OVERCOMING TRADEMARK BULLYING IN INDONESIA IS LINKED TO BRAND LAW AND GEOGRAPHICAL INDICATIONS

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ABSTRACT

Objective: Accentuation of trademarks makes the business competition even tighter, both from large companies and newly established companies. Having a trademark makes consumers interested in buying the goods or services offered. Trademark bullying is defined as intimidation from large companies to small companies regarding their trademarks, which could result in the bankruptcy of the newly established company. So this research discusses the concept of bullying in Indonesia and how to overcome brand bullying in Indonesia.

Methods: This research is descriptive in nature with a normative juridical type of research, using a statutory approach and a conceptual approach. Data was collected through a literature study, and then analyzed qualitatively.

Results: This research shows, firstly, that the concept of bullying in Indonesia is carried out through intimidation, which starts with summons to small companies and results in the deletion of trademarks and can result in company bankruptcy which causes a lot of loss of income and permanent consumers. Second, efforts to overcome trademark bullying in Indonesia use preventive and repressive legal protection.

Conclusions: Preventive protection is carried out by conducting outreach by related institutions to prevent trademark violations and repressive protection in the form of criminal, civil and administrative protection in order to achieve justice, certainty and legal benefits.

Keywords: bullying, trademarks, legal protection.

SUPERAR O BULLYING DE MARCAS NA INDONÉSIA ESTÁ LIGADO À LEI DE MARCAS E INDICAÇÕES GEOGRÁFICAS

RESUMO

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Objetivo: A acentuación de las marcas hace que la competencia empresarial sea aún más estrecha, tanto de las grandes empresas como de las empresas de reciente creación. Tener una marca comercial hace que los consumidores se interesen en comprar los bienes o servicios ofrecidos. El acoso a las marcas comerciales se define como la intimidación de las grandes empresas a pequeñas empresas con respecto a sus marcas comerciales, lo que podría resultar en la quiebra de la empresa recién establecida. Así que esta investigación discute el concepto de bullying en Indonesia y cómo superar el acoso por marcas registradas en Indonesia.

Métodos: Esta investigación es de naturaleza descriptiva con un tipo normativo jurídico de investigación, utilizando un enfoque estatutario y un enfoque conceptual. Los datos se recogieron a través de un estudio de literatura y luego se analizaron cualitativamente.

Resultados: Esta investigación muestra, en primer lugar, que el concepto de bullying en Indonesia se lleva a cabo a través de la intimidación, que comienza con la citación a las pequeñas empresas y resulta en la eliminación de marcas y puede resultar en la quiebra de la empresa que causa mucha pérdida de ingresos y consumidores permanentes. En segundo lugar, los esfuerzos para superar el acoso por marcas registradas en Indonesia utilizan protección legal preventiva y represiva.

Conclusiones: La protección preventiva se lleva a cabo mediante la realización de actividades de acercamiento por parte de instituciones afines para prevenir violaciones de marcas y protección represiva en forma de protección penal, civil y administrativa con el fin de lograr justicia, certeza y beneficios legales.

Palabras clave: bullying, marcas registradas, protección legal.
1 INTRODUCTION

The acceleration of the economy on an international or national scale means that industry in any field causes friction in the interests of both individuals and legal entities. If we look at the international and national scale, especially Indonesia in the context of economic phenomena, then directly or indirectly we will be forced to follow economic globalization which will lead to world downsizing.4

Globalization in the economic sector has led to free trade routes and rejection of free trade is difficult to prevent or reject. The difficulty in rejecting this has an impact on a legal aspect. If we look at it before economic globalization and relate it to legal aspects, then only conventional rules apply. Nowadays, legal harmonization needs to be carried out due to the acceleration of the economy. One of the harmonizations in carrying out national and international transactions is intellectual property rights (hereinafter referred to as IPR). IPR is a right that is related to human intelligence in finding something useful for himself and society as well as creativity which leads to commerciality.5 One of the commerciality today are focus to e-commerce 6

