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## LEGAL PROTECTION OF THE NAME OF THE US COOPERATIVE OFFICIAL IDENTITY OF THE LEGAL ENTITY

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### Abstract

This study aims to determine the mechanism for registering the name of a Cooperative as the official identity of a Cooperative legal entity and the limitations of legal protection for the name of a Cooperative in the Indonesian cooperative legal system. The name of the Cooperative is the official identity of a Cooperative legal entity. In the business world, the name of a Cooperative has economic value, because it is able to show the image of the business and influence competitiveness in business. Because of the importance of the name of a Cooperative, it needs legal protection, because there are still names of Cooperatives that are similar and different from the data in the legal entity administration system of the Ministry of Law. This study uses a normative legal approach method, with a statute approach. Legal protection for the name of the Cooperative has not been specifically regulated, such as legal protection for trademark holders in Intellectual Property Rights, so it is necessary to conduct research on legal protection for the name of the Cooperative as the official identity of the legal entity. Based on the results of the study, it is known that legal protection for the name of the Cooperative is given if it has met the material and formal requirements regarding the mechanism for registering the approval of the name of the Cooperative in accordance with laws and regulations. Protection is provided in two ways, namely preventive and repressive. The legal protection given to the owner of a registered Cooperative name is limited to the Cooperative name as the official identity of the legal entity, not as a trademark ownership entity.

**Keywords:** *Legal protection; name of cooperative; cooperative*

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### 1. INTRODUCTION

Cooperatives as a legal entity (rechtspersonen), as defined in Article 9 of Law Number 25 of 1992 concerning Cooperatives (UUK), that Cooperatives have the status of a legal entity after the deed of establishment is ratified by the Government. A legal entity is a body or association that can have rights and carry out actions like a human being, and has its own wealth, can be sued and sued before a judge.<sup>4</sup>The status of a legal entity, however, in the legal field is equated with that of a person.<sup>5</sup>A legal entity is a legal personification (legal fiction), namely an analogy or symbol of something inanimate, which is fictionalized by law as having life like a human being.<sup>6</sup>Therefore, Cooperatives as legal entities can also be called legal subjects, when the law personifies them through regulations in legal regulations, for example Limited Liability Companies, Foundations and Cooperatives. Like people as legal subjects, Legal Entities have names as identification that distinguishes them from other Legal Entities. The name of the Cooperative is the official identity of a legal entity and therefore the existence of the Cooperative as a legal subject can be identified/known by giving the name of the Cooperative. In addition to being an official identity, the name of the Cooperative is used in all aspects of Cooperative activities such as business

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<sup>4</sup> Chaidir Ali, Legal Entity (Bandung: Alumni, 1999).

<sup>5</sup> Tan Thong Kie, Notary Studies and All About Notary Practice (Jakarta: PT Ichtiar Baru Van Hoeve, 2007).

<sup>6</sup> Bachrudin, Notarial Law, Techniques for Making Deeds and Language of Deeds (Bandung: PT. Refika Adi Tama, 2019).

legality,<sup>7</sup>agreements/contracts with other parties and even in carrying out business transactions. The purpose of naming a Cooperative is referred to in Article 4 paragraph (2) of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 14 of 2019 concerning the Ratification of Cooperatives (hereinafter referred to as Permenkumham No. 14 of 2019), namely to provide a specific official identity for each Cooperative that is a legal entity and to avoid misuse of the Cooperative name for interests that conflict with the provisions of laws and regulations. Gustav Radbruch views legal certainty as certainty about the law itself, in the sense that legal certainty is a product/result of law, namely legislation.<sup>8</sup>Therefore, in order to realize legal certainty and legal protection for Cooperative name holders, the state further regulates the procedures for registering the ratification of the Cooperative name, so that the name of the Cooperative that has received approval from the state cannot be used by other Cooperatives. Cooperatives are included in private legal entities where the requirements and procedures for establishing a private legal entity depend on the type of legal entity concerned.<sup>9</sup>As for the establishment of a Cooperative, it refers to the provisions of Law No. 25 of 1992 concerning Cooperatives (UUK).

