

TRADEMARK PROTECTION AS A LEGAL INSTRUMENT FOR EMPOWERING SMES: A STUDY ON THE DISSEMINATION OF INTELLECTUAL PROPERTY LAW AT NAYLAHANDWERK AND THE DEWI LESTARI BUFFET RESTAURANT IN SAMARINDA

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Abstrak

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Micro, Small, and Medium Enterprises (MSMEs) play a strategic role in the national economy, yet structurally they still face latent weaknesses in intellectual property legal protection, particularly regarding trademark registration. This study aims to analyze the level of legal awareness among MSME operators regarding trademark registration while measuring the effectiveness of legal outreach as a tool to enhance business owners' understanding. Two MSMEs in Samarinda—Naylahandwerk and Rumah Makan Prasmanan Dewi Lestari—were selected as the subjects of this study, using a participatory-educational approach for the outreach program. The results show that prior to the intervention, both business owners had very low legal awareness due to scaled misperceptions, psychological and bureaucratic barriers, and inaccurate cost assumptions. Following the outreach, there was a significant increase in understanding and a growing commitment to immediately register their trademarks officially. Structured and contextual legal outreach proved effective as a catalyst for behavioral change regarding legal compliance among SME operators.

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INTRODUCTION

The Micro, Small, and Medium Enterprise (MSME) sector consistently occupies a central position in Indonesia's economic architecture. MSMEs' contribution to the national Gross Domestic Product (GDP) exceeds 60 percent, while their capacity to absorb labor exceeds 96 percent of the total national labor force (Windusancono, 2021). The magnitude of this contribution positions MSMEs not merely as marginal economic units, but as the structural foundation of the economic system, with highly significant social and political implications. In Samarinda, the capital of East Kalimantan Province,



the growth of MSMEs is occurring on a massive scale in sectors based on local creativity—such as the handicraft and culinary industries—reflecting the vitality of the local economy that deserves multisectoral attention.

However, behind this quantitative growth lies a structural weakness that has so far escaped serious attention: the low legal awareness among MSME operators regarding the protection of their intellectual property, particularly in terms of trademarks and service marks. Pursuant to Article 1(1) of Law No. 20 of 2016 on Trademarks and Geographical Indications, a trademark is defined as a sign that can be graphically represented in the form of an image, logo, name, word, letter, number, color arrangement, or a combination thereof, to distinguish goods or services in commercial activities. This legal definition affirms that a trademark is not merely a visual ornament, but rather a commercial distinguishing instrument that holds strategic value in market competition and can be categorized as an intangible asset whose value continues to grow alongside the growth of a business's reputation.

Indonesia's trademark legal system adheres to the "first to file" principle, meaning that exclusive rights to a trademark arise only through the formal registration process with the Directorate General of Intellectual Property (DJKI), not merely through use in commercial practice. The legal implications of this principle are fundamental: business operators who have used a brand name commercially for years without officially registering it receive no guarantee of legal protection for that name (Kuasa, Erni, & Disemadi, 2022). The consequences can lead to costly legal disputes, forced total rebranding, and even potential criminal charges under Article 100 of the Trademark Law if another party registers the same name first.

Ironically, the majority of SME operators still adopt a mindset that places intellectual property legality at the very bottom of their priorities, far below production and marketing operations. They often assume that trademark registration is only relevant for large-scale multinational corporations. This misconception creates a massive legal vulnerability. In fact, the government, through Government Regulation No. 28 of 2019, has established a special trademark registration fee for SMEs of Rp500,000 per class—far below the general rate of Rp1,800,000 per class. This affirmative policy reflects the state's commitment to the " " to expand access to intellectual property protection; however, it has not been matched by proportional dissemination at the grassroots level.

The gap between existing legal policies and the level of understanding and compliance among MSME operators forms the scientific rationale for this study. As part of the implementation of the Tri Dharma of Higher Education, the Undergraduate Law Program at the University of Muhammadiyah East Kalimantan recognizes the urgency of providing structured legal outreach tailored to the real needs of MSME operators. Two business entities were selected as target partners: Naylahandwerk, a handmade craft business, and Rumah Makan Prasmanan Dewi Lestari, a culinary business that has been operating with a fairly loyal customer base. The selection of these two was based on the representativeness of their issues regarding the general conditions of SMEs in Samarinda, as well as to demonstrate that the urgency of trademark registration applies across sectors.

