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Legal Aspects of City Branding for the Protection of Trademark Rights: City Branding of Ambon City of Music

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Abstract: The issue that this paper seeks to address is how the Law 20 of 2016 regulates trademarks and geographical indications in relation to municipal branding. Normally in the law is the subject of this study. Law 20 of 2016, which regulates geographical indications and trademarks, is the subject of this study's investigation into the potential consequences of city branding. After then, a statute and a conceptual framework pertaining to trademark registration are used to examine the matter. Following this description, the author has drawn the following conclusions: One thing to keep in mind is that city branding is not specifically addressed in Law No. 20 of 2016, which regulates trademarks and geographical indicators. Second, because it does not contradict with anything that is forbidden or cannot be registered in a trademark registration application, city branding can be specifically registered as a city service or trademark. Thirdly, the city branding of Ambon City, known as "Ambon City of Music," satisfies the elements of city branding previously mentioned. In addition, the brand "Ambon City of Music" is known among local and national communities as having given birth to or produced many singers and musicians in this city.

Keyword: City Branding, Trademark Registration, Conceptual Approach.

INTRODUCTION

A brand is a symbol and indicator of the product's quality. A company owns a brand, and branding is the communication activity the company engages in to build and expand its brand. Without well-planned communication activities with consumers, a brand lacks recognition and meaning for consumers and the target market (Bjorner, 2013; Kusumati, 2020).

The purpose of branding is to: a) convey messages clearly; b) ensure product credibility; c) emotionally connect the target market or consumers; d) move or motivate consumers; e) ensure customer loyalty. A brand is more than just a product. A factory not only produces a product but also a brand that consumers purchase (Seetharaman et al., 2001). Instead of forming bonds with certain products and services, regular consumers forge close bonds with particular brands. Simply, a company's brand is one of its most important assets (Davis, 2002). Even Whithell (2003) emphasized that the brand is the most important intangible asset of the organization (Kusumati, 2020).

These days, promoting a city, region, or nation is crucial and highly competitive. Market leaders have positioned themselves in this scenario in order to differentiate themselves from their rivals. Positive public perception and complete brand plan execution offer several advantages and benefits to cities, regions, and nations. A product cannot be marketed without a brand. Kotler and Keller (2009: 258) state that a brand is anything that is used to distinguish one seller's goods and services from another, whether it's a name, word, sign, symbol, design, or any combination of these elements. In this case, we use a technique called "city branding" to apply the brand to a particular area or city. City branding, according to Sa'diya and Andriani (2019), is the administration of a destination through coordinated economic, social, commercial, cultural, and governmental regulations as well as strategic innovation.

In today's modern era, the tourism industry is experiencing rapid growth, with each region competing to attract tourists through various marketing activities. The government has been incentivized to enhance and promote the benefits of the tourism industry, including the establishment of a city brand, by the regional autonomy implementation. A specific location may see an increase in tourism as a result of city branding. This is due to its ability to establish a unique positioning and differentiation in marketing, enabling a city to establish a distinct identity, forge strong associations, and instill positive attributes, thereby gaining a competitive edge over other cities, particularly in the tourism sector.

One of the city brandings in Ambon City, Maluku Province, namely "Ambon City of Music" contextually, was born and present among the wider community that, first, to respond to and appreciate the number of local, national, and international singers of Ambonese blood. Second, the government uses music as a tool to foster peace on Ambon Island (Nusa Apono) and its surrounding areas, following a protracted horizontal conflict that began in early 1999. Thirdly, the government transformed the initial stigma of music as a hobby into a source of income, aiming to enhance the reputation of the local singer class in Ambon City (Noya, 2021). The author observes that city branding merely serves as a means of brand recognition, without considering its legal implications. The problem formulation is: how is the registration of the legislation of city branding in Law Number 20 of 2016 regarding trademarks and geographical indications determined?

METHOD

According to Marzuki (2014), this work is normative legal research. This article examines the legal impact of Law Number 20 of 2016 on municipal branding in relation to trademarks and geographical markers. Further, the concept is evaluated using both a legal method and a conceptual approach associated with trademark registration. We gather information from primary sources (laws), secondary sources (books, journals, and studies), and tertiary sources (dictionaries) to answer the questions raised.

RESULTS AND DISCUSSION

City Branding of Ambon City "Ambon City of Music"

Etymologically, the term city comes from the old French word *Civitas*, while the Latin word *civic* means citizen. The concept of a city refers to a certain type of community, society, and culture known as urbanism. A good brand will create a positive image of a product or service. Therefore, a brand can be one of the factors that consumers must consider when visiting tourist attractions in Ambon City (Salampessy & Kaisupy, 2020).

