



Implementation of the Use of *Co-Branding* of Yogyakarta Specialty Products and Dispute Resolution of Trademark Infringement Rights

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Abstract: Micro, small, and medium enterprises (MSMEs) are one way the government can achieve maximum economic growth. The number of established MSMEs has resulted in the emergence of many new brands, increasing the opportunity for violations. Therefore, public awareness and the role of local government in protecting MSMEs in the region are needed. In addition to adhering to the Trademark Law, the Special Region of Yogyakarta initiated an innovative regulation governing Co-Branding Jogja to protect the essence of intellectual property rights owned by MSMEs, especially trademark rights. This research uses a normative-empirical type of legal research with qualitative data analysis. The results of this study show that there are still obstacles to implementing the use of the Jogja co-branding brand. However, the government seeks to continue evaluating regulations to solve these problems. Regarding alternative dispute resolution, the government cooperates with the Regional Office of the Ministry of Law and Human Rights of Yogyakarta by facilitating complaints if the Trademark Rights holders find their trademarks used by others without permission.

Keywords: *Co-Branding* Jogja; Intellectual Property Rights; Trademark Rights.

1. Introduction

The point of economic growth of a country can be marked by an increase in job opportunities and the availability of goods and services (Asep et al., 2022). The role of society as the main actor in economic growth and the role of government, which has an obligation to direct and protect society, cannot be separated from efforts for economic growth, especially regional economic growth. Economic growth in a region is also caused by the Micro sector, Small and Medium Enterprises (MSMEs). Especially if look at the contribution to the Gross Domestic Product generated by MSMEs, as much as 61.07%, which can absorb 97% of the total workforce in Indonesia (Fajri, 2022). Like other provinces, the Special Region of Yogyakarta is one of the provinces in Indonesia that has a fairly rapid growth of MSMEs, known in 2023 to have 344,293 MSME units, which can be used as an important momentum in the revival of the regional economy (BAPPEDA DIY, 2023). The number of established MSMEs requires special government protection for the community, especially for business owners. The development of technology and the utilization of globalization that causes the opening of business fields is one of the factors for the Yogyakarta Special Region Government to form a regulation aimed at protecting the Intellectual Property Rights of an MSME in the Special Region of Yogyakarta, namely Governor Regulation Number 21 of 2017 concerning the Use of *Jogja mark*, 100% *Jogja* and *Jogja tradition* Brands as *Co-Branding* of Regional Products. The governor's regulation is still based on Law Number 20 of 2016 concerning Trademarks and Geographical Indications.

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In short, *co-branding* is a collaboration between two brands. However, *Co-Branding Jogja's definition* carries the essence of Yogyakarta's traditional culture. According to Governor Regulation No. 21/2017, *co-branding* Jogja is a sign and product characteristic displayed alongside other signs owned by a product and traditional knowledge and cultural expressions in the Special Region of Yogyakarta. The consideration for issuing this governor's regulation is that it is used as a medium to increase the competitiveness of a regional product and one of the concrete forms of recognition and protection of original regional products (Murjiyanto & Hidayat, 2021). As examples of the use of *Co-Branding Jogja'* in MSMEs brands in Yogyakarta, BALUWARNA brand which is registered as Jogjamark, MERAH JAMBU brand which is registered as 100% Jogja, and PAGUYUBAN BATIK TULIS YOGYAKARTA brand which is registered as Jogjatradition (Jogja KI, 2024.). *Jogja co-branding* is also included in the scope of brands that also function to identify a product or service. Still, the brand is owned by the Regional Government of the Special Region of Yogyakarta, which can then be used alongside other brands owned by MSMEs in the Special Region of Yogyakarta. Although both are trademarks, *co-branding* Jogja's does not adhere to the principle of first to file registration of *co-branding* Jogja's can be done at any time at the Intellectual Property Center on the condition that the trademark to be juxtaposed with *co-branding* Jogja has been registered with the Directorate General of Intellectual Property Rights, which is one of the absolute requirements. In addition, a person who wants to register *co-branding* Jogja must also be a resident of Jogja as evidenced by an Identity Card and his/her business is in the Special Region of Yogyakarta, has a Business License, has a product certificate such as HALAL or SNI, and must have a brand logo. The background of this governor's regulation is to support and protect the existence of MSMEs, whose existence itself must be monitored by intellectual property rights; also, MSMEs always emerge to innovations requiring legal protection. However, MSMEs owners as the actors of this governor's regulation, face several technical obstacles such as limited information and knowledge about Jogja's *co-branding* program and lack of awareness about brand registration and licensing of Jogja's *co-branding*.

