LEGAL CULTURE OF INTELLECTUAL PROPERTY RIGHTS
PROTECTION OF TRADITIONAL MEDICINE BUSINESS PERFORMERS

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ABSTRACT

Purpose: Research on Jamu (traditional herbal medicine and herbs) in the protection of Intellectual Property Rights (IPR) is important for several reasons: First, traditional knowledge in the form of herbal medicine and traditional medicine has economic value and needs to receive legal protection. Second, the local community's lack of understanding regarding intellectual property means they are not interested in taking economic benefits from traditional knowledge.

Method: The theoretical framework used is legal culture theory, while the research method used is research methods socio-legal

Results and Conclusion: The research conclusions obtained: First, the protection of intellectual property for traditional knowledge of herbal medicine as traditional medicine shows a strong legal culture concept. Second, the process of resolving disputes that occur between traditional herbal medicine business actors in Lamongan Regency shows a process of moving away from court mechanisms.

Implications of research: Research on the legal culture of intellectual property rights protection of traditional medicine business performers has important implications in several aspects, including law, culture and business. The following are several implications that may arise from the research. one of them is Better Legal Protection.

Keywords: herbal medicine, IPR, jamu, legal culture.
RESUMO

Objectivo: A investigação sobre Jamu (medicina tradicional à base de plantas e ervas) na protecção dos Direitos de Propriedade Intelectual (DPI) é importante por várias razões: Primeiro, o conhecimento tradicional sob a forma de fitoterapia e medicina tradicional tem valor económico e precisa de receber protecção legal. Em segundo lugar, a falta de compreensão da comunidade local relativamente à propriedade intelectual significa que esta não está interessada em retirar benefícios económicos do conhecimento tradicional.

Método: O referencial teórico utilizado é a teoria da cultura jurídica, enquanto o método de pesquisa utilizado são os métodos de pesquisa sociojurídicos

Resultados e Conclusão: As conclusões da pesquisa obtidas: Primeiro, a protecção da propriedade intelectual do conhecimento tradicional da fitoterapia como medicina tradicional mostra um forte conceito de cultura jurídica. Em segundo lugar, o processo de resolução de litígios que ocorrem entre os intervenientes empresariais da medicina tradicional à base de plantas na Regência de Lamongan mostra um processo de afastamento dos mecanismos judiciais.

Implicações da investigação: A investigação sobre a cultura jurídica da protecção dos direitos de propriedade intelectual dos empresários da medicina tradicional tem implicações importantes em vários aspectos, incluindo o direito, a cultura e os negócios. A seguir estão várias implicações que podem surgir da pesquisa. um deles é Melhor Proteção Legal.

Palavras-chave: fitoterapia, DPI, jamu, cultura legal.

CULTURA JURÍDICA DE LOS DERECHOS DE PROPIEDAD INTELECTUAL PROTECCIÓN DE LOS EMPRESARIOS DE EMPRESAS DE MEDICINA TRADICIONAL

RESUMEN

Propósito: La investigación sobre Jamu (medicina herbaria y hierbas tradicionales) en la protección de los derechos de propiedad intelectual (DPI) es importante por varias razones: Primero, el conocimiento tradicional en forma de medicina herbaria y medicina tradicional tiene valor económico y necesita recibir protección legal.. En segundo lugar, la falta de comprensión de la comunidad local respecto de la propiedad intelectual significa que no están interesadas en obtener beneficios económicos del conocimiento tradicional.

Método: El marco teórico utilizado es la teoría de la cultura jurídica, mientras que el método de investigación utilizado es el de métodos de investigación sociojurídicos.

Resultados y Conclusión: Las conclusiones de la investigación obtenidas: Primero, la protección de la propiedad intelectual sobre el conocimiento tradicional de la medicina herbaria como medicina tradicional muestra un fuerte concepto de cultura jurídica. En segundo lugar, el proceso de resolución de disputas que ocurren entre los actores comerciales de las medicinas tradicionales a base de hierbas en Lamongan Regency muestra un proceso de alejamiento de los mecanismos judiciales.

