



Potential Legal Protection for Oil Products Sumbawa NTB in the Context of Geographical Indications

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ABSTRACT

Since the foundation of the Asean Economic Community (AEC), rapid economic competitiveness has made it easier to get company licenses and enhanced worldwide competition. The Indonesian people must increase their inventiveness and preserve the intellectual property rights (IPR) of the goods they produce, lest they be appropriated by other nations. In spite of the fact that the adoption of Geographical Indications (GI) can greatly boost sales value and the number of products marketed, Indonesia still lacks legal rules for GI that could safeguard Indonesian exports worldwide. Sumbawa Oil is one of the finest products that has the potential to become GI. This research is an empirical legal study that evaluates facts congruent with field observations. Researchers will investigate the characteristics of Sumbawa oil products for their potential to be protected by GI, as well as the role of the West Sumbawa Regional Government in promoting the registration as GI in order to improve the economic health of the business community. Consequently, Sumbawa oil consists of two variables: natural factors and human ones. The government has also aided the community in laboratory testing by BPOM so that the test findings meet the requirements for sale and registration as Sumbawa Oil with Geographical Indication.

Keywords: Sumbawa Oil, Geographical Indication, Legal Protection

1. Introduction

With its abundant natural resources, Indonesia supports the production of innovative new items. Foreign investors are encouraged to invest in Indonesia by this potential. Since the implementation of the Asean Economic Community (MEA), obtaining a business license has been less difficult. Therefore, legal protection of Intellectual Property Rights, also known as IPR, is required to prevent other nations from appropriating the goods generated. Intellectual property is a right that comes from the mental processes that result in a beneficial product or method for humans. Intellectual property is a state-granted exclusive right to creators, investors, designers, and creators in relation to their intellectual creations or works (Direktorat Jenderal Kekayaan Intelektual Kementerian Hukum dan HAM, n.d.).

The issue of intellectual property rights is a growing concern that parallels the advancement of science and technology (IPTEK). IPR has become crucial for a nation to sustain its industrial and commercial advantages. According to Munaf in (Paserangi & Ahmad, 2016), the role of IPR at this time is quite significant, including: a) As a tool for trade competitors, particularly for developed countries, so that they can maintain their position in controlling the international market with their goods; b) As a tool that drives the progress of science and technology with new innovations that can be industrialized; and c. As a tool to improve the economic welfare of the community, particularly research institutions.

The Geographical Indications (hence referred to as GI), which is one of the IPR regimes in the context of regional economic growth, offers numerous advantages to creative business operators. Significantly, the use of GI can improve the selling price of a product, and the number of marketed products can be an asset for the growth of agro-tourism (Ramli & Palar, 2019). Geographical indicator is a mark that identifies a product as coming from the territory of one of the member nations or a region within the region where the place of origin is crucial to the reputation of the person concerned due to the quality and features of the product (Abdul kadir, n.d.; Salam, 2020). Protection of Geographical Indications encompasses natural items, agricultural products, handicrafts, and other industrial goods.

Specifically, IG is included in the TRIPs (Agreement on Trade-Related Aspects of Intellectual Property Rights) agreement, in this case Section 3 Articles 22-24, with the goal of promoting effective protection of intellectual property rights and preventing intellectual property rights from becoming one of the aspects of intellectual property rights. Non-tariff obstacles that impede the international flow of goods and services (Paserangi & Ahmad, 2016). The TRIPs agreement regulates geographical indications as one of the materials. Article 22 paragraph 1 of TRIPs states: "For the purposes of this agreement, geographical indications are indications that identify a good as originating in the territory of a member, or a region or locality within that territory, when a given quality, reputation, or other characteristic of the good is substantially attributable to its geographic origin."

This agreement defines Geographical Indication as a sign that indicates as the origin of goods the territory of a Member State or a territory within that territory. Geography plays a significant role in determining the reputation, quality, and qualities of a product. Based on these rules, we can deduce that the legal protection of the origin of commodities relates to the reputation, characteristics, and quality of items associated with specific regions (Saidin, 2004). Geographical indications are indicators of regional significance. The trademark in question in this writing is derived from natural resources, commodities, handicrafts, or manufactured goods. One of the Intellectual Property regimes' geographical indications (Tamtamo & Zulkifli, 2018).

The federal government prioritizes GI in order to offer legal protection for each region's excellent products so that they cannot be claimed by external parties. Currently, GI in Indonesia is governed by Law no. 20 of 2016 and Permenkumham no. 12 of 2019, however it has not been implemented properly. Based on Article 56 of the Law No. 20 of 2016 on Trademarks and Geographical Indications. Regulating that Geographical Indications are protected as a symbol denoting the location of origin of a product that, due to geographical environmental elements including natural factors, human causes, or a combination of the two, confers particular features and qualities on the produced commodities.

On a global scale, it is evident that geographical indications are formed out of the need to safeguard items that are unique to particular regions or locales. The objective of geographical indications protection is the region's richness, which possesses a distinctive quality that confers exclusivity. Protection against geographical indications is actually rather appropriate for Indonesia, which has a great deal of unique regional wealth. Indonesia requires the existence of an effective geographical indication protection for this reason (S, 2019).