This study aims to answer three academic questions: first, to what extent were MSME operators legally aware of the importance of trademark registration prior to the awareness-raising intervention; second, what structural factors underlie this low level of awareness; and third, how effective is a participatory approach to legal awareness-raising in changing business operators' perceptions and behavioral commitment toward the legal

obligation of trademark registration. By answering these questions, this study is expected to contribute to enriching the academic discourse on the interaction between intellectual property law and microeconomic empowerment in Indonesia.

LITERATURE REVIEW

Conceptualizing Trademarks as Strategic Assets for MSMEs

A brand serves as an identifying mark that possesses essential distinguishing power in commercial activities. However, from a modern economic perspective, brands have evolved from mere tools for visual product identification into intangible assets that play a key role in building consumer loyalty and corporate value. For Micro, Small, and Medium Enterprises (MSMEs), a brand is a manifestation of product integrity, reputation, and a consistent “promise” of quality delivered to the market. Failing to understand a brand as a long-term strategic asset leaves micro-businesses vulnerable to market disruption, loss of business identity, and material losses resulting from future trademark infringement disputes.

The “First-to-File” System and Legal Risks for the Micro Sector

Indonesia’s trademark legal system adopts the “first-to-file” principle. Legally, this principle establishes that exclusive rights to a trademark are granted by the state only to the party that first formally files a registration application, not to the party that first used or created the trademark in commercial practice. This creates an information asymmetry and dangerous vulnerability for MSME operators, who often operate solely based on a tradition of use without any formal protection. Without official registration, “” business operators are vulnerable to trademark piracy by third parties acting in bad faith, which can lead to the threat of forced total *rebranding*, the loss of a customer base built over many years, and even potential criminal charges.

The Theory of Legal Socialization and the Internalization of Norms

Referring to socialization theory, the process of legal socialization is not merely a one-way or rigid mechanism for transmitting information about laws and regulations. Legal socialization is, in essence, a process of internalizing norms in which society internalizes, constructs an understanding of, and cultivates compliance with the law as part of their personality and daily behavior. Within the SME ecosystem, low compliance with intellectual property regulations is often caused by a social and psychological gap between the formal text of the law and the practical realities faced by grassroots business operators. Therefore, a participatory-educational approach to outreach is needed—a contextual approach that not only instructs on the rules but also mediates an understanding between regulations and the real needs of business operators to trigger sustainable changes in legal behavior.

John Locke’s Theory of Property Rights from an Intellectual Property Perspective

John Locke’s theory of property rights provides a very strong philosophical justification for the urgency of intellectual property protection, stating that every individual naturally possesses an absolute right to themselves as well as to the fruits of their hard work and creativity. In the context of trademark law, the visual identity and business reputation built by MSME entrepreneurs are an extension of their investment of effort, time, and thought. The state has a moral and legal obligation to recognize and protect these rights. Trademark registration within the Lockean framework serves as a formal affirmation of the rights that are inherently embedded in the entrepreneurs’ creativity, thereby enabling the state to enforce such protection against all forms of

unilateral exploitation by irresponsible parties.

Structural Factors Hindering Legal Compliance Among MSMEs

Although the government has launched affirmative policies in the form of special trademark registration fee subsidies for the SME sector, the gap between the availability of regulations and the actual level of compliance in society remains very wide. This phenomenon of low legal awareness is influenced by a combination of cognitive and psychological factors among business owners, including a scale-based misperception that intellectual property protection is only relevant for large corporations. In addition, there is a pattern of “*rational ignorance*,” in which business owners consciously disregard legal aspects because they believe the mental effort and time required to understand the legal system far outweigh the immediate benefits they perceive. This situation is exacerbated by an irrational fear of bureaucratic hurdles—the assumption that the registration process is complex and convoluted—even though the DJKI’s e-Merek system has provided self-service digital access.

