to the product's launch into the wider market creates legal barriers for potential imitators and provides a strong foundation for taking action if imitation persists. This condition demonstrates that industrial design serves as an instrument to prevent unfair business competition.

The advantages of intellectual property registration are also reflected in the enforcement stage. The preventive power of registering these three intellectual property regimes is most evident in the aspect of evidence in procedural law. Trademark registration certificates, copyright registrations, and industrial design certificates issued by the competent authorities serve as authentic documentary evidence or at least as written evidence with certain legal force. In the settlement of disputes in court or even in out-of-court negotiations, the presence of these official documents shortens the initial process of proving who the rightful holder of the rights is. This significantly reduces legal costs and uncertainty, which are often obstacles for MSMEs in enforcing their rights. When an alleged infringement occurs, rights holders who have registered their rights can immediately take structured legal steps, ranging from summons, mediation through alternative dispute resolution institutions, to filing civil lawsuits to seek compensation and cessation of unlawful acts. With strong evidence, the legal position of MSMEs becomes more protected in the dispute resolution process.

Intellectual property registration also has a strategic impact on business management. From a broader business strategy perspective, preventive registration converts creative elements and business identity into intangible assets that can be financially valued, traded, and utilized for expansion. Registered trademark, copyright, and industrial design rights can be subject to various commercial

agreements. Licensing agreements for these three types of rights can be registered with the Directorate General of Intellectual Property to have legal effect on third parties, thereby strengthening certainty in business transactions. For MSMEs, this opens up more diverse and secure monetization options, such as licensing others to manufacture based on protected designs, licensing promotional content for use by marketing partners, or establishing brand-based franchise partnerships that already have strong legal protection. Registered status also sends a positive signal to potential business partners, distributors, and institutional investors. Thus, registered intellectual property serves as an instrument for business development.

The existence of this legal framework reflects the state's commitment to supporting MSMEs. On the other hand, financial support from financial institutions and cooperatives is also often an important factor that helps MSMEs develop their businesses sustainably (Wiyandarini et al., 2021). Analysis of these three regulations shows that the state has provided adequate legal infrastructure for the preventive protection of MSMEs. Its effectiveness is highly dependent on the awareness and proactive initiative of the business actors themselves to utilize it from an early stage. Registration should not be viewed as a cost, but rather as a legal investment that protects creative and marketing investments that have been made. Without this legal protection, MSMEs operate in vulnerable conditions, where the added value of their creativity and innovation can easily be taken over by other parties who are more aggressive in terms of legality, even though they may be less creative. This shows that legal protection requires an active role from business actors.

It is important to place intellectual property registration within the framework of long-term MSME development. Overall, the importance of trademark, copyright and industrial design registration for MSMEs lies in its ability to create legal certainty, which is the basis for all forms of rights enforcement and asset development in the future. These three laws interact with each other to provide comprehensive protection, ranging from business identity and expression of ideas to the physical form of products. A preventive approach through registration shifts MSMEs from a reactive and defensive position when facing violations to a proactive and offensive position to secure markets and build partnerships. Thus, the registration step is a critical starting point in the transformation of a micro, small, and medium enterprise from merely a product-producing entity to a modern business

entity with managed and legally protected intellectual assets. This entire discussion emphasizes the urgency of registration as an integral part of MSME sustainability strategies.

Restorative Justice in Handling Intellectual Property Violations

In business practice, the ability to defend rights is often a clear indicator of the effectiveness of intellectual property protection. Confronting infringements is a true test of the effectiveness of the intellectual property system used by micro, small and medium enterprises. When there is an infringement of a trademark, copyright or industrial design, MSMEs as rights holders have a number of legal steps, they can take based on the regulations in force in Indonesia. The main legal basis governing this matter is Law No. 20 of 2016 concerning Trademarks and Geographical Indications, Law No. 28 of 2014 concerning Copyright, and Law No. 31 of 2000 concerning Industrial Designs. These three laws essentially grant exclusive rights to rights holders and establish law enforcement mechanisms that can be accessed through civil or criminal channels. The choice of which channel is most appropriate depends heavily on the nature of the infringement, the amount of loss, the financial capacity of the business operator, and the desired end goal, whether it is simply to stop the infringement or also to obtain financial compensation. A thorough understanding of each of these options enables MSMEs to devise a measured, effective response that does not burden the continuity of their business operations. This description provides an initial framework of the spectrum of legal options available to MSMEs when their rights are infringed.