Regarding geographical indications, member states are required to give legal protections to interested parties (Jened, 2015):

- a. Any use that misleads the public regarding the geographical origin of the goods;
- b. Any use that constitutes unfair competition within the sense of Article 10bis of the Paris Convention on the Protection of Industrial Property (1967).

Sumbawa Forest Honey and Sumbawa Horse Milk have previously been filed as Geographical Indications for the island of Sumbawa, West Nusa Tenggara. West Sumbawa Regency (KSB) also produces a product that has the potential to be a Geographical Indication, namely Sumbawa Oil, which is a traditional medicine with high efficacy (can be applied topically or taken orally) that is manufactured using special techniques and formulated by a "sandro" or healer. West Sumbawa Regency's regional economy has the potential to benefit from the preservation and legal protection of Sumbawa Oil as an ancestral heritage.

However, the existence of excellent items to become part of the GI has not received sufficient consideration from the local community due to the complexity of administration and financial constraints. Therefore, while generating a product, the community is mostly concerned with production and profit. Whereas According to (Marie-Vivien, 2020), "Geographical Indications are a valuable instrument for promoting origin products in the age of globalization." After a lengthy period of success in Europe, the concept has been propagated to ASEAN and Asia, where governments are passing unique GI laws.

Therefore, the author is compelled to conduct study on the provision of legal protection for Sumbawa Oil as a must-preserve ancestral heritage. So that it can provide legal protection for each commodity or production of commodities and add value to Sumbawa Oil products, which have the ability to boost the regional economy of West Sumbawa Regency.

2. Method

This investigation is an example of empirical legal research. Empirical legal research involves researching and analyzing existing facts in accordance with field observations. Therefore, researchers will investigate the legal protection for Sumbawa oil and the local government's and community's attempts to preserve Sumbawa.

3. Result

3.1 Potential and characteristics of Sumbawa Oil products to be protected by Geographical Indications

Traditional medicine's characteristics the essence of Sumbawa oil is in its maker, materials, and production method. Sumbawa oil can only be manufactured by sando or healers, and each creator has his or her own pattern for both the production technique and the components utilized. Moreover, the spices used are kept a secret. The information presented on the label of the product's container is limited to the drug's basic ingredients and instructions for usage (smear or drunk). In addition to preserving the quality and originality of Sumbawa oil, this is intended to ensure that it is not imitated by other parties and stays a secret of ancestral legacy, especially since there are no acknowledgements and legislation that protect Sumbawa oil products from imitation.

In addition, Sumbawa has the potential to generate industrial-scale herbal products, such as Sumbawa oil, because its flora and fauna are distinct and distinct from those of neighboring islands. West Sumbawa Regency's highlands are abundant with plants, making it easy for Sumbawa's oil producers to access and utilize them. Several sorts of fundamental components, such as spices, old coconut, ginger, roots, and wood stems, are frequently utilized in the production of Sumbawa oil, according to the findings of interviews done with several community members in Sumbawa Besar Regency, West Nusa Tenggara Province. Due to the back-to-nature movement and a lengthy economic downturn that has reduced people's purchasing capacity for comparatively expensive modern medicines, the use of natural components as medicine has expanded. Considered to having nearly no adverse effects, natural medicine is regarded as safe (Gunawan, 2019).

Sumbawa oil is a typical Sumbawa oil that is typically produced during the Melala Festival on the first of Muharram in Sumbawa NTB. According to Arifin, Sumbawa oil is a traditional NTB medication that has been empirically shown to heal a variety of ailments, including cuts, sprains, and inflammation of the muscles, bones, and joints. Sumbawa oil is a nutrient-rich oil that can be used as a topical medication. Not only may Sumbawa oil be applied topically, but it can also be consumed. This Sumbawa Oil has been handed down from one generation to the next. This Sumbawa Oil is a regional specialty from the Sumbawa NTB region. based on observations of one of Sumbawa's oil products, more than a dozen substances are utilized in its manufacturing.

Since 1927, the tradition of producing Original Sumbawa Oil has been one of Indonesia's ancestral legacies. The current production of Sumbawa oil is limited due to the fact that it is still produced in a traditional and highly secretive manner, but it is extremely beneficial for the treatment of back pain, rheumatism, rheumatism, itching, scabies, water fleas, exposure to fire or hot water, venomous animal bites, cuts with knives or sharp objects, and aches and pains after heavy labor. Research conducted by Irma (2020), who identified the chemical compounds present in one of Sumbawa's oils from Batu Dulang Village, Batu Lante District, Sumbawa Besar Regency, revealed that Sumbawa oil contained organic fatty acids in the form of lauric acid, myristic acid, carilic acid, capric acid, palmitic acid, oleic acid, and stearic acid. The majority of the secondary metabolites found in Sumbawa oil products had antibacterial and antiviral activities, antiprotozoa (nematode) activity, and the ability to maintain healthy skin.