Implicaciones de la investigación: La investigación sobre la cultura jurídica de la protección de los derechos de propiedad intelectual de los empresarios de la medicina tradicional tiene implicaciones importantes en varios aspectos, incluidos el derecho, la cultura y los negocios. A continuación se presentan varias implicaciones que pueden surgir de la investigación. uno de ellos es Mejor Protección Legal.

Palabras clave: medicina herbaria, DPI, jamu, cultura jurídica.
INTRODUCTION

Jamu and herbs are important symbols of national identity and are understood as authentic elements of Indonesian culture, as their appeal lies in their connection to the Indonesian traditions. During Dutch colonialism in Indonesia, European doctors were deeply interested in herbal medicine. This was due to not knowing how to treat their patients’ diseases that they encountered in the Dutch East Indies. In the end, several studies were carried out on these native Indonesian medicinal plants. Among the researchers was a German doctor named Carl Waitz who published a book on herbal medicine in 1829, titled: Practical Observations on Number of Javanese Medications. A Dutch physician and scientist named Adolphe Guillaume Vorderman also published books around the 1880s and 1890. One of them titled Javanese Medicines, about the use of medicinal plants by local residents. Vorderman released a manual on herbal medicine used in households throughout the Indies was published in 1911, titled Guidance and advice Regarding the Use of Indies Plants, Fruits, etc. There was another comprehensive book on native herbal medicine in the Indies published by Rumphius, who worked in Ambon during the early 18th century. He published a book titled Herbaria Amboinesis (Ambonese Spice Book).

Jamu, as one of the herbal plants that has been passed down from generation to generation, is widely planted in Indonesia as a blessing from natural conditions that are suitable for agricultural activities. Zamroni Salim and Ernawati Munadi said that as a natural laboratory that provides plant biodiversity - around 40,000 types - it provides a source of livelihood for the community in the form of food sources, industrial raw materials, pharmaceuticals and medicines. Based on the source, medicinal plants traded in Indonesia can be divided into cultivated medicinal plants and medicinal plants obtained directly (exploited) from the forest. Traditional knowledge of herbal medicine was originally a hereditary tradition that was passed down from one generation to the next. Once the writing tradition was known, the initial traditional medicine oral tradition was finally written down. Research on herbs and herbal medicine as traditional medicine in the protection of Intellectual Property Rights is important because; first, traditional knowledge in the form of herbal medicine and traditional medicine has economic value and needs to receive legal protection both from the government as well as the attitude of the community itself. This will create the preservation of culture passed down from
generation to generation is maintained. Second, the local community's lack of understanding regarding intellectual property means that they are not interested in taking economic benefits from this traditional knowledge. This creates an opportunity for pharmaceutical industries from developed countries to produce a traditional knowledge-based products without permission and giving reasonable compensation for the people who own the traditional knowledge.

The problems in this research include what is the legal culture of protecting traditional knowledge regarding traditional herbal medicine and herbs as medicine for herbal medicine industry players in Lamongan Regency? and how will Intellectual Property Rights disputes be resolved if there is a violation of brand rights for herbal medicine as traditional medicine?

2 THEORETICAL FRAMEWORK

The theoretical framework used in this research refers to legal culture theory. Law is essentially never separated from concrete facts that occur in the field. Law will always be related to the development of society, that law is not made but grows together with society's culture. According to Friedman, whether a law can run well will be influenced by 3 (three) things: legal substance, legal structure, and legal culture. Legal culture is a set of people's behavior towards the law, how people think, act and behave with the laws they believe in. In relation to the protection of Intellectual Property Rights for home herbal medicine business actors, it will be seen how they understand the existence of intellectual property rights protection for traditional knowledge that they have acquired through generations.