If we look at the derivative of IPR, namely brands, the emphasis on trademarks certainly has an essential function in the economy of a country and especially Indonesia. Before getting into the main focus, the author explains what is meant by a brand. As explained in Article 1 number 1 of Law Number 20 of 2016 concerning Marks and Geographical Indications (hereinafter referred to as the MIG Law), it explains that a brand is a sign that can be displayed graphically in the form of images, logos, names, words, letters, numbers, color arrangement, in the form of 2 (two) dimensions and/or 3 (three) dimensions, sound, hologram, or a combination of 2 (two) or more of these elements to differentiate goods and/or services produced by individuals or legal entities in their activities trade in goods and/or services.7

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7Law Number 20 of 2016 concerning Marks and Geographical Indications.
Based on the definition of a brand according to the MIG Law, the author is of the opinion that a brand is an identity that states the uniqueness of the seller's product or service, either in symbolic form or a real combination and is legally registered according to applicable law. This results in a legal protection that is repressive and preventive in nature which leads to legal objectives which are to provide justice, certainty and benefit.

Based on this understanding, brands are divided into 3 (three) types, namely, trademarks, service marks, collective marks. Talking about trademarks that are related to the use of goods traded by individuals or legal entities, either individually or jointly. Then a service mark is a service that is traded by either an individual or a legal entity. Lastly, there is a collective mark, meaning a mark used on goods and/or services traded by individuals or legal entities.

The division of brands above and if related to this research, focuses on trademarks which indicate the unique identity of the seller’s product to make it easier to identify the origin of the goods and services of an individual or legal entity. With this trademark, industry players create a guarantee and security of the best quality goods and/or services. Apart from that, business actors take action to prevent crimes that might be committed by other business competitors. The best impact of having a trademark is increasing purchases from a good marketing strategy by the seller by having the trademark.

Trademarks have an essence in the trade sale of goods and/or services. Apart from this, another essence is in the form of product and/or service identity which can be used as a sign of goodness or a reflection of the good intentions of the product or service offered by the seller. The attractiveness and allure of a trademark can lead to influencing potential buyers or consumers to buy the products or services offered by the seller. The important role of trademarks in the escalation and acceleration of trade in goods or services makes business owners or sellers create good trademarks that are attractive to buyers and this is a strength and value that sellers or business owners must have.

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8Ibid.
The very important function of trademarks has been explained which accelerates trade in the form of goods or services owned by business people and of course business owners fully strive to protect their trademarks from criminal intentions committed by other business competitors. Trademark owners know that if someone deliberately uses the same mark or has a mark that has been registered by the trade owner, there will be dualism in mutual recognition that this is their trademark and confusion will occur among consumers.

Based on the things above, of course it can be justified if trademark owners tend to be protective and continuously monitor and/or protect the trademarks they own. Trademark owners have the exclusive right to prohibit anyone from using their trademarks. This exclusive right is related to the protection of trademark rights.

In Indonesia, when talking about trademarks, it relates to personal rights. This provides an exclusive right which results in monitoring and enforcing the rights of the owner of the exclusive right. Trademark owners are given freedom and prevention in relation to violations from people who have bad intentions towards their company or the business of the trademark owner. Trademark owners only want to protect their trademarks from irresponsible people, this is done to avoid creating a generic symbol. Generic symbols are actually defined as losing the power of a trademark due to similarity as defined by the trademark right itself in the MIG Law. If the trademark owner allows an imitation activity or use of the trademark he owns, a generic symbol will occur. The author really understands that the main goal of trademark owners is to protect their exclusive rights, but if seen from the negative side, there will be a reflection view between trademark owners whose relations already have large and strong companies and/or trademarks from small companies.