The approach to dispute resolution generally begins with the simplest and least escalatory measures. The initial non-litigation step, which is often the most practical, is to issue a formal warning or written notice to the party suspected of infringement. This formal warning serves as an initial effort to assert the exclusive rights of the rights holder based on their registration or record certificate. Legally, a formal warning gives the infringing party the opportunity to voluntarily cease their actions without court intervention. In practice, a well-drafted formal notice, which attaches evidence of ownership of rights and a clear description of the infringement, can be an effective measure. This action can prevent the escalation of disputes to the more complicated and costly courts, while demonstrating the rights holder's good faith in resolving the matter amicably. For many infringers,

especially those who commit infringements unintentionally or on a small scale, a formal warning letter is often sufficient to make them withdraw the product from circulation or stop using the protected material. With these characteristics, warning letters occupy an important position as an initial instrument in rights enforcement strategies.

If persuasive efforts are unsuccessful, the legal system provides a resolution mechanism through the judicial system. Legal certainty is also closely related to the validity of agreements and contracts made by the parties (Sulaiman et al., 2023). If the summons is ignored or not responded to by the infringing party, the available escalation step is to file a civil lawsuit with the Commercial Court. The aggrieved party may file a lawsuit in one of the ways mentioned in Article 1267 of the Civil Code if the court summons is ignored, including by fulfilling obligations, fulfilling agreements with compensation, claiming compensation, cancelling mutual agreements, and cancelling payments (Wulandari, 2021). According to Law No. 20 of 2016 and Law No. 31 of 2000, the Commercial Court has absolute authority to examine and adjudicate disputes in the field of trademarks and industrial designs. Meanwhile, for copyright, the Commercial Court also has authority based on Law No. 28 of 2014. These civil lawsuits usually include principal claims for compensation for calculable material losses and immaterial losses in the form of reputation. In addition, the claimant may request a ruling that the infringer be required to cease all unlawful acts. Crucially, in trademark lawsuits in particular, the rights holder may request the cancellation of the defendant's trademark registration if it can be proven that the registration was made in bad faith, as stipulated in Article 76 of the Trademark Law. The evidentiary process in court will heavily rely on the validity of the plaintiff's registration certificate as strong preliminary evidence. This civil law route demonstrates the role of the court as the primary arena for corrective enforcement of rights.

In addition to civil settlements, the law also provides repressive enforcement instruments. Apart from civil proceedings, the three main regulations also open up the option of criminal prosecution for violations that are considered serious and violate public order. Law No. 20 of 2016 specifically regulates criminal penalties for trademark counterfeiting. Article 100 states that anyone who, without authorization, uses a trademark that is identical in its entirety to a registered trademark belonging to another party for similar goods and/or services shall be punished with imprisonment or a

very large fine. Similarly, Law No. 28 of 2014 establishes criminal penalties for parties who intentionally and without rights reproduce, sell, distribute, or rent out other people's creations for commercial purposes, as stipulated in Article 113. Law No. 31 of 2000 on Industrial Designs also provides for criminal sanctions in Article 41 for violations of exclusive rights to registered designs. This criminal route is usually taken when the violation is structured, massive, and causes enormous economic losses to the rights holder and has the potential to mislead consumers on a large scale. The existence of criminal sanctions confirms that intellectual property rights violations are considered serious offences by the state.