The community as the owner of traditional knowledge regarding the processing of traditional medicines for the community is essentially also perceived as a local legal culture. A statutory norm does not merely force a norm to be applied to the social environment. Society has its own norms which do not have to be in accordance with existing statutory norms. A legal society must essentially be viewed from its pluralistic form, various legal concepts that enrich the law of a country. Society lives by its philosophy and moral order which fortifies itself to always be firm and moral, as said by Sally Falk Moore, the moral order is formed through the evolution of law - morality, justice and conscience - which then becomes a guide for behavior and society. Bruno
Latour said that the implementation of the law in one place is different from another (Johansen, 2021).

3 METHODOLOGY

The research method used in this research is research methods sociolegal. In this research, researchers will conduct research through in-depth interviews with household herbal medicine business actors located in Lamongan Regency, East Java. In-depth interviews were aimed at 4 (four) household herbal medicine business owners who distribute their herbal medicine production to the community in Lamongan Regency. The choice of location in Lamongan Regency is due to the fact that the locals still prefer herbal medicine and traditional medicine over medical drugs to treat any type of disease. Deep interview (depth interview) was aimed purposively at 4 (four) respondent subjects as household herbal medicine industry players. These respondents produce processed herbal medicine, sell it, and have been involved in the household herbal and herbal medicine industry. Therefore, they clearly understand the knowledge of processing traditional herbal medicine through generations in the Lamongan Regency. This in-depth interview aims to explore an in-depth understanding of legal concepts regarding traditional medicine by the subjects (ideological method). Field visits to locations where traditional medicines were developed by the respondents (descriptive method) can photograph the actual facts, as well as understand the concept of dispute resolution - applicable social norms - which are used in the world of traditional medicine.

This research uses an approach emic, In this case the researcher will look at the concept and understanding of law from the perspective of the subject being studied. Emic is an approach to social groups that is based on field studies with in-depth interviews to understand the meaning of each social interaction, because law is a manifestation of prevailing social values. This was done and aimed to understand how respondents view the herbal medicine business they are running in relation to the protection of intellectual property rights for herbal and traditional herbal knowledge as traditional medicine in Indonesia. The research was conducted within 2 (two) months, namely early June to the end of August 2020 in Lamongan Regency by conducting in-depth interviews with selected respondents.
4 RESULT AND DISCUSSION

4.1 LEGAL CULTURE PROTECTION OF TRADITIONAL KNOWLEDGE TRADITIONAL HERBAL MEDICINE AS MEDICINE IN LAMONGAN REGENCY

Traditional medicine is a medicine that is processed traditionally and passed down through generations based on beliefs and customs, whether it’s supernatural or traditional knowledge. In this traditional medicinal knowledge, there is a process of creating or recreating materials that exist in nature into healing media. Therefore, traditional medicine can be said to be related to Intellectual Property Rights (Ketut Supasti Dharmawan et al., 2023). Traditional knowledge itself cannot be separated from the cultural heritage of a traditional community (Kuspraningrum et al., 2020). Giselle Corradi said that thoughts and ideas on protecting traditional knowledge are not new, because this has been the subject of a very intensive discussion in World Intellectual Property Organization (WIPO). Many violations of customary rights traditional knowledge - become passive individual rights (usually intellectual property rights), which conflicts with culture (Besson, 2023). This traditional knowledge is a unique traditional practice and lifestyle that lives and develops in society (Perangin-angin et al., 2020) (Hakim & Negara, 2018). Martha Tilaar and Bernard T. Widjaja said that the meaning of herbal medicine comes from the ancient Javanese word jampi, which implies the involvement of magic spells by a traditional shaman and the healing of illnesses using magic spells (Isnawati & Sumarno, 2021).

