

# Enhancing domestic product competitiveness through electronic intellectual property in Indonesia: a comparison to China, Malaysia, and Thailand



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## Abstract

*The urgency of the protection of domestic products in supporting economic value and increasing market competitiveness plays a large role in the registration of intellectual property rights (E-IPR). The existence of intellectual property in providing legal security for domestic products was essential for its certainty and safety. This should be done as a precaution in anticipation of unhealthy business rivalries and a minimizing of counterfeit products in the market. The methods used in supporting this study through normative research using a constitutional and case approach. Additionally, it sustained the legal source from primary and secondary data and was analyzed using descriptive analysis methods. The purpose of research is to determine the extent to which intellectual property rights protection has played in supporting the success of domestic products in the market. In view of the high presence of domestic products, intellectual property rights registration is required by governments and stakeholders through the creation of domestic products to ensure early legal awareness of the resulting creativity needed to protect them by intellectual property. The implementation of intellectual property e-rights (E-IPR) is part of the economic laws of development because it includes efforts to enhance and develop domestic products and thus protect the state, improve the competitive power of the product, and create social welfare.*

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## 1. Introduction

Access to the openness of international markets is no longer a barrier or partition between various countries in the world. The opportunity for each country to be able to compete fairly in the international market is something that has been around for a long time because now the era is different, namely the new era and the digital era. Market competition between countries has now become commonplace because each country has been able to submit all superior products or those produced to be traded on the international market. The

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variety of products produced is also very diverse, with various creations or innovations produced by business actors in each country.<sup>1</sup>

In principle, the existence of a global market is one of the great opportunities for a country but also a challenge for the country, so whether or not each country is ready, they must immediately adapt properly. This opportunity is actually not only for large business actors in the region but also for small and medium business actors.<sup>2</sup> However, this condition cannot be implemented properly, considering there are still many limitations for regional small and medium enterprises in enlivening the global market.<sup>3</sup> Even though in terms of fulfilling potential, there is another side that small and medium business actors must consider in participating in business competition on an international scale. The challenges faced by these small and medium enterprises are very diverse, not only from internal factors but also external. So, this condition fully shows that the involvement of small and medium enterprises in the global market is still immature.<sup>4</sup>

One of the obstacles that has hindered small and medium businesses so far in contributing to enlivening the global market is that there are still many products produced that still need to be legally protected by law regarding aspects of business legality. The majority of small and medium enterprises need to fully understand and fully understand the existence and urgency of having a business legality for a product.<sup>5</sup> The focus of the business actors is to make the product as good as possible and sell well by getting as much profit as possible. The understanding to provide a legal umbrella for the products produced still needs to be created, and they cannot fully interpret this in depth. As long as the product produced is in demand by consumers, it is sufficient and complete.<sup>6</sup>

The existence of intellectual property rights actually plays an important role in the long-term sustainability of a business because no matter how good a product is, if it is not registered, it is the same as that product. There is no legal umbrella that guarantees the certainty and safety of the product it produces.<sup>7</sup> The lack of information and understanding

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<sup>1</sup> Kristina Sedyastuti, "Analysis of MSME Empowerment and Increasing Competitiveness in the Global Market," *INOBIIS: Indonesian Journal of Business and Management Innovation* 2, no. 1 (July 31, 2018): 117–127, <https://inobis.org/ojs/index.php/jurnal-inobis/article/view/65>.

<sup>2</sup> Maria Alfons, 'Implementasi Hak Kekayaan Intelektual Dalam Perspektif Negara Hukum', *Legislasi Indonesia*, 14.03 (2017), 1–10.

<sup>3</sup> Rosi Nani Putridewi, 'Karakteristik Perjanjian Jual Beli Medium Term Notes', *Jurnal Hukum Bisnis*, 3.1 (2019), 1–20 <<https://doi.org/10.31090/hukumbisnis.v3i1.829>>.

<sup>4</sup> Alia Bihrajihant Raya and others, 'Challenges, Open Innovation, and Engagement Theory at Craft Smes: Evidence from Indonesian Batik', *Journal of Open Innovation: Technology, Market, and Complexity*, 7.2 (2021), 121 <<https://doi.org/10.3390/joitmc7020121>>.

<sup>5</sup> Fengchun Li, Ting Liang, and Xiang Zhou, 'How Does Intellectual Property Protection in the Host Country Affect Outward Foreign Direct Investment?', *Research in International Business and Finance*, 58 (2021), 101476 <<https://doi.org/https://doi.org/10.1016/j.ribaf.2021.101476>>.

<sup>6</sup> Cicik Harini and Yulianeu Yulianeu, "Semarang MSME Market Penetration Strategy Facing the MEA Global Market Era," *Journal of Economics and Business* 21, no. 2 (December 17, 2018): 361–381, <http://ejournal.uksw.edu/jeb/article/view/1967>.