Outside of the judicial process, there are also administrative mechanisms that can be utilized by rights holders. In some trade cases, legal protection is also related to the security of goods distribution and the responsibility of business actors in the process of delivering products to consumers (Supriyanto et al., 2023). Another strategic step available is to request administrative action from the competent authority, namely the Directorate General of Intellectual Property. This mechanism provides a faster solution than litigation for certain cases. For example, in trademark cases, rights holders can file a request for the removal or cancellation of another party's registered trademark to the Commercial Court, and the cancellation decision is then executed by the DJKI. This administrative process is regulated in Chapter XII of the Trademark Law. For copyrights, although registration is voluntary, the existence of records at the DJKI can be utilized in administrative enforcement processes on digital platforms or in reports to the authorities. Such administrative measures are important because they aim to directly address the source of the problem by removing the legal status of fraudulently registered rights, thereby preventing further infringements from the same source. This administrative mechanism expands the options for enforcing rights beyond conventional court proceedings.

The protection of intellectual property rights is also relevant in international trade. In the arena of cross-border trade, MSME rights holders have a special instrument in the form of a request for assistance from the Directorate General of Customs and Excise to prevent the import of goods suspected of infringing intellectual property rights. This mechanism is regulated in the Minister of Finance Regulation and its implementing regulations. This mechanism allows rights holders who have registered their rights to notify Customs and Excise

of the characteristics of original products and indications of counterfeit products. If officials find suspected imported goods, they can temporarily detain the goods and notify the rights holder to then take further legal action. For MSMEs whose local products compete with counterfeit imported goods, this measure is highly relevant as a first line of defense at the border, protecting the domestic market from an influx of illegal goods that damage the reputation and competitiveness of original products. This instrument demonstrates that the enforcement of rights does not stop at the domestic market alone.

In addition to formal mechanisms, consensual dispute resolution also has legal legitimacy. However, in practice, not all business actors have the same access or ability to utilize technology and digital-based services that support business activities (Ramle & Mardikaningsih, 2022). Alternative dispute resolution outside of court also has a place in Indonesia's intellectual property legal framework. Law No. 28 of 2014 on Copyright explicitly encourages dispute resolution through mediation before the parties bring the matter to court. This mediation or arbitration route offers a number of substantive advantages over litigation. The process is generally faster, the costs are more controllable, it is more confidential, and most importantly, the outcome is based on mutual agreement, making it easier to implement. Alternative dispute resolution is settled through direct meetings between the parties and the outcome is recorded in writing (Rusmana, 2023). In addition, technological developments and digital innovations also play an important role in increasing human resource capacity and expanding business collaboration opportunities in the future (Mardikaningsih & Wardoyo, 2024a). For MSMEs with limited resources, mediation is often a strategic choice because it avoids large legal costs and lengthy court proceedings. Moreover, mediation allows business relationships with other parties that may be involved in the violator's supply chain to be maintained, given that in the business world, business relationships are often more complex than just a relationship between two opposing parties. This approach places dialogue and agreement as a rational means of resolution for small businesses.

The legal position of MSMEs can also be strengthened through proper agreement management. The registration of commercial agreements involving intellectual property rights with the DJKI is also an indirect legal measure that strengthens the position of MSMEs in the event of infringement. For example, if a trademark or industrial design is licensed to a third party and the

license agreement is registered, any infringement by the third party of the license terms can be more easily prosecuted. Article 43 of Law Number 20 of 2016 and Article 37 of Law Number 31 of 2000 emphasize that unregistered licenses have no legal effect on third parties. Thus, the registration of licenses serves as both a preventive and repressive instrument; in addition to clarifying the scope of rights utilization, it also facilitates the proof of default or violation of the agreed agreement. This practice emphasizes the importance of legal administration in supporting the enforcement of substantive rights.

The effectiveness of the use of legal instruments is greatly influenced by institutional support. In its implementation, the ability of MSMEs to take various legal steps can be improved through cooperation with supporting institutions. The government, through the Ministry of Law and Human Rights and the Ministry of Cooperatives and Small and Medium Enterprises, periodically organizes legal assistance programmers for MSMEs. These programmers include assistance in drafting summonses, filing lawsuits, and providing assistance in court. In addition, various professional associations and non-governmental organizations often have legal clinics that can provide initial consultations. This kind of institutional support is very important considering that many MSME players have limited technical knowledge of the law and access to advocates who understand the specifics of intellectual property law. This collaboration bridges the gap between the legal norms available on paper and the practical capacity of business actors to use them. The existence of this assistance strengthens MSMEs' access to justice and legal protection.