Jamu as a traditional herbal medicine is widely known for its use as Indonesian people’s local traditions. No evidence has been found regarding exactly when Indonesians started the tradition of using this herbal medicine or herbal medicine (Lim, 2019). There is an opinion that says that knowledge about medicine in Indonesia existed before the arrival of Indian influence (Lim, 2019). This opinion says that before Indonesians could read and write, there was already a leader accompanied by a priest for ceremonies and a shaman for magic and medicine. The use of traditional medicines by the ancestors of the Indonesian people since centuries ago can be found through old manuscripts written on palm leaves such as Husodo (Java), Usada (Bali), Lontarak Pabbara (South Sulawesi), documents named Serat Primbon Jampi and Serat Racikan Boreh Wulang nDalem. Hendri Wasito said that the history of the use of traditional Indonesian medicine can be
found in the reliefs of Prambanan Temple and Borobudur Temple, which depict people concocting medicine/herbal medicine using plants as raw materials (Risman Tunny, 2023).

Heritage and culture in the palaces also enriched the treasures of natural medicine from Indonesia. For example, the use of the noni plant as traditional Indonesian medicine. It is recorded in wayang stories written during the reign of the kings and the Sunans. Proof of this can be seen from the presence of noni plants growing in the medicinal plant collection museum at the royal palace and the Kasunanan mosque. All information regarding traditional medicine from ancient times until now is still well preserved in the Surakarta palace library, namely Serat Centhini and Serat Kawruh. Serat Centhini contains a total of 104 types of plants which are mixed into 85 medicines to treat around 30 kinds of diseases and is one of the main sources of Javanese literary texts which contain writings about herbal medicine. Meanwhile, in the Serat Kawruh Jampi-Jampi Jawi chapter there are 1,166 recipes consisting of 922 recipes for natural ingredients. The book even contains 244 recorded recipes for tattoos, amulets, charms and spells. The uses of the many recipes range from preventing, curing disease, to beauty care for women (Ariyanti & Budi Asri, 2022).

Traditional medicinal knowledge is part of culture because it is mostly in oral form, passed down from one generation to the next and is knowledge shared by all members of the community and needs to be protected. Legal protection for traditional knowledge in the form of herbal medicine and medicine (Ariyanti & Budi Asri, 2022). Agus Sardjono said that protecting traditional rights was to strengthen trade positions world and protecting local communities and returning intellectual property to local community wealth is knowledge of traditional Indonesian medicines has long been commercialized by other countries, to strengthen its position in the world trading system, to protect the interests of local communities. (Ramadan & Yanni Dewi Siregar, 2022).

According to Dutfield, there are reasons why traditional knowledge needs to be protected by law (Dutfield, 2022) see (Binga, 2019), it is useful for increasing the income of traditional communities, traditional knowledge can improve a country's national economy, protected the environment and biodiversity, avoiding exploitation of natural resources. Heri Aryanto said that an important thing that must also be thought about is the use of traditional knowledge by other countries without providing benefits (benefit) for Indonesia as the owner of traditional knowledge (Kurnilasari et al., 2018).
This traditional knowledge obtained from generation to generation also occurs in the scope of traditional herbal medicine businesses in Lamongan Regency. One of the home industry herbal medicine entrepreneurs, Kas (51 years), explained (Wasitaatmadja, 2020d) “I have mastered the herbal medicine that I make for a long time, and it has also been common knowledge here for generations. Everyone knows, in my opinion, how to mix herbal medicine, empon-empon, traditional medicine. But indeed, everyone has their own way of adding their own ingredients that other people don't know what the additional ingredients are.” Based on Kas’s explanation, it can be concluded that knowledge about processing herbal medicine as traditional medicine is a knowledge that is generally possessed by the Lamongan people. On the other hand, this knowledge is general in nature and passed down through generations. Meanwhile, it also has a certain level of secrecy which is developed by each herbal medicine business actor which is different between one herbal medicine business actor or traditional healer and another business actor.

