

## PERLINDUNGAN MEREK KOLEKTIF SEBAGAI PERWUJUDAN PEMENUHAN HAK KEKAYAAN INTELEKTUAL: PENELITIAN SOSIO-LEGAL KERAJINAN GENTENG GODEAN

Vina Zahida<sup>1</sup> dan Muhammad Rifky Wicaksono<sup>2</sup>

### INTISARI

Penelitian ini bertujuan untuk mengetahui perlindungan hukum merek kolektif dari segi pengaturan yang ada, pelaksanaan merek kolektif genteng Godean di lapangan, dan perbedaan pengaturan (*das sollen*) dengan pelaksanaan (*das sein*) perlindungan merek kolektif Godean ditinjau dari sosio-legal.

Penelitian ini dilaksanakan menggunakan metode sosio-legal dengan melihat segi hukum dan segi sosial yang ada dalam masyarakat. Untuk melaksanakan metode tersebut diperlukan penggabungan dua jenis penelitian yaitu penelitian yuridis dan empiris. Penelitian yuridis dilakukan dengan cara meneliti bahan pustaka yang terdiri atas data primer dan data sekunder. Sedangkan penelitian empiris dilaksanakan dengan wawancara kepada narasumber dan survei dengan cara menyebarkan kuesioner kepada responden. Data dianalisa dengan menggunakan metode deskriptif kualitatif yaitu menyusun kalimat secara sistematis, jelas, dan rinci sehingga dapat diinterpretasikan untuk memperoleh suatu kesimpulan jawaban pokok bahasan permasalahan penelitian ini.

Berdasarkan hasil pembahasan penelitian ini, dapat ditemukan hasil sebagai berikut: **Pertama**, bahwa pengaturan tentang merek kolektif belum banyak ditemukan sehingga selain diatur dalam Undang-Undang Nomor 20 Tahun 2016 tentang Merek dan Indikasi Geografis terdapat persyaratan khusus pembuatan buku ketentuan penggunaan merek kolektif yang disusun berdasarkan kesepakatan anggota pemilik merek kolektif yang dijadikan sebagai pedoman dalam pelaksanaan penggunaan merek kolektif. **Kedua**, dalam pelaksanaan perlindungan merek kolektif genteng Godean ditemukan adanya perbedaan baik antar pengrajin maupun antar sentra. Hal tersebut dikarenakan pelaksanaannya disesuaikan dengan kondisi dan struktur masyarakat pengrajinnya yang dapat dijabarkan dalam segi historis, segi hukum, segi ekonomi, dan segi sosial budaya. Karena dalam pelaksanaannya, keberadaan sosial masyarakat memiliki peran penting terhadap penerapan merek kolektif Godean dimana pemiliknya merupakan masyarakat tradisional. **Ketiga**, ditemukan adanya perbedaan antara pengaturan merek kolektif dengan pelaksanaan perlindungan merek kolektif Godean namun perbedaan tersebut tidak menghilangkan peran positif yang nyata dari penggunaan merek kolektif Godean yang dirasakan oleh pemilik merek kolektif.

**Kata kunci: perlindungan hukum, merek kolektif, genteng Godean**

<sup>1</sup> Penulis, Mahasiswa Fakultas Hukum Universitas Gadjah Mada

<sup>2</sup> Pembimbing, Dosen Fakultas Hukum Universitas Gadjah Mada

## COLLECTIVE MARK PROTECTION AS A FULFILLMENT OF INTELLECTUAL PROPERTY RIGHTS: SOCIO-LEGAL RESEARCH OF GODEAN ROOF TILES

Vina Zahida<sup>1</sup> dan Muhammad Rifky Wicaksono<sup>2</sup>

### ABSTRACT

This research aims to determine the legal protection of collective marks in terms of the regulations, the implementation of Godean roof tile collective marks, and differences in regulation (*das sollen*) with the implementation (*das sein*) of Godean collective marks protection in terms of socio-legal studies.

This research was conducted using the socio-legal method by looking at the legal and social aspects that exist in society. To carry out this method, a merger of two types of research is needed, namely juridical and empirical research. Juridical research carried out by examining library materials consisting of primary data and secondary data. Whereas empirical research was carried out by interviewing informants and surveys by distributing questionnaires to respondents. Data were analyzed using qualitative descriptive methods, which are to arrange sentences systematically, clearly, and in detail so that they can be interpreted to obtain a conclusion answering the subject matter of this research.

Based on the results of this research, the following results can be found. **First**, that regulations regarding collective mark have not yet been found, so that besides being regulated in Law Number 20 of 2016 concerning Trademarks and Geographical Indications, there are special requirements for making books regarding the use of collective mark that are compiled based on agreement of the members of the collective mark owner which is used as a guideline in the implementation of the use of a collective mark. **Second**, in the implementation of Godean roof tile collective mark protection, it was found that there were differences between craftsmen and between centers. That is because the implementation is adjusted to the conditions and structure of the craftsmen's society which can be described in terms of historical, legal, economic, and socio-cultural aspects. Because in the implementation, the social existence of the community has an important role in the implementation of the Godean collective mark in which the owner is a traditional society. **Third**, it is found that there is a difference between the regulation of collective mark and the implementation of Godean collective mark protection, but these differences do not eliminate the real positive role of the use of Godean collective mark that are felt by collective mark owners.

**Keywords: legal protection, collective marks, Godean roof tile**

<sup>1</sup> Author, Student of the Faculty of Law, Gadjah Mada University

<sup>2</sup> Advisor, Lecturer at the Faculty of Law, Gadjah Mada University