Trademark owners from large companies who see small companies using their trademarks or having the same symbols as trademarks from large companies such as

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trademark oppression or in another sentence, that the actions of brand owners from large companies accuse small companies of using trademarks from large companies and this could lead to trademark infringement.\textsuperscript{17} It should be remembered that large companies will always maintain the businesses they have built and monopolize the market for their profits and/or look for weak legal regulations to achieve their goals.\textsuperscript{18}

\textit{Bullying} actual trademarks are rarely used in the context of Indonesian understanding. In simple terms, it can be interpreted as trademark interference which results in large companies trying to take action to stop small businesses which they consider to be a very serious threat and also a threat to their intellectual property rights.\textsuperscript{19} Trademark bullying has been growing in the United States leading to many special reports on Trademark Bullying. Based on the number of special reports, trademark intimidation was discovered and this has become an important problem in the United States.\textsuperscript{20}

Referring to the background above, the problem that can be formulated in this research is what is the concept of trademark bullying in Indonesia? And what are the efforts to overcome trademark bullying in Indonesia?. In this research, the author has several main objectives, namely to understand the concept of trademark bullying in Indonesia and to understand and analyze countermeasures for trademark bullying in Indonesia.

2 THEORETICAL FRAMEWORK

2.1 SOURCES OF COMMERCIAL LAW

These sources of commercial law are used when resolving disputes and figuring out the responsibilities and rights of parties engaged in trade in Indonesia. The sources of Indonesian commercial law include the following \textsuperscript{21}: (a) The Civil Code (KUH Perdata), a body of legislation that governs civil law in general and parts of commercial law.

\begin{itemize}
\item \textsuperscript{18} Bartow A, “Counterfeits, Copying and Class,” Houston Law Review 48 (2012).
\item \textsuperscript{19} Manta ID, loc. Cit.
\item \textsuperscript{21} Pipin Syariffin and Dedah Jubaedah, “Hukum Dagang Di Indonesia,” Jurnal Media Hukum Dan Peradilan, 2012.
\end{itemize}
specifically. (a) A source of law that particularly governs commercial law, including different facets connected to trading activities, is the Commercial Law Book (KUHD). (c) Special laws, including the Company Documents Law, Limited Liability Company Law, Cooperative Law, Transportation Law, and so on, are laws that expressly govern particular areas of the law. (d) As long as it doesn't violate any existing laws, agreements, specifically those between parties engaged in trade, can serve as a source of commercial law. (e) Customs, or accepted practices in the business sector, can also serve as a source of commercial law, particularly if they have developed into widely accepted norms among businesspeople. (f) Court rulings in commercial law cases, or jurisprudence, can also serve as a source of commercial law, particularly if the ruling has legally enforceable implications.

2.2 THE SCOPE OF COMMERCIAL LAW IN INDONESIA

According to Sri (2021), the scope of business law is as follows: (1) Business Contracts: This section governs the formation, execution, and fulfillment of business contracts between the parties. (2) Purchasing and Selling: This section governs the purchasing and selling of products and services, covering matters such as payment, delivery of the goods, and the obligations of both buyers and sellers. (3) Intellectual Property Rights: To promote innovation and safeguard intellectual property, protect copyrights, trademarks, patents, and industrial designs. (4) Mergers and Acquisitions: This section governs the procedures involved in corporate mergers and acquisitions, including shareholder interest protection and approval by relevant authorities. (5) Types of Companies: This section governs the creation, management, and administration of several company structures, including partnerships, limited liability companies, and sole proprietorships. (6) Foreign Investment - governs matters pertaining to foreign investment in Indonesia, such as prerequisites, legal safeguards, and responsibilities of international businesses. (7) Go Public Companies and Capital Markets - governs capital market laws as well as the conditions and processes that must be met by businesses looking to go public, or list their shares on a stock exchange. (8) Credit and Financing - oversees the regulation of financial institutions engaged in credit, financing, and related

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operations. (9) Debt Collateral: This section governs the use of mortgages, pledges, and other forms of collateral in business dealings. (10) Securities - controls the distribution, issue, and settlement of financial instruments like bonds, shares, and other securities. (11) Consumer Protection: This covers the legal defense of consumers against unscrupulous company activities as well as the settlement of consumer disputes.

Many other facets of trade and business operations are still covered by Indonesian commercial law. The purpose of this legal regulation is to control commercial connections and establish legal certainty. On the other hand, it will be preventive to keep intellectuality property right 23

3 METHOD

This research is descriptive in nature using normative juridical research. Then the approaches used are the statutory approach and the conceptual approach. The legislative approach is an approach that is accentuated by deductive legal norms that apply with relevance to this research, namely trademark and geographical indication laws and other statutory regulations that are relevant to this research. Furthermore, the conceptual approach is oriented towards the views and doctrines that have developed in legal science. Having the views and doctrines of experts will facilitate and clarify an understanding related to this research, concepts and principles as tools for research analysis. This research also uses secondary data with primary, secondary and tertiary legal materials. Data was collected using library research and processed in such a way as to become a qualitative analysis.

