



## TRANSFER OF OWNERSHIP OF REGISTERED TRADEMARK RIGHTS BASED ON LAW NUMBER 20 OF 2016 CONCERNING TRADEMARKS AND GEOGRAPHICAL INDICATIONS

**Rehulina**

Harapan Medan University, Indonesia, naflasyakiranasution2014@gmail.com

**Latifah Fauziah**

Harapan Medan University, Indonesia, latifafauziah664@gmail.com

**Salsabila Afina**

Harapan Medan University, Indonesia, salsabilaafina15@gmail.com

### Abstract

Intellectual Property is the result of thought in the form of ideas/concepts manifested in the form of discoveries, works of science, literature and art, designs, certain symbols/signs, creations of semiconductor component layouts, and varieties resulting from breeding. Trademark rights are one of the scopes of intellectual property rights. The object of a brand is a sign, whether writing, images, or a combination of writing and images. Trademarks are regulated in Law Number 20 of 2016 concerning Trademarks and Geographical Indications. Trademarks are part of Intellectual Property Rights. Trademark rights are a form of compensation and encouragement for people to create. The problem is how the procedure for transferring trademark rights exists. This research is normative and classified as qualitative research. This research uses secondary data sources. Transfer of ownership of trademark rights can be done by inheritance, will, waqf, grant, or license agreement. The transfer of trademark rights is based on an authentic deed made by a Notary. Applications for transfer can be made online through the official website of the Directorate General of Intellectual Property Rights by uploading the required documents. This application for the transfer of trademark ownership creates legal certainty and protection for both the original and subsequent owners, based on the legal transfer. Transfers of registered trademark rights must be registered with the Directorate General of Intellectual Property Rights, accompanied by supporting documentation.

**Keywords:** : Transfer of Ownership, Intellectual Property Rights, Brand Rights.

### A. Introduction

Trademark rights are one area of intellectual property rights. Intellectual Property Rights (IPR) are rights that arise from or are the result of human intellectual ability. This definition explains that IPR is

works that arise from human thought. Human intellectual ability in the fields of science, art, literature, or technology is born through creativity, feeling, and will. Intellectual works need to be distinguished from other types of human property that are not obtained



from intellectual resources, so that they are easily understood as intellectual property, distinct from real property.<sup>1</sup>

Intellectual Property (IP) is the result of thought in the form of ideas or concepts that are realized or expressed in the form of inventions, works of science, literature and art, designs, certain symbols/signs, creations of semiconductor component layouts, and varieties of breeding results. These expressions will become a legal product and become attached to an Intellectual Property Right, Intellectual Property Rights (IPR), if processed through applicable procedures and provisions so that it can be said that IPR is a legal product in the form of rights arising from the intellectual property produced.<sup>2</sup>

The objects regulated in IPR are works that arise or are born due to human intellectual abilities. Intellectual Property Rights (IPR) are intended to obtain legal protection for intellectual property owned by an individual, group, or company. Basically, the purpose of holding intellectual property rights is to encourage innovation and creativity in society so that it continues to develop. Definition of intellectual property rights: "Intellectual property rights are exclusive rights granted by the state to creators, inventors, or designers for their creations or discoveries that have commercial value, either directly, automatically or through registration with the relevant agency, as a form of appreciation or recognition of rights that deserve legal protection.<sup>3</sup> For

<sup>1</sup> Yulia, 2015, *Hak Atas Kekayaan Intelektual*, UnimalPress, Sulawesi, hlm. 2.

<sup>2</sup> Mujiyono dan Ferianto, 2017, *Memahami Dan Cara Memperoleh Hak Kekayaan Intelektual*, Sentra KI Universitas Negeri Yogyakarta, Yogyakarta, hlm. 1.

<sup>3</sup> Nanda Dwi Rizkia dan Hardi Fardiansyah, 2022, *Hak Kekayaan Intelektual Suatu Pengantar*, Widina Bhakti Persada Bandung, Bandung, hlm. 10



entrepreneurs, brands can maintain and provide guarantees of quality for the goods and/or services produced and prevent unfair competition from other entrepreneurs who have bad intentions with the intention of piggybacking on their reputation.<sup>4</sup>

A trademark, which is part of Intellectual Property Rights, is a right granted to its owner over an intangible object, in this case a name or logo, to distinguish goods/services from one another. A trademark can prevent unfair business competition; a product or service can be distinguished by its origin, quality, and guarantee of authenticity. The holder or owner of a trademark has the right to trademark protection because the holder of

the trademark rights has made efforts so that the trademark can be used.