<sup>7</sup> Li, Liang, and Zhou.

of business actors regarding this matter is one of the reasons why there are still many products produced by business actors so far that still need a legal umbrella. Protection of intellectual property rights can actually use personal or communal ownership.<sup>8</sup> The ownership of these intellectual property rights is based on the ownership of products produced by business actors. For example, the trademark regime, patents or industrial designs can be given protection through personal intellectual property registration.<sup>9</sup>

Another study of the existence of geographic indications in Malaysia was conducted by Pek San Tay in 2019 and has shown that the role of geographical indications is vital to providing legal protection and giving added value to the products produced.<sup>10</sup> Products that get the protection of geographical indications have a distinct value from other products on the market.<sup>11</sup> Furthermore, another study from China by Bradley. Bashaw, the same year, revealed that the role of geographical indications is vital in supporting world trade, although the geographical protection regulations in China have not been well covered.<sup>12</sup> China had two rules used, brand rules and geographical indications, and therefore, resulted in an overlap of less effective rules and implementation.<sup>13</sup> However, the protection of the law should be given in order to meet the legal and economic purposes in China.<sup>14</sup> On the other hand, research from Pawarit Lertdhamtewe in Thailand on the geographical indication shows that the role of protection of agricultural products with geographical indications was able to provide significant significance to his country in both domestic and export markets.<sup>15</sup> This shows that geographic indicators in the economic aspect provide great potential for improving countries and contribute to the increasing incomes of territory in the region.<sup>16</sup>

The development of a personal intellectual property regime is more advanced and faster

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<sup>8</sup> Ofra Bazel-Shoham and others, 'IP Protection and Ownership in Cross-Border Acquisitions', *International Business Review*, 32.3 (2023), 102101 <<https://doi.org/10.1016/j.ibusrev.2023.102101>>.

<sup>9</sup> Daud Rismana and Hariyanto, "LEGAL PROTECTION OF INTELLECTUAL PROPERTY RIGHTS: WHAT IS URGENCY FOR THE BUSINESS WORLD?," *IUS Journal of Law and Justice Studies* 9, no. 1 (2021): 96–111, <https://jurnalius.ac.id/ojs/index.php/jurnalIUS/article/view/818>.

<sup>10</sup> Pek San Tay, 'The Protection of Geographical Indications in Malaysia', *Journal of Malaysian and Comparative Law*, 27.16 (2019), 121–46.

<sup>11</sup> Tay Pek San, 'Legal Protection of Geographical Indications as a Means to Foster Social and Economic Development in Malaysia', in *Geographical Indications at the Crossroads of Trade, Development, and Culture* (Cambridge University Press, 2017), pp. 281–304 <<https://doi.org/10.1017/9781316711002.013>>.

<sup>12</sup> Bazel-Shoham and others.

<sup>13</sup> Bradley M Bashaw, *Geographical Indications in China: Why Protect GIS with Both Geographical Indications in China: Why Protect GIS with Both, Comment, Geographical Indications in China: Why Protect GIS with Both Trademark and OAC-Type Legislation?*, 17 *Pac. Rim L & Pol'y*, *Washington International Law Journal*, 2008, xvii.

<sup>14</sup> L I U Jian, 'Protection and Development of Geographical Indication in China', in *Deputy DG, International Cooperation Department, China* (South Africa, 2019), pp. 1–29.

<sup>15</sup> Pawarit Lertdhamtewe, 'The Protection of Geographical Indications in Thailand', *The Journal of World Intellectual Property*, 17.3–4 (2014), 114–28 <<https://doi.org/10.1002/jwip.12023>>.

<sup>16</sup> Chuthaporn Ngokkuen and Ulrike Grote, 'Challenges and Opportunities for Protecting Geographical Indications in Thailand', *Asia-Pacific Development Journal*, 19.2 (2013), 93–123 <<https://doi.org/10.18356/671d744f-en>>.

than communal ownership.<sup>17</sup> In fact, when viewed from the urgency of communal intellectual property, it also plays an important role in supporting global market competition, and the products produced are in the competitiveness of domestic products.<sup>18</sup> Therefore, the existence of communal intellectual property ownership cannot be underestimated, so it needs to be studied and analyzed regarding its existence in providing legal protection and supporting domestic products in global business competition.<sup>19</sup> For this reason, I am interested in studying the correlation of the role of communal intellectual property in supporting the competitiveness of domestic products in the global market.

## 2. Research Method

The method used in this writing uses normative legal research methods with a statutory approach supported by primary and secondary data.<sup>20</sup> In addition, data collection techniques using existing data in the field and legal materials are then processed through a power analysis process using descriptive analysis methods, which are carried out by describing the conditions in the field to be generalized.<sup>21</sup> The legal material used in this study sets the rule of statute no. 20 in 2016 on brands and geographical indications, international treaties, such as the trade-related connections of intellectual property rights (TRIPs) agreement and uses the journal on geographical indications of different countries, such as China, Malaysia and Thailand.