Consumers associate a brand with a product or institution (company) through a series of short, memorable sentences known as a tagline. Currently, almost all cities use taglines as a message medium to attract the attention of the wider community to the city's characteristics and advantages. Ambon City, also referred to as "Ambon Manise" is a city renowned for its fertile, beautiful, and charming nature, particularly for its high-quality spices that have been cultivated

there since colonial times and are now renowned throughout Asia, Africa, and Europe. From the past to the present, the Maluku people, particularly the poets, have placed greater emphasis on song lyrics that reflect the atmosphere and lifestyle of the Maluku people and the city of Ambon, also known as “Ambon Manise.”

In 2012, the Ambon City government launched a new tagline, “Ambon City of Music,” with a monument built in Hative Village, Ambon Bay. The aim of this tagline is to revive the nearly extinct regional music (traditional music) and inspire the talented young generation to excel in the music industry. In line with this, the local government, acting as the initiator of the tagline and simultaneously striving to establish Ambon as a World Music City, hopes that the construction of the monument will inspire and enhance the young generation, encouraging them to channel their talents and excel in the music industry at regional, national, and global levels.

On October 28, 2016, the Ambon City Regional Government and the Creative Economy Agency launched Ambon into a World Music City based on UNESCO standards. The UNESCO standards encompass: 1) the provision of supporting infrastructure, such as human resources, performing arts buildings, and adequate recording studios; 2) the involvement of musicians and communities; 3) the establishment of music schools; 4) the development of industry; and 5) the preservation of socio-cultural values. The local government, related stakeholders, and the community must realize these five pillars with determination and joint commitment, ensuring that Ambon's designation as a City of Music is not just a slogan but a genuine demonstration to the world that Ambon City serves as the source and inspiration for music.

The logo of the “Ambon City of Music” brand not only enhances the musicality of the Ambon City residents, but also serves as a reminder of Ambon's stunning natural tourism, which can contribute to the brand's success.

In the image below, a shell shape serves as a mascot or significant element, symbolizing a traditional Maluku musical instrument known by the local community as “tahuri.” The Ambon City of Music brand logo features line elements resembling vibrations of color, each carrying a specific meaning: (1) The blue-green line elements, resembling vibrations, represent the blue-green hue of the stunning sea water that envelops Ambon Island; (2) The primary color, red, signifies the Ambon City government's emblem; and (3) The yellow hue, evoking the sun, symbolizes the conditions of the Ambon City region, which endures a tropical climate and receives dazzling sunlight (Noya, 2021).



Source: Ambon City Government Website (<https://ambon.go.id>)

Figure 1. Ambon City of Music Brand Logo

City Branding Regulations in Law Number 20 of 2016 Concerning Brands and Geographical Indications.

The rising demand for city branding led to their registration; geographical indications and brands are regulated by Law No. 20 of 2016. According to Article 1 Paragraph 1 of the Law, a trademark is "a sign that can be displayed graphically to distinguish goods and/or services produced by a person or legal entity in the trading of goods and/or services." Elements that come under this category include pictures, logos, names, words, numbers, color schemes, sound, holograms, and combinations of two or more of these things. There are two types of geographical indications and brands included in Article 2, Paragraph 2: trademarks and service marks. To differentiate their services from identical ones, individuals, organizations, or businesses can use what is known as a service mark. This is in contrast to trademarks, which are used to identify goods and services, and which can be registered by individuals, groups, or businesses. Law No. 20 of 2016, which deals with geographical markers and trademarks, governs this differentiation.

Additionally, Articles 20 and 21 of the Trademark and Geographical Indications Law govern rejectable and unregistrable brands. Article 20 identifies the following brands as unregistrable: 1) Brands that break public order, morality, religion, decency, rules and regulations, or state ideology are prohibited throughout the registration procedure. 2) It refers only to the products and/or services to which the registration request relates, or it is the same as, related to, or associated with them. 3) Concerning the requested goods and services, there is a chance that the information could include details that could mislead the public about their origin, quality, type, size, type of use, or even mention a protected plant variety for comparable goods and services. 4) The data doesn't add up when it comes to the goods and services that are being advertised. 5) There isn't any unique force. 6) Is there a common name or symbol for the property owned by the public?.

The grounds for denying trademark registrations are listed in Article 21. 1) An application for a trademark is denied if it is completely or essentially identical to any of the following: a) trademarks that are already registered by another entity; or b) trademarks for which another entity has filed an application for similar goods and services. b) A famous trademark for related products or services owned by an independent entity. c) A distinct legal entity may own a trademark that is known all over the world and represents distinctive goods and services that fulfill certain requirements. d) An officially recognized geographical indication. 2. A trademark cannot be approved unless the authorized party provides written approval. This does not apply if the trademark: a) Is or appears to be an abbreviation of a well-known person, picture, or legally recognized institution. We will not accept the trademark if it is too similar to or confusingly similar to the name, acronym, flag, symbol, or emblem of a country, national or international organization without the authorized party's express consent. Trademarks cannot mimic or give the impression of being genuine state or government agency signs, stamps, or seals without the express permission of the authorized party. 3) If they have bad intentions, we will reject their application.