Inventors utilize their creations in the commercial field or other fields and can be used to limit other people who want to utilize their creations without right (Lukman & Happy, 2023). The form of intellectual property rights attached to an MSME unit is the existence of brand rights that are included in industrial property rights, and their existence must be directly protected by intellectual property rights (Hidayah, 2020). The importance of registering rights to brands for MSMEs, in addition to being the identity of a business, is used to provide legal protection in a dispute, such as using a brand without rights by others (Suhargon, 2019). As described above, *co-branding* Jogja and Trademark Rights have similarities in that both are the identity of a product or service. Still, both also have considerable differences, namely in the registration system itself; a trademark will obtain legal protection if there is an official registration at the Directorate General of Intellectual Property because the trademark has the principle of *first filing*. In contrast, *co-branding* Jogja does not adhere to the system, so that anyone can get a *co-branding* Jogja license.

Although two rules already protect Intellectual Property Rights, namely Governor Regulation No. 21 of 2017 and Law No. 20 of 2016, specifically regulating Trademark Rights in the Special Region of Yogyakarta, it does not guarantee that a brand can calmly carry out business activities. The possibility of a violation certainly still arises, especially since the growth of MSMEs in the Special Region of Yogyakarta is quite rapid. It then becomes urgent for the writer to discuss how important the protection of trademark rights of a particular business activity unit in the Special Region of Yogyakarta is.

2. Material and Methods

The type of research that the writer uses is Normative-Empirical Legal Research, which combines normative and empirical research so that the data taken for research comes from secondary data in the form of literature studies and primary data in the form of direct observation in the community, such as interview activities (Muhammad, 2022). The writer's research approach uses a statutory approach so that the author will examine all laws and regulations relating to the issues the author examines (Mahmud, 2010). In addition to the legislative approach, the author also uses a case approach that the writer examined concerning the legal issues that the writer examines. The interviews will involve State Civil Apparatus from the Ministry of Law and Human Rights special region of Yogyakarta's and the Special Region of Yogyakarta's Intellectual Property Center. In selecting the sample, the writer considers the following things: the authority of the agency that serves the registration of co-branding Jogja and Trademark, the agency that has involvement in the making of the Governor Regulation of Yogyakarta Special Region Number 21 of 2017, and the agency that can resolve disputes over Trademark Rights in the Special Region of Yogyakarta. Secondary data that the writer uses are journals, article, books, laws and regulations such as Governor Regulation Number 21 of 2017 and Law Number 20 of 2016. The research data sources are based on primary data from interviews and secondary data from literature studies. The data analysis used in this study is qualitative research.

3. Result and Discussion

3.1 Implementation of Brand Use as Co-Branding of Typical Products of Yogyakarta Special Region Based on the Governor Regulation of Yogyakarta Special Region Number 21 of 2017.