Coconut is the primary component of this Sumbawa oil. Coconut oil contains the omega-3 polyunsaturated fatty acids EPA and DHA, which help reduce VLDL cholesterol, blood viscosity, inhibit thromboxane, and prevent blood vessel clogging. Coconut oil contains a high concentration of medium chain fatty acids (Medium chain fatty acids), which work in conjunction with essential fatty acids to increase the body's fatty acid content. The consumption of MCFA can boost the effectiveness of essential fatty acids by up to 100 percent. The purpose of both MCFA coconut oil and breast milk (ASI) is to nourish the body and shield it from infectious and degenerative disorders (Paserangi, 2018). In this study, spices, old coconut, wood, and roots are identified as the raw materials utilized by the Sumbawa people in the manufacturing of Sumbawa oil, particularly in Taliwang District, the epicenter of Sumbawa oil production. Old coconuts are used in the production of Sumbawa oil because they contain more than 90 percent saturated fatty acids.

a. Description of Geographical Environment

Natural and human elements contribute to the formation of the quality and particular flavor of Sumbawa Oil's geographical surroundings. The natural elements include general conditions, topography and geology, soil fertility, and precipitation from rain. Human Factors, where the people of West Sumbawa are the Samawa or Tau Samawa tribes who live on the island of Sumbawa with a tradition from the ancestral heritage of the Tau Samawa tribe, namely Melala or making Sumbawa oil together, which can only be done by the original Sumbawa tribe in a traditional manner using a simple procedure. done for almost seven hours Compared to other traditional oils, this one is exceptional since it contains various spices that are highly beneficial to the health and has a shelf life of three to five years.

b. Topography and Geology of the Region

The terrain in the KSB region is fairly varied, ranging from flat, steeply undulating, to extremely steep, with an altitude range from 0 to 1,730 meters above sea level (masl). The capital of each subdistrict of KSB vary in height from 7 to 31 masl. The flatter and undulating terrain is primarily utilized for communities and agricultural land, whilst the steeper to very steep terrain consists primarily of forest regions that serve to protect the lower surrounding area.

c. Hydrology and Climatology

KSB is located in the River Area Sub Unit or Dodokan Watershed hydrologically. The existence of two big dams, namely the Kalimantanong 1 and Kalimantanong 2 dams in the Brang Rea and Brang Ene subdistricts, is significant for the residents of West Sumbawa Regency in general. In addition to operating as water reservoirs, the town uses the two dams as agricultural irrigation centers and as tourist attractions. While groundwater may be found in practically every location of West Sumbawa Regency, the springs are only found in the eastern and southeastern regions..

3.2 The role of the government in promoting the registration of Sumbawa Oil Geographical Indications

Legal protection against Geographical Indications has two ownership characteristics: community and collective. Characteristics of communal ownership include belonging to the community inside the Geographic Indication Area. After registering products with possible Geographical Indications and securing legal protection through Geographical Indications, the public has the sole right to distribute and trade their products, hence prohibiting other local communities from using the registered ones (Paserangi, 2022). Everyone who creates goods or products with Geographical Indications in the territory of origin of Geographical Indications is permitted to use Geographical Indications if the commodities produced meet the requirements for Geographical Indications registration.

West Sumbawa's participation in promoting the registration of geographical indications for Sumbawa oil is still small, but the local government yearly hosts the Melala Festival or Sumbawa oil production to maintain culture and attract tourists. The West Sumbawa MSME Service acknowledges the Sumbawa oil producers by selling this product in Sagaloka KSB Mall, a location that sells authentic West Sumbawa MSME items. Particularly, BPOM Mataram is very diligent in maintaining the quality of Sumbawa oil, where every six months a BPOM party will visit production sites and provide some materials through zoom webinars related to the production of traditional medicines and how to register brands. However, the majority of these makers do not understand how to use gadgets, especially the zoom application, so that whenever BPOM invites them to a webinar, they are unable to attend, causing irrational behavior.

4. Discussion

Potential and Characteristics of Sumbawa Oil are comprised of two aspects, namely natural factors due to the presence of numerous religious plants that are the essential ingredients, such: Old Coconut, Spices, Roots, and Wood, in particular sagaloka leaves. Men are responsible for concocting or blending all the materials in the production of Sumbawa oil, while women assist in preparing and cleaning them. The advantages and uses of Sumbawa oil as an external medication for treating back pain, joint discomfort, rheumatism, itching, scabies, water fleas, being exposed to fire or hot water, being bitten by poisonous animals, cuts with knives or sharp objects, and aches and pains after heavy labor.

The Government's involvement in promoting the registration of Geographical Indications for Sumbawa Oil is to enable the community's laboratory testing of traditional medicines and dietary supplements through BPOM, so that the laboratory test results satisfy the standards for sale and registration. In addition, the local government has declared the Melala Festival an annual event (once a year) due to the fact that it is one of the local traditions that is regularly practiced for the purpose of producing Sumbawa Oil, a rare oil of ancestral heritage. This festival was attended by specialists in the production of Sumbawa Oil, also known as Sandro, or healers from other districts in order to maintain the quality of the traditional medicine created.

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