The choice of legal enforcement measures requires careful consideration by business actors. Given the complexity and potential costs involved, the legal enforcement strategy for MSMEs should be gradual and proportional. It should start with the simplest and least resource-intensive measures, such as summons and mediation. If these are unsuccessful, litigation measures should then be considered, starting with civil lawsuits aimed at stopping the infringement and seeking compensation. Criminal proceedings, with all their serious consequences, should be pursued for cases of organized infringement, infringement that harms many parties, or infringement involving counterfeiting that endangers consumers. This step-by-step approach allows MSMEs to manage risks and costs while demonstrating a strong commitment to defending their legal rights. Each step taken must be well documented, as this chain of documents will

serve as important evidence if the dispute must be resolved in court. This approach aligns business rationality with legal protection interests.

The entire rights enforcement mechanism needs to be understood as a unified system. Ultimately, the diversity of legal measures regulated in the Trademark, Copyright, and Industrial Design Laws demonstrates the state's recognition of varying levels of infringement and the capacity of rights holders. The existing legal framework is not rigid but provides customizable options. The key to successful rights enforcement for MSMEs lies in having the necessary documents in place from the outset, namely valid registration or recordation certificates. With these documents as their main weapon, MSMEs can move from a position of strength to negotiate, claim damages, or request the state to enforce the law. Without it, most of the available legal measures will be difficult or even impossible to initiate, even if the business owner feels morally aggrieved. This entire discussion emphasizes that administrative readiness and legal strategy are the main prerequisites for effective rights enforcement for MSMEs.

Utilization of Intellectual Property as an Asset to Increase Business Value

In strengthening the economic base of MSMEs, intellectual property as a legal asset plays an increasingly strategic role. Intellectual property that has obtained registered or recorded status creates a legal asset that is clearly identified, measurable in value, and legally transferable. The transformation from a mere creative idea into a formal asset is the foundation for increasing the economic value and competitiveness of Micro, Small and Medium Enterprises. Legal frameworks are designed to adapt to social and economic developments so that regulations remain relevant to the needs of society and business actors (Halizah & Mardikaningsih, 2022). Within the Indonesian legal framework, trademark protection under Law No. 20 of 2016, copyright under Law No. 28 of 2014, and industrial design under Law No. 31 of 2000 do not merely grant the right to prohibit others. More than that, all three provide exclusive rights that can be actively commercialized through various mechanisms such as licensing agreements, franchise partnerships, or full transfer of rights. Registered status serves to reduce information asymmetry in business transactions and significantly reduces the risk of ownership disputes in the future. This condition ultimately reduces transaction costs and increases trust from various external parties such as business

partners, distributors, financing institutions, and potential investors, all of which contribute to an increase in business valuation. Thus, the legal status of intellectual property becomes the initial foundation for the integration of MSMEs into a more formal and high-value business ecosystem.

Brand protection is the most visible starting point in the strategy to strengthen the commercial value of MSMEs. The main advantage that MSME players receive by registering their trademarks or service marks is obtaining legal protection for the registered brands (Kuasa et al., 2022). Brand registration paves the way for MSMEs to systematically build brand equity and lock in their position of differentiation in the market. In modern business practices, a strong brand also helps companies communicate their values and build long-term trust with consumers through consistent marketing and ethical business communication (Essa & Mardikaningsih, 2021). Trademark certificates, which are valid for ten years from the date of acceptance and can be renewed repeatedly, provide the long-term stability needed to design sustainable marketing strategies. This stability is the foundation for establishing co-branding partnerships with other compatible businesses, as well as for expanding into new distribution channels with a consistent identity. With exclusive rights to distinctive signs guaranteed by Article 3 of Law No. 20 of 2016, MSMEs can enforce uniform quality standards and consumer experiences at all points of sale. This consistency directly influences the perception of value in the minds of consumers, which increases willingness to pay and ultimately widens profit margins. In business negotiations or company valuations, registered brands become objective and measurable parameters, as the scope for claims of infringement or imitation can be reduced through credible legal threats, making the financial value of the brand purer and avoiding large risk discounts. At this level, registered trademarks are no longer merely distinguishing symbols, but economic instruments that directly contribute to the bargaining power of MSMEs.