RESEARCH METHOD

Research Approach and Type

This study employs a descriptive-qualitative approach integrated with the participatory action *research* model. The qualitative approach was chosen because the primary objective of the study is to gain an in-depth understanding of socio-legal phenomena—specifically the cognitive constructs and attitudes of MSME actors toward trademark protection instruments—which cannot be adequately captured through quantitative instruments alone. Meanwhile, the participatory action orientation was chosen because this study does not merely stop at describing phenomena but actively intervenes in existing conditions through structured legal outreach activities to encourage measurable changes in legal behavior.

Research Location and Subjects

This study was conducted in Samarinda City, East Kalimantan Province, from April to May 2025. Two MSME entities were selected as research subjects through purposive sampling based on the following criteria: (1) they do not yet have an officially registered trademark; (2) they have been operating for a sufficient period of time and have a brand identity that is beginning to be recognized by consumers; and (3) they are willing to participate in outreach activities and the research. The first subject was Naylahandwerk, a handicraft business located at Jl. PM Noor Gg. H. Mastur, Samarinda 75119. The second subject was Rumah Makan Prasmanan Dewi Lestari, a culinary business located at Perum Bumi Sempaja Ruko Griya Niaga 2, Samarinda.

Data Collection Methods

Data collection was conducted using three complementary instruments. First, semi-structured in-depth *interviews* were conducted prior to the outreach activities to identify the initial level of understanding, perceptions, and obstacles faced by both business owners regarding trademark registration. The interview guide covered three dimensions: knowledge of trademarks and intellectual property rights (IPR), attitudes toward trademark registration, and perceived barriers. Second, participatory observation was conducted during the outreach session to document the dynamics of interaction, enthusiasm, and shifts in perception occurring in *real time*. Third, post-outreach reflection

was conducted through open discussion sessions to measure changes in understanding and commitment to follow-up actions resulting from the outreach intervention.

Implementation Phases

The activities were carried out in three chronologically structured phases. The first phase, conducted during the first week, involved initial coordination with both MSME partners and the development of comprehensive outreach materials. The outreach materials were designed to cover the legal definition of a trademark based on Law No. 20 of 2016, trademark typologies (logotypes and logomarks), trademark classifications (trademarks for goods, service marks, and collective marks), the strategic role of trademark registration for business sustainability, online registration procedures via the DJKI's e-Merek platform, and the fee structure for subsidized registration for SMEs. The second phase, to be held on May 24, 2025, consists of in-person outreach sessions for both partners on consecutive days. The session for Naylahandwerk will take place from 2:30 PM to 4:00 PM WITA, while the session for Rumah Makan Prasmanan Dewi Lestari will take place from 4:10 PM to 5:40 PM WITA. Each session included a presentation of the material (), an interactive Q&A, a sharing session, and documentation. The third phase involved the preparation of the final report, data analysis, and the drafting of a scientific publication.

Data Analysis Techniques

The data collected was analyzed using *thematic analysis*, following these steps: data familiarization, initial coding, theme identification, theme review, theme definition and naming, and report preparation. The analysis focused on three main themes: (1) the initial legal awareness of MSME actors, (2) the factors underlying this low level of awareness, and (3) cognitive changes and behavioral commitment following the awareness-raising intervention

DOCUMENTATION





RESULT AND DISCUSSION

Profile of MSME Partners and Baseline Legal Awareness

Naylahandwerk is an independent creative business engaged in the production of handmade accessories. The business has established a distinctive product identity with a consumer base that has grown organically through word-of-mouth marketing and social media platforms. On the production side, the business relies on the owner's creativity and craftsmanship to produce unique products that stand out significantly from mass-produced factory goods. However, the business's brand identity has not yet received any formal legal protection. Based on an initial interview, the owner of Naylahandwerk acknowledged that trademark registration had never been seriously considered, primarily because it is viewed as a legal instrument exclusive to large corporations or internationally recognized brands.

Dewi Lestari Buffet Restaurant is a culinary business that has been operating for several years, having built customer loyalty through consistent menu quality and service. The business is strategically located in a residential area with high customer traffic. The name "Dewi Lestari" has become a recognizable identity among a specific consumer segment in Samarinda. However, similar to Naylahandwerk, the business owner explicitly acknowledges that she has never considered the legal risks that could arise from the lack of official trademark registration. The owner believes that the business name listed on the signboard and receipts is sufficient proof of ownership of the business identity.

