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Legal Protection of Intellectual Property Rights in the Form of Trademarks on Mandatory Halal Food & Beverage (F&B) Products in Indonesia

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Abstract: Indonesia, as the Country with the largest Muslim population in the world, has great potential in the halal food and beverage (F&B) Industry. Halal products not only fulfill the needs of Muslim consumers, but are an important part of cultural and religious identity. Intellectual Property Rights (IPR) protection plays a crucial role in encouraging innovation, protecting originality, and increasing the competitiveness of local products, especially in the F&B business sector. In the context of halal, halal certification has been made mandatory through Law 33 of 2014 concerning Halal Product Guarantee (JPH Law), which aims to provide legal certainty, safety, and convenience for consumers, while supporting the competitiveness of producers. This research explores the legal protection of brands in mandatory halal F&B products in Indonesia, by discussing the role of the government with related institutions and IPR protection in the face of global competition, as well as strategic steps to increase business actors' awareness of the importance of IPR and halal certification.

Keyword: Halal, Intellectual Property Rights, Halal Certification, F&B Produc.

INTRODUCTION

As a country with the largest Muslim population in the world, Indonesia has great potential in the halal food & beverage (F&B) industry. Halal products are not only a necessity but are now an important part of a country's cultural and religious identity. Halal is something that is allowed or permitted because it is in accordance with the provisions of Muslim law, while what is meant by haram is everything that is prohibited or not permitted because it does not comply with the rules of Muslim law. Intellectual property rights (IPR) is one of the legal instruments that aims to protect human intellectual work in the form of technological innovation, art, design, and trademarks. In the context of the food and beverage (F&B) industry in Indonesia, IPR plays a very important role for local businesses facing global competition and increasingly dynamic market demands. IPR protection is crucial for maintaining originality, encouraging innovation and increasing the competitiveness of local products. Halal and haram laws can be attached to objects, food or drink, even actions and behaviors. Halal food and drink

are necessary for Muslims in Indonesia. The provision of a halal assurance system is an effort to maintain the continuity of the implementation of halal certification that has been established.

The presence of the Halal Product Guarantee Act which was enacted on September 25, 2014 is a legal umbrella for the implementation of Halal Product Guarantee in Indonesia. The Indonesian government began to pay attention to the establishment of policies, positions, and the role of each provincial government to adjust the halal-certified industry. The implementation of halal product guarantees in Indonesia has regulations on halal through Law Number 33 of 2014 concerning halal product guarantees (JPH Law) which regulates the obligation of halal certification, the implementation of halal product guarantees, procedures for obtaining halal certification, supervision of halal product guarantee activities, as well as the role of the community in halal product guarantee activities and provisions in criminal law. Article 4 of Law Number 33 of 2014 states that "products that enter, circulate, and are traded in the territory of Indonesia must be halal certified".

Entrepreneurs are required to provide correct and honest information on every product produced by business actors in accordance with Law Number 8 concerning consumer protection. With this law, all products that enter circulation and want to be consumed must pay attention to the halal certification they need. However, what is meant in article 4 does not mean that every product sold by business actors must be all halal, what the article means is that every business actor may trade goods, food and beverages must provide information that the goods are halal or not. The halal labeling process is also evidenced by the halal logo in a product and the logo used in a product must provide information and include the authorized institution in the logo.

With the intention that the creator of the halal logo gets legal protection because of IPR so as to encourage the quality of intellectual property with new technology and knowledge. In the culinary or F&B business, it is important to create a visual identity to make a difference between one product and another. The F&B business is one of the businesses in Indonesia that is growing rapidly and has become one of the businesses that drive the national economy. But behind that, there are still many problems and challenges that must be resolved by business people and the government in the F&B industry. One example that must be considered is trademark infringement, plagiarism or imitation of recipes and the use of the same logo as another brand without the owner's. This problem often occurs in entrepreneurs who are just starting their business or MSMEs. Things like this show that there is still a lack of public knowledge about Intellectual Property Rights (IPR). In mandatory halal products, every food manufacturer that uses or contains pork and the like that are haram, is required to display a notification sign on the packaging used, either through direct printing or labeling on the product packaging. The warning sign must include two elements, an image of a pig and the words "CONTAINS PIGS" printed in red and placed in a red square box. This is a government regulation governing halal assurance.

