

Implementation of Legal Protections of Geographical Indications of Lampung Robusta Coffee in Improving The Economy of West Lampung Coffee Farmers

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Abstract

West Lampung Regency is one of the Robusta coffee producing areas. Lampung Robusta Coffee is registered by obtaining a Geographical Indication Certificate Number: ID G 000000026 dated May 13, 2014. The problems in this study are a) How is the implementation of legal protection for Lampung Robusta coffee geographical indications in improving the economy of West Lampung coffee farmers and b) What are the factors What are the obstacles in implementing legal protection for Lampung Robusta coffee geographical indications in improving the economy of West Lampung coffee farmers? The research method used is juridical normative and juridical empirical. The conclusion of this study is the implementation of legal protection for Lampung Robusta coffee geographical indications in improving the economy of West Lampung coffee farmers is to provide preventive and repressive forms of protection with reference to the theory of Intellectual Property Rights Robert M. Sherwood. The constraining factors in the implementation of legal protection for Lampung Robusta coffee geographical indications in improving the economy of West Lampung coffee farmers are the low level of public education, the lack of awareness of coffee farmers in West Lampung Regency in including West Lampung Robusta Coffee Geographical Indications in product design, the absence of regulations at the level The Government of West Lampung Regency in implementing the inclusion of Geographical Indications for West Lampung Robusta Coffee and the weak legal awareness of the community towards the importance of Geographical Indications

I. Introduction

Coffee is one of the most popular drinks in the world. So it is not strange that until now the coffee business is mushrooming both in big cities and in small towns. Coffee is a food commodity that is enjoyed by people from various types of circles. The history of the discovery of coffee itself, was discovered by the Ethiopians on the African continent since 800-850 BC. The people of the African continent, especially the Ethiopians, claim that coffee is a nutritious drink that can provide energy. They consume coffee by mixing coffee beans with animal fat and also wine to meet their protein needs.

In general, coffee is grown in countries that have a tropical or subtropical climate. After the emergence of coffee in Ethiopia, the coffee plant was cultivated in various parts of the world such as Latin America, Central and East Africa, and Asia with various types of coffee. In Asia itself, coffee also grows in the territory of Indonesia, one of which is the type of Robusta Coffee which can grow at an altitude of 800m above sea level.

Indonesia is the third largest coffee producing country in the world after Brazil and Vietnam. The total area that can produce coffee in Indonesia is 9 regions with a total area of 1,300,000 hectares. These nine regions are capable of producing 750,000 tons of coffee/year and around 67% are exported to foreign countries and some products are traded on the London International Financial Futures and Options Exchange and since 2007 on the New York International Exchange.

Lampung Province, precisely West Lampung Regency is one of the Robusta Coffee producing areas. This is supported by the geographical location of West Lampung which is at an altitude of 500 to > 1000m above sea level. With this height, making West Lampung an exporting area for Robusta Coffee to foreign countries. The Association of Indonesian Coffee Exporters and Industry provides statistical data on an increase in coffee consumption in Indonesia since 2000 to 98%.

Referring to the existence of coffee exports, it means that there is a traffic of trade in goods and services in it. In this activity, the trademark plays a very important role, this is because the brand is a distinguishing mark between one product and another, and also as an identifier of the origin of the goods, which in this case is coffee.

Intellectual Property Rights consist of different types of protection, depending on the subject (form of intellectual property) being protected. Intellectual Property Rights consist of two fields, namely: first, Copyright (copyright), and Neighboring

Right, consisting of Science, Arts and Literature. Second, Industrial Property Rights, consisting of patents, trademarks, industrial designs, layout designs of integrated circuits, and trade secrets. .

Law Number 20 of 2016 concerning Marks and Geographical Indications states that Article 1 number 1 states that a mark is a sign that is displayed either graphically such as an image, logo, name, word, letter, number, color arrangement, in the form of two and/or three dimensions, sound, hologram, or a combination of two or more of these elements, money is used to distinguish goods and/or services produced in trade traffic by persons or legal entities.

A brand is a picture of a guarantee of personality as well as the reputation of goods and services produced when traded. As a producer of an item, quality assurance must be very useful in business competition. So that the brand is seen as the most important thing in the world of business and industry. In fact, there are no less important than brands, namely Geographical Indications.