Apart from trademarks, copyright plays an important role in protecting the creative elements that support marketing and business operations. Meanwhile, copyright expands the monetization capacity of various supporting creative materials that often form the backbone of MSME product marketing. Works such as packaging graphic designs, product photography, digital catalogues, social media content, and simple software are protected under Law No. 28 of 2014. The rapid

development of digital platforms has also increased the importance of legal protection for creative works distributed through the internet and social media environments (Utama et al., 2024). The economic rights stipulated in Article 9 of the law allow rights holders to grant or prohibit the reproduction and distribution of creations for commercial purposes. In addition, the moral rights that are permanently attached to the creator, as stipulated in Article 5, strengthen reputation through the guarantee of proper attribution, which is highly valuable in today's reputation economy and digital marketing ecosystem. The registration of creations at the Directorate General of Intellectual Property serves to strengthen the proof of priority date and ownership, which in turn facilitates the process of negotiating content licensing contracts, reproduction agreements, or cross-platform marketing collaborations. This diversification of income sources makes the cash flow of MSMEs more varied and resistant to fluctuations in a particular market segment. Copyright becomes a flexible instrument that supports the financial resilience of MSMEs in facing the dynamics of the digital market.

Protection of the visual aspects of products also has significant economic implications for MSMEs. In the field of industrial design, registration certificates add economic value through exclusive control over the aesthetics of a product that can be mass-produced. In many industries, visual appearance becomes one of the first elements noticed by consumers, so legal protection of design can help businesses maintain uniqueness and prevent unfair imitation in the market. Based on Law No. 31 of 2000, industrial design certificates grant exclusive rights to their owners for ten years. These exclusive rights provide full control over the production, sale, and licensing of a product's external appearance, which is a critical factor in sectors that rely heavily on visuals, such as fashion, furniture, handicrafts, and household appliances. By securing the novelty of their designs through registration as stipulated in Article 2 of the Industrial Design Law, MSMEs can avoid the erosion of profit margins that usually occurs due to rapid imitation by competitors. This control opens up opportunities to implement premium pricing strategies, while building a cohesive design portfolio. This portfolio itself can become a valuable asset that can be negotiated with larger manufacturers or retail chains, creating additional revenue streams beyond direct product sales. At this stage, industrial design serves as a bridge between visual creativity and long-term commercialization strategies.

In the development of national economic policy, intellectual property is beginning to be positioned as a relevant source of financing. A more strategic and innovative use of registered intellectual property is its use as a financing instrument or credit collateral. This policy development reflects the growing recognition that innovation and creativity are important drivers of economic sustainability and social welfare. The Indonesian government, through the Ministry of Law and Human Rights, has launched various programmes and policies that encourage the use of intellectual property certificates as collateral to obtain financing from banks. This visionary policy initially focused on registered trademarks and was later expanded to include patents, industrial designs, and copyrights. The programme directly expands access to capital for small and medium-sized enterprises that often lack physical collateral such as land or buildings. This policy officially recognizes intellectual property as institutionally recognized collateral, breaking the conventional paradigm in banking. This push aims to encourage national creative economic growth by leveraging intangible assets, which are often the main strength of many creative MSMEs. This approach demonstrates a shift in the state's perspective on the role of innovation and creativity in the formal financing system.

For this policy to be implemented effectively, a credible and measurable assessment mechanism is needed. The mechanism for using IP certificates as collateral requires a valuation process conducted by independent appraisers or appraisal institutions recognized by the Financial Services Authority. Clear assessment standards are necessary so that intangible assets such as intellectual property can be evaluated fairly and transparently in financial transactions. In this process, banks will analyse the quality of these intangible assets by considering several key factors, such as the legal validity of the certificate, the scope of protected goods or services, the remaining protection period, and the track record of commercial use and enforcement of rights. Strong IP assets, with broad protection coverage and a consistent history of use, will improve the credit risk profile of their MSME owners. The direct economic impact of this financing scheme is a reduction in capital costs and an increase in the investment capacity of MSMEs to finance productive activities such as increasing production capacity, more aggressive marketing campaigns, and research and development activities for the next product innovation. This programme marks an important paradigm shift in the national financing system, from

reliance on physical collateral to recognition of the economic value of intangible assets. In this framework, intellectual property valuation becomes a key element linking the legal world with modern banking practices.