Policy synchronization between the Ministry of Religious Affairs, the Ministry of Health and MUI began with the signing of a cooperation charter on 21 June 1996 regarding the inclusion of halal logos on food.

The function of the label can be summarized as follows:

- 1) Define the product class
- 2) Identify the product or brand
- 3) Promote the product through attractive images
- 4) Describe various information about the product such as manufacturer, place of manufacture, date of production, composition, method of manufacture or safe use.

Meanwhile, halal certification and labeling aims to provide legal certainty and protection to consumers, as well as to increase the competitiveness of domestic products with the aim of increasing national income.

There are three main objectives to be achieved:

- 1) Make consumers feel benefited by providing protection and legal certainty.
- 2) Increase competitiveness and turnover for producers in sales.
- 3) Providing benefits for the government so as to increase state treasury revenues.

METHOD

In this field of legal research, there are various approaches that can be used. Research methods are scientific techniques that are systematically made using certain procedures to answer hypotheses or research questions and produce new knowledge or new discoveries that can be tested. Through this writing, the author uses normative research methods with a legislative approach in order to understand and further analyze the legal protection of intellectual property rights in the form of trademarks on mandatory halal products in Indonesia. Normative research is a process to find a rule of law, principle, or legal doctrine to answer the legal problem at hand.

RESULTS AND DISCUSSION

Legal Protection in the Form of Trademarks Against Mandatory Halal Food & Beverage Products

Halal standard products have become an integral part that cannot be separated from trade, especially in the food and beverage industry (food & beverage) and a global economy that demands international standards and quality in order to gain consumer confidence between countries. As a country with a majority Muslim population, the state should protect its citizens in fulfilling the needs of the basic rights of its population. Providing halal and safe food in the food & beverage (F&B) business through halal certification and labeling can invite customers and customers who can be reached become very broad so as to provide benefits for business actors in the F&B sector. The definition of halal according to Wikipedia is an object or activity that is permitted to be used or carried out in the Muslim religion, the term halal in everyday life is often used to indicate food and drinks that are permitted for consumption according to Muslims, both the type of food and how to get it. In the context of food, halal food is food that can be consumed and commercialized and is free from the dangers of the world and the hereafter. Products circulating in Indonesia are numerous and diverse, from local products to imported products from abroad.

Halal certificates are needed by producers so that the products to be circulated are able to compete and penetrate the global market, especially Middle Eastern Muslim countries because importers in Middle Eastern countries always ask about the halalness of the product before signing the sale and purchase contract. Indonesia is so concerned about this that it formed Law No.33 of 2014 concerning halal product guarantees in article 1 number 2 states that halal products are products that have been declared halal in accordance with Muslim law. Law No.33 of 2014 briefly regulates:

- 1) Ensuring the availability of Halal Products, determining product ingredients that have been declared halal and also determining PPH which is a series of activities to ensure the halalness of products which include the provision of materials, storage, management, distribution, packaging, sales, and presentation of products.
- 2) Regulate the Rights and Obligations of Business Actors and provide exceptions to business actors who produce products from haram materials with the obligation to include non-halal information on product packaging and must be in a place that is easy to see, read, not easily erased.
- 3) Providing public services, notification that the government is responsible for organizing Halal Product Guarantee (JPH) whose implementation is carried out by the Halal Product Guarantee Implementation Agency (BPJH) and in collaboration with related ministries and institutions, MUI and Halal Examining Agency (LPH).