Geographical Indication is a legal protection in terms of product quality which is a guarantee of the potential of superior commodities. Protection of Geographical Indications is very influential in the trade of a product both at the national and international levels. Definition of Geographical Indication according to Law Number 20 of 2016 concerning Marks and Geographical Indications is a sign indicating the area of origin of an item and/or product which due to geographical environmental factors includes natural factors, human factors or a combination of both in providing reputation, quality and characteristics certain goods and/or products produced.

The Lisbon Agreement introduced the term appellation of origin (origin appellation, a designation of origin that identifies the place where a product originates in relation to the quality and certain characteristics of the product in question). Geographical Indications can be categorized as part of the appellation of origin as stated in the Lisbon Agreement. Article 2 paragraph (1) and paragraph (2) of the Lisbon Agreement defines the appellation of origin as An "Appellation of Origin" as the Geographical denomination of a country, region, or locality, which serves to designate a product originating therein, the quality or characteristics of which are due exclusively or essentially to the geographical environment, including natural and human factory. "Country of Origin" as the Country whose name, or the country in which is situated the region or locality whose name, constitutes the appellation of origin that has given the product its reputation.

The Law on Trademarks and Geographical Indications grants exclusive rights to registered Geographical Indications rights holders, as long as the reputation, quality and characteristics that are the basis for providing protection for the Geographical Indications still exist. Based on this, it can be seen the need for an application and request for registration to the Minister of Law and Human Rights.

The sign in the definition of geographical indication is the name of a place or area or other certain signs that indicate the origin of the place where goods are produced protected by geographical indications. Geographical indications can be applied for goods in the form of agricultural products, processed products, handicrafts, or other goods. . The number of regional products in Indonesia that are well known and have a place in the international market so that they have high economic value, need to be followed by legal protection to protect these commodities from unfair competition practices in trade.

Based on the Law on Trademarks and Geographical Indications, Lampung Province, particularly West Lampung Regency, Way Kanan Regency and Tanggamus Regency registers Robusta Coffee Geographical Indications to the Directorate General of Intellectual Property Rights of the Ministry of Law and Human Rights. Lampung Robusta Coffee is registered by obtaining a Geographical Indication Certificate Number: ID G 000000026 Dated May 13, 2014, with characteristics of Lampung Robusta Coffee in general of good quality. When roasted on a medium level (medium roast) the color is homogeneous, with the aroma and aroma of coffee grounds as well as shades of chocolate and spices (chocolate and spicy). The results of the analysis show that the taste of this coffee is sweet with a slightly bitter sour taste, and the aroma, taste, and aftertaste are delicious. The Lampung Robusta coffee production zone is located in the districts of West Lampung, Tanggamus and Way Kanan, Lampung Province, on the island of Sumatra at an altitude of 275-1000 m above sea level.

2. Research Method

In this study, the author uses a normative and empirical juridical approach.

- a. Normative Juridical Approach
the approach is based on the main legal material by examining theories, concepts, legal principles and laws and regulations related to this research.
- b. The empirical juridical approach
is research by going directly to the field on the object of research to collect primary data obtained directly from the object of research through observation and interviews with related respondents or sources.

3. Results and Discussion

Implementation of Legal Protection for Lampung Robusta Coffee Geographical Indications in Improving the Economy of West Lampung Coffee Farmers

Lampung Province is the largest Robusta coffee producing area in Indonesia with a plantation area of 154,168ha and a production of 91,917 tons of dry beans. Lampung Coffee Cultivation started in 1841 by bringing in a number of agricultural and plantation experts from Java Island who at that time planted Arabica and Liberica species. In 1910 there was an infection of Arabica and Liberica varieties, then Robusta Coffee was introduced in Lampung as a substitute for the two types of coffee.

Lampung Robusta coffee is now ready to become one of Indonesia's cultural heritage. This is to support the cultural heritage preservation movement launched by Coordinating Minister for Human Development and Culture Puan Maharani in a number of regions in Indonesia. Lampung Robusta Coffee market share is still very wide open in the international market. For this reason, its existence needs to be maintained and maintained by taking into account the sustainability of the ecosystem and the empowerment of the surrounding community.

Geographical Indication is a sign that shows the area of origin of an item and/or product which due to geographical environmental factors including natural factors, human factors or a combination of these two factors gives a certain reputation, quality, and characteristics to the goods and/or products produced. (Article 1 point 6 of Law Number 20 of 2016 concerning Marks and Geographical Indications).