The term *co-branding* is no stranger to commerce. Co-branding is a collaboration between two or more brands in one offering. The purpose of *co-branding* is to strengthen other brands to increase the attractiveness and marketability of an item. The advancement of the *modern* era has raised the awareness of the Yogyakarta Special Region Government, which then formed a policy in the form of Yogyakarta Special Region Governor Regulation Number 21 of 2017, which regulates the Use of Jogjamark, 100% Jogja, and Jogja Tradition Brands as *Co-Branding of Regional Specialty Products*. This policy aims to highlight the region's reputation, strengthen the legal protection of a regional trademark, and increase traditional knowledge and regional cultural expressions (Linanjung, 2020). The intended target in implementing this governor's regulation is targeting MSME owners in the Special Region of Yogyakarta Province. *Co-branding Jogja* has several types of brands that can be used side by side, namely as follows (Asri, 2020):



Figure 1. Jogja mark Logo



Figure 2. 100% Jogja Logo



Figure 3. Jogja tradition Logo

In addition to having several types of brands, each brand also has different functions that can be adjusted to the use of the types of goods and services that will be registered using the Jogja *co-branding* license, which are as follows:

Tabel 1. Usage Function of *Co-Branding* Jogja Logo

Logo	Description
Jogja mark	Used for products whose raw materials are from outside the Jogja area but the production process in Jogja.
100% Jogja	Used for Jogja products whose raw materials and production processes are in the Jogja area.
Jogja tradition	Used for Jogja products that have the essence of traditional art or traditional cultural expressions of Jogja.

Businesses that desire a *co-branding* license must apply for a permit or license from a regional official, as explained in Article 1 paragraph (8) of Governor Regulation No. 21/2017 of Yogyakarta Special Region. Licenses can be applied through the Regional Work Unit for trade and industry (Murjiyanto & Hidayat, 2021). However, in reality, since March 2024, the Work Unit has moved its duties and functions to be under the authority of the Yogyakarta Special Region Tourism Office. Interviews conducted by the author show that in implementing the Governor Regulation of the Special Region of Yogyakarta Number 20 of 2017, officers did not encounter significant problems when applied in the community. Still, the problem arose because Governor Regulation Number 21 of 2017 lacked detail, so the current effort authorized officers can make to revise Governor Regulation Number 21 of 2017. The revision has been ongoing since 2019 but has not been completed since 2024 Implementasi Co-Branding Jogja, Mei 2024). The implementation of the use of the government also implements *co-branding* Jogja licenses to the public to increase public awareness of the importance of registering intellectual property rights, including trademark rights. It is because MSME owners who want to register a *co-branding* license must first register their trademark at the relevant service unit, such as the Yogyakarta Special Region Intellectual Property Center or the Regional Office of the Ministry of Law and Human Rights of the Special Region of Yogyakarta. Since the implementation of this regulation in 2018, the number of applicants for *co-branding* Jogja in 2024 has increased.

Tabel 2. Data of *Co-Branding* Jogja in 2018-2024 at DIY Intellectual Property Center

Types of Co-Branding	Year						
	2018	2019	2020	2021	2022	2023	2024
Jogja mark	76	88	297	218	253	205	94
100% Jogja	5	3	-	1	3	1	2
Jogja tradition	-	1	1	-	-	-	-

Based on data taken from the "Jogja KI" account of the Yogyakarta Special Region Intellectual Property Management Center, the total number of licenses up to June 5, 2024, is 1,250, consisting as follows: 1,233 for Jogjamark, 15 for 100% Jogja, and 2 for Jogjatradition(JogjaKi, 2024.). The above data illustrates the increase in license applicants from year to year and the number of types of *co-branding* Jogja, which is the most widely used is Jogja mark, and the least used is Jogja tradition. However, it should be underlined that in implementing a policy, it is necessary to have the right implementor to implement and carry out it. The Intellectual Property Center is the only center in the Special Region of Yogyakarta authorized by the Governor to grant Jogja *co-branding* licenses to MSME owners. As a single agency, of course, in the implementation process, there are several obstacles, namely the implementing agent and the number of MSMEs in the Special Region of Yogyakarta, which are inversely proportional. The minimal number of members in the Intellectual Property Hall causes limitations in the implementation of socialization

about *co-branding* Jogja to each MSME, so the Intellectual Property Hall must cooperate with other formal institutions such as the Cooperative Office and the Trade Office.