And in the Government Regulation of the Republic of Indonesia No / 69 of 1999 concerning food advertising labels. Article 1 point 5 states that halal food is food that does not contain elements or ingredients that are haram or prohibited for consumption by Muslims, which involves food raw materials, food additives, auxiliary materials and other supporting materials including food processed through genetic engineering and food irradiation processes, and whose management is carried out in accordance with the provisions of Muslim religious law. In relation to Scientific reasoning, it is explained that all food consumed is very influential on the individual, community and state.

Affects the individual, the community and the country. Not only physically but it can also affect psychology, heart, and mind. To ensure that every religious believer can worship and practice their religious teachings, the state is obliged to provide protection and guarantee the halalness of products consumed by the public.

Therefore, the Halal Product Guarantee Act was formed to provide guarantees for halal products for the Muslim community in the country. The Halal Product Guarantee Act has the aim of providing comfort, security, safety, and certainty of the availability of Halal Products for people who consume and use products.

In the Halal Product Guarantee Act there are 6 (six) principles, namely:

- 1) The principle of protection is in organizing halal product guarantees aimed at protecting the Muslim community.
- 2) The principle of justice is in organizing halal product guarantees must guarantee equality and fair opportunities for all citizens.
- 3) The principle of Legal Certainty is an implementation that provides legal certainty about the halal status of products through halal certification.
- 4) The principle of accountability and transparency emphasizes that every action and result of this process must be accountable to the community as the highest sovereign holder in this country.
- 5) The principle of Effectiveness and Efficiency emphasizes that the implementation of halal product guarantees must prioritize achieving appropriate and useful goals.
- 6) The principle of professionalism is a principle that emphasizes that the implementation of halal product guarantees must be based on expertise based on competence and a professional code of ethics.

Halal labeling permission on the packaging of a product comes from MUI. Every product that has been certified, and declared halal will get halal certification from MUI. Halal certification is a written fatwa from the MUI which states the halalness of a product. Halal labeling is the authority of the government, namely the Food and Drug Monitoring Agency (BPOM). Food labeling is regulated in article 97 of Law No. 18 of 2012 which states that the inclusion of labels on food packaging contains:

- 1) Product name
- 2) Ingredients used
- 3) Net weight/content
- 4) Name and address of the producing or importing party
- 5) Halal for those required
- 6) Production date and code
- 7) Expiry date and month
- 8) Distribution permit number for processed food

The Indonesian government, through Law No.33 of 2024 article 4, has stipulated the obligation for all products entering, circulating, and trading in Indonesia to have a halal certificate. Starting in 2024 this provision must be complied with by all business actors in Indonesia. This certification is to ensure that the products circulated are in accordance with recognized halal standards, so as to provide a sense of security and comfort for consumers, especially Muslim consumers. This process involves processes and stages that must be passed

so that business actors must prepare the necessary documents and requirements so that the halal certification process can be carried out properly and smoothly according to the schedule set by the government.

In carrying out this, there are provisions regarding the rights of business actors that can be obtained or the obligations of business actors. The following are the rights and obligations as stipulated in Law No.33 of 2014:

a. Rights of Business Actors

- 1) Obtaining information, education and socialization related to the JPH system;
- 2) Guidance in the halal product production process;
- 3) Services to obtain halal certification quickly, efficiently, at an affordable cost and without discrimination.

b. Obligations of Business Actors

- 1) Include halal labeling on products that have been certified
- 2) Maintain the halalness of products that have been certified
- 3) Report changes in the composition of ingredients and halal production processes (PPH) to BPJPH
- 4) Separating locations, places, and equipment for slaughtering, selling, and serving halal and non-halal products.

Business actors who use ingredients derived from haram materials are not required to apply for halal certification. Therefore, these business actors must include a statement that the product is not halal. Business actors who do not fulfill the above obligations will be subject to administrative sanctions as regulated in Government Regulations.