The previously mentioned articles do not explicitly or directly address city branding. The regulations pertaining to brands in Indonesia have undergone changes along the years, with the latest legislation being Law Number 20 of 2016, which supersedes Law Number 15 of 2001 on trademarks and geographical indications. But the latter legislation did not specify the concept of city branding. A number of scholars and professionals have endeavored to describe city branding from a conceptual standpoint.

A brand, according to Saxone Woon, general director of Singapore's Immortal design station, is what you tell your friends about an experience. A brand conveys information about a good or service in an understandable way; it is more than just a name, logo, or other visual element. Hence, when a brand is associated with a city, it must possess the ability to express the

characteristics, features, and explanations for the city's significance, so enabling both tourists and residents to succinctly capture the city's image (Harahap, 2012).

Jasrizal Chaniago, a West Sumatra practitioner, shared a different perspective. Cities branding, as defined by him, refers to the strategic development of a city's identity by utilizing positioning phrases, slogans, icons, exhibitions, and other media. The objective is to facilitate the introduction of the city owner to the target market, which includes investors, visitors, talents, and events. A city's branding encompasses more than simply a catchphrase or advertising campaign; it's an image of the ideas, associations, anticipations, and sentiments that a person (a prospect or customer) has when they see or hear a name, logo, product, event service, or a variety of symbols and designs that represent it. In addition, Ananto Pratikno, a lecturer at the University of Indonesia, defines city branding as presenting a city through an emblem, an ambassador, or an occasion with the goal of making the city stand out from the competition (Harahap, 2012).

Anholt (2005), in Fadhilah et al. (2022), explains that city branding is the process of applying identity to a place (place branding) so that the place has more value in the eyes of the public. Usually, the intended audience is presented with this identity in the shape of a logo or acronym, skillfully organized to represent the potential and essence of the region, by strategically placing phrases, slogans, symbols, and other artistic mediums (Nawang Sari & Suksmawati, 2019, p. 877). The created identity should clearly describe and communicate the character of the area, starting from its characteristics and potential, explaining why it attracts so many visitors, and elucidating the local residents' perception of the area.

Therefore, when a brand aligns with a city, it must effectively convey the essence of the city, its unique features, and the reasons it merits attention, enabling visitors and residents alike to concisely articulate the city's image. Consequently, city branding is a strategy that a country or region employs to establish a robust brand image in the minds of its target market, similar to the way a product or service is positioned, with the objective of achieving global recognition for the country or region. According to several definitions of city branding discussed above, the concept includes slogans and logos, emphasizing that city branding is the first step in showcasing the potential of the area in question. To put it another way, the Trademark Law explicitly mentions and regulates only the elements of city branding (Yuli, 2011).

Citing Ari Bawanti's opinion (Bawanti, 2016), a city's brand should not only align with the marketing concept but also possess the following characteristics: 1) A city's brand must consist of three basic elements: a graphic brand, symbol creation, and a logo. This is because the brand's functional function is built on strong and interesting points owned by a city. The brand's emotional function entails symbolizing and personalizing the values associated with the city. 2) The creation of a city's brand requires a unified strategy that spans various public sectors. 3) The creation of city brands is crucial for their survival. City or regional governments have now gained autonomy and can develop well.

A city's image has the power to mold its brand, even impacting the city itself. The brand associated with it. After decades or centuries, legendary brands do more than appear. However, they take deliberate, unambiguous steps that set them apart from their competitors. Similarly, to establish a strong brand, an area needs unique characteristics that are simple to explain and identify (Marta & Hasfera, 2021).

According to the previously discussed notion of city branding, city branding is not governed by trademark and geographical indication laws. Nevertheless, the author believes that the concept, criteria, and structure of city branding can be officially recorded as a city's intellectual property asset according to trademark and geographical indication legislation. The Trademark Law explicitly excludes the concept of city branding from items that are either unregistrable or prohibited in trademark registration.

CONCLUSION

Firstly, the author concludes from the given description that City branding is not directly or expressly regulated by Law Number 20 of 2016 concerning Trademarks and Geographical Indications. Secondly, it is possible to explicitly register city branding as a city service or trade mark, as it does not clash with any prohibited or unregistrable items in a trademark registration application. Thirdly, the city branding of Ambon City, known as the “Ambon City of Music,” satisfies the elements of city branding previously mentioned. In addition, the brand “Ambon City of Music” is known among local and national communities as having given birth to or produced many singers and musicians in this city.

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