The initial circumstances of these two MSME partners reflect a systemic and widespread pattern of legal awareness deficits commonly found among micro-entrepreneurs throughout Indonesia. Amboro's (2019) study of MSMEs in Batam City found a similar pattern, in which the majority of micro-entrepreneurs were not even aware of the existence of a trademark registration system, let alone understood its legal implications. This situation indicates that the problem lies not merely in business owners' willingness to register their trademarks, but is far more fundamental—relating to the accessibility of legal information and the depth of understanding regarding the applicable intellectual property legal system.

Factors Contributing to Low Legal Awareness of Trademarks

Based on an analysis of in-depth interviews and participatory observations of both MSME partners, five structural factors were identified that synergistically underlie the low legal awareness regarding trademark registration.

The first factor is a scale-based misperception—namely, the deeply rooted belief that trademark protection is relevant only to business entities that have reached a large scale or entered international export markets. This misperception stems from the absence of legal outreach that directly reaches the micro-business community. MSME entrepreneurs, who are accustomed to obtaining information about trademarks from the mass media, are generally exposed only to narratives of trademark disputes among large corporations; consequently, they do not cognitively associate trademarks with the reality of their own micro-scale businesses (Adristy, Disemadi, & Sudirman, 2024).

The second factor is a psychological barrier to bureaucracy. The perception that the trademark registration process is complex, convoluted, and requires the involvement of costly professional legal consultants serves as a significant cognitive barrier. This barrier is self-reinforcing: because business owners have never attempted to understand the registration procedures firsthand, this assumption of complexity has never been empirically corrected. In fact, with the e-Merek system developed by the DJKI, the registration process can be completed independently via an online platform without the need to physically visit a government office (Zulfikri, 2021).

The third factor is short-term priority rationality. MSME entrepreneurs with limited capital and management resources tend to allocate all their energy to short-term operational priorities such as production, procurement of raw materials, and marketing. Legal matters, whose impacts are not felt directly or immediately, are consistently pushed to the bottom of the priority list. This pattern reflects “rational ignorance”—that is, a form of ignorance that is unconsciously chosen because the cognitive costs of understanding the legal system are perceived to outweigh the benefits that can be felt directly (Indrawati & Setiawan, 2020).

The fourth factor is conceptual ambiguity between a business name and a registered trademark. The majority of MSME operators assume that registering a business name at the sub-district level or holding a Business Identification Number (NIB) already provides protection equivalent to trademark registration. This conceptual ambiguity is legally dangerous because the two are legal instruments that operate on entirely different bases and are not interchangeable.

The fifth factor is inaccurate cost assumptions. Both business owners assume that trademark registration requires exorbitant costs that are unaffordable for SMEs. This assumption contradicts the reality of current fee policies, under which the government has established a special discounted rate of Rp500,000 per class for MSMEs. This gap between the assumed and actual costs is one of the most concrete pieces of evidence of the failure to disseminate legal policies at the community level.

Design of Outreach Materials and Pedagogical Framework

The outreach materials developed by the implementation team were designed based on the principle of conceptual gradation—building understanding from the most basic definitions toward the most complex strategic implications. This pedagogical approach is grounded in constructivist learning theory, which emphasizes the importance of linking

new knowledge to the existing cognitive structures of the target audience (Hamda, 2014). In the context of legal outreach to MSME operators, abstract legal concepts are consistently contextualized using concrete examples relevant to the business realities of both partners.

On the conceptual level, the outreach material begins by emphasizing that a trademark is a business asset with quantifiable economic value—not merely an administrative formality. Illustrations include case examples where unregistered SME trademarks were successfully seized by third parties, along with the financial consequences that had to be borne. This narrative approach based on real-life cases has proven more effective in building emotional resonance and a sense of pragmatic urgency compared to a rigid recitation of legal provisions.

From a typological perspective, the material explains the difference between text-based logotypes and logomarks, which combine visual elements and text. Understanding this typology of trademarks is essential as a foundation for business owners to identify the elements of their business identity that are eligible for registration. Furthermore, the material classifies three types of trademarks under Law No. 20 of 2016: trademarks for distinguishing goods, service marks for distinguishing services, and collective marks used by a group of businesses.

