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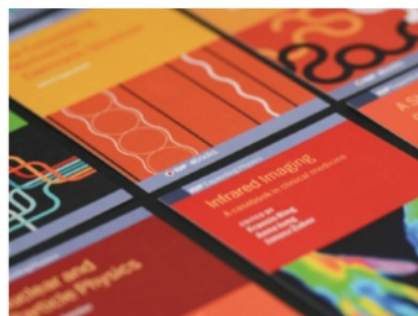
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Intellectual property rights protection of Mandar coconut oil through geographical indications

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Abstract: Intellectual property rights support the economic development of a country. Indonesia, with its extraordinary natural resources, has not been able to optimize protection of intellectual property rights. Only 65 kinds of geographical indications were recorded registered on the Directorate General of Intellectual Property by hundreds or even thousands of products with Indonesian characteristics. This article uses a type of socio legal research with data sourced from literature review. This article concludes that Mandar coconut oil is one of the Indonesia resources as the biggest producer coconut oil in the world. This oil has some advantages so it is worth to get the legal geographical indications. The steps which can take of community and the government refers to Law No. 20 of 2016 concerning Trademark and Geographical Indications. The writers recommend that the government of West Sulawesi Province, PolewaliMandar Regency and Majene Regency Government provide support towards Mandar coconut oil, so it can get legal protection through geographical indications.

1. Introduction

An intellectual property right is one pillar of a country's economic development.[1][2] This practice has been implemented and significantly accelerates economic equality at the level of individuals and community groups. [3][4]The World Intellectual Property Organization (WIPO) states that intellectual property (IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce. Furthermore, the types of intellectual property are divided into five types, namely copyright, patents, trademarks, industrial designs and geographical indications. [5]

In the Indonesian context, protection of intellectual property rights has been introduced since the Dutch colonial period in 1844. Indonesia has also become a part state of several international agreements in the field of intellectual property. For instance, the Paris Convention for the Protection of Industrial Property in 1888 and a member of the Berne Convention for the Protection of Literary and Artistic Works in 1914. Indonesian membership since it was still called Netherlands East-Indies under the colonial government was continued after Indonesian independence in 1945 until the time this.[6] In addition, Indonesia has also ratified the TRIPS (Trade Related Aspects of Intellectual Property Rights Agreement) which is as a part of Law No. 7 of 1994 concerning Ratification of the Establishment of the World Trade Organization (WTO).

In its development, intellectual property in Indonesia until 2018 applies including: copyright (Law No. 28 of 2014), patents (Law No. 3 of 2016), trade secrets (Law No. 30 of 2000), industrial design

(Law No. 31 of 2000), integrated circuit layout design (Law No. 32 of 2000) and trademarks and geographical indication (Law No. 20 of 2016). [7][8][9]Indonesia with its natural resources certainly has tremendous potential to be utilized by the society, however the misappropriation of the possessed property is also threatening. As experienced by Gayo Coffee, which was disputed in the Netherlands and TorajaCoffee has the trademark was registered in the United States.

To respond this fact, the attitude of the central government and local governments is needed to stop claims from unauthorized parties. One of them is through registration of geographical indications which is part of intellectual property rights. [10]Geographical indications on article 22-24 TRIPs is stated that geographical indication is for the purpose of this agreement, indication which identifies a good origin of the territory, or a region, or locality in that territory. Another characteristic is essentially attributable to its geographical origin. [11]This definition needs to be internalized into Indonesian national law, so it can apply in the Indonesian legal system[12].

In line with these international provisions, Law No. 20 of 2016 concerning Trademark and Geographical Indication Article 1 number 6 states that geographical indications are a sign indicating the origin area of an item and/or product due to geographical factors including natural factors, human factors or a combination of these two factors giving reputation, quality, and certain characteristics of goods and/or products produced [11].