Sup (50 years old), one of the herbal and herbal medicine businesses as traditional medicine, explained (Wasitaatmadja, 2020e) “Apart from traditional knowledge which has been passed down from generation to generation, this traditional knowledge can now be known through some kind of course or education. Now many people can understand how to make traditional medicines in the form of herbs and herbs. "This kind of course already exists in Lamongan to be able to mix traditional medicine." Sup explained that to be able to make herbal medicines and herbs as traditional medicine can be obtained by attending a course held in Lamongan Regency. The preservation of traditional knowledge in concocting herbal medicine as traditional medicine is not only passed down within the family and becomes a family’s secret recipe, but has become more institutionalized in the form of education and courses in dispensing traditional medicine.

The term traditional knowledge (traditional knowledge) as expressed by Sup and Kas above can also be referred to in the WIPO perspective as containing a broader meaning including indigenous knowledge and folklore. (“indigenous knowledge would be the traditional knowledge of indigenous peoples, therefore is part of traditional category, but traditional knowledge is not necessarily indigenous. That is to say, indigenous knowledge is traditional knowledge, but not all traditional knowledge is indigenous”). According to WIPO, traditional knowledge is distinguished from other knowledge due to its connection to local communities (indigenous people). Examples are all creations based on traditions related to knowledge systems, innovations and
expressions of culture or science, inventions, scientific discoveries, designs, brands, names and symbols, confidential information, and all other innovations based on tradition and resulting from intellectual activities in the fields of industry, science and art.

In its implementation, the protection of intellectual property rights for herbal medicine and herbs as traditional medicine depends greatly on the public's perception of the legal protection provided by the state. Regarding the protection of the confidentiality of this particular technique of dispensing herbal medicine for herbal medicine or traditional medicine businesses, this has never protected by intellectual property law. However, herbal medicine and traditional medicine businesses in Lamongan do protect the brand and confidentiality of traditional ingredients with certain additions. These businesses tend to keep license records fairly confidential within the family and never ask for protection of their rights and registration of licenses from the Ministry of Law and Human Rights. Kas explains that (Wasitaatmadja, 2020d): "This is about the confidentiality of herbal medicine concoction techniques. You don't need to register a permit with the government. For example, there are people who make herbal medicine, while many people understand how to make herbal medicine. Just how come this person has a different taste in herbal medicine from others? Of course, this person has his own secret that no one else should know about the secret of his herbal medicine. Well, I once asked what the secret was, but I wasn't told what the secret was. Keep it a secret and don't tell it to anyone else. "The herbal medicine is made and sold by ourselves, without opening branches and not making any agreements like that."

Ar (38 years old), one of the herbal medicine business people in Lamongan, explained that (Wasitaatmadja, 2020b). “The herbal medicine brand that I own is not registered through IPR. I understand how important it is, but the registration process is too complicated. I only registered my herbal medicine business for a PIRT business permit. I just focus on selling the product and maintaining the quality of the taste, then my herbal medicine products will sell well on the market.”

When Ar as a respondent was asked whether the registration of intellectual property rights in herbal medicine processing was important enough to be registered or not, Ar emphasized (Wasitaatmadja, 2020c). "Actually, in my opinion, it is also important to register my herbal medicine products, but yes, it is a complicated matter, whereas my product is not much, but I have to pay more to take care of the registration."
Based on Ar's explanation above, understanding the meaning of protection for traditional herbal knowledge in IPR is quite important, according to him. On the other hand, the process of obtaining IPR protection, both in terms of brand protection and recording trade secret licenses for the flavors of the herbal medicine that is processed, is too complicated. This makes traditional herbal medicine traders in Lamongan Regency reluctant to obtain it. Ignorance of the process for registering trademark rights and trade secret protection, in addition to the extra costs that must be incurred by traditional herbal medicine practitioners, has resulted in them avoiding the IPR registration process. Fath, a certified health herbal medicine planter in Lamongan Regency who has been practicing in the world of traditional medicine for 20 (twenty) years, further explained (Wasitaatmadja, 2020c):

"The knowledge I have gained has been passed down through generations, but I have increased my knowledge about medicinal plants through official education and I have also received a certificate as a traditional medicine preparer from the East Java Provincial Health Service. In Lamongan, there are only two traditional healers who have been certified by the health service. I mix the medicines that I produce myself based on the knowledge I have gained and I have given most of them brands, and some I have only given numbers. Each number indicates a healing use. I planted the medicinal plants myself in the back of the house and then mixed them, but regarding the problem of obtaining PIRT and brand registration, the health service had previously promised to help but until now it has not been realized. "I am currently planning for this village to become a center for medicinal plants, so that the community could get economic value from the medicinal plants produced.