Institutions Authorized to Provide Halal Labeling

Since November 10, 1976, all food and beverage products containing pork and the like are required to provide identification that the product contains pork, regulated in the Decree of the Minister of Health of the Republic of Indonesia Number 280 / Men.Kes / Per / XI / 1976 concerning the provisions of circulation and marking on foods containing or using pork. This was the first government regulation governing halal assurance. At the time, the use of haram labeling was considered more efficient than halal labeling because only a small proportion of products contained ingredients from pigs. After ten years of the “contains pork” labeling regulation, the Minister of Health together with the Minister of Religious Affairs issued Decree No. 42/Men. Kes/SKB/VIII/1985 and No. 68 of 1985 concerning the Inclusion of Halal Writing on Food Labels.

In 1988, the public was shocked by reports of the existence of food containing pork in the market and made people worried about it so that the Indonesian Ulema Council's Institute for Food, Drug and Cosmetic Studies (LPPOM MUI) was formed. According to MUI Decree No. Kep/18/MUI/I/1989, this institution is tasked with inspecting products in circulation and providing halal certification and in 1994 MUI can issue halal certification when it has conducted a product inspection. Initially the halal label was given based on the company's statement regarding the composition of the ingredients used, but this policy was considered ineffective so it was changed. Now every company must obtain approval from the Food and Drug Monitoring Agency (BPOM).

Relationship between Intellectual Property Rights and Mandatory Halal Products

Mandatory halal is related to Intellectual Property Rights, because these two things are very much needed and influential in business competition in Indonesia. With the existence of intellectual property rights (IPR), a brand can be legally protected and with a halal label, a product can be circulated and consumed by the public in Indonesia. IPR is very important to be enforced and studied by business actors in Indonesia, especially in the culinary / food and beverage (F&B) industry, because IPR F&B business actors in Indonesia can better enjoy the

results of the work and innovations they make. In the protection of the brand not only includes the name or logo, but also reflects the quality of the product, the value of the brand value and the promise given to consumers. Legal protection of the brand will provide legal certainty to the brand owner so that the brand becomes safe in the market.

Trademark plagiarism or impersonation in the food and beverage (F&B) industry can have a very detrimental impact on IPR owners, businesses, and consumers. Intellectual property rights regulations such as Law Number 31 Year 2000 on Trademarks and Geographical Indications play an important role in providing rights holders. Plagiarism is a bad act and can cause several impacts to the right holder, namely:

- 1) Consumer trust in the brand is very important in influencing their purchasing behavior.
- 2) Decrease in business competitiveness, leading to loss of competitive advantage gained from unique brands and designs.

The impact of brand and industrial design plagiarism can extend to the global market and hamper business efforts in building a strong brand identity in the global market. Legal protection of trademarks is regulated in Law No. 20/2016 on trademarks and Geographical Indications, the trademark will be used to identify products or services and must be registered through DJHKI. But not all trademark applications are accepted, especially if they are filed by applicants who are not in good faith. One of the reasons for refusal is because it has a very clear similarity with other marks that have registered first. Those that are registered have exclusive rights to be used in trade activities, and can shut down counterfeiters.

There are several challenges of trademark protection on mandatory halal products, namely:

- 1) Business competition and counterfeiting of halal brands, causing increased public awareness of halal products, brands with halal labels have a high selling value. This creates many opportunities for violations in the form of brand counterfeiting or unauthorized use of halal brands.
- 2) Awareness and compliance of business actors is still low. Many small and medium businesses do not understand the importance of registering a brand, especially if it is related to mandatory halal. Integration of the Halal Label in the Brand arises when business actors must ensure that the halal label used has been legally registered at BPJPH and has met the requirements for brand registration at the Directorate General of Intellectual Property (DJKI) Writing references in articles and bibliographies is based on regulations issued by the American Psychological Association (APA).

In addition, a fact that can be seen clearly is that a country that implements a good IPR protection system is generally a developed country. Therefore, IPR protection cannot be optimally developed in developing countries because they still do not understand and do not appreciate the protection of one's intellectual work.