Beyond its financing function, intellectual property also provides commercialization schemes that are adaptable to various business models. In addition to serving as collateral, the most common and flexible commercialization instrument is a licensing agreement. Licensing agreements are often used in business law as a practical mechanism to allow the legal use of protected assets while maintaining ownership rights of the original creator or company. Exclusive rights to a registered trademark can be licensed to other parties for use in a specific geographical area or for specific categories of goods that are still within the scope of protection. Similarly, copyright and industrial design rights can be licensed for the purpose of replicating content or mass-producing designs. The registration of these license agreements with the Directorate General of Intellectual Property, as mandated by Article 43 of the Trademark Law and Article 37 of the Industrial Design Law, has legal consequences for third parties and reduces the potential for disputes over interpretation in the future. For MSMEs, the licensing model offers a way to accelerate market expansion without bearing the burden of large capital investments to build their own production facilities or distribution networks. This model converts creativity and reputation into a sustainable stream of royalty income, while building a network of partners that can expand the brand's reach more quickly. Licensing serves as a mechanism for optimizing assets without having to increase operational risks.

At a more advanced stage of development, licensing can be combined with a more structured business model. A further development of the licensing model is a franchise system based on a strong registered brand. Franchise arrangements are widely used in modern commerce because they allow business expansion while maintaining operational standards and brand consistency. Franchising combines brand usage licensing with comprehensive transfer of operational know-how. In this model, the brand owner or franchisor provides a complete package that includes brand standards, operating manuals, and marketing materials, all of which are copyright protected. The existence of industrial design protection for visual elements of shops or outlets, such as interior design and special furniture, adds to the uniqueness of the consumer experience at each franchise location, thereby

increasing the differentiation and value of the franchise package as a whole. The legality of registered intellectual property assets makes franchise agreement documents more bankable and enforceable in the eyes of the law, giving confidence to prospective franchisees and facilitating the standardization and quality control process across the network. This franchise structure demonstrates how intellectual property can be the backbone of controlled business replication.

In corporate transactions, intellectual property also has a long-term strategic function. For larger business expansion or restructuring scenarios, MSMEs have the option of transferring full rights or assignment. From a legal perspective, the transfer of rights must be carried out through clear agreements and proper documentation to ensure legal certainty for all parties involved. Rights to trademarks, copyrights, or industrial designs can be sold or transferred to other parties as part of the process of acquiring certain brands or product lines. Valuation in such transactions is highly dependent on the strength of legal protection of the assets, the track record of enforcement of rights against infringements, as well as commercial performance and future growth potential. Intellectual property-based business transactions with a clear and registered legal status tend to fetch better prices, as high legal certainty reduces the risk discount typically applied by buyers. This mechanism creates a dynamic ecosystem where SMEs can consolidate their brand portfolios, engage in creative mergers with similar businesses, or spin off a design line into an independent entity in a more efficient and valuable manner. Within this framework, the transfer of rights becomes a strategic means of maximizing the economic value of an intellectual property portfolio.

At a broader level, intellectual property acts as strategic capital in the integration of SMEs into the global market. At a higher strategic level, a well-managed intellectual property portfolio becomes a powerful negotiating tool in the global supply chain. In the era of globalization and digital trade, legal protection of innovation and creativity becomes increasingly important to maintain fair competition and sustainable business growth. An SME with a recognized registered trademark, industrial designs protected in several jurisdictions, and original copyrighted marketing content will have greater bargaining power when dealing with large distributors, international e-commerce platforms, or overseas buyers. Intellectual property provides assurance that the value built through design and

branding can be protected, so that business partners feel more secure about investing in the marketing and distribution of these products. This opens up access to higher-end and higher-income markets, which may have previously been closed due to concerns about easy imitation and the absence of adequate legal protection. In this position, intellectual property is an important prerequisite for MSMEs to participate in international trade.