3.2 Settlement of Trademark Rights Disputes

Trademark registration based on *the first file* is based on the goal that a registered trademark obtains legal certainty so that it will automatically get legal protection for 10 (10) years and can be extended (Arifin & Iqbal, 2020). The complex rules regarding trademarks in Indonesia have been regulated in the Trademark Law and Geographical Indications Number 20 Year 2016, including dispute resolution and sanctions imposed by violators. Articles 100 to 103 of Law Number 20 Year 2016 explain that the dispute resolution process can be pursued by court and out of court through Arbitration or Alternative Dispute Resolution. The Special Province of Yogyakarta, which does not have a Commercial Court, can easily settle Intellectual Property Rights disputes, especially Trademark Rights, at the Regional Office of the Ministry of Law and Human Rights of the Special Region of Yogyakarta by filing a complaint (S. Anggraeni, personal communication, Mei 2024b). The dispute resolution process carried out at the Regional Office of the Ministry of Law and Human Rights of the Special Region of Yogyakarta is the right of the relevant parties who want the dispute resolution method so that the parties are required to choose one of the dispute resolution methods that have been regulated in the applicable laws in Indonesia.

a. Alternative Dispute Resolution

Legislation relating to alternative dispute resolution can be found in Law Number 30, Year 1999 on Arbitration and Alternative Dispute Resolution. Alternative dispute resolution is an institution for resolving disputes or differences of opinion through procedures agreed upon by the parties, namely out-of-court settlement using consultation, negotiation, mediation, conciliation, or expert assessment. In addition to receiving the Intellectual Property Rights registration program, the Regional Office of the Ministry of Law and Human Rights of the Special Region of Yogyakarta also receives complaints if there are cases of disputes related to Intellectual Property Rights, including Trademark Rights. The main option offered is the dispute resolution process with mediation procedures.

Mediation is an alternative solution that prioritizes negotiations to solve a particular problem by presenting a third party acting as a mediator and not taking sides with any party to resolve existing problems jointly (Nugroho, 2019). From the perspective of civil law, the legal basis of mediation can be found in Articles 130 HIR and 149 RBg and Article 1851 of the Civil Code, which contains the obligations of judges who have a position as a reconciler in dispute cases packaged in the form of mediation (Prajapati et al., 2021). In this study, the authors took data on cases of settlement of disputes over trademark rights through mediation sourced from the Regional Office of the Ministry of Law and Human Rights of the Special Region of Yogyakarta in the period 2022 to 2023, as follows:

Tabel 3. Brand Mediation Dispute Data of the Ministry of Law and Human Rights special region of Yogyakarta's Office

Complaint Type	Year
Ndalem Trademark Infringement	2022
Punokawan Trademark Infringement	2022
Kedaigrafis Trademark Infringement	2023
AHPC PCX Motorcycle Community Brand Infringement	2023
Avoskin Brand Infringement	2023

Complaints entering the Regional Office of the Ministry of Law and Human Rights DIY will go through the verification stage. The appointed officer will check whether the complaint that goes to the Regional Office of the Ministry of Law and Human Rights of Yogyakarta is complained by the trademark licensee. If true, a mediation team of investigators and mediators will be appointed (S. Anggraeni, Tahapan Proses Mediasi, Mei 2024). Mediation takes place by inviting the reporter and the complainant. In the mediation process at the Regional Office of the Ministry of Law and Human Rights of the Special Region of Yogyakarta, the parties can carry out no maximum limit on the number of times mediation. Suppose the mediation does not reach a bright spot. In that case, the mediation will continue as long as both parties agree to continue using alternative dispute resolution in the form of mediation. However, if the parties agree to take the court route, the Yogyakarta Regional Office of the Ministry of Law and Human Rights will submit the case to the Commercial Court.