## 3. Results and Discussion

### The Imperative of Enhancing the Competitiveness and Economic Value of Domestic Goods.

In principle, the economic value of a product in the form of services or goods has an important role in producing quality in a product.<sup>22</sup> Producers as product manufacturers are not only limited to making products and then selling them with maximum profit, but on the other hand, some aspects need to be considered, namely the economic value of domestic

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<sup>17</sup> Rian Saputra and others, 'Artificial Intelligence and Intellectual Property Protection in Indonesia and Japan', *Journal of Human Rights, Culture and Legal System*, 3.2 (2023), 210–35 <<https://doi.org/10.53955/jhcls.v3i2.69>>.

<sup>18</sup> Rian Saputra, 'Development of Creative Industries as Regional Leaders in National Tourism Efforts Based on Geographical Indications', *Bestuur*, 8.2 (2020), 121–28 <<https://doi.org/10.20961/bestuur.43139>>.

<sup>19</sup> Pandu Laksono and others, 'Farmers' Willingness to Adopt Geographical Indication Practice in Indonesia: A Psycho Behavioral Analysis', *Heliyon*, 8.8 (2022), e10178 <<https://doi.org/https://doi.org/10.1016/j.heliyon.2022.e10178>>.

<sup>20</sup> Bambang Sugeng Rukumono and others, 'Arrangement Registration Of Geographical Indications Of Traditional Alcoholic Beverages In Indonesia Based Multiculturalism', *Revista de Gestão Social e Ambiental*, 17.6 (2023), 1–14 <<https://doi.org/10.24857/rgsa.v17n6-001>>.

<sup>21</sup> I made pasek Diantha, *Normative Legal Research Methods in Justification of Legal Theory*, ed. Winatsari, I. (Jakarta: PT Interfajar Pramatama Mandiri, 2016).

<sup>22</sup> Rian Saputra, Pujiyono, and Sunny Ummul Firdaus, 'Inhibiting Factors Inventorying and Mapping Potential Geographical Indications in Riau Province', *Proceedings of the International Conference on Environmental and Energy Policy (ICEEP 2021)*, 583.Iceep (2021), 146–51 <<https://doi.org/10.2991/assehr.k.211014.032>>.

products.<sup>23</sup> The economic value of a product is a measure of the selling power of goods or services that can provide benefits for product makers or producers.<sup>24</sup> This needs to be underlined that products are not only selling well in the market by obtaining high profits but there are consumers as product users who also need to be considered. Products are said to be worth selling when the goods or services are able to meet market needs and meet consumer demand enough for manufacturers. But in producing a product, other aspects that affect the existence of the product in the market must also be considered.<sup>25</sup>

Value formation in a product can be done in various ways as an initial step in the product introduction process on the market.<sup>26</sup> The value of a product often called the value of the product, is the most effective and efficient weapon in seizing the target market in the field. Building the value of the product can be done in various ways by taking into account the elements below: 1. Product quality, a measure of consumer perception of the performance, reliability, conformance and features of a product; 2. Brand values as a measure of consumer perception of prestige and product quality assurance that avoids product similarities; 3. Service quality as a measure of consumer perception is based on the company's ability to deliver products, willingness to help, responsiveness, timeliness and customer expectations.<sup>27</sup>

As long as the three elements above are fulfilled, indirectly, the value of the product will be created by itself, along with the inclusion of these elements in the resulting product.<sup>28</sup> So far, the application of such elements has yet to receive much attention from business actors for domestic products in the regions, given the various problems and constraints that make regional business actors not pay attention to this and are limited to making according to market needs and demand without looking at the economic value obtained.<sup>29</sup> It cannot be denied that in the field, various cases and problems are very diverse, so to pay attention to

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<sup>23</sup> Sigit Nugroho, "Protection of Intellectual Property Rights in Efforts to Increase Economic Development in the Era of the Asean Free Market," *Law Supremacy: Journal of Legal Research* 24, no. 2 (2017): 164–178.

<sup>24</sup> Panpan Zheng, Zhen Li, and Ziyin Zhuang, 'The Impact of Judicial Protection of Intellectual Property on Digital Innovation: Evidence from China', *Finance Research Letters*, 58 (2023), 104257 <<https://doi.org/https://doi.org/10.1016/j.frl.2023.104257>>.

<sup>25</sup> Yijun Tian, 'Intellectual Property (IP) Protection versus IP Abuses: The Recent Development of Chinese IP Abuse Rules and Recommendations for Foreign Technology-Driven Companies', *Computer Law & Security Review*, 25.4 (2009), 352–66 <<https://doi.org/https://doi.org/10.1016/j.clsr.2009.05.005>>.

<sup>26</sup> Fabrizio De Filippis and others, "The International Trade Impacts of Geographical Indications: Hype or Hope?", *Food Policy*, 112 (2022), 102371 <<https://doi.org/https://doi.org/10.1016/j.foodpol.2022.102371>>.

<sup>27</sup> Mahir Pradana and Avian Reventiary, "THE EFFECT OF PRODUCT ATTRIBUTES ON THE PURCHASE DECISIONS OF CUSTOMADE BRAND SHOES (STUDY IN CUSTOMADE INDONESIA TRADEMARKS)," *Management Journal* 6, no. 1 (September 30, 2016), <http://jurnalfe.ustjogja.ac.id/index.php/manajemen/article/view/196>.