The object of a brand is a person's work in the form of a sign, whether written, drawn, or a combination of written and drawn words, created with the aim of distinguishing one product from another of a similar type. Each brand represents a reputation that has moral, material, and commercial value.<sup>5</sup>

Brands have been used for several purposes. First, they serve as a promotional tool, using the name of the manufacturer of the goods or services. Second, they serve as proof that the goods or services sold originate from a specific manufacturer, thus providing evidence in the event of a dispute. Third, they serve as a guarantee of quality from the manufacturer, thereby safeguarding its

<sup>4</sup> Vinska Agitha Hasibuan, O.K. SaidindanTan Kamello, Analisis Yuridis Pengalihan Hak Atas Merek Terdaftar Berdasarkan Pewarisan(Studi Putusan No. 74/PDT.SUS-HKI/MEREK/2023/PN.NIAGA JKT.PST), Jurnal Hukum Lex Generalis. Vol.6. No.4(2025).

<sup>5</sup> Yayuk Sugiarti, 2016. "Perlindungan Merek Bagi Pemegang Hak Merek Ditinjau Dari Undang-Undang Nomor 15 Tahun 2001 Tentang Merek, Jurnal Jendela Hukum Fakultas Hukum Unja, Vol 3, No. 1, hlm. 32.



reputation. The Romans used marks on pottery to distinguish it from other goods.<sup>6</sup>

In Indonesia, regulations related to trademarks are regulated in Law Number 20 of 2016 concerning Trademarks and Geographical Indications. Rahmi Jened states that a trademark, as a sign with distinctive power used for trade, must have the following elements:

1. A sign with distinctive power
2. The sign must be used
3. For the trade of goods and/or services.

A trademark right is obtained when the trademark has been registered. A trademark registration application can also be made for more than one class of goods and/or services by stating the type of goods and/or services. Article 6 (1) of Law Number 20 of 2016

states "an application for more than one class of goods and/or services that will use the trademark. Trademark rights are a form of compensation and encouragement for people to create. When a product with a certain trademark experiences a significant increase in sales, other producers will compete to improve the quality of their goods. This is what is meant by the theory of encouragement, that IPR, especially trademarks, can encourage other producers to work together to obtain higher economic value in their business.<sup>7</sup>

A trademark is part of Intellectual Property Rights (IPR) and is classified as an intangible individual property right. Ridwan Khairandy explains that Intellectual Property Rights (IPR) are legally treated as intangible assets. Because these rights are tangible

<sup>6</sup> Rohaini, 2022, *Pengantar Hukum Kekayaan Intelektual*, Pusaka Media, Bandar Lampung, hlm. 18.

<sup>7</sup> Laina Rafianti, *Perkembangan Hukum Merek di Indonesia*, *Fiat Justitia Jurnal Ilmu Hukum* Volume 7 No. 1 Januari-April 2013



rights in the field of property law, they have a certain monetary value. Therefore, these rights can be transferred. Transfer of rights can be done through sale, inheritance, will, or gift.<sup>8</sup>

### **B. Problem Statement**

Based on the background above, the problem is how to transfer ownership of registered trademark rights in accordance with applicable laws and regulations.

### **C. Research Methods**

Research is the primary means of developing science and technology. This research is normative legal research classified as qualitative. Qualitative research is a research activity aimed at

solving concrete legal problems, such as legal gaps, conflicts, and disputes, and so on, as well as in efforts to develop the legal discipline.<sup>9</sup>

Normative legal research is also called library research or document study. It is called library research or document study because it is primarily conducted on secondary data found in libraries. This research refers to the legal norms contained in laws and regulations governing the transfer of intellectual property rights.<sup>10</sup> The legal sources used in this study are secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include

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<sup>8</sup> Fatah, Abdul, Bima R Waworuntu, Djolly A Sualang, and Marthen L Lambonan, 2022, Pengalihan Hak Merek Berdasarkan Perjanjian (Tinjauan Menurut Hukum Merek Indonesia), *Lex Privatum* Vol. X/No. 1/Jan/2022, hlm. 90

<sup>9</sup> Sigit Supto Nugroho & Anik Tri Haryani, et.al, 2020, *Metodologi Riset Hukum*, Oase Pustaka, Surakarta, hlm.22.