b. Arbitration

Arbitration is an alternative dispute resolution for civil cases and disputes outside the court (Andriani & Apriani, 2022). Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution in Article 1 paragraph (1) states the definition of arbitration, namely a method of resolving civil disputes outside the public courts based on an arbitration agreement made in writing by the parties to the dispute. Settlement using arbitration involves several parties referred to as arbitrators or arbitral tribunals. The arbitration panel or arbitrator here is authorized to make a final decision. The main requirement for disputes to be resolved by arbitration is making an arbitration agreement either before or after the dispute (Sari, 2014). If the parties agree to resolve the dispute using the arbitration route, then the parties are obliged to come to the arbitration institution and make an arbitration agreement. One of the objects of arbitration disputes in disputes relating to the field of trade, thus the brand, which is an identity of trade goods, can be categorized as an object of arbitration dispute so that the settlement can also use arbitration (Adiputra et al., 2020).

c. Court

The court is an institution of judicial power with the authority to examine and adjudicate a case (Pramesti, 2014). A special judicial body that is authorized to hear cases related to Intellectual Property Rights, including Trademark Rights, is the Commercial Court. It has been determined in Articles 83 and 84 of Law Number 20, the Year 2016, concerning Trademarks and Geographical Indications, which are as follows: (a) Trademark infringement is when a person unlawfully uses a registered trademark. Trademark licensees can file a lawsuit addressed to the Commercial Court with evidence that other parties are using their trademarks without permission (Lasut, 2019); (b) The type of lawsuit that the trademark holder can file is a lawsuit for compensation or temporary suspension of trading activities or distribution of trademarks used without rights to the

Commercial Courr. (c) Can apply to the judge to stop the production or trade of goods or services that use the mark without rights.

4. Conclusions

The implementation of the Yogyakarta Special Region Governor Regulation No. 20/2017 has been implemented well by the authorized officer, namely the Yogyakarta Special Region Intellectual Property Office, which is marked by the precise target of this regulation, namely to encourage and protect MSMEs in the Special Region of Yogyakarta. However, since the Yogyakarta Intellectual Property Center is the only government agency authorized to register co-branding Jogja, the writer hopes that this research can contribute to the awareness of Intellectual Property Practitioners in the Special Region of Yogyakarta to jointly assist in the process of disseminating the presence of the Co-Branding Jogja program. Even so, the Regional Office of the Ministry of Law and Human Rights of the Special Region of Yogyakarta, as one of the parties involved in forming the governor's regulation, admits that several parts of the governor's regulation must be improved. The community also views this gubernatorial regulation positively, as evidenced by increased Jogja *co-branding* license registrations from 2018 to 2024.

The Governor Regulation of Yogyakarta Special Region Number 20, the Year 2017, is also a form of local government concern in protecting Intellectual Property Rights owned by MSMEs in the Special Region of Yogyakarta. In addition, the role played by the Regional Office of the Ministry of Law and Human Rights of the Special Region of Yogyakarta, in addition to taking part in the preparation of governor regulations and facilitation of trademark registration, can also make complaints in the event of a dispute over trademark rights. Dispute resolution can be done at the Yogyakarta Regional Office of Law and Human Rights through mediation. This program makes it easier for the public because, as is known, the Special Region of Yogyakarta does not have a commercial court authorized to decide and resolve civil disputes on Intellectual property rights issues.

In conducting this research, the writer realizes the limitations of the data obtained due to the limited access and time that the writer has. The data obtained by the writer at the of the Ministry of Law and Human Rights special region of Yogyakarta's Office related to the settlement of disputes over trademark rights only refers to the dispute resolution process outside the court. The writer did not obtain data on dispute resolution through formal channels because all District Courts in the Special Region of Yogyakarta do not have the authority to adjudicate civil disputes regarding Intellectual Property Rights. The limitations of this research can be overcome if in further research that allows for research on the process of resolving disputes over Trademark Rights, can conduct research in the Commercial Court which is authorized to resolve disputes over Trademark Rights through formal channels. So that the data and results that will be from the follow-up research can be displayed completely.

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