Geographical indications which have been registered into the Directorate General of Intellectual Property (DJKI) Ministry of Law and Human Rights up to 2018 amount to 65 kinds, including 26 kinds from Java Island, 12 kinds registered from Sumatra Island, 10 kinds from Bali Island, 7 kinds from Sulawesi Island, 5 kinds from Nusa Tenggara, 2 kinds from Kalimantan Island, 2 kinds from Maluku and 1 kinds from Papua. [13] Sulawesi Island specifically has 7 geographical indications that have been registered including: Arabica Coffee Kalosi Enrekang, Arabica Toraja Coffee, Minahasa Clove, Siau Nutmeg, Mandar Silk Weaving, Muna Cashew and Pinogu Robusta Coffee .

If we look at the distribution of geographical indications that have been registered, the concentration is still on Java, followed by Sumatra, Bali, Sulawesi, Nusa Tenggara, Kalimantan, Maluku and Papua. Especially on Sulawesi, the types of geographical indications that are registered are mostly agricultural products. So the writers are interested in uncovering the potential geographical indications of West Sulawesi called Mandar coconut oil. This coconut oil has the potential to be registered as a geographical indication as has been done for Aceh Patchouli Oil. The characteristics, efforts made and prospects for Mandar coconut oil will be discussed in this article.

2. Methods

This article is using socio legal approach; the law here is conceptualized as an institution social which in real terms is associated with other social variables, which give influence and consequences for various aspects of social life. [1]Socio legal approach is intended as an application and assessment of the relationship between legal and non-legal aspects in the operation of law in society, namely analyzing legal aspects relating to intellectual property rights protection of Mandar coconut oil through geographical indications. Data that used in this study are secondary data derived from the library research that consists for primary, secondary and non-legal material.

3. Results and discussion

a. Characteristics of Mandar coconut oil as a potential geographical indication

Coconut is a plant species that is spread evenly on almost all islands in Indonesia. This plant is decorating the coastal areas of the islands and also found in almost all the highlands or the mountains. This fact makes Indonesia as the world's largest coconut producing country. [14] The distribution of coconut plantations is concentrated in Sumatra, while in the South Sulawesi region that found on Selayar Island, and PolewaliMandar in West Sulawesi. Almost all part of coconut from leaves to roots can be processed into economic value products with 4F products (food, feed, fiber and fuel)[15].

Vegetable oil is one of the products of coconut fruit. Generally it has known into two types of coconut oil, they are ordinary coconut oil which is used for cooking and pure coconut oil known as virgin coconut oil (VCO). The ordinary coconut oil is obtained from copra by heating and purifying

with chemicals, while pure oil is obtained from fresh coconut without heating that contains natural antioxidants. Then usually pure coconut oil is not used for frying but is drunk directly as a food supplement.[16] The VCO efficacy includes: antiviral, antibacterial and anti-protozoa and can cope viral attacks such as influenza and HIV. Other beneficial of VCO also contain antimicrobial Lactic Acid Bacterial (LAB). VCO has also been reported as cholesterol, improve immune system, anti inflammation, and anti-cancer[17].

Mandar coconut oil is included in the category of virgin coconut oil which is produced in the Lampoko Village, Campalagian District, Polewali Mandar regency. This oil is typical and potentially to obtain protection of intellectual property rights through geographical indications. The process of this oil is still using traditional ways through a homemade industry. [14] The advantages of Mandar coconut oil are has a fragrant aroma, can increase the weight of babies and toddlers, can be used as a mixture ingredients cosmetics and oils for health or therapy. It is very good for health, especially for mothers who get pregnant (drink when her 7 months pregnant), and it can also be used frying repeatedly because it is not easy to change color and also can using up to 5 years. The explanations above are characteristics of Mandar coconut oil that can be considered for geographical indication.

b. Legal steps in registration of Mandar coconut oil as geographical indications

Geographical indication is protected after being registered, through an application submitted by: (a) The institutions is representative people certain geographical areas who are trying to make goods and / or products, (b) provincial or city/regency government. Geographical indication protected during the maintenance of reputation, quality, and characteristics that are the basis for protection geographical indication of an item. The law role also regulates indications of provenience. Providence Indication is protected without going through registration requirements (declarative) and made as a sign which shows the origin of an item and/or service that is correct and used in the trade is a characteristic of the origin of goods and/or services that are not directly related to natural factors[18][11].

