

## CHAPTER I

### INTRODUCTION

#### A. Context of Study

In the modern era such as today, the variety of inventions in the field of science and technology keeps on progressing. Not only in developed countries for research, but in developing countries also. From these studies, it has found variety of inventions such as software and electronic devices like never before.<sup>1</sup>

Indonesia is an archipelago with many islands and most of its territory is landlocked and has many active volcanoes which resulted Indonesia to have fertile soil and suitable for a wide range of plant varieties. A wide variety of plants that grows in Indonesia have their trademarks. The hallmark of which is owned by the plants are influenced by geographical factors such as soil conditions, rainfall and climate typical of the area. In addition to geographical factors, the diversity of plants in Indonesia is also influenced by the local culture. The presence of characteristic that makes a lot of excellent products regions in Indonesia, especially from plants have a place in the international market.<sup>2</sup>

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<sup>1</sup> <http://repository.fhunla.ac.id/?q=node/34> access on July 29, 2017 at 21.07 WIB

<sup>2</sup> <http://imamhariyanto.com/indikasi-geografis-pelindung-kekayaan-indonesia/> access on August 30, 2017 at 09.46 PM

A geographical indication refers to the geographical area of the country, region or place in order to indicate the origin of a product, produced by a specific quality determined by natural and human factors.<sup>3</sup> It also discusses ‘reputation’, which is similar to the language used in marketing known as ‘Mark’ and can be considered an ‘intangible value. The use of ‘reputation’ in the definition of ‘geographical indication’ refers to a characteristic of the good “essentially attributable to its geographical origin”.<sup>4</sup>

Protection of geographical indications include goods produced by nature, goods of agriculture, handicrafts or certain other industrial products. In Indonesia, the geographical indications is still unfamiliar to most people. The Indonesian society mostly only knows about Copyright, Trademark and Patent, whereas if viewed from the function, the role of Geographical Indications also important with factions other IPR. Geographical indications has a function that can protect producers of the actions undertaken by the foreign party to the detriment of the producers themselves as well as to protect the interests of consumers by avoiding them from counterfeit product activities.<sup>5</sup>

Geographical Indications will help protect Indonesian products from various threats originating from foreign parties. There are many foreign parties outside of

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<sup>3</sup> Ridwan Khairandy, *Pokok-Pokok Hukum Dagang Indonesia*, FH UII Press, Yogyakarta, 2013, p. 450.

<sup>4</sup> Schüßler Lennart, "Protecting 'Single-Origin Coffee' within the Global Coffee Mark et: The Role of Geographical Indications and Trademarks", 2009, p.52

<sup>5</sup> *Ibid*

Indonesia who wishes to spread the potentialities of Geographical Indications in Indonesia in a way that is not allowed. The existence of this is certainly detrimental to the Indonesian people, especially farmers and ultimately foreign parties are benefited. This is proven by the presence of some Indonesian products which are recognized as foreign owned and even becoming a registered trademark of foreign parties. One example is the Gayo Coffee.<sup>6</sup>

Arabica Gayo coffee is coffee that has different characteristics with other coffees in general, which has a hard coffee beans and fragrant, giving rise to a distinctive taste. In addition Gayo is the flagship product of Gayo Highland region, the Province of Aceh and is one of the export commodities that are seeded by Indonesia. Based on the results of the taste test conducted by Christopher Davidson one international cupper, confirmed that Gayo has unique characteristics that are not replaced by other types of coffee. The uniqueness of Gayo coffee is known as "heavy body and light acidity".<sup>7</sup>

Gayo community also has its own way in the process Gayo that cannot be found in any area that is semi-washed processing method (not how wet and dry) and full washed.<sup>8</sup> Both are done for generations. Due to the different characteristic of Gayo from other types of coffees, many foreigners claim to admit Gayo as their company-

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<sup>6</sup> *Ibid*

<sup>7</sup> <http://repository.fhunla.ac.id/?q=node/34> access on August 18, 2017 at 07.43 PM

<sup>8</sup> <http://ekonomi.kompasiana.com/agrobisnis/2012/09/20/kenapa-kopi-gayo-spesial-494598.html> access on August 18, 2017 at 07.48 PM

owned coffee including foreign companies from the Netherlands, namely Holland Coffee.<sup>9</sup>