<sup>10</sup> Andiza, Dina, Siti Nurhayati, and Saimara Sebayang, 2023, Pengalihan Hak Cipta Buku Menurut Hukum Waris Perdata Di Indonesia, *INNOVATIVE: Journal of Social Science Research*, Vol 3, No. 5, hlm. 22.



laws and regulations (Law Number 30 of 1999 concerning arbitration and alternative dispute resolution), the Civil Code (KUHPerdata), and Law Number 20 of 2016 concerning Trademarks and Geographical Indications. Secondary legal materials are books related to the title of this study.

#### **D. Research Results and Discussion**

Intellectual property rights are property rights, rights to something that originates from the work of the brain, the work of reason. The result of the work of human reason is reason. On the one hand, that is, on the other hand, there is also the result of emotional work. The results of the work of the heart in an abstract form are known as the feeling of a combination of rational and emotional work that gives birth to a work called intellectual work.

Essentially, brand owners use their brands to identify their products and/or services and differentiate them from competitors. In addition, brands also provide market security, creating an area where the brand owner has a strong position against competitors in the same trading area. These brands.<sup>11</sup>

Law Number 20 of 2016 concerning Trademarks and Geographical Indications regulates the transfer of rights to registered trademarks, as stated in Article 41 paragraph: (1) Rights to registered trademarks may be transferred or assigned due to:

- a. inheritance;
- b. will;
- c. endowment;
- d. gift;

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<sup>11</sup> Rahma Fitri, Abd Razak Musahib, Dkk, 2022, Hak Kekayaan Intelektual, PT. Global Eksekutif Teknologi, Sumatera Barat, hlm. 2.



e. agreement; or  
f. other reasons permitted by statutory provisions.

A trademark as a property right can be transferred, either through inheritance, gift, will, or by means of a notarial deed, or other reasons permitted by law. The transfer of trademark rights can be made to individuals or legal entities. All forms of this transfer must be registered and recorded in the General Register of Trademarks.<sup>12</sup>

### **Inheritance**

Inheritance is the granting of rights by a testator to heirs as recipients of these rights who are related by marriage or blood. The conditions for inheritance as

stipulated in Article 838 of the Civil Code are:

1. The testator must have died.
2. The testator leaves assets.
3. There must be a blood relationship between the testator and the heir.
4. The heir must be eligible to inherit.<sup>13</sup>

Documents required to prove that the heir is eligible to inherit include:

1. Death Certificate from the Civil and Population Registry Office
2. Certificate of Heirship from the sub-district office, notified by the district office.
3. Notarial Deed. A notarial deed, as an authentic deed, has evidentiary value in physical, formal, and material terms.

<sup>12</sup> Kristami Tinenta, 2018. "Pengalihan Hak Atas Merek Terdaftar Menurut Undang-Undang Republik Indonesia Nomor 20 Tahun 2016 Tentang Merek Dan Indikasi Geografis." *Lex Privatum* Vol. 6 No.5.

<sup>13</sup> Rilda Murniati. 2010. "Tinjauan Yuridis Pengalihan Hak Kekayaan Intelektual Berdasarkan Undang-Undang Di Bidang Hak Kekayaan Intelektual." *Fiat Justisia Jurnal Ilmu Hukum* 4 (3).



4. Applications for transfer of rights must be submitted to the Directorate General of Intellectual Property Rights (DJKI) of the Ministry of Law and Human Rights.<sup>14</sup>

### Testament

A will or testament is a deed prepared as proof in the event of the testator's death. Its preparation requires the intervention of an official, often a notary. Article 874 of the Civil Code (BW), which explains the meaning of a will or testament, already contains a requirement that its contents must not conflict with the law. Article 875 of the BW addresses the following:

1. A will is effective after the testator's death.

2. A will may be revoked by the testator at any time or may be amended during the testator's lifetime.

3. The will must be made without any pressure from anyone.

According to Article 874 of the Civil Code, wills can be divided into two types:

a. Wills according to their form (Article 931 of the Civil Code)

1) A holographic will, which is a will entirely written and signed by the testator, drawn up before a notary and witnessed by two witnesses (Article 932 of the Civil Code, paragraphs 1, 2, and 3).