From a procedural standpoint, the material provides a detailed explanation of the steps for online trademark registration through the DJKI's e-Merek platform, which includes preparing identity documents, selecting trademark classes based on the Nice Classification, drafting a trademark description, uploading a trademark specimen, and paying the registration fee. The fact that this process can be carried out independently without the assistance of a legal consultant was one of the most motivating pieces of information for both MSME partners. The material also emphasized that trademark protection is valid for ten years from the date of application acceptance and can be renewed indefinitely.

Dynamics of the Outreach Session and Partner Responses

The outreach session for Naylahandwerk was held on Sunday, May 24, 2025, from 2:30 p.m. to 4:00 p.m. WITA at the business's production site on Jl. PM Noor, Gg. H. Mastur, Samarinda. Choosing the production site as the venue for the outreach session was strategic because it allowed the team to directly link the material presented to the actual products manufactured by the business owner. When participants could see the handmade crafts firsthand while hearing an explanation about the importance of protecting the brand identity associated with those products, the relevance of the material became much more personally and practically meaningful.

During the Q&A session, the owner of Naylahandwerk asked questions that reflected an ongoing process of cognitive restructuring, including whether the logo already used on product labels could be registered immediately without modification, how to determine the appropriate trademark class for handmade craft accessories, and whether trademark registration could simultaneously protect product designs. These questions indicate that the business owner has moved from the initial awareness stage to the application stage—a highly significant cognitive progression achieved in a single outreach session.

The outreach session for Dewi Lestari Buffet Restaurant was held from 4:10 PM to 5:40 PM WITA at the business location in Perum Bumi Sempaja, Ruko Griya Niaga 2,

Samarinda. The owner demonstrated a high level of enthusiasm, particularly after understanding the implications of the “first to file” principle. The fact that, theoretically, another party could register the name “Dewi Lestari” as their own trademark before the original owner does created a powerful moment of realization, prompting the owner to spontaneously commit to immediately processing the trademark registration.

Analysis of Increased Understanding and Changes in Legal Attitudes

An analysis of the data collected before and after the outreach session revealed significant changes in three dimensions of legal understanding and attitudes among both MSME partners.

In terms of conceptual knowledge, prior to the outreach session, neither business owner could define a trademark in legal terms, was unaware of the difference between a trademark and a service mark, and had no knowledge whatsoever of the trademark registration system in Indonesia. After the outreach session, both were able to explain the concept of a trademark in practical terms, identify the types of trademarks relevant to their businesses, and understand the general flow of the registration process.

The most dramatic change occurred in the dimension of risk perception. Before the awareness session, neither business owner had any perception of the legal risks that might arise from the lack of trademark protection and considered such risks irrelevant to the scale of their businesses. After the outreach, both demonstrated a clear understanding of the risks of trademark infringement, the implications of the “first to file” principle, and the potential for material and reputational losses resulting from trademark disputes. This shift in risk perception is the strongest psychological determinant in driving trademark registration behavior (Krisnamurti, 2021).

Regarding behavioral intent, prior to the awareness session, neither business owner had any concrete plans to register a trademark in the near future. After the outreach, both explicitly stated their intention to immediately take preparatory steps for trademark registration, including preparing the necessary documents and accessing the DJKI’s e-Merek platform. These statements of intent serve as a strong indicator of the effectiveness of the outreach intervention in shifting legal behavioral orientation from passive to active.

Theoretical Relevance: Legal Socialization as a Catalyst for Awareness

The effectiveness of legal socialization demonstrated in this study can be understood through a synthesis of two main theoretical frameworks. First, Paul B. Horton’s theory of socialization defines socialization as the process by which an individual internalizes the norms prevailing in society, thereby shaping their personality and behavior (Hamda, 2014). In the legal context, socialization serves as a mechanism for transmitting legal norms from the abstract realm of legislation to the concrete realm of citizens’ behavior. When legal norms regarding trademark registration are effectively transmitted to MSME operators, this internalization has the potential to produce sustainable behavioral changes that extend far beyond the moment of socialization itself.