<sup>28</sup> Yuyang Xian, Guilin Liu, and Liming Zhong, 'Will Citrus Geographical Indications Face Different Climate Change Challenges in China?', *Journal of Cleaner Production*, 356 (2022), 131885 <<https://doi.org/https://doi.org/10.1016/j.jclepro.2022.131885>>.

<sup>29</sup> Mingwei Xu and others, 'Minimum Protection Cost Tree: A Tunnel-Based IP Fast Reroute Scheme', *Computer Communications*, 35.17 (2012), 2082–92 <<https://doi.org/https://doi.org/10.1016/j.comcom.2012.06.010>>.

these things is still felt far away, and the urgency is considered insignificant compared to others.

But if you look at the conditions so far, business actors or producers produce a variety of products according to market needs that are adjusted to existing market demand.<sup>30</sup> There are semi-finished products, finished goods and raw goods that can be produced by the creations of business actors independently or in groups. The output that they expect is limited to work by obtaining high profits without referring to the economic value obtained from the products that have been made. Understanding of the essence of economic value so far still needs to be improved and attractive to business actors or producers directly.<sup>31</sup> Most of them only focus on the profit earned but do not pay attention to the conditions that exist in the products that have been produced. In principle, the formation of the economic value of a product is not only limited to the three elements consisting of product value, brand value and service quality.<sup>32</sup> In addition, this can be done by providing or developing a value of a product from the three sides.

One example that can be developed from the elements above is brand value. The role of brand value itself in increasing economic value and product competitiveness can be through providing forms of legal protection for products produced through business legality.<sup>33</sup> In fact, this is considered simple, but the urgency is enormous because no matter how good a product is, if it does not have official business legality, consumers will not look at it, and the product's lifespan will not be long compared to products that have clear and official business legality.<sup>34</sup> Through the legality of the business, it also provides proof that guarantees for these products already exist and are recognized, and this is one part of the legal protection for products through intellectual property rights (IPR).

There are several examples of areas that still need to have legality because various factors that have become obstacles in the field have varied so far. One of them is the Tegal district, which held socialization on the importance of the legality of brand-specific businesses for micro, small and medium enterprises (MSMEs) by the Tegal District Office of Industry and Labor.<sup>35</sup> This is done as an effort to build legal awareness and the importance of business legality in protecting domestic products so that it is not only limited to providing legal

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<sup>30</sup> Li, Liang, and Zhou.

<sup>31</sup> Mihaela Daciana Bolos, 'IP Protection and International Trade', *Procedia Economics and Finance*, 3 (2012), 908–13 <[https://doi.org/https://doi.org/10.1016/S2212-5671\(12\)00249-3](https://doi.org/https://doi.org/10.1016/S2212-5671(12)00249-3)>.

<sup>32</sup> Po-Kai Tseng and Wei-Ho Chung, 'Joint Coverage and Link Utilization for Fast IP Local Protection', *Computer Networks*, 56.15 (2012), 3385–3400 <<https://doi.org/https://doi.org/10.1016/j.comnet.2012.06.017>>.

<sup>33</sup> Kenneth J Armour and Peter S Harrison, 'Poisons and Politics – Indigenous Rights and IP Protection', *World Patent Information*, 29.3 (2007), 255–61 <<https://doi.org/https://doi.org/10.1016/j.wpi.2007.02.001>>.

<sup>34</sup> Li, Liang, and Zhou.

<sup>35</sup> Central Java Regional Office, "SOCIALIZATION OF THE IMPORTANCE OF BRAND REGISTRATION FOR MSMEs IN TEGAL REGENCY," Central Java Regional Office, last modified 2019, accessed October 29, 2022, <https://jateng.kemenkumham.go.id/berita-kanwil/berita-upt/4006-socialization-importance-of-brand-registration-for-umkm-in-tegal-regency>.

guarantees but also through legality, and it can be used as a function of product marketing and guaranteeing the quality of goods.<sup>36</sup> Apart from that, Soloraya business actors are also holding virtual expos related to the socialization of the importance of business legality for regional business actors in supporting the success and progress of the products they produce. In carrying out these activities, it is expected that the government will contribute to assist in the ease of obtaining access to business legality.<sup>37</sup> So, this condition shows that the importance of increasing domestic products must be supported and carried out in order to increase the competitiveness of domestic products to foreign markets.

Even so, it cannot be denied that increasing the economic value of a product produced by producers or business actors is important because it has various positive impacts on the continuity of their business. Some of the benefits obtained by increasing the economic value of the product include the following:<sup>38</sup>

### **1. Increase product competitiveness;**

Products produced by producers and business actors, when they have given an increase in the economic value of the product, will directly increase the competitiveness of the product in the market. This, for example, is an increase in brand value in the form of legal protection for products through intellectual property rights (IPR) regimes for individual brands. In accordance with Article 46, paragraph 4 of Law Number 20 of 2016 concerning marks and geographical indications, it states that collective marks are given as a form of support and empowerment for small and medium enterprises.<sup>39</sup> When a product initially does not have a clear brand name and is registered at the Directorate General of Intellectual Property (DJKI), the impact will be very different from when the product has its trademark registered at that office. The users of the product will also be sure and believe that branded products will have high quality and economic value so that the market share will automatically increase and make the competitiveness of products in the market even higher. When competitiveness is high, the scale of product competitiveness will also expand, not only in the area around it but also in various regions and countries.

