

**LEGAL PROTECTION FOR T-SHIRT DESIGN OWNERS FROM THE
PERSPECTIVE OF THE MUI FATWA NO. 1 MUNAS VII/MUI/5/2005 (A STUDY
OF THE SHOPEE MARKETPLACE)**



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Abstract

In creating a clothing design, it takes a long process to obtain inspiration and careful consideration accompanied by research first. However, this time-consuming process causes many people to not appreciate the process of creating a clothing design. So many people decide to imitate other people's pre-existing designs. The violation of industrial design rights discussed by this author is that an unregistered mark imitates or plagiarizes a registered mark as determined in Article 54 of Law of the Republic of Indonesia Number 31 of 2000 concerning Industrial Design. In fact, this of course violates the copyright of the work created by the designer, where he does not get the commission rights that he should get. In this research, the author used a Normative research method, in legal research there are several statutory approaches which are carried out by examining the laws and regulations that are related to the issue at hand. The results of this research show that there is imitation of t-shirt designs in the market place shop. The imitation is in the same shape, image and lines. According to MUI Fatwa NUMBER 1 MUNAS VII/MUI/5/2005, protection for t-shirt designs is preventive or preventive in nature because violations of IPR are haram and according to the law will be subject to criminal or civil sanctions.

Keywords: Legal Protection, Property Rights, Design, MUI, Shopee

INTRODUCTION

The current development of free trade and the advancement of the trade sector are closely related to the field of economics. Indonesia, in its economic context, can be considered an industrial nation. With the increasing competition in the business world, entrepreneurs strive to continually update their products and innovate to provide the best results for consumers (Chadhiq, 2007). The rise in the number of business actors intensifies competition among them, making it highly desirable to achieve economic development that ensures the realization of a prosperous society (Wafiya, 2015). Efforts to enhance competitiveness in the industrial sector can be achieved by increasing domestic industrial productivity. Intellectual property rights (IPR) often face various issues or disputes, such as using or registering industrial designs that are identical to others' designs and plagiarizing others' works, resulting in profits gained through any means, even illegal ones, to benefit oneself (Sulasno, 2019). Intellectual property rights play a crucial role in protecting the creators and their works from dishonest practices by others. Moreover, IPR has a close relationship with science, including the fields of technology and economics. This is because IPR emerges from the intellectual capacity and creativity of humans, which are expressed in various creations that provide significant benefits to human life and also offer profits to their owners.

In the realm of intellectual property, there is a field related to science and applied in the industrial world, namely industrial design rights. Industrial design rights, which are a part of IPR, are important to protect and appreciate to prevent plagiarism. Plagiarism is an act of copying that violates copyright, making the work appear as if it were one's own. Intellectual property rights often face issues or disputes, such as using identical industrial designs without permission and plagiarizing others' works, thus breaking the law to gain personal profit. Healthy business competition respects the intellectual property rights of other business actors, which can be achieved by enhancing creativity in production and continually updating products or services to attract consumers and compete fairly with other business actors. In the business world, fierce competition is inevitable, making the occurrence of deviant behavior among entrepreneurs difficult to deny. Therefore, as industrialization in Indonesia

increases, so do the violations within it. Every company that creates products with their respective designs also has its brand, meticulously designed to serve as a distinguishing factor between one company and another, with a registered brand right that cannot be imitated or used by non-owners.

LITERATURE REVIEW

The evolution of free trade and the expansion of the trade sector are intrinsically linked to economic development, particularly in industrializing nations like Indonesia. As competition intensifies, businesses must continually innovate and update their products to meet consumer demands and maintain competitive advantage [3]. This competition drives economic development, which is essential for achieving a prosperous society [1].

One critical factor in fostering such competitiveness is the protection of Intellectual Property Rights (IPR), which safeguard the creative outputs of individuals and organizations. IPR is closely associated with advancements in science, technology, and economics, providing both protection and incentives for innovation [4]. However, the industrial sector often faces challenges related to IPR, including issues of plagiarism and unauthorized use of industrial designs. These violations not only undermine fair competition but also pose significant risks to the integrity of the business environment [6].

As industrialization progresses, the need for effective IPR enforcement becomes increasingly crucial to ensure that businesses can thrive in a competitive and legally compliant manner. Protecting industrial design rights and other forms of IPR is essential to maintain a healthy, innovative, and competitive business landscape in Indonesia.