Holland Coffee Gayo has registered it as a trademark of that company with the registration number CTM No.001242965 which is registered in the Officer for Harmonization in the Internal Market (OHIM).<sup>10</sup> If there are companies or other parties who wishes to market these products, they must first obtain prior permission from the Holland Coffee which is included in terms of whether or not allowed to use the name Gayo including CV Arvis Sanada.<sup>11</sup>

CV Arvis Sanada is one of exporters of Aceh Gayo Arabica coffee that is prohibited from exporting to mainland Europe by using the word of Gayo in its packaging, where in fact the beans are indeed derived from Gayo Aceh. Given this makes CV Arvis Sanada subject to subpoena by the Holland Coffee.

Every products which are produced by a region or area definately have certain advantages which is different one one to another. The more different the product, the more unique and higher of the creativity of a product will be more enticing the buyer and stronger to compete in Nasional and even International.

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<sup>9</sup> Hendra Djaja, “*Perlindungan Indikasi Geografis pada Produk Lokal dalam Sistem Perdagangan Internasional*”, artikel pada Jurnal Cakrawala Hukum, Vol.18, No.2, 2013 p. 141.

<sup>10</sup> *Ibid*

<sup>11</sup><http://imamhariyanto.com/indikasi-geografis-pelindung-kekayaan-indonesia/#more-473> access on August 18, 2017 at 06.58 PM

In addition the specificity of a product can also be the identity of the area, for example the area of Gayo is known as producer of Gayo Arabica coffee which has already reached the international markets. The value of the privilege of an area can be enhanced in the eyes of its customers when a group of area and its members have the exclusive right to use a particular geographical indication.

The geographical factor in a region or a specific area of a country is determining element in shaping the quality, reputation, or certain of the characteristics of the goods to be the protection of geographical indications.<sup>12</sup> As for the sign used as a geographical indication can be either put etiquette or labels on goods produced. The sign referred to can be either a name, place, area or region, words, pictures, or letters. The sense of place name may be derived from the name due to continuous usage so it is known as the name of the place of origin of the goods in question.<sup>13</sup>

A sign protected as a geographical indication is an identity that shows an item comes from a place or a specific area. Therefore, the ownership of the geographical indication is not purely an individualistic. Geographical indications are more communalism owned jointly by the people of a particular region.<sup>14</sup> Like trademarks, geographical indications may add dynamic marketing power and because of

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<sup>12</sup> Muhammad, Djumhana, R Djubaedilah, Hak Milik Intelektual, Sejarah, Teori, dan Praktiknya di Indonesia, Fourt edition, PT Citra Aditya Bakti, Bandung, 2014, p. 244.

<sup>13</sup> Rachmadi, Usman, Hukum Atas hak kekayaan Intelektual: Perlindungan dan Dimensi Hukumnya di Indonesia, PT Alumni, Bandung, 2003, p. 357.

<sup>14</sup> Adrian, Sutedi, Hak Atas Kekayaan Intelektual, Sinar Grafika, 2013, p. 152.

geographical indications jointly owned then they can become a very good tool for regions or for economic development based the community.<sup>15</sup>

When associated with the legal regime of the brand, the function of geographical indications can be interpreted as similar to the collective brand. The difference, in the presence of the treaty presupposed collective brand that makes the rules of oversight (and requirements). In practice, manufacturers often over his own name area origin products in its label. The practices like this are take place in the absence of the rule of informing. To be sure, more of a manufacturer's pride against origins, in other words just based on motives of pride in the area and the image attached.<sup>16</sup>

Protection of geographical indications include agricultural products and food products that are closely related to certain geographical areas. At least one stage of production, processing, or cooking in progress come within geographically. Such notions contained in the EC Council Regulation Number 2081/92, 14 July 1992 on The Protection of Geographical Indication and Designations of Origin for Agricultural Products and Foodstuffs.<sup>17</sup> Protection of geographical indications include goods

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<sup>15</sup> O'Connor Bernard, *The Law of Geographical Indication*, Cameron May Ltd., 2004, p. 28.