Second, John Locke’s theory of property rights provides a highly relevant philosophical justification for the urgency of trademark protection among SMEs. Locke argued that every individual naturally possesses a right to themselves, including everything that is the product of their labor and creativity (Nizwana, 2022). In the context of intellectual property, a brand built through an entrepreneur’s hard work, creativity, and investment in reputation constitutes a legitimate form of intellectual property. The state,

through the trademark registration system, does not create these rights but rather provides formal recognition and legal protection for rights that already exist naturally. Trademark registration within a Lockean framework is the formalization of ownership claims that enables the state to enforce these rights and protect them from infringement by third parties.

The synthesis of Horton's sociological perspective and Locke's philosophical perspective yields a more comprehensive understanding of why the dissemination of trademark law to MSMEs is not merely an administrative obligation of the state, but rather an ethical and economic imperative rooted in the principle of distributive justice: that every business owner, regardless of the scale of their business, is entitled to equal legal protection for the intellectual assets they have built.

Policy Implications and Strategic Recommendations

The findings of this study have significant policy implications at several levels. At the institutional level of higher education, this study underscores the importance of systematically and sustainably integrating intellectual property law outreach activities into community service programs, rather than treating them as incidental activities. Law schools bear an academic and moral responsibility to provide practical and accessible legal knowledge to the SME community, which constitutes the largest segment of the local economy.

At the local government level, these findings recommend strengthening collaboration between the Samarinda City Cooperative and SME Agency and the Directorate General of Intellectual Property (DJKI) to provide trademark registration services that are more accessible to business owners—both geographically and procedurally. An integrated outreach program that reaches the MSME community at the neighborhood and traditional market levels needs to be designed as an affirmative policy that complements the existing “ ” fee incentives. Shabillia and Santoso (2023) emphasize the importance of building an integrated intellectual property ecosystem to support sustainable growth in the creative economy.

At the MSME operator level, this study recommends that trademark registration be viewed as a long-term strategic investment, rather than as an additional cost burden. The value of legally protected trademarks consistently increases alongside business growth and the expansion of the consumer base. In the context of the digital economy, which is increasingly opening up market expansion opportunities for SMEs beyond local geographic boundaries, ownership of a registered trademark is an absolute prerequisite for operating safely and competitively in a broader market arena (Adristy, Disemadi, & Sudirman, 2024).

In terms of sustainability initiatives, these awareness-raising activities should ideally be followed up with hands-on mentoring workshops that help SME operators complete the trademark registration process—from document preparation to monitoring the status of their applications. This type of intensive guidance has proven to be more effective in converting behavioral intentions formed after the outreach into verifiable concrete actions (Indrawati & Setiawan, 2020). The development of a brand management training module covering brand maintenance, renewal strategies, and independent handling of trademark infringements should be considered as a follow-up component of a comprehensive legal empowerment program for MSMEs

CONCLUSION

This community service research produced findings that empirically and theoretically reinforce the argument regarding the urgency of intellectual property law outreach among SME operators. Prior to the awareness-raising intervention, both SME partners—Naylahandwerk and Rumah Makan Prasmanan Dewi Lestari—exhibited a severe deficit in legal awareness regarding trademark registration, stemming from scale-related misperceptions, psychological barriers to bureaucracy, short-term priority rationales, conceptual ambiguity between business names and registered trademarks, and inaccurate cost assumptions.

The legal awareness intervention, conducted in a structured, participatory, and locally contextualized manner, proved effective in generating a significant increase in understanding across the dimensions of conceptual knowledge, risk perception, and behavioral intent among both business operators. Following the intervention, both demonstrated a concrete commitment to immediately pursue the formal trademark registration process, serving as tangible evidence of the intervention's success in shifting their legal behavioral orientation from passive to active.

Theoretically, these findings reinforce the relevance of Horton's socialization theory in explaining the mechanisms of legal norm transmission to target communities, while also affirming the validity of Locke's theory of property rights as a philosophical foundation that positions trademark protection as a natural right inherent to every creative business operator, regardless of the scale of their business. From a policy perspective, this study recommends strengthening institutional collaboration among universities, local governments, and the DJKI to deliver more systematic, widespread, and sustainable trademark legal awareness and assistance programs for the MSME community in Samarinda and other regions facing similar issues throughout Indonesia.

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