Based on the explanations of the respondents above, in general these household traditional herbal medicine businesses have never registered their traditional knowledge protection rights with the Directorate General of Intellectual Property Rights. For them, it is enough to keep secrets within their own family for generations, and not open branches through brand licensing agreements and trade secrets. Their understanding also influences the legal protection of traditional knowledge of herbal medicine processing in Lamongan. Traditional knowledge also combines innovation and the amount of knowledge acquired and spread by communities through generations which is supported by ecology, environment, lifestyle, community behavior and culture. It can be concluded that traditional knowledge is the result of intellectual work that grows and develops from and
within a communal society or certain community. M. Syamsudin and Budi Agus Riswandi said that Traditional knowledge is primarily a natural practice, specifically in the areas of agriculture, fisheries, health, horticulture and forestry (Nainggolan et al., 2022). Traditional knowledge has become so popular in Southeast Asia that it has even entered the upper class market (Sujatha, 2020).

Regarding innovations in the processing of traditional herbal medicine traditions in Lamongan, Ar (38 years old), one of the traditional herbal medicine business actors, explained (Wasitaatmadja, 2020b). "I have been in the herbal medicine business since 2017, but the herbal recipe I have is a recipe passed down from my ancestors, then I modified it myself using my knowledge of herbal medicine." Kas also explained the same thing (Wasitaatmadja, 2020d): "Even though I have known herbal medicine recipes for generations, I often modify herbal recipes. In fact, what often happens is that herbal medicine makers modify herbal recipes and then keep the modified recipes a secret from other people." Cita Citrawinda Priapantja in Taufik H. Simatupang said that Tradition itself is defined as any system of knowledge, innovation and cultural expression that has been passed on through generations in a specific community in its region which has developed as a reaction to environmental changes (Simatupang, 2021).

This knowledge is created, maintained, used, and protected in traditional environments. The status and use of traditional knowledge is as part of culture. In the management and preservation of traditional medicine culture, according to the respondent's explanation, there is a pattern of knowledge passed down through generations in Lamongan in addition to the process of learning to mix so that traditional medicine processing can be modified by herbal medicine business actors in Lamongan. Problems that also often arise in applying IPR protection to traditional healing knowledge include that traditional knowledge is created by communal communities while science and technology are developed by individuals, research teams, or entrepreneurs employed by companies (Nainggolan et al., 2022).

Traditional knowledge is validated by the use of knowledge in communal society, while scientific knowledge is validated by peer evaluation, and technology by its use and success in the marketplace. There are no formal reward mechanisms in traditional systems, whereas the reputation conferred by first discoveries is the dominant means of reward in science and the use of rent in technological systems (Correia et al., 2024). In an anthropological approach, it can be seen that there are various cultures that explain
various processes of healing diseases. A person can choose to determine how he chooses a healing model for himself (Prasetyo et al., 2020). The protection of traditional knowledge regarding traditional medicines as a treasure of Indonesia's medicinal wealth is very important, it is necessary to think about creating a law that regulates this protection (Ayu & Wiryawan, 2019). Dwi Martini et. al said that the IPR regime is very individualistic, while ownership of traditional knowledge, especially traditional medicines, is shared ownership (collective ownership) (Kurnianingrum, 2018).