<sup>16</sup> Henry, Soelistyo, *Hak Kekayaan Intelektual Konsepsi, Opini, dan Aktualisasi*, Penaku, Jakarta, 2014, p. 102.

<sup>17</sup> European Council Regulation (EEC) Number 2081/92 of July 1992 on the Protection of Geographical Indications of Origin for Agricultural Products and Foodstuffs.

produced by nature, agricultural goods, handicrafts, or other industry results, those things that can be registered and the protection of geographical indications.<sup>18</sup>

In General, courts in Australia try to ensure that one or more people do not monopolize the name of an area or region that can harm other trademark abusers who come from the same area with them. This is due to the geographical name is a real example of brands that do not have the power criterion.<sup>19</sup> In the agreement of TRIPs, it is prohibited to manufacturers to put on the label or mark (or brand) of goods in production, which does not correspond to the geographical indication. Example labelling "Gayo Coffee" for coffee that is not produced in Gayo Highlands.

The prohibition is reaffirmed in Article 22 (2) of the TRIPs agreement which mentioned:<sup>20</sup>

*"Geographical indication are for the purpose of this agreement, indication which identify a good as originating in the territory of the member, or a region or locality in that territory, where a given quality, reputation or other last of the good is essentially attributable to its geographical origin."*

Member State is obligated to provide the legal means for interested parties to prohibit the use in any way for the granting of the mark against goods that give hints

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<sup>18</sup> Muhammad, Djumhana, R Djubaedilah, Hak Milik Intelektual, Sejarah, Teori, dan Praktiknya di Indonesia, Fourt edition, PT Citra Aditya Bakti, Bandung, 2014, p. 243-244

<sup>19</sup> Tim Lisdey BA, Hak Kekayaan dan Intelektual Suatu Pengantar, PT Alumni, Bandung, p. 140

<sup>20</sup> Article 22 (2) TRIPs Agreement

or misleading the public impression that the goods concerned originate from other regions apart from the region of origin of the goods.<sup>21</sup>

The above provisions are intended to prevent actions that may mislead consumers which resulted in more unfair competition.<sup>22</sup> According to article 10 bis of the Paris Convention<sup>23</sup>, namely involve all acts that create Confusion, false dallegation to discredits its competitors, as well as an indication or statement that any act or practice to the contrary with practice in trading activity that honestly considered unfair competition (dishonest practice).<sup>24</sup>

Provisions against the prohibition on the use of a particular geographical indication for use as brand also apply to goods that are produced or come within a certain area or completely in the region of origin of the goods produced, but misleading gives an overview to the public that the goods originate in another territory. For example certain areas outside of America named USA or us, then the regions that produced shoes with U.S. brands. This may mislead consumers as if goods production comes from the United States, even though the meaning is probably "Ari Satya" (without the undermine the role of community groups is to promote small industries).<sup>25</sup>

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<sup>21</sup> OK, Sadikin, *Aspek Hukum Hak Kekayaan Intelektual (Intellectual Property Right)*, PT Rajdjagrafindo Persada, Jakarta, p. 386-387

<sup>22</sup> *Ibid.*

<sup>23</sup> Article 10 bis about Unfair Competition, Paris Convention for the Protection of Industrial Property

<sup>24</sup> O'Connor Bernard, *The Law of Geographical Indication*, Cameron May Ltd., 2004, p. 68.

<sup>25</sup> OK, Sadikin, *Aspek Hukum .... op.cit*, p. 388

However, unlike the case when a particular region or regions is producing a product with materials imported from another region or district, but the process of processing performed by the local community. The work raises a uniqueness for those products, or in other words to fulfil terms both of geographical indications, namely because of the human factor. As the understanding of WIPO in particular TRIPs Article 22 paragraph (1), that the geographical indication is an indication which identifies an item that comes from an area where a quality, reputation or other basic properties of an item is the core element of which is the nature of its geographical origin.