The said Geographical Indication Products can be in the form of natural resources; handicraft items; or industrial products. So Geographical Indications in Law Number 20 of 2016 concerning Marks and Geographical Indications have a definition that can be described as follows:

1. a sign indicating the place of origin
2. An item/and or product
3. Due to geographical environmental factors
4. Including natural factors, human factors or a combination of these two factors Provide reputation, quality, and certain characteristics on the goods and/or products produced.

In the setting of Geographical Indications it is stated that Geographical Indications provide many benefits, including:

1. Protecting products and producers of institutional members of Geographical Indications against fraud, misuse and counterfeiting of Geographical Indications
2. Improve the bargaining position of products and the ability to enter new markets at the national and international level
3. Increase added value, increase employment, improve product quality, increase production, increase product diversification opportunities
4. Provide clear information to consumers about the type, quality, and origin of the products they buy
5. Increase promotion opportunities to get a better reputation
6. Increase income and welfare of business actors
7. Improving the economy and accelerating regional development
8. Maintaining environmental sustainability to ensure the existence of product characteristics and quality
9. Maintaining the preservation of national culture related to the quality and reputation of a Geographical Indication item.

Reputation in the elucidation of Article 56 Paragraph (1) of Law Number 15 of 2001 concerning Marks will have an influence on determining the existence of certain "characteristics" of goods/products that will obtain geographical indication protection. The existence of a reputation is always identified with the existence of a certain item/product that already has a certain/extraordinary achievement, or "goodwill" in the business, thus requiring a relatively long time travel process for a product to be widely known among the public/consumers. The Law on Trademarks and Geographical Indications provides a provision that the existence of Geographical Indications means that legal protection for a product is guaranteed with a constitutive registration system that provides rights protection to the first registrant. As discussed above, Lampung Province, through West Lampung Regency, Tanggamus Regency and Way Kanan Regency has registered Geographical Indications of Lampung Robusta Coffee to the Director General of Intellectual Property Rights.

The term legal protection for the people in Indonesia consists of two forms of protection, namely preventive legal protection and repressive legal protection. These two things are closely related to Geographical Indications, which include:

Preventive Legal Protection

In the sense that preventive legal protection is the people are given the opportunity to submit their opinions before the government decides on a

definitive form which aims to avoid the occurrence of a dispute. In the protection of Geographical Indications, this preventive protection is to prevent, to anticipate violations of Geographical Indications, the UUM Jo PP No.51 of 2007 provides legal protection both civil and criminal.

Representative legal protection has been carried out by West Lampung Regency on Robusta Coffee by registering Geographical Indications to the Directorate General of Intellectual Property Rights. In this case, the first IPR protection theory by Robert M. Sherwood is Reward Theory which has a deep meaning in the form of acknowledging intellectual works that have been produced by someone so that the inventor/creator or designer must be given an award as a balance for his creative efforts in finding or create intellectual works. Protection of the potential of GI to enjoy the economic benefits of the potential of GI is a form of appreciation and recognition by the government for the success of the people who own the Geographical Indications of West Lampung Robusta Coffee in developing their products.

The protection of Geographical Indications does not yet have a separate Law but is still under the Law on Trademarks and Geographical Indications. Rewards are given when the community that owns the Geographical Indication registers the potential product of the Geographical Indication to the Directorate General of Intellectual Property Rights so that if the product with the potential for Geographical Indication meets the elements of the Geographical Indication, the community that owns the GI will receive a reward in the form of a certificate of Geographical Indication. This Geographical Indication Certificate is a form of appreciation and acknowledgment by the government for the success of the people who own the Geographical Indications of West Lampung Robusta Coffee in finding or developing products that have the potential for Geographical Indications.

The second theory, namely Recovery Theory from Robert M Sherwood, is the principle which states that the inventor/creator/designer who has spent time, money and energy to produce his intellectual work must get back what he has issued. Geographical Indication Protection can only be recognized after being registered. Until this research was conducted, the Lampung Robusta coffee farmer organization had not yet formed in including Geographical Indications in terms of brand design.