This entire discussion shows the close relationship between the legal aspects and economic strategies of MSMEs. Overall, the use of registered intellectual property to increase economic value is multidimensional. These three legal regimes provide a framework that allows intangible assets to be converted into financing tools, sources of royalty income, a basis for expansion through franchising, and commodities that can be traded in strategic business transactions. The synergy between brands as identities, copyrights as binders of creative expression, and industrial designs as physical form protectors creates a comprehensive legal ecosystem. This ecosystem enables MSMEs to shift from price-based competition to value-based competition, differentiation, and protected innovation. The integration of technological innovation, management governance, and legal compliance is expected to create a more sustainable and responsible business system (Mardikaningsih & Wardoyo, 2024b). Progressive government policies to recognize IP certificates as bankable collateral are accelerating this transformation, making creativity and innovation tangible, high-value economic capital that is legally accountable in MSME economic development. With this approach, intellectual property occupies a central position as a driver of added value and MSME business sustainability.

CONCLUSION

Based on the literature review that has been conducted, it can be concluded that legal protection of intellectual property for MSME products and brands has three main dimensions that are interrelated and progressive in nature. First, the preventive dimension, which is established through formal trademark registration, copyright registration, and industrial design registration. These registration actions create legal certainty by establishing exclusive rights recognized by the state, providing strong evidence of ownership, and serving as an initial barrier to potential infringements. The three legal regimes that form the main pillars are the Trademark Law, Copyright Law, and Industrial Design Law, which together provide comprehensive

protection ranging from business identity and creative expression to the physical appearance of products. Second, the restorative dimension is realized through various law enforcement measures in the event of infringement. MSMEs have a range of options, from amicable efforts such as summons and mediation, to litigation through civil lawsuits in the Commercial Court and criminal reports. This diversity of options allows MSMEs to tailor their response to the severity of the infringement and their resource capacity. Third, the economic dimension utilizes registered intellectual property as a strategic asset to increase business value. These exclusive rights can be commercialized through licensing, used as collateral for bank financing, developed in a franchise system, or transferred in strategic business transactions, thereby transforming creativity into capital with real economic exchange value.

The findings of this study have significant implications for three main stakeholder groups. For Micro, Small and Medium Enterprises, this study confirms that intellectual property management is not an elitist and expensive legal activity, but an integral part of a business strategy to survive, compete and grow. The decision to register rights should be seen as an initial investment that protects the larger investments that have been made in product development and marketing. For policymakers and relevant government agencies, particularly the Directorate General of Intellectual Property and the Ministry of Cooperatives and SMEs, the results of the study imply the need to continue simplifying administrative procedures, improving the dissemination of easily understandable information, and strengthening assistance programmes aimed at increasing the capacity of MSMEs to utilize their intellectual assets offensively for financing and expansion. For the world of education and training institutions, there is a need to incorporate practical intellectual property literacy into the entrepreneurship curriculum, so that prospective new entrepreneurs are equipped with a mindset that sees creativity as an asset that must be secured and developed early on, not just as an output ready to be exploited by others.

Based on the above conclusions and implications, several strategic recommendations are proposed. First, it is highly recommended for MSMEs to adopt a proactive approach by conducting a simple intellectual property audit to identify creative and distinctive assets of their business that are worth protecting, then prioritizing their registration based on economic value potential and vulnerability to imitation. Second, it is recommended

that the government and business associations design more tangible incentive programmes, such as full subsidies for the first registration fees for micro-businesses, or partnerships with fintech and banking institutions to facilitate financing schemes secured by intellectual property certificates with a standardized valuation process. Third, for business ecosystem developers such as incubators and accelerators, it is necessary to create special assistance modules that not only help with registration but also guide participants in utilizing the rights they have obtained for business expansion, such as drafting standard license agreements or preparing IP portfolios for pitching to investors. Fourth, further research is needed to map specific business models that successfully utilize their intellectual property portfolios optimally, so that they can serve as case studies and practical guides for other MSMEs in various creative and manufacturing industries.

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