The main purpose of the protection of geographical indications is due to a factor in the economic interests of a particular region or regions that produce a product the goods because the characteristic and the quality has been widely known. If the geographical indication is used by the other party is not entitled, economically can harm the producers who are entitled to wear the geographical indication. Different case with the brand, where the rights to the collective nature of geographical indications, the meaning cannot be owned by individuals. Protection of geographical indications will only be beneficial economically if there is indeed a huge market potential in a product item that is closely related to the area or region where the product item is coming from.<sup>26</sup>

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<sup>26</sup> Imam Sjahputra Tunggal, Heri Herjandono, and Parijo, *Hukum Merek Indonesia*, Harvarindo, 2005, p. 9

Legal protection becomes the point of points that are crucial for the continuation of the development of the product. In the absence of adequate legal protection, not only gives a negative meaning against legal certainty. Further, it will turn off the creativity and innovation that society should continue to be escorted in to create and develop new products. This is where the role of Government as a form of responsibility in carrying out the mandate of welfare could be addressed. A very important sector and new product development is on the local community. Based on these conditions the author encouraged to analyze the law of geographical indications regarding the case involving the Dutch company Holland Coffee and coffee companies or regional origin, Gayo coffee.

## **B. Problem Formulation**

By considering the background written above the author have formulated the problems as follows:

1. Has the registration of Holland Coffee Gayo violated the provisions of Law Number 20 of 2016 about Marks and Geographical Indications and TRIPs Agreement?
2. What kind of legal protection provided by the Indonesian Government to the Gayo coffee registered by Holland Coffee?

## **C. Research Objectives**

1. To determine whether or not the registration of Gayo by Holland Coffee violated the provisions of Law Number 20 of 2016 about Marks and Geographical Indications and TRIPs Agreement.

2. To find out the forms of legal protection granted by the Government of Indonesia to the Gayo Coffee case filed by Holland Coffee.<sup>27</sup>

#### **D. Benefits of Research**

This study is expected to benefit both from the theoretical and practical:

1. From the theoretical side, this study is expected broaden Legal study materials especially the important matters on geographical indication in Indonesia.

2. From the practical side, this study is expected to be an input for the community and employers in running the business, particularly those associated with the mark.

#### **E. Definition of Terms**

In the literature review, researchers will explain the definition of keywords from the title of research and theories related to the title of the study, in order to understand the case.

**Intellectual property rights** is a right possessed by every human being on a product of their thinking either individually or in groups. Intellectual property right refers to the creations of the human mind like inventions, literary and artistic works,

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<sup>27</sup> *Ibid*

and symbols, names, images and designs used in commerce.<sup>28</sup> IPR has a wide variety of translations that have a different understanding among experts. The team will include experts from:

1. Ahmad M. Ramli, according to him IPR is a translation of Intellectual Property Rights which means Intellectual Property Rights as the word indicates the sense of ownership over the right when compared with the word or term wealth. The term holdings more in line with the concept of Indonesian civil law which apply the word belongs on an object that is owned by someone.<sup>29</sup>

2. Ranti Fauza Mayana, according to her IPR is a translation of the Dutch language, namely *Intelectuelle Eigendom* or Intellectual Property Rights derived from English which of two words meaning as a special right of every human being on the fruit thoughts.<sup>30</sup>

IPR can also be interpreted as the right to ownership of the various kinds of works that were born and raised because of an ability of the human intellect in the field of science and technology generated through human reason and intellect.<sup>31</sup>

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<sup>28</sup> The Insitute of company secretaries, Intellectual and Property Rights-Law and Practice, New Delhi, 2014, p. 2

<sup>29</sup> Ahmad M. Ramli, *HAKI (Hak Atas Kepemilikan Intelektual), Teori Dasar Perlindungan Rahasia Dagang, Cetakan Pertama*, Mandar Maju, Bandung, 2000, p. 23.

<sup>30</sup> Ranti Fauza Mayana, *Perlindungan Des B ain Industri Di Indonesia Dalam Era Perdagangan Bebas, Cetakan Pertama*, Grasindo, Jakarta, 2004, p. 11.

<sup>31</sup> Rahmadi Usman, *Hukum Hak Atas Kekayaan Intelektual (Perlindungan dan Dimensi Hukumnya Di Indonesia)*, Alumni, Bandung, 2003, p. 2.