RESEARCH METHOD

This research employs a normative legal approach, focusing on the examination of laws and regulations pertinent to the legal issues at hand. The data utilized in this study is secondary data, gathered from primary legal materials such as relevant statutes and regulations. The research examines the consistency and alignment among various laws and explores the ontological basis and ratio legis of the relevant legislation. In this context, the statutory approach allows the researcher to comprehend and analyze legal issues by

formulating solid arguments based on existing legal provisions and assessing the effectiveness of legal protection against infringements of industrial design rights.

RESULTS AND DISCUSSION

Legal Protection Analysis of Industrial Designs According to Law No. 31 of 2000

Law No. 31 of 2000 concerning Industrial Designs provides a robust legal framework for protecting industrial design rights in Indonesia. Under this law, the owner of an industrial design is granted the exclusive right to utilize the design themselves or authorize others to use it. This protection is crucial for maintaining the originality and integrity of design work, and for preventing unethical practices such as plagiarism and counterfeiting that could harm the rights holder. In the context of the T-shirt design imitation case that occurred on the Shopee marketplace, there is a clear violation of the provisions of this law. The act of replicating a T-shirt design without the owner's permission constitutes a breach of Article 9 of the Industrial Design Law, which stipulates that the holder of an industrial design right has the exclusive right to prohibit others from making, using, selling, or distributing products that utilize the design without consent. Such violations may result in criminal penalties as outlined in Article 54, which includes imprisonment of up to four years and/or fines of up to IDR 300,000,000.00. However, in practice, there are often challenges in enforcing the law regarding industrial design infringements. Despite the legal protections in place, factors such as low public awareness of the importance of respecting intellectual property rights and the difficulty in distinguishing between original and counterfeit designs in the market can hinder the effectiveness of legal protection.

Economic and Social Impacts of Industrial Design Imitation

The imitation of designs, particularly in the online marketplace context such as Shopee, has significant economic and social repercussions. Economically, design imitation can reduce the economic value of the original product, as consumers tend to opt for cheaper counterfeit products. This not only harms the design rights holder but also diminishes the incentive for innovation and creativity in the design industry. Socially, design imitation can lower the perceived quality standards of products in the eyes of consumers. When low-quality counterfeit products closely resemble original ones, consumers may struggle to differentiate

between them, ultimately damaging the reputation of the original brand. This lowering of standards can also affect consumer perceptions regarding the importance of quality and originality in the products they purchase.

Relevance and Role of the MUI Fatwa in Industrial Design Protection

The MUI Fatwa No. 1/MUNAS VII/MUI/5/2005 on Intellectual Property Rights Protection provides a moral and ethical perspective that complements legal protection for intellectual property rights, including industrial designs. This fatwa regards violations of intellectual property rights, including design imitation, as acts of injustice and therefore forbidden (haram). The fatwa serves not only as a guide for Muslims in Indonesia but also as an effort to raise public awareness about the importance of respecting and protecting intellectual property rights. The fatwa emphasizes that protecting intellectual property rights is not just a legal issue but also a moral one, involving justice and respect for the hard work and creativity of others. Although this fatwa does not have the binding legal force of a law, it functions as a moral approach that can strengthen public awareness and attitudes toward respecting industrial design rights.

Based on the above analysis, it can be concluded that the legal protection of industrial designs in Indonesia is comprehensively regulated through Law No. 31 of 2000. However, challenges in law enforcement and the low level of public awareness about the importance of respecting intellectual property rights remain major obstacles to effectively protecting industrial designs. The imitation of industrial designs, particularly on online platforms like Shopee, not only harms the design rights holders but also has negative economic and social impacts. To address these challenges, there needs to be a synergy between stringent law enforcement, increased public awareness, and the application of moral values advocated by institutions like MUI. Moving forward, enhancing the protection of industrial designs will require regulatory updates, more effective law enforcement, as well as education and awareness campaigns among the public regarding the importance of respecting and protecting intellectual property rights. Strong protection of industrial designs will not only foster innovation and creativity but will also support the development of a healthy and fair industry in Indonesia.

CONCLUSION

One form of imitation in industrial design involves an unregistered brand copying or replicating a registered brand. This limitation is evident in the identical shapes, lines, and colors used. The regulation of industrial design protection is outlined in Law Number 31 of 2000, which emphasizes the necessity of protection. This protection is further reinforced in the Industrial Design Law, which serves as a reference in MUI Fatwa Number 1/MUNAS VII/MUI/5/2005, addressing intellectual property rights. According to MUI Fatwa Number 1/MUNAS VII/MUI/5/2005, any violation of intellectual property rights is considered haram (forbidden), implying a strict prohibition. The protection provided by the fatwa is preventive, aiming to deter such violations. On the other hand, repressive protection measures, as previously mentioned, are addressed within the Industrial Design Law.

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