<sup>36</sup> Jan H Blümel, Frank Tietze, and Rob Phaal, 'Formulating IP Strategies for Service-Intense Business Models: A Roadmapping-Based Approach', *World Patent Information*, 70 (2022), 102132 <<https://doi.org/https://doi.org/10.1016/j.wpi.2022.102132>>.

<sup>37</sup> Hijriyah Al Wakhidah, "Soloraya SMEs Enthusiastically Patent Product Brands, Hoping the Government Gives Convenience," Solopos, last modified 2020, <https://www.solopos.com/umkm-soloraya-antusias-patenkan-merek-product-berharap-government-give-ease-1074556>.

<sup>38</sup> Karlina Sofyarto, "Legal Protection of Intellectual Property Rights over Traditional Knowledge for Obtaining Economic Benefits," *Kanun Journal of Legal Sciences* 20, no. 1 (April 18, 2018): 149–162, <http://jurnal.unsyiah.ac.id/kanun/article/view/9832>.

<sup>39</sup> DPR RI, Law no. 20 of 2016 concerning Brands and Geographical Indications, 2016, <https://peraturan.bpk.go.id/Home/Details/37595/uu-no-20-tahun-2016>.

## **2. Increase brand value on products;**

An increase in the economic value of products can also add value to the products produced, one of which is related to brand value, which can support the quality of products produced in the market. The form of this brand value can be in the form of the legality of intellectual property rights that are registered, such as brands, patents, industrial designs or others. This has a very far-reaching impact on the products produced when they already have a clear and legally valid legal umbrella. This condition will have an extraordinary impact on the safety and guarantee of products produced by business actors or manufacturers because the products have been recognized and have official and valid intellectual property rights (IPR) certification. This condition is also very helpful in product marketing while on the market because with the existence of a brand value, at least it forms a separate and new image so that it gives a different colour in the market. The presence of brand value also has an impact on the number of market segments that have been reached so far, not only locally but can enter various regions that are different from before. Through brand value, it also influences access for promotion to outside markets, which are very wide open and have the potential to enter various segments than before.

## **3. Increase revenue on products;**

In addition to affecting competitiveness, which will increase drastically, and brand value in the market will become more popular, another impact that will affect the increase in the economic value of products is company profit. Because when the product has high competitiveness, and the brand value is well known in various new areas, the impact received on the sustainability of the business being carried out is that the income earned will also increase. This is in line with the changes that occur in the business environment and the increase in the economic value of the product, and the conditions will affect the income, which will increase as well. Then, conditions like this will provide great potential for rapid progress in the company, changes in assets will increase, and the income earned will also increase automatically and in line with the changes in the products produced. In principle, an increase in the competitiveness and economic value of a product will have a rapid impact on a company in the future.

Based on the description above, increasing the economic value of domestic products needs to be done to support the realization of products that are highly competitive in the market on a national and international scale.<sup>40</sup> In principle, product quality is not only assessed from the value of function and aesthetics but also other aspects that play a role, such as business legality and others. Bearing in mind that the business competition in the market is as much as possible, domestic products must also be considered with efforts to increase quality and

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<sup>40</sup> Rukumono and others.



capacity so that they are able to meet market needs and have a long product life so that they can increase sources of income for local business actors in the region.<sup>41</sup>

In addition, there is an extraordinary positive impact with an increase in economic value that is highly competitive in the market. The other side, which is based on economic law, adheres to several economic principles, which include aspects such as the principle of benefit, the principle of fairness and equity, the origin of law, the principle of independence, the principle of finance and others.<sup>42</sup> So, when viewed from the economic principle in terms of benefits, it is very necessary to develop the potential of domestic products to enter foreign markets and have high competitiveness. On the other hand, the principle of a fair and equitable economy is also one of the important points in which the existence of domestic products must be carried out for mutual justice and equity among business actors.<sup>43</sup> Finally, the economic principle of the legal aspect also needs to be implemented in order to provide an umbrella for domestic products so that product safety guarantees are maintained and officially recognized by competitors and the public.<sup>44</sup>

This is when studied from the economic and legal aspects through a theoretical approach. Jeremy Bentham, in this theory, is considered a good deed if it brings benefits to society as a whole or what is known as the greatest happiness of the greatest number.<sup>45</sup> The meaning of the term Jeremy Bentham is the greatest happiness of the greatest number of people. In principle, this approach emphasizes that a good action is capable of having a good impact on society at large.<sup>46</sup> This condition is correlated with the importance of increasing the competitiveness of domestic products by developing the economic value of products through *brand value, product quality and service quality*.

In principle, the benefits obtained by regional local product business actors are not only increasing economic income, competitiveness becomes high for external market segmentation, and domestic products become famous, it can be concluded that this effort has a very large impact on the progress of regional business actors, so it is important to carry out Increasing competitiveness as a form of local product support is very appropriate because it

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<sup>41</sup> Lertdhamtewe.