The provisions concerning IPR or by the International Intellectual Property Rights begins with the approval of the Paris Convention in 1883 which has the purpose to protect the rights of inventors over copyrighted works in the industry belongs.<sup>32</sup> After the Paris Convention appeared several conventions such as the Berne Convention behind the approval of an agreement that the TRIPS agreement which the TRIPS agreement was ratified by Indonesia into Act No. 7 of 1994.<sup>33</sup>

IPR or Intellectual Property Rights is divided into seven (7) types.<sup>34</sup> The seventh kind of IPRs, among others:

1. Copyright;
2. Mark;
3. Patents;
4. Layout Designs of Integrated Circuits;
5. Industrial Design;
6. Trade Secret and;
7. Plant Variety Protection.

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<sup>32</sup> *Ibid*, p.9

<sup>33</sup> *Ibid*, p. 17

<sup>34</sup> Muhamad Djumhana dan R. Djubaedillah, *Hak Milik Intelektual: Sejarah, Teori dan Praktiknya di Indonesia, Cetakan Keempat*, Alumni, Bandung, 2014, p. 24

**Copyright** is an exclusive right for the author and the recipient the right to publish or reproduce the creation or giving permission for it to not reduce the restrictions according to the legislation in force.<sup>35</sup> Object creation, while copyright is the subject of copyright is the creator and copyright holder.<sup>36</sup> Holder or owner of the copyright can be the creator or the person who is given the authority or power to be the copyright holder. Besides the heirs of the deceased copyright holder can also be classified as the owner or holder of the copyright.

**Mark** is a sign in the form of images, names, words, letters, numbers, colour composition, or a combination of these elements, having distinguishing features and used in the trading of goods or services.<sup>37</sup> Mark classified into two (2) types, service marks, and trademarks.<sup>38</sup> Mark service marks are used for services traded by one or more persons jointly or used by a legal entity to differentiate between services of one with the other services. Trademark is a Mark used on goods traded by one or more persons jointly or a legal entity to differentiate with other similar items.

**Patent** is an exclusive right granted by the State to the inventor for invention results in the field of technology for a given period to the invention alone or to give permission to others to implement them.<sup>39</sup> The object of the invention or the patent is

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<sup>35</sup> Article 1 Paragraph 1 Law Number 28 of 2014 about Copyright

<sup>36</sup> Rahmadi Usman, *Hukum ... Op.Cit.*, hlm. 114.

<sup>37</sup> Article 1 Paragraph 1 Law Number 20 of 2016 about Marks and Geographical Indications

<sup>38</sup> Ahmadi Miru, *Hukum Merek : Cara Mudah Mempelajari Undang-Undang Merek*, Raja Grafindo Persada, Jakarta, 2005, p. 11.

<sup>39</sup> Article 1 Paragraph 1 Law Number 13 of 2016 about Patent

the subject of the invention while the patent is the inventor or who receive rights from the inventor concerned.<sup>40</sup>

**Layout Designs of Integrated Circuits** is a human form of intellectual work plan which has the form of three dimensions of the various components that interconnect in an integrated circuit.<sup>41</sup> The object of Integrated Circuit Layout Design is the design of integrated circuit layout original (native), while the subject of Integrated Circuit Layout Design is the one that produces the design of Integrated Circuit Layout Design or also called designer.<sup>42</sup>

**Industrial Design** is a creation of shape, configuration or composition of lines or colours, or lines and colours, or a combination thereof in the form of three (3) dimensional or two (2) dimensions that provide aesthetic impression and can be realized in a pattern of three (3) or 2 (two) dimensions and can be used to produce a product, goods, industrial commodity or handicraft.<sup>43</sup> Subject of the industrial design is the designer or the holder of industrial design rights.<sup>44</sup> The object of Industrial Design is a new industrial design and has been registered.<sup>45</sup>

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<sup>40</sup> Rahmadi Usman, *Hukum ... Op.Cit.*, p. 221.

<sup>41</sup> *Ibid*, p. 475

<sup>42</sup> *Ibid*, p. 479

<sup>43</sup> Article 1 Paragraph 1 Law Number 31 of 2000 about Industrial Design.