4 RESULTS AND DISCUSSION

4.1 BULLYING TRADEMARK CONCEPT IN INDONESIA

Talking about trademark bullying, it is related to a company that has a trademark or brand that has a very large business that is national and multinational in scope.

Meanwhile, on the other hand, there are companies that have just started their business or can be said to be small and medium businesses that have just had a trademark or brand. Therefore, large companies will pressure small companies to change their trademarks on the grounds that their trademarks are the same as or have similarities to the large change trademark.24

In the context as explained above, usually a large company will send a letter or summons to a small company to inform them that there has been a trademark similarity and the small company will be invited to the large company to discuss the matter. During the meeting, it is believed that large companies will insist that small companies' trademarks must be changed immediately and that if they do not comply with this request, large companies will be taken to legal action. The author's intellectual conscience is of the opinion that small companies' ignorance and limited knowledge regarding intellectual property rights will result in them choosing to give up rather than defending their rights in court.

The pattern of trademark bullying begins with a summons given by the trademark owner either through the company or through their legal representative. Trademark owners who are already known to the public will look for information about individual actors or business actors who own similar trademarks. The substance of the letter as recorded in the letter is the termination of all forms of use of the trademark which are considered infringing and if you are still using the trademark and insist on not following the contents of the letter, legal action will be taken.

The existence of technology and information makes it easier for trademark owners of large or small companies to track and find similarities between one trademark and another. For example, in the United States, to track and find trademarks that are similar to one another, you can find them on the website of the United States Patent and Trademark Office (hereinafter referred to as USPTO). Meanwhile in Indonesia, the information can be accessed in the intellectual property database of the Directorate General of Intellectual Property, Ministry of Law and Human Rights of the Republic of Indonesia.

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Victims of bullying are small business actors who have just registered their trademark and lack knowledge and resources regarding the trademark. The following are trademark bullying patterns, namely:

1. **Bullying** trademarks involve several parties, the perpetrators are usually large and multinational companies and the victims are small business actors who do not have sufficient finances to hire legal services such as lawyers;
2. Large companies will issue subpoenas through their legal representatives to stop or replace the victim's trademark;
3. Large companies will threaten or intimidate victims, if requests are not met, they will take legal action;
4. Trademark victims are given the choice of fighting through legal channels or giving up and complying with the letter sent by the perpetrator.

From the explanation above, it can be seen that several cases in Indonesia have a similar pattern, such as the case of Holiday Inn and Holiday Resort Lombok, then Geprek Bensu with Bensu, Sang Pisang with Kaesang Pisang. An explanation of the trademark bullying case in Indonesia is as follows:

1. **Holiday Inn** with Holiday Resort Lombok

   This case stems from a lawsuit whose aim is to cancel the Sis Continents Hotel Inc. trademark. The owner of the holiday inn resort and holiday resort lombok trademarks is registered as a class 16 mark regarding hotel services. This case was finally decided by the Central Jakarta Commercial Court by rejecting the claim of the plaintiff, namely the owner of the Holiday Inn brand, considering:

   "Holiday is a general word, not an individual's and everyone can use it after it is associated with other words, such as the Petitioner using "Holiday Inn Resorts", the Respondent using Holiday Resorts Lombok." "Holidays" from a foreign language cannot be monopolized and used as a brand; It is true that all common words can be used as a trademark, but words that have become public property that have a special meaning / specific meaning cannot be used as a trademark and cannot monopolized."