Law No. 20 of 2016, Chapter 70 requires the central government and/or regional government to carry out activities to protect geographical indications, such as: (a) preparation for fulfilling the requirements for geographical indication applications, (b) applying for geographical indication registration, (c) utilization and commercialization of geographical indications, (d) socialization of indication protection geographically to the community, (g) mapping and inventory of potential geographical indication products, (f) training and assistance, (g) monitoring, evaluation, and guidance, (h) providing protection law, and (i) facilitate the development, processing and marketing of goods and/or products geographical indication[18] [11].

The procedure for registration natural resources is regulated in Law No. 20 of 2016, chapter 56-57 and Government Regulation No. 51 of 2007. In summary the steps for registering geographical indications are as follows. First, the application is submitted in writing by filling out the form to the director general. Second, the application must be completed with the requirements book. Third is an administrative check. Fourth is substantive check. Fifth, it is announcement. Sixth, it is a process to objections and objections. Seventh process is substantive re-examination. [11][19] These steps must be passed so that Mandar coconut oil receives legal protection through geographical indications.

As a comparison case, in Aceh there is patchouli oil has been registered geographically with the number of requirements for IG certificate No. ID G 000 000 021. This is intended for maintain the ownership continuity name of natural resources owned by the Aceh region. The reasons for the protection of geographical indications on Aceh patchouli oil are: (a) Patchouli Aceh (*pogostemoncobilnenth*) has strong characteristics and aroma with typical characteristics of high yield (2.5-5.0%) compared to patchouli oil in other regions only have (0.5-1.5%); (b) Aceh patchouli oil also has a high patchouli alcohol content compared to other regions (to Pa above 30%) and each type of patchouli Aceh also has its own advantages, namely the varieties of *tavak tuan* are superior in production and patchouli levels alcohol; and (c) in fact in the field, Aceh patchouli oil is more widely used as patchouli oil mixture compared to other regions[20].

Besides Mandar coconut oil, Indonesia has extraordinary natural potential if it is seriously utilized. However, the facts in the field are the opposite to the hope. For instance, Buru Island eucalyptus oil

which is hampered by the legal structure of the government Buru regency that have not paid attention to the importance of geographical indication protection. [1] *Salak Sidimpuan* from South Tapanuli also suffered a fate the same, namely the efforts of the regional government are inadequate. [19] Songkok To Bone also expects Bone regency government must be more pro-active in efforts to encourage legal protection through geographical indications. [21] In fact, Mandoti's pulut rice is still in the process until 2018 not yet approved whereas previously the Kalosi Arabica Coffee from same region had received a geographical indication [21].

4. Conclusion

Intellectual property rights protection is an effort to protect Indonesia's natural wealth so as not to be distorted. The natural resources is natural wealth as well as commodities of 65 kinds protected by geographical indications. Mandar coconut oil is one of the typical products from West Sulawesi which is still traditionally processed and has many advantages, so that it can be considered to get a geographical indication. Legal steps can be taken by the community and the government to register geographical indications. According to Law No. 20 of 2016 and Government Regulation (PP) No. 51 of 2007, a legal product at least must be processing through 7 steps to get geographical indications. Indonesia's natural potential is extraordinary if explored in earnest, but in the fact show that there are several resources such as eucalyptus oil in Buru Island, *Salak Sidimpuan* and Songkok To Bone are still hampered by sub-optimal regional government support. So, writers recommending that the government of West Sulawesi Province, the Polewali Mandar Regency and Majene Regency government provide support so that Mandar coconut oil gets legal protection through geographical indication.

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