<sup>44</sup> Muhamad Djumhana dan R. Djubaedillah, *Hak Milik... Op.Cit.*, p. 299.

<sup>45</sup> Rahmadi Usman, *Hukum ... Op.Cit.*, p. 428.

**Trade secret** is information that is not publicly known in the field of technology and / or business and have economic value because it is useful in business activity and kept secret by the owner of Trade Secret itself.<sup>46</sup>

**Plant Variety Protection (PVP)** is a special protection given by the state in this case is represented by the government and implemented by the Plant Variety Protection Office, on plant varieties produced by plant beginner through crop recovery activities.<sup>47</sup>

In addition to the things mentioned above, there is still one more thing related to Intellectual Property Rights or IPR, namely the Geographical Indications. **Geographical indication** is the name of the geographic area of the country, region or place in order to indicate the origin of a product which is produced by the quality and special nature because of natural factors and human factors.<sup>48</sup>

Definition of Geographical Indications Act Number 20 of 2016 Article 1 verse (1) on Marks and Geographical Indications, namely:<sup>49</sup>

*"A sign that shows the area of origin of goods, which is due to the geographical environment including natural factors, human factors, or a combination of both factors, provide specific characteristics and quality of the goods produced."*

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<sup>46</sup> *Ibid*, p. 395-399

<sup>47</sup> Muhamad Djumhana dan R. Djubaedillah, *Hak Milik.... Op.Cit.*, p. 382.

<sup>48</sup> Ridwan Khairandy, *Pokok-Pokok... Loc.Cit.*, p. 450.

<sup>49</sup> Act Number 20 of 2016 Article 1 paragraph (1) on Marks and Geographical Indications

Characteristic or signs and qualities contained in an item to be dominated by signs that are formed due to natural factors. If an item has a sign that is not derived nature then the goods cannot be classified as a geographical indication. Sign in Geographical Indications can be the name of a place , area, region, words, pictures, letters or a combination of these elements and can also be a label or a label attached to the goods produced.<sup>50</sup>

#### **F. Theoretical Review**

The legal basis in the International Geographical Indications is contained in the TRIPS agreement Article 22 to Article 24, whereas the legal basis of Geographical Indications in Indonesia is in Article 56 to Article 57 of Law Number 20 of of 2016 on Marks and Geographical Indications.<sup>51</sup>

The legal protection of Geographical Indications can be granted if the product geographical indication has been registered to the Director General of Intellectual Property Rights. The existence of this registration is important because registration can guarantee the legal certainty of a Geographical Indication products. The term of protection to the product Geographical Indications can take is not limited as long as the quality and / or characteristics on which the protection given there.<sup>52</sup>

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<sup>50</sup> Fandy, “*Aspek Hukum Perlindungan Indikasi Geografis di Indonesia*”, artikel pada Law Review, Fakultas Hukum Universitas Pelita Harapan, Vol. III, No.2, November 2003, p. 32, in *space.library.uph.edu* downloaded on August 23, 2017 at 07.33 PM.

<sup>51</sup> *Ibid.*

<sup>52</sup> *Ibid.*

Geographical Indications terms are still foreign to most people of Indonesia. Not a few people who do not know the scope concerning Geographical Indications.<sup>53</sup> The existence of which is still low knowledge possessed by the community lead to violations of product Geographical Indications Indonesia.<sup>54</sup>

A violation occurs when the Geographical Indications used by certain parties who may be individual or legal entity using the Geographical Indications that have been submitted to the Directorate General of IPR without permission from rights holders registered geographical indication. If at the time before or after the geographical indication has been used by others who are not entitled to register the party may use it for 2 (two) years since a mark that is used is registered as Geographical Indications.<sup>55</sup>

If the offender uses the sign more than 2 years without the consent of the party which holds the rights to the geographical indication, the party holding these rights can solve it through two (2) ways of settlement, i.e. a settlement out of court and settlement through the courts.<sup>56</sup>

Out of court settlement can be made through arbitration or mediation with the help of a mediator, as contained in Article 84 of Law No. 15 of 2001 on Marks. Completion through this pathway has the advantage, which is more effective and

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<sup>53</sup>World Intellectual Property Organizations. Treaties. Geographical Indications. [http://www.wipo.int/geo.indications/en/ip/paris/summary\\_paris.html](http://www.wipo.int/geo.indications/en/ip/paris/summary_paris.html). Access on October 16th, 2017

<sup>54</sup> *Ibid.*

<sup>55</sup> Ahmadi Miru, *Hukum Merek.... Op.Cit.*, p. 76.