   Holiday Inn was not satisfied with this decision so they filed an appeal to the Supreme Court, but the Supreme Court rejected the cassation on the grounds:

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"That the cassation grounds of the Cassation Petitioner cannot be justified, because the Judex Facti (District Court) did not make a mistake in applying the law because the considerations and decision in case No. 41/brand/2010/PN.Niaga.Jkt.Pst have been implemented in accordance with statutory regulations. The invitation is valid because the word Holiday is a general word, thus, it does not belong to an individual and everyone can use it after it is related to other words such as the Petitioner using "Holiday Inn Resorts", the Respondent using "Holiday Resorts Lombok.

2. Geprek Bensu with Bensu (Milk Workshop)

The trademark "GEPREK BENSU" is owned by an artist named Ruben Onsu, while the Bensu trademark (milk workshop) is owned by a small businessman named Jessy Handalim. Geprek bensu is suing the owner of Bensu because it has similarities with the brand, namely geprek bensu. Geprek bensu's party has the view in their lawsuit that Jessy Handalim registered the brand in bad faith. The diction of bad faith means that when a bensu (milk shop) brand registers its brand, it has the intention to imitate, plagiarize or follow its brand which leads to conditions of unfair business competition, deceiving or misleading consumers.\(^{26}\)

This dispute was finally resolved through the Court. The court (Case Number 48/PDT.SUS/Merek/2018/PN.Niaga.Jkt.Pst.) decided that Geprek Bensu's application was rejected because there was an error in listing the Directorate General of Intellectual Property as a co-defendant, even though it should have been listed as a defendant. Therefore, Geprek Bensu chose to negotiate with the owner of the Bensu brand to transfer the brand rights to Ruben Onsu as the owner of the BENSU brand, which is his famous nickname.

3. Sang Banana with Kaesang Banana

This case started with a food review by a food vlogger who compared the culinary banana nuggets between Sang Pisang owned by Kaesang Pangarep and the owner of Kaesang Pisang Nugget. Food Vlogger in a broadcast on the YouTube platform said that the owner of Kaesang Pisang Nugget copied food products from Sang Pisang, even though in reality the owner of Kaesang Pisang Nugget explained that his brand had been around since 2016 compared to Sang Pisang owned by Kaesang Pangarep which was founded in 2017. From food's statement Such vloggers result in a reduction in sales and a greater impact of bankruptcy. This is because people are led by the food vlogger's statement. The

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\(^{26}\) September milk shop-shop-entrepreneur-jessy-handalim.
owner of Kaesang Pisang Nuget asked for clarification from the food vlogger but only apologized on social media.\textsuperscript{27}

Based on the things above, the author states that there are still many small and medium industry players who think that protecting intellectual property is not important. Evidence of a lack of understanding of this is the lack of trademark registration carried out by small and medium businesses at the Directorate General of Intellectual Property, Ministry of Law and Human Rights.

4.2 EFFORTS TO OVERCOME TRADEMARK BULLYING IN INDONESIA

The countermeasures referred to in this research are prevention, before entering the prevention efforts stage in trademark bullying cases in Indonesia. The author states that there are several things that must be considered whether the mark that will be registered will later infringe on an already registered mark. In Indonesia, applications for trademark registration will go through a substantive examination as stated in Article 23 of the MIG Law. At the substantive stage, it will be seen whether it meets the requirements to be registered as a trademark.

To discuss how to prevent trademark bullying in Indonesia, it is necessary to understand the filing of trademark cancellation and infringement lawsuits in Indonesia. Settlement of trademark disputes in Indonesia is based on the similarities between the two trademarks. In Indonesia there are 2 (two) conditions that are prohibited, namely equality of principles and complete equality. Basically, the similarity principles regulated in the Indonesian Trade Law are not the same as the MIG Law.

Article 21 Paragraph 1 of the MIG Law explains that Similarity in Principle is the similarity resulting from the dominant element between one brand and another. This gives the impression of similarity both in terms of placement, form and way of writing or the combination and similarity of the speech sounds contained in the trademark.

If analyzed, the elements used to determine whether or not there is trademark infringement in Indonesia are only in the context of looking for similarities and differences between the two disputed marks. In other words, dispute resolution focuses

on whether the two marks are similar. If the two marks do not have the same trademark, then the court will not grant it. This means that Indonesia only recognizes brand protection based on the overall similarity or similarity of principles of different classes of goods and/or services.