2) A general will, which is a will with a general deed that must be drawn up before a notary in the presence of two

<sup>14</sup> Hendra Widjaya & Nathania Sanchia, 2024, *Perlindungan Hukum Terhadap Ahli Waris Dalam Pengalihan Hak Atas Merek*, Hukumonline.

<https://www.hukumonline.com/berita/a/perlindungan-hukum-terhadap-ahli-waris-dalam-pengalihan-hak-atas-merek-lt66d0ae23c2060/>



witnesses (Article 938/939, paragraph 1 of the Civil Code).

3) A secret (closed) will, which is a will written by the testator himself or another person, signed by the testator in a sealed envelope and submitted to a notary in the presence of four witnesses (Article 940 of the Civil Code).

b. Wills according to their content

1) A will appointing an heir (erfstelling), as regulated in Article 954 of the Civil Code, is a document containing a will in the name of the person making the will (the testator) granting part or all of his or her assets upon his or her death to one or more persons.

2) A will granting a gift (Article 957 of the Civil Code) is a will containing specific provisions, by which the testator

grants one or more specific objects, or all objects of a specific type, to one or more persons.<sup>15</sup>

Based on Article 1 number 1 of Law Number 41 of 2004 concerning Waqf, waqf is a legal act of the waqif to separate and/or hand over part of his property to be used forever or for a certain period of time according to his interests for the purposes of worship and/or general welfare according to Sharia.

In Law Number 20 of 2016 concerning Trademarks and Geographical Indications (MIG Law), trademarks can be transferred through waqf, but the transfer of trademarks through waqf is not specifically regulated. Waqf objects can change ownership. Waqf has a general provision that the benefit of the object is not intended for the recipient. The

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<sup>15</sup> Kitab Undang Undang Hukum Perdata, Pasal 957.



recipient of the waqf manages the waqf object.<sup>16</sup>

Waqf is the transfer of private ownership to the ownership of the Muslim community, the use of which is for the benefit of the community in terms of goodness.<sup>17</sup>

Law no. 41 of 2004 concerning Waqf. Waqf functions to realize the potential and economic benefits of waqf assets for the purposes of worship and to advance public welfare. Intellectual property rights are one of the objects of waqf based on Law no. 41 of 2004 concerning waqf.<sup>18</sup>

### **Grant**

Article 1666 of the Civil Code states, "A grant is an agreement by which

the grantor, during his or her lifetime, freely and irrevocably transfers an object for the benefit of the recipient of the grant. A grant is a unilateral agreement made free of charge. This means there is no counter-performance from the recipient. The grant must be executed through a notarial deed. The transfer of trademark rights by gift has the same legal force as the procedures for transferring trademark rights by other means, as stated in Article 41 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications.

Provisions for the transfer of trademark rights by gift:

1. Carried out by the registered trademark holder to another party.

<sup>16</sup> Yustisia, Fasya, and Catharina Ria Budiningsih. 2019. "Pengalihan Hak Merek Melalui Wakaf Berdasarkan Hukum Positif Indonesia dan Prinsip Syariah." *Veritas et Justitia* 5 (2): 329–51. <https://doi.org/10.25123/vej.3616>.

<sup>17</sup> Ulfatussofa Miftah, Wakaf Hak Merek Dalam Sudut Pandang Islam, Maro; Jurnal Ekonomi Syariah dan Bisnis Volume 5, Nomer 2 November 2022.

<sup>18</sup> Juhu Jumena & Mia Siti Sumiati Dewi, Hak Atas Kekayaan Intelektual Sebagai Benda Wakaf, Jurnal Hukum dan Ekonomi Syariah, Vol. 5, No. 2, 2017.



2. The transfer is executed through an authentic deed by a notary.
3. Register the transfer through the dgip.go.id website.
4. Pay the transfer fee.

An agreement is the initial legal basis for the transfer of trademark rights, either in full (assignment) or limited (license). A license is defined as, “*a personal privilege to do some particular act or series of acts.*” This means a form of right to perform one or a series of acts granted by an authorized party in the form of a permit. A license granted by a brand owner (licensor) to a licensee renders the trademark granting legal and legally accountable.