<sup>42</sup> Elli Ruslina, "Principles of TOGETHERNESS AND FAMILY AS THE BASIS FOR THE DEVELOPMENT OF INDONESIAN ECONOMIC LAW," *Journal of Law Sasana* 5, no. 2 (May 16, 2020): 163–181, <http://ejurnal.ubharajaya.ac.id/index.php/SASANA/article/view/99>.

<sup>43</sup> Cita Yustisia Serfiyani, Iswi Hariyani, and Citi Rahmati Serfiyani, 'Perlindungan Hukum Terhadap Minuman Alkohol Tradisional Khas Indonesia', *Negara Hukum*, 11.2 (2020), 267–87 <<https://jurnal.dpr.go.id/index.php/hukum/article/download/1672/pdf>>.

<sup>44</sup> Hari Sutra Disemadi and Cindy Kang, "Challenges in Upholding Intellectual Property Rights Laws in Creative Economy Development in the Era of the Industrial Revolution 4.0," *Journal of Legal Communications (JKH)* 7, no. 1 (2021): 54.

<sup>45</sup> Murni Murni, "Economic Analysis of the Articles of Business Competition Law in Law Number 5 of 1999," *Legal Arena* 5, no. 1 (2012): 21–30.

<sup>46</sup> Michele Grimaldi, Marco Greco, and Livio Cricelli, 'A Framework of Intellectual Property Protection Strategies and Open Innovation', *Journal of Business Research*, 123 (2021), 156–64 <<https://doi.org/https://doi.org/10.1016/j.jbusres.2020.09.043>>.

has an impact on many people.<sup>47</sup> This does not necessarily affect business actors, but the regions also have an impact on increasing regional per capita income and increasing Unemployment and poverty. Likewise, Jeremy Bentham's approach, in this case, concludes that efforts to increase regional domestic products have a huge impact, not only on the progress or success of local business actors but also on the community and government feel the atmosphere of the positive impact they receive directly, such as Unemployment can be absorbed by increasing the competitiveness of domestic products, which will automatically require a lot of human resources to contribute. This condition indirectly contributes to regional income in the local district/city.<sup>48</sup> So, efforts to increase domestic products need to be supported in order to provide space for regional products so they can go international and have high competitiveness globally.

### **The examination of electronic intellectual property rights (E-IPR) within the framework of economic law**

Electronic registration of intellectual property rights (E-IPR) is a model of legal protection for works of intellectual property findings by humans based on electronics in the process of registering their submissions. This is a form of providing legal protection that is more effective and efficient in the registration process because all people in Indonesia can apply for one-stop registration at the Directorate General of Intellectual Property (DJKI) in accordance with the terms and conditions that apply. The electronic basis is an alternative that allows access to the people of Indonesia to be widely open so that in terms of effectiveness and time efficiency, it is faster than having to register offline at the nearest office.

The current intellectual property rights (IPR) regime in Indonesia is divided into several types of ownership, which consist of personal intellectual property and communal intellectual property.<sup>49</sup> Examples of personal intellectual property are trademarks, patents, industrial designs, trade secrets, layout designs of integrated circuits and others. As for communal intellectual property, there are several varieties, such as geographical indications, traditional knowledge, traditional cultural expressions, and genetic resources. The difference between the two regimes is more in ownership. Namely, personal intellectual property (KIP) is owned by individuals, while communal intellectual property (KIK) must be in the form of a collective group. Clearly, each has different arrangements and characteristics in the intellectual property regime according to the field and type of product to be registered and provide legal protection through the intellectual property rights regime.<sup>50</sup>

<sup>47</sup> Blümel, Tietze, and Phaal.

<sup>48</sup> Armour and Harrison.

<sup>49</sup> Yenny Eta Widyanti, 'The Urgency of Sui Generis Protection of Communal Intellectual Property in Indonesia: A Comparative Study in Philippines', *Juridictie: Jurnal Hukum Dan Syariah*, 13.1 (2022), 1-23 <<https://doi.org/10.18860/j.v13i1.16467>>.

<sup>50</sup> Darwance Darwance, Yokotani Yokotani, and Wenni Anggita, 'Dasar-Dasar Pemikiran Perlindungan Hak Kekayaan Intelektual', *PROGRESIF: Jurnal Hukum*, 15.2 (2020), 193-208 <<https://doi.org/10.33019/progresif.v15i2.1998>>.

Efforts in terms of protecting domestic products can generally be started with a general intellectual property rights (IPR) regime, such as trademarks on products produced by regional business actors. Almost the average regional business actor in producing goods or services is only limited to being sold and sold with sufficient profit. However, related to other aspects that are important in improving product quality have yet to be considered so far. Various issues and problems are very diverse in the field. It is undeniable that business legality is one of the problems that still needs to be paid more attention to and owned by domestic products in the area.<sup>51</sup> Efforts like this through increasing economic value can be emphasized on business legality, reminding the existence and urgency of the legal aspect is very supportive for sustainability in a business. Not only in the short term but also in the long term, it is very helpful in the process of managing business actors in the regions. This step can be used as an effort to increase product competitiveness through the development of economic value in regional domestic products.