The special organization for Robusta coffee farmers in West Lampung has an impact on the inclusion of Geographical Indications on Robusta Coffee products, regional regulations regarding the inclusion of geographical indications and also the preparation of the Geographical Indication requirements book. The basis for consideration of the need for an organization of West Lampung robusta coffee farmers by considering:

1. Those who can provide a description of the history and traditions related to the use of Geographical Indications to mark goods produced in the area are the competence of the farming community.
2. The role of consumer groups in providing acknowledgment of Geographical Indications and becomes a benefit for consumers if the products consumed are guaranteed to be authentic.
3. It is the competence of the Department of Agriculture and the Office of Cooperatives and SMEs to provide a description of the distinctive characteristics and qualities that distinguish certain goods from other goods of the same category, and to explain their relationship to the area where the goods are produced, a description of the influence of the geographical and natural environment and other factors. human beings on the quality or characteristics of the said goods and a description of the boundaries of the area and/or maps of the area protected by Geographical Indications.
4. Traders or entrepreneurs or dealers related to their competence explain the production process, processing process, manufacturing process used so as to enable each producer in the area to produce, process, or make related goods.
5. The legal section of the Regional Government where the Geographical Indication product is located for the administration of the government bureaucracy.

The appointment of government agencies to coordinate with existing institutions in the community including consumer groups is solely aimed at their function as protectors, protectors, and implementers of community welfare by optimally managing and empowering their economic benefits.

The third theory of Robert M. Sherwood which is in line with the two theories above is the Incentive Theory which means that incentives need to be given to seek to stimulate useful research activities. In the protection of Geographical Indications, the benefits that will be obtained by farmers are as follows:

1. Increasing the professionalism of farmers (because a specification book is required to ensure quality)
2. Improve and maintain Geographical Indication products and strengthen the competitiveness of farmers
3. Strengthening farmers' rights through Geographical Indication product associations.
4. Encouraging better economic equality for farmers
5. Increase and create jobs for farmers in areas that have potential Geographical Indication products

The three theories above essentially have the same vision in the form of giving awards to inventors or creators or designers, in this study it is to West Lampung Robusta Coffee farmers for the intellectual work they have produced. Preventive protection here is very necessary to anticipate fraud from other parties who are not responsible, because Intellectual Property Rights, especially Geographical Indications, can bring economic benefits to their owners. HKI is a work that contains risks, such as the potential Geographical Indications of Lampung Robusta Coffee.

Repressive Legal Protection

Repressive legal protection is protection that aims to resolve disputes. In relation to Geographical Indications, the main purpose is to prevent, anticipate violations of GI, the UUM Jo PP No.51 of 2007 provides legal protection both civil and criminal.

Repressive law is very necessary to anticipate disputes over misuse of Geographical Indications by other parties, the owner or holder of the right to Geographical Indications has the right to file a claim for compensation to the Commercial Court due to violation of rights to Geographical Indications or use of Geographical Indications without rights or against the law.

This is in accordance with the fourth theory of Robert M. Sherwood, namely the Risk Theory. Intellectual Property Rights is a research that contains risks that may allow other people to find the method first or fix it; Thus, it is reasonable to provide legal protection against efforts or activities that contain such risks. Geographical indications obtain legal protection is through registration. Until this research was carried out the potential Geographical Indications of Lampung Robusta Coffee. If one day Geographical Indications of Lampung Robusta Coffee registered by h are used by other parties without rights as referred to in Article 25 PP No. 51 of 2007, the owner of the Lampung Robusta Coffee Geographical Indication concerned can file a claim.

The theory that is in line with the above theory which is the latest theory from Robert M. Sherwood is the Economic Growth Stimulus Theory, this theory recognizes that the protection of Intellectual Property Rights is a tool of economic development, in the form of the overall purpose of building a protection system for Intellectual Property Rights that effective. This theory is relevant to be used as the basis for the protection of Intellectual Property Rights today, especially in the face of the era of free trade and the consequences of the ratification of the World Trade Organization agreement by Indonesia.

These consequences require Indonesia to have an adequate Intellectual Property Rights protection system for both national and foreign Intellectual Property

Rights. Protection of intellectual property rights in Indonesia, especially those related to Geographical Indications, is only limited to several articles under the Law on Marks and Geographical Indications and Government Regulation no. 51 of 2007 concerning Geographical Indications. Protection of Intellectual Property Rights is not only a tool for economic development but more importantly as a means of protecting national economic development, so that the experience of registering Geographical Indications by other countries is not repeated.