4.2 SETTLEMENT OF INTELLECTUAL PROPERTY RIGHTS DISPUTES ON TRADITIONAL MEDICINE KNOWLEDGE IN LAMONGAN REGENCY

Resolving various disputes not only using court facilities but also using other methods such as mediation actually shows a form of legal pluralism (Al-Ali & Tas, 2021). Legal pluralism is a manifestation of the various complexities of tribes and ethnicities living together (Kings & Druce, 2020). According to Laura Nader and Todd, dispute resolution in various traditional cultures can be classified into several forms (Syarifuddin, 2019): First, lumping it (let). The act of allowing is an action taken by a person when he sees that the solution carried out through state apparatus will result in losses that are greater than the profits obtained. Second avoidance (evasive). In this case, the party who feels disadvantaged from the start does not want to deal with the party who is causing harm. Third, coercion (violence). The use of violence is carried out to solve problems and will end when one party is defeated by another stronger party.

Fourth, negotiation (negotiation). Negotiation is a way of resolving disputes where each party meets to find a solution to the problem without involving a third party. Fifth mediation (mediation). In mediation the parties meet by involving a third party as a mediator to resolve the problem. Sixth, arbitration (arbitration). In arbitration, the parties involve an arbitrator and resolve the dispute through a win-win solution. Seventh, adjudication (Justice). The parties submit their dispute resolution through court, and the results are decided based on win-lose (win-lose). In essence, this choice of dispute resolution for a legal researcher shows that law must be seen from a very broad perspective, it is not just a matter of legal norms, but is also related to cultural and economic values (Syarifuddin, 2019).
Protection of Intellectual Property Rights for herbal medicine products that are not registered under brand rights and geographical indications, patent rights or brand rights is an interesting topic to discuss. This is because when a trademark dispute over the ownership of herbal medicine, as well as trade secrets regarding the composition of the ingredients in herbal medicine happens, the public cannot be protected by intellectual property rights law. In this case, the community has the idea of protecting their traditional knowledge. Several things have happened and caused disputes, especially the trademarks used by each traditional herbal medicine business actor. Ar explains (Wasitaatmadja, 2020b). “If I ever experience this, I choose to talk nicely with the people who use my herbal medicine. However, I'm sure that luck has already been arranged, it seems a bit naive.”

Ar stated that there had been parties who used his herbal medicine trademark without his permission, and he preferred to resolve this through a friendly dialogue process. The interesting thing he said was that he refused to use the courts as a dispute resolution process because this was related to the issue of sustenance which had been arranged by God. Another explanation was expressed by Fath (Wasitaatmadja, 2020c). "Brand issues are not a problem among traditional medicinal plant businesses, each healer already knows whose brand this is and will not dare to use a brand that is not theirs. Moreover, everyone who seeks treatment from me or other healers is generally only suitable for traditional healers. Our method of treatment is to give medicine according to the patient's body condition, so not all traditional medicines can be given to everyone. Both have the same disease, but the treatment is definitely different because each patient's body condition is different. So selling products is not easy for everyone to use my products. "Every doctor already knows that he can't use my medicine, he can't copy it, including copying my brand."

Fath, as a certified traditional healer, explained that there are difficulties for other healers who are also certified to imitate other brands of medicine. Medicinal plants produced by traditional medicine makers have their own distinct characteristics. Fath further explained. “Our fellow certified traditional medicine makers from the health service both have the same knowledge and learn from the same teacher. But in practice, every traditional medicine compounder has their own way of dealing with patients in practice, so each medicine compounder will have their own experience. This experience allows each herbalist to gain additional knowledge to improve their mixing abilities, and
each herbalist's experience is different. "So stealing knowledge from each other would be very difficult, each traditional medicine maker has his own character and knowledge when he enters the field."