In principle, providing business legal protection for local and regional products through increasing economic value in the legal aspect is very important because of the impact and weapons to expand market access to outsiders. E-registration of intellectual property rights (E-IPR) through brands is an effort that is very helpful not only for business continuity but in the existence of products on the market, which will be very influential when domestic products already have official brands so that it will increase the differentiability and attractiveness of domestic products is in accordance with Article 1 of the Law on Trademarks and Geographical Indications.<sup>52</sup> The role of E-registration of intellectual property rights (E-IPR) is also a form of development in increasing the value of a product in the elements of brand value contained in the brand regime. Efforts to develop products on the element of brand value are actually one of the important elements in the development of domestic products because they are related to guaranteeing the quality of existing products. So when a product already has a trademark that is officially registered at the Directorate General of Intellectual Property (DJKI), it will automatically be able to increase competitiveness, and local product income will increase automatically.<sup>53</sup>

On the other hand, the existence of legal protection for domestic products is an effort to provide guarantees and security for domestic products that can sustain competitiveness and generate more income than before. In addition, the brand can also make local and regional products better known by the wider community. This is considering that the essence of protecting intellectual property rights (IPR) through trademarks has several benefits, such as

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<sup>51</sup> V. Selvie Sinaga, "Factors Causing Low Use of Intellectual Property Rights Among Batik Small and Medium Enterprises," *JURNAL LAW IUS QUIA IUSTUM* 21, no. 1 (January 2014): 61–80, <http://journal.uii.ac.id/index.php/IUSTUM/article/view/4545>.

<sup>52</sup> RI, Law no. 20 of 2016 concerning Brands and Geographical Indications.

<sup>53</sup> Nanda Riwanto, "EXISTENCE OF FAMOUS SERVICE MARKS IN NATIONAL AND INTERNATIONAL LAW," *YUSTISIA MERDEKA: Scientific Journal of Law* 6, no. 1 (May 4, 2020), <http://yustisia.unmermadiun.ac.id/index.php/yustisia/article/view/44>.

one of the marketing tools for these domestic products, a means of enhancing and building a reputation for providing guarantees for domestic products and instructions regarding the origin of local, regional products so that the wider community knows them.<sup>54</sup>

In this regard, when viewed from the essence of intellectual property rights as executive and economic rights according to law Number 20 of 2016 Article 5, where the creator or inventor of an intellectual work or invention resulting from human processing is given the right from the state to use brand for a certain period.<sup>55</sup> This economic right is an appropriate reward for creators or inventors to create and discover something new, so incentives need to be given.<sup>56</sup> Given that in today's free market era, intellectual property is an asset for economic growth, which is very important. So when there is a new invention to be given legal protection, one way is through intellectual property rights (IPR) such as trademarks, copyrights or others.

The theory of legal protection for intellectual property rights (IPR) put forward by Robert M. Sherwood consists of several points, such as Recovery Theory, Reward Theory, Incentive Theory, Risk Theory, and Economic Growth Stimulus Theory.<sup>57</sup> The theory of intellectual property rights (IPR) provides the objective that a new invention in the field of intellectual property rights (IPR) must be given legal protection through e-registration of intellectual property rights (E-IPR) at the office of the Directorate General of Intellectual Property (DJKI) as a form of granting guarantee, security and legal certainty. This is important considering that the essence of intellectual property rights (IPR) greatly supports trade in national and international markets.

E-registration of intellectual property rights (E-IPR) is part of the registration process and legal protection income for inventions invented by someone based on the results of human thought processing. The existence of economic rights contained in the essence of intellectual property rights (IPR) in legal protection, based on the theory of intellectual property rights (IPR), can be used as a basis for the importance of registering intellectual property rights (IPR) for regional domestic products. This is related to one of Robert M. Sherwood's theories on aspects of reward theory and incentive theory, which can be used as a basis for the importance of the essence of legal protection through the registration of intellectual property rights (IPR) on brands.

The reward theory emphasizes that the process of discovering a new work is actually not easy, so appreciation must be given to the inventor in the form of support, such as assistance with free trademark registration. On the other hand, in incentive theory, it is also the case that

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<sup>54</sup> Wizna Gania Balqis, "Brand Protection as Intellectual Property Rights: A Study in the City of Semarang, Indonesia," *Journal of Judicial Review* 23, no. 1 (2021): 41.

<sup>55</sup> Republic of Indonesian, Law no. 20 of 2016 concerning Brands and Geographical Indications.

<sup>56</sup> Indirani Wauran-Wicaksono, "Intellectual Property Rights as Objects: Searching for Basic Protection of IPR in Indonesia," *Reflections on Law: Journal of Legal Studies* 9, no. 2 (2015): 133.