In its implementation and implementation, it is proven that the protection of Geographical Indications is still very little. Even though there are so many benefits that can be obtained in line with the principles in Intellectual Property Rights, including:

1. The principle of justice, which means giving rights to the people of West Lampung as the owner of Geographical Indications to be able to obtain economic rights and moral rights.
2. Economic Principles, namely the principle of being able to enjoy benefits for the West Lampung Coffee Farmer community.
3. The Cultural Principle, namely that the protection of Geographical Indications of Lampung Robusta Coffee will improve the standard of living, civilization and human dignity in this area.
4. Social principles, meaning that the rights granted by the state for the benefit of its citizens.

Constraints Factors in the Implementation of Legal Protection for Geographical Indications of Lampung Robusta Coffee in Improving the Economy of West Lampung Coffee Farmers

Implementation of legal protection for Geographical Indications for West Lampung Robusta coffee is not easy, because in its implementation there are several obstacles, including the following:

1. Low level of public education
2. Lack of awareness of coffee farmers in West Lampung Regency in including Geographical Indications of West Lampung Robusta Coffee in Product Design. So, when the product is exported both nationally and internationally, there is no legal certainty that the product comes from West Lampung. In fact, by including Geographical Indications in the brand design, coffee farmers will also benefit, because the quality and quantity of the goods or coffee products are guaranteed.

3. There is no regulation at the West Lampung Regency Government level in implementing the inclusion of Geographical Indications for West Lampung Robusta Coffee. Thus, the public cannot be forced to include Geographical Indications for West Lampung Robusta Coffee.

4. Weak public legal awareness of the importance of Geographical Indications
As mentioned earlier, the legal protection of intellectual property rights is a concept that was previously unknown in the Indonesian legal system. IPR originally came from the concept of western legal culture that puts forward individual rights, while Indonesia generally recognizes a legal system based on the principles of togetherness and kinship so that the presence of IPR is very difficult to implement in the Indonesian legal system.

Legal protection of Geographical Indications generally touches the farming community more, because Geographical Indications protect the potential of agricultural and plantation products that have certain reputations and characteristics, in addition to forestry, marine fisheries, handicrafts and certain other industries. PP No. 51 of 2007 has several articles that are somewhat complicated, but the presence of this PP should be welcomed by West Lampung Coffee Farmers to develop their regional assets. Protection of Geographical Indications does not have a period of time as long as the characteristics and quality of the Geographical Indications are maintained, thus in addition to obtaining economic benefits, legal protection.

Geographical Indications also serve as a means to preserve nature. Field research on the community's efforts to protect the potential of Geographical Indications, the authors assume that West Lampung Coffee Farmers do not yet have legal awareness about the need for inclusion of Geographical Indications in their products. Therefore, so that the potential of Geographical Indications in this area can develop properly and get legal protection, the empowerment of human resources and institutional development needs to be improved as one of the efforts to protect the authenticity and uniqueness of products with potential Geographical Indications for Lampung Robusta Coffee.

4. Conclusion

The conclusions of this study are as follows:

- a. Implementation of Lampung Robusta Coffee Legal Protection in Improving the Economy of West Lampung Coffee Farmers
Legal protection for the people in Indonesia consists of two forms of protection, namely preventive legal protection and repressive legal protection. Preventive legal protection refers to the theory of protection of Intellectual Property Rights Robert M. Sherwood namely Reward Theory, Recovery Theory, and Incentive Theory. These three theories were applied by West Lampung Regency to Robusta

Coffee by registering Geographical Indications with the Directorate General of Intellectual Property Rights.

Whereas in repressive legal protection, by anticipating disputes over the misuse of Geographical Indications by other parties, the owner or holder of the rights to Geographical Indications has the right to file a claim for compensation to the Commercial Court due to violation of the rights to Geographical Indications or use of Geographical Indications without rights or against the law. Theories in this legal protection are Risk Theory and Economic Growth Stimulus Theory.

- b. Constraints Factors in the Implementation of Legal Protection for Lampung Robusta Coffee in Economic Improvement of West Lampung Coffee Farmers include the low level of public education, lack of awareness of coffee farmers in West Lampung Regency in including geographical indications of West Lampung Robusta coffee in product design, and the absence of regulations at the government level. West Lampung Regency in implementing the inclusion of West Lampung Robusta coffee geographical indications and the weak legal awareness of the community towards the importance of geographical indications.

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