Based on the cases that occurred in Indonesia, it can be understood that the dispute occurred because of the problem of using words that are considered by Indonesian people to be common words. Meanwhile, for trademark owners, the use of common words is part of the trademark that must be protected. The weakness that occurs when only looking at common words as a parameter for whether they violate trademark rules or not is a serious problem. For example, as has been explained regarding several cases that occurred in Indonesia, such as Holiday Inn and Holiday Resort Lombok. Then smash Bensu with Bensu. Lastly, Sang Banana with Kaesang Banana Nugget which has a unique characteristic in its words and pronunciation.

These things can actually be said to be "monopolizing the word", meaning that the diction of holiday is a common word but Holiday Inn wants that word as its brand diction. Then the owner of Geprek Bensu, Ruben Onsu, known as Bensu, wanted to monopolize the word "Bensu" so that those who used the abbreviation Bensu were deemed to be violating his trademark. Likewise with Sang Pisang and Kaesang Pisang Nugget, people think that Kaesang Pisang Nugget is a plagiarized trademark even though in reality it is not like that.

If word monopoly continues, people will no longer be able to use common words because they are registered as trademarks. Therefore, Indonesia must quickly consider regulating fair use in the use of words in trademarks. In comparison, trademark law in the United States supports fair business competition by providing protection for the goodwill of brand owners and also providing protection for competitors or other brand owners to use other parties' trademarks descriptively.

There are several ways to defend each company's trademark, one of which is by shaming trademark oppressors. The diction "shaming" here is used as an option to defend the trademark rather than having to go through long legal channels. This prevention strategy through shaming is used in the form of information to the public through several social media that large companies have carried out trademark bullying.\(^{28}\) If large

\(^{28}\) Dispoto AJ, “Protecting Small Businesses against Trademark Bullying: Creating a Federal Law to Remove the Disparity of Leverage Trademark Holders Maintain over Small Businesses,” San Diego
companies continue to bully small businesses, it could be said that these companies will lose consumers.

More than that, efforts that can be made to prevent trademark bullying in Indonesia are:

1. Trademark Assistance by the Trade and Industry Service.

   In this case, as an effort to prevent disputes from occurring in the future, the Department of Trade and Industry carries out socialization and assistance processes for intellectual property rights in the form of brands, designs, patents and so on. This outreach aims to protect the products made, motivating small businesses to protect their products by registering their trademarks. More than that, there is a need for training on trademark registration procedures. The output of this socialization and assistance is an increase in the number of products that have intellectual property rights, especially trademarks. Apart from that, to increase economic competitiveness in their respective regions.

2. Facilitate Trademark Registration

   As an effort to increase and prevent trademark disputes, the trade and industry department must provide facilities in the form of trademark registration for those who have taken part in socialization regarding intellectual property rights. Trademark registrations submitted to the Directorate General of Intellectual Property have absolute requirements that must be fulfilled by the prospective trademark owner, namely that they have sufficient differentiation from other trademarks.

   The trademark registration system in Indonesia adopts a constitutive system, meaning that prospective trademark owners will obtain the rights to the trademark after registering at the Directorate General of Intellectual Property. This system regulates that the party who first registers a mark has the right to the mark.29

   If the brand registration is successful, the product owner will get the right to the brand which is legally valid and the product will have legal protection. In the realm of civil law, trademark rights have a material nature. In terms of the material nature of a brand, there are two types of rights, apart from economic rights which can provide profits in the form of royalties, there are also moral rights which are always attached to the owner.

The economic rights that a person has over their innovation and creativity can be transferred or transferred to another party.30

Trademark registration has a declarative and constitutive system. The declarative system is defined as trademark registration which is not just about publication, but only provides a legal presumption or presumption. In other words, the first party is considered to have created a right to the mark. This system does not investigate who the original owner of the mark is, which results in the absence and opportunity for other parties to dispute the registration of the mark. Furthermore, constitutive trademark registration means that trademark registration is an obligation for a person or business entity if they want to obtain the rights to a trademark. The legal certainty provided is a certificate as proof of rights to the mark and is considered as the first user of the mark in question.