Based on Fath's statement, violating brand rights or trade secrets in the form of stealing each other's knowledge of concocting traditional medicine is quite difficult. Every traditional medicine compounder has his or her own knowledge that differentiates one compounder from another. Each has its own character which is manifested in the brand symbol, and the secrets of compounding medicine from one compounder to another will be very different. Hence, stealing each other's secret medicine-mixing techniques is difficult, considering the different scientific characteristics of each compounder. Each compounder has his own characteristics of medicine which means that some of them will be reluctant to imitate the knowledge of other compounders. They prefer to improve their abilities through deepening their dispensing knowledge and experience in treating patients. The certified medicine makers are members of P-ASPETRI (Association of Members of All Indonesian Traditional Herbal Medicines). The reluctance to register a trademark is also caused by the costs it must incur. Fath explains (Wasitaatmadja, 2020c). "The cost of registering our medicines with BPOM is already quite expensive, especially if you add in having to register our product brand. Meanwhile, the rates we charge to patients are cheap and not expensive. "So I'm still thinking about costs, while waiting for a promise from the District Health Service which will provide convenience in registration costs and administration, and besides, there are rarely any conflicts regarding knowledge and brands, we both know."

Kas explains the dispute resolution that will be carried out if someone commits a violation (Wasitaatmadja, 2020d). "Yes, of course we can leave that alone, all herbal medicine knowledge is actually the same and everyone must understand how to make herbal medicine. However, many herbal medicine makers often have additional secret recipes. It is also difficult to try to imitate the taste of herbal medicine made by someone, it is not very easy to imitate." Limited knowledge regarding the registration process, as well as the complexity of the IPR registration process for Lamongan traditional herbal medicine entrepreneurs, which are generally home-based herbal medicine businesses, makes them reluctant to register their trademarks, as well as record trade secret licenses in the form of secret recipe ingredients that are generally held for generations. This will also be closely related to resolving disputes that arise, if there are parties who try to imitate
or even steal secret recipes or trademarks, both of which are not registered. Dispute resolution through adjudication or court institutions is something that is avoided by traditional herbal medicine businesses in Lamongan Regency.

Dispute resolution through court will require the parties to prove through registered trademarks as well as the complexity of the court process which is not understood by traditional herbal medicine businesses in Lamongan. According to Laura Nader, each cultural group will present several options for resolving disputes in court, whether through negotiation, violence or the judicial process. Of the four respondents from traditional herbal medicine businesses who were interviewed as respondents, none of them chose resolve disputes by taking the matter to the court.

Ar uses a negotiation process, namely inviting a good conversation with the party who has used the herbal medicine trademark. Fath prefers to use a letting approach (lumping it), he did this because every herbal medicine business actor has his own knowledge and it is so difficult to copy each other. In the settlement process described by Fath, it appears that each social unit has its own norms and methods (self-regulation) in resolving every problem and dispute faced. This can also be seen from the method chosen by Kas in terms of secret recipes and brands. Each party will be difficult to imitate because it has its own taste as a unique character of the herbal medicine that has been processed.

5 CONCLUSION

The conclusions resulting from research on the legal culture of intellectual property rights of traditional herbal medicine businesses are:

1. That in protecting intellectual property over traditional knowledge of herbal medicine as traditional medicine, it shows a strong legal cultural concept with its own dispute resolution mechanism. The existence of a statutory regulation regarding trademark rights in Law No. 20 of 2016 concerning Marks and Geographical Indications and trade secrets in Law No. 30 of 2000 concerning Trade Secrets in the intellectual property protection regime does not make them register a mark or register a license trade secret recipe. They have their own model of legal protection in the form of different flavors that cannot be imitated by other business actors, which further protects their herbal medicine business. Apart from that, not opening branches through licensing agreements with third parties is an
effort to protect the herbal medicine secrets they have passed down through generations;

2. Second, the dispute resolution process that occurs between traditional herbal medicine business actors in Lamongan Regency shows a process of moving away from dispute resolution mechanisms through the courts. The choice is to negotiate or let go (lumping it) they prefer because of several obstacles they face, starting from the religious belief that everything is the will of God who regulates every human being's sustenance, to the differentiation process which makes it difficult for people to imitate, becoming a way to resolve disputes between traditional herbal medicine businesses in Lamongan Regency.
REFERENCES