<sup>56</sup> <http://www.pn-kotabumi.go.id> access on October 01, 2017 at 10.15 PM

efficient because of time and cost is not so long and not expensive as well depending on the ability of the parties to the dispute.<sup>57</sup>

Settlement through the court there are two (2), namely:<sup>58</sup> civil and criminal. Civil dispute resolution in principle based on tort or breach of contract, in tort claim may include compensation and / or demand so no longer using Geographical Indications. While the lawsuit on the basis of breach of contract claim in the form of fulfilment of achievement.

In Article 69 paragraph (1) of Law No. 15 of 2001 on Marks expressed holders of Geographical Indications can file a lawsuit against the wearer Geographical Indications without rights, in the form of claim for damages and the discontinuation of the use and disposal of labels geographical indication is used unlawfully.<sup>59</sup>

Geographical Indications lawsuit against infringement may be brought by any producer who is entitled to use Geographical Indications, an institution that represents the people and institutions.

## **G. Research Method**

### 1. Focus Research

In preparation of this paper the authors conducted the study with a normative approach method in which the authors to study literature and study documents. In

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<sup>57</sup> *Ibid.*

<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid.*

addition, researchers also analysed the legal materials with descriptive qualitative method. In this paper the authors focus on the study as stated in the formulation of the problem. The focus of the research include:

a. Registration violation Gayo by Holland Coffee under the provisions of Act Number 20 of 2016 on Marks and Geographical Indications.

b. Forms of legal protection granted by the Government of Indonesia to the Gayo were registered by Holland Coffee.

## 2. Legal Materials

a. Primary law materials, such as materials that have a legally binding force as legislation, such as:

1. Law Number 20 of 2016 on Marks and Geographical Indications;

2. Indonesian Civil Code;

b. Secondary law materials, i.e. materials that have no legally binding force, such as draft legislation, literature, journals, internet, as well as the results of previous studies.

c. Tertiary laws material, in the form of the Great Dictionary of Black's Law Dictionary.

## 3. Data Collection Methods

a. In the form of literature by reviewing the literature related to the research, journals, and the results of legal research.

b. Studies document, which examines the various laws and regulations related to the research.

#### 4. Approach

The approach used is a normative approach, the approach from the perspective of the relevant legal form of the legislation which the researchers find answers to the problems that exist researchers used the above approach the researchers used a technique literature and document research.

#### 5. Legal Analysis

Researchers used descriptive qualitative method, i.e. the data that is be gathered, described and linked to the problems examined then analyse and describe the situation in research in order to obtain answers to the problems examined.

### **H. Systematic of Writing**

To better understand the writing system of this thesis, the frame of this thesis is divided into four (4) chapters in which chapter consists of sub-chapters. The chapters are as follows:

#### **Chapter I Introduction**

In this chapter the experts explain about the background of the problem, the formulation of the problem, the purpose of research, literature, research methods, and systematics.

## **Chapter II** Theoretical Framework about Trademark Geographical Indication

In this chapter the researchers describe the general overview of Trademark and Geographical Indication.

**Chapter III** Legal Analysis of Trademark Registration Gayo Coffee Mountain as Geographical Indication Product in Indonesia

In this chapter discusses the graduation of Gayo Coffee registration by Holland Coffee based on Law Number 20 Year 2016 regarding the Marks and Geographical Indications and to know the form of regulations granted by the Government of Indonesia to Gayo Coffee which is registered by Holland Coffee.

## **Chapter IV** Closing

In this chapter the researchers conclude the results of his research and provide problem-related suggestions.

**Bibliography** is a list of references used by the author to support the writing of this material. References used inter alia in the form of books of law, legislation, and news or articles are taken from the internet.