Challenges Faced by Micro and Small Business Actors in Implementing IPR & Halal Certification

Implementing intellectual property law and Halal certification in Indonesia is certainly not easy. Many challenges must be faced by the government to implement IPR and halal certification as a whole in society, especially for business actors who are still pioneering and business actors who are far from the city.

Here are some of the challenges faced by business actors:

- 1) Low Awareness and understanding of IPR and halal certification

One of the challenges is the low awareness and understanding of the importance of IPR and halal certification for a business or product. Many business actors have not realized how important IPR and halal certification are for their products, especially in the food & beverage sector. Intellectual Property Law is a valuable asset for business people because it can increase business value, increase investor and business partner confidence, gain profits by selling brand usage rights, etc.

2) Costs and Complex Administrative Processes

When registering Intellectual Property Law and Halal Certification requires a considerable amount of money and the process is quite long, especially for MSE business actors who have limited capital. The limited capital owned by MSE business actors results in them not registering their product IPR. Of course this can cause losses in the future.

3) Lack of Assistance and Access to Information

Most MSE business actors have difficulty understanding IPR registration procedures due to the lack of socialization and assistance from related parties, resulting in many shortcomings in this regard. Socialization and information are needed so that the development and increase of knowledge of the Indonesian people regarding Intellectual Property Law and Halal Certification, so that more and more people are educated and it is very beneficial for themselves and the country.

The implementation of IPR and halal certification in the MSE sector faces various challenges, therefore efforts are needed between the government, academics, business associations, and business actors to increase understanding and provide financial education to MSEs so that it can be easier to implement IPR and halal certification. With the development of Indonesian society, especially business actors in Indonesia, it has also resulted in the development of a country and its economy. Education provided to the community can lead them to global market competition and more broadly because their products already meet global trade standards.

CONCLUSION

Indonesia, the country with the largest Muslim population in the world, has great potential in the halal food and beverage (F&B) industry. The halalness of a product is not just a necessity, but has become part of the cultural and religious identity of the community so it is very important to pay attention. The Indonesian government has established various regulations to ensure the halalness of products circulating in Indonesia, one of which is through Law Number 33 of 2014 concerning Halal Product Guarantee (JPH Law). This law regulates the obligation of halal certification for products circulating in Indonesia, procedures for obtaining certification, as well as monitoring mechanisms and sanctions for violators.

Apart from the halalness of a product, the protection of Intellectual Property Rights (IPR) is also an important aspect in the F&B industry. IPR protects the work and innovation of business actors, including trademarks, product designs, and the technology used. IPR protection aims to maintain product originality, increase business competitiveness, and prevent brand plagiarism and counterfeiting. In Indonesia, IPR violations still occur frequently, especially among small and medium enterprises (MSMEs).

Many businesses do not understand the importance of registering their trademarks, making them vulnerable to theft or misuse of the trademark by other parties. To ensure legal certainty and consumer protection, the government has implemented a halal certification and labeling system managed by the Halal Product Guarantee Agency (BPJPH), in collaboration with the Indonesian Ulema Council (MUI) and other related institutions. The halal label serves to provide clear information to consumers regarding the halal status of a product. In addition, products that contain haram ingredients, such as pork, are required to include a clear warning label so that consumers can make decisions in accordance with their beliefs. From a business perspective, halal certification has a positive impact on producers because it can increase consumer confidence and expand markets, both domestically and internationally.

With strong legal protection for halal products and IPR, it is expected that the F&B industry in Indonesia can develop more rapidly and be able to compete in the global market. The government needs to continue to carry out supervision, socialization, and strict and equitable law enforcement to ensure that the regulations that have been set are actually implemented properly. The synergy between the government, business actors, and the

community in implementing halal and IPR standards will create a healthier, more competitive business ecosystem, and provide benefits to the Indonesian economy.

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