The granting of a license is formalized in a license agreement. A license agreement provides protection to the parties entering into the agreement. Trademarks can be applied for and owned by individuals or legal entities. Registered trademarks can be transferred to other parties.<sup>19</sup>

The granting of a license for the use of a licensed brand can be for some or all types of goods and services, and the validity period of the license may not be longer than the validity period of the registration of the licensed brand, while the area of validity of the license agreement is throughout Indonesia unless this is expressly agreed in the agreement.<sup>20</sup>

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<sup>19</sup> Radhita Widorini, Alifia, and Rahandy Rizki Prananda. 2023. “Wewenang Notaris Dalam Pengalihan Perjanjian Lisensi Merek Melalui Jual Beli.” *Yurispruden: Jurnal Fakultas Hukum*

*Universitas Islam Malang* 6 (2): 258–74. <https://doi.org/10.33474/yur.v6i2.19743>.

<sup>20</sup> Syahriyah Semaun, Perlindungan Hukum Terhadap Merek Perdagangan Barang Dan Jasa, *Jurnal Hukum Diktum*, Volume 14, Nomor 1, Juli 2016: 107 - 123



All of the above methods for transferring trademark rights are regulated in Article 41 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, namely:

1. Transfer of Rights to a Registered Trademark is carried out by submitting an application to the relevant Minister.

2. Complete all required documents, including the trademark certificate and other evidence.

3. The Trademark Transfer Registration Fee is IDR 700,000 per application.

4. Apply for the transfer of trademark rights through the official website: <https://dgip.go.id/menu-utama/merek/pasca-permohonan-merek>.

Provision:

1. Proof of Transfer of Rights
2. Transfer of Rights Form  
(<https://dgip.go.id/unduh/download/f>

ormulir-permohonan- merekam-  
pengalihan-hak-merek-42-2020)

3. Photocopies of the parties' ID cards
4. Copy of the Legal Entity Certificate (if a legal entity)
5. Trademark Certificate
6. License Agreement Statement.

Procedure:

1. Order a billing code at <http://simpaki.dgip.go.id/>
2. Select 'Trademarks and Geographical Indications' under the service type.
3. Select 'Trademark Transfer Registration'.
4. Enter the applicant's and application details (name, full address, email address, and mobile phone number, etc.).



5. Pay the PNBP via ATM/internet banking/mobile banking.<sup>21</sup>

Article 42 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications states:

1. The owner of a registered trademark may grant a license to another party to use the trademark for all or part of the goods and/or services.
2. The license agreement is valid throughout the territory of the Republic of Indonesia, unless otherwise agreed.
3. Registration of the license agreement must be requested from the Minister, subject to a fee.

4. The license agreement is recorded by the Minister and announced in the Official Trademark Gazette..

The concept of transferring/assigning rights allows another party to acquire those rights. The concept of transferring or assigning rights to a trademark is an important topic of discussion because it creates rights and obligations for both the grantor and the grantee of trademark rights. Transfers of rights to a registered trademark must be registered with the Directorate General of Intellectual Property Rights, accompanied by supporting documentation.<sup>22</sup>

If registration is not carried out, the transfer of trademark rights has no legal

<sup>21</sup> Direktorat Jenderal Kekayaan Intelektual, Kementerian Hukum dan HAM R.I., 2024, [www.https://www.dgip.go.id/](https://www.dgip.go.id/)

<sup>22</sup> Fatah, Abdul, Bima R Waworuntu, Djolly A Sualang, and Marthen L Lambonan. 2022.

“Pengalihan Hak Merek Berdasarkan Perjanjian (Tinjauan Menurut Hukum Merek Indonesia), Lex Privatum, Vol. 10, No. 1.



consequences for third parties. This is in accordance with the principle of general legal force against third parties due to registration in a general register.

## E. Conclusion

Trademark rights are one of the scopes of intellectual property rights. Trademarks are used in business activities to differentiate goods and/or services from each other. Trademark rights are property rights to intangible movable objects. These trademark rights can be transferred to other parties. The procedures for transferring trademark rights are as follows: inheritance, will, waqf, gift, agreement, or other reasons permitted by statutory provisions. All forms of trademark transfer above must be based on an authentic deed by a notary. If the completeness is met, the transfer application will be made online through the official website of the Ministry of Law and Human Rights.

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#### **4. Legislation**

Civil Code

Law Number 20 of 2016 concerning  
Trademarks and Geographical  
Indications