<sup>57</sup> Yulia Nizwana and Rahdiansyah Rahdiansyah, "Protection of Intellectual Property Rights (IPR) in terms of Epistemology," *UIR Law Review* 3, no. 2 (2019): 34.

when domestic products have the potential to get legal protection for their inventions, a gift needs to be given as a form of support and appreciation to local business actors for their found products in various ways, such as: providing free tools, mentoring technical matters regarding registration of business legality, guidance or assistance with business licensing free of charge and periodically and others. So, by increasing the competitiveness of domestic products through legal protection of intellectual property rights (IPR), brands can have a tremendous impact in supporting the success of regional domestic products. When correlated with the principle of economic law, it has a positive relationship because it is able to provide benefits, justice for local product actors, and legal certainty for these products. Based on the principle of benefit, the principle of fairness and equality and the principle of law are very in sync with the principle of economic law.<sup>58</sup>

In addition, the existence of e-registration of intellectual property rights (E-IPR) in the perspective of economic law can indirectly be a form of effort to support domestic products in increasing the competitiveness of regional products to the global market. This is bearing in mind that in intellectual property rights (IPR), there are economic rights attached to an invention obtained by an inventor. The exclusive rights received by inventors to obtain economic benefits are very wide and large, so in this case, the existence of e-registration of intellectual property rights (E-IPR) on domestic products can be an effort to maximize the potential of domestic products to be competitive in the international market by obtaining maximum economic benefits.

The above, when correlated with the economics analysis of law approach by Richard Posner, which can be used as an analytical tool in competition law, can also help solve environmental problems related to international trade. In this theory, explaining the role of law must be seen in terms of value, utility and efficiency.<sup>59</sup> Increasing the competitiveness of local and regional products through e-registration of intellectual property rights (E-IPR) can be used as support for existing inventions in domestic products so that they can obtain legal certainty and strong guarantees for these products so that they are useful in helping regional domestic products to obtain an umbrella law and the sale value of the product can increase economically. This condition raises that in terms of the use and value of e-registration of intellectual property rights (IPR), it is able to cover both of these things and has effectiveness and efficiency in efforts to increase competitiveness, economic income and legal protection for domestic products.<sup>60</sup>

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<sup>58</sup> Elli Ruslina, "The Meaning of Article 33 of the 1945 Constitution in the Development of Indonesian Economic Law," *Journal of the Constitution* 9, no. 1 (2012): 49–82.

<sup>59</sup> Emmy Latifah, 'Eksistensi Prinsip-Prinsip Keadilan Dalam Sistem Hukum Perdagangan Internasional', *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)*, 2.1 (2015), 64–85 <<https://doi.org/10.22304/pjih.v2n1.a5>>.

<sup>60</sup> Taufik H. Simatupang, 'Initiating the Concept of Sui Generis of the Legal Protection Asas Lex Specialis of Communal Intellectual Property in the Philosophy of Science Perspective', *Jurnal Penelitian Hukum De Jure*, 22.2 (2019), 243–56 <<https://doi.org/10.30641/dejure.2022.V22.243-256>>.

Similarly, Richard Posner explained that legal experts cannot carry out legal work in the economic approach because this method requires rather complicated calculations. However, the basic use of value, usability and efficiency does not have to be based on complex theory and calculations but can be used in a very simple way. So, it depends on how the jurists use the economic method, whether from an economist's point of view or an ordinary person's.<sup>61</sup> So, the important point in the analysis of Ricardh Posner's approach refers to three aspects: value, utility and efficiency. As long as these aspects are considered to provide good correlation and impact, it shows that the efforts made or taken can provide benefits, justice and clear legal certainty. On the other hand, improvement and development of the economy in Indonesia nationally through regional domestic products.<sup>62</sup>

#### 4. Conclusion

The urgency of increasing regional domestic products needs to be done because it has a big impact on the continuity of business actors, the community and the local government. Based on the theoretical approach, Jeremy Betham concluded that an increase in domestic products was able to produce happiness for many parties in the regions, so these efforts were considered capable of providing something new in supporting domestic products to be competitive to go international. In addition, efforts to e-register intellectual property rights (E-IPR) through trademarks on domestic products, according to Ricardh Posner's approach in the economic law approach, have included and fulfilled the aspects of value, utility and efficiency. Furthermore, the protection of geographical indications could also have another impact, as in other countries, such as China, Malaysia and Thailand. The protection of geographical indications could increase the demand for products in both domestic and export markets. On the other hand, it was able to reduce the amount of unemployment in the region and be able to reduce poverty in the region by protecting geographical law. This suggests that the role of geographical indications in economic aspects is an increased value for the advancement and prosperity of a country.

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<sup>61</sup> Yuliana Diah Warsiki Susi Irianti Diah Warsiki Susi Irianti, 'Perjanjian Benefit Sharing Sebagai Upaya Perlindungan Dan Pemanfaatan Varietas Tanaman', *Rechtidee*, 12.1 (2017), 1  
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<sup>62</sup> Basuki Antariksa, "Philosophical Basis and History of the Development of Intellectual Property Rights Protection: Its Relevance to the Interests of Development in Indonesia," *Journal of Creative Economy* 1, no. 1 (2012): 1-21.

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