Legal protection in the context related to this research is preventive and repressive legal protection. Preventive legal protection is defined as legal protection that is carried out not through litigation. In addition, parties who feel disadvantaged by their trademark can submit an objection to the office of the Directorate General of Intellectual Property if there is a trademark registration that imitates the trademark owner. Repressive legal protection is a form of protection through litigation in the form of a lawsuit either demanding compensation or canceling a brand.

Protection of rights to registered trademarks includes criminal, civil and administrative provisions. This boils down to the trademark owned by a company or small business based on the constitutive system adopted in trademark law in Indonesia being recognized and protected by law provided that the trademark has been registered.

Accentuation in relation to legal protection of brands aims to prevent unfair business competition. This is because there are limitations of small businesses in the form of funding and understanding intellectual property rights. If small business products can reach international trade, this needs to be watched out for, because it could give rise to unhealthy business competition or conversely there are foreign companies who want to register their brands and actually reduce the purchasing power of these small businesses. Therefore, it is necessary to have legal regulations that apply to protect small business brands that will be plagiarized or imitated by foreign companies.

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In the MIG Law there is an attempt to provide preventive legal protection which is very dependent on the brand owner himself. The logical consequence in the constitutive system is that legal protection for trademark rights will be provided by the state after it is registered at the directorate general of intellectual property of the ministry of law and human rights. More than that, the MIG Law also provides legal protection in the form of sanctions including fines, imprisonment and additional penalties that will be given if a dispute occurs or after a violation occurs. The purpose of repressive legal protection is to resolve disputes.

Another thing related to the form of repressive protection in the MIG Law is the existence of an institution that examines objection applications for trademarks that are being applied for and appeals against rejection of applications for registration of trademark rights. The name of the institution is the trademark appeal commission as regulated in Articles 28 to 32 of the MIG Law. Another means that can be taken to file a lawsuit is to go to the commercial court and submit an appeal to the Supreme Court. A very important role in protecting repressive laws is law enforcement, including the police, civil servant investigators, prosecutors, and judicial institutions. This is eagerly awaited by brand owners because legal protection from law enforcement officials will lead to lawsuits for compensation or criminal prosecution.

After explaining legal protection both preventively and repressively, the author conveys the obstacles in trademark protection, the most important thing in the process of legal trademark protection, namely legal awareness. Good awareness and understanding will protect trademark owners from law violations, but on the other hand, awareness and understanding of trademarks will result in criminal, civil and administrative legal entanglements.

There are several reasons why small business actors do not register their trademarks with the Directorate General of Intellectual Property, namely that small business actors do not understand the benefits of legal protection for brands as regulated in the MIG Law. Then small business actors are usually too lazy to think about providing a trademark name which ultimately does not pass verification. Next, regarding the limitations in using technology, because trademark registration is done online and small business actors who register their trademarks will always ask whether the costs are expensive or cheap. The author understands that small business actors prioritize selling products quickly, but the author highlights the socialization stage which uses a serious
but relaxed delivery pattern so that the material presented by the relevant agencies can be absorbed deeply by small business actors.

5 CONCLUSION

Based on the explanation given above, several things can be concluded, namely, concepts Bullying Trademarks originate from a subpoena given by the trademark owner either through the company or through their legal representative. Trademark owners who are already known to the public will look for information about individual actors or business actors who own similar trademarks. The substance of the letter as recorded in the letter is the termination of all forms of use of the trademark that are considered infringing and if you are still using the trademark and insist on not following the contents of the letter, legal action will be taken and the consequences could lead to the bankruptcy of the newly established company and loss of income and regular customers.

Efforts to overcome brand bullying in Indonesia use preventive and/or repressive legal protection. Preventive protection is Legal protection is carried out not through litigation. In addition, parties who feel disadvantaged by their trademark can submit an objection to the office of the Directorate General of Intellectual Property if there is a trademark registration that imitates the trademark owner. Meanwhile, repressive legal protection is a form of protection through litigation in the form of a lawsuit, either demanding compensation or canceling a brand and/or taking legal action in criminal, civil and administrative law.

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