In business activities, the credibility of the Cooperative is something that must be protected properly, so that the Cooperative can continue to survive in society.<sup>10</sup>Cooperatives that have unique names can help distinguish the Cooperative from other similar business actors. For example, the name of the Cooperative that indicates a certain type of business activity, such as "Savings and Loan Cooperative" or "Consumer Cooperative," where the Savings and Loan Cooperative is a Cooperative that runs a savings and loan business as its sole business, while the Consumer Cooperative is a Cooperative that runs a service business in the field of providing goods for members and the community. The differentiation of the name and type of Cooperative helps the community distinguish and know the main business activities of the Cooperative business.

The development of technology in the digital era has an impact on the speed and transparency of the cooperative name registration process. Before the existence of SABH Cooperatives, the process of establishing a Cooperative was carried out manually through the Cooperative Office. The ratification of the cooperative name took up to three months because it had to go through document verification and field checks. In 2016, the Cooperative Legal Entity Administration System known as SISMINBHKOP was introduced to speed up and simplify the process by using an online platform managed by the Ministry of Cooperatives and Small and Medium Enterprises.<sup>11</sup>This system allows the submission of Cooperative names and approval to be carried out simultaneously. In 2019, the authority to approve Cooperatives including regulations regarding approval of Cooperative names was transferred to the Ministry of Law and Human Rights through the Cooperative Legal Entity Administration System (SABH Koperasi). The SABH Koperasi system ensures faster, more accurate, and more affordable services in the process of approving the name of a Cooperative legal entity. The main challenge that is usually faced in registering a Cooperative name is that the name submitted is often rejected because it is already registered as the name of another Cooperative, so the applicant must propose a new name that has not been registered.

The phenomenon of fraud under the guise of illegal cooperatives has become a serious problem that has eroded public trust in cooperatives. The rise in online fraud using the name "Cooperative" to deceive the public. Cooperatives as a representation of the people's economy, on the other hand, have their image damaged by certain irresponsible individuals. Illegal cooperatives are generally not registered as legal entities and are not registered with the Ministry of Law or the Ministry of Cooperatives. Sometimes they claim that the illegal cooperative is supervised by official agencies such as the OJK and the Cooperative Service. The mode that is often carried out is

<sup>7</sup>Joniono Rahardjo, FX, *Cooperatives (Non-Sharia) in the Perspective of Indonesian Law* (Jakarta: Gramedia Pustaka Utama, 2024).

<sup>8</sup>Zulfahmi Nur, "Justice and Legal Certainty (Reflections on the Study of Legal Philosophy in Imam Syâtibi's Legal Thought)," *Journal of Islamic Studies and Society Misykat Al-Anwar* 6, no. 2 (2023): 247-72, <https://jurnal.umj.ac.id/index.php/MaA16/index>.

<sup>9</sup>Yustinus Cahya Donatha and Dewa Ayu Dian Sawitri, "Cooperatives as Legal Entities and their Accountability in the Use and Management of Cooperative Finances," *Ethics and Law Journal: Business and Notary* 3, no.1 (2025): 1-7, <https://doi.org/10.61292/eljbn>.

<sup>10</sup>Surya Dewi Rustariyuni et al., "Utilization of Digital Technology in Cooperatives in Bali Province during the Covid-19 Pandemic," *Dewantara Journal of Management and Business* 4, no 2 (2021): 153-62, <https://ejournal.stiedewantara.ac.id/index.php/JMD/922>.

<sup>11</sup>Ministry of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia, "Cooperative Legal Entity Service Administration System (Sisminbhkop): Guide for Notaries as Users," (2017):1-45, [https://sisminbhkop.id/downloads/Panduan\\_SISMINBHKOP\\_notaris\\_MEI\\_17.pdf](https://sisminbhkop.id/downloads/Panduan_SISMINBHKOP_notaris_MEI_17.pdf).

by using the name of a well-known or licensed cooperative, using the logo of the Cooperative or the Ministry of Cooperatives, to providing attractive offers<sup>12</sup>.

Referring to the importance of the Cooperative name as the official identity of the Cooperative legal entity and the changes in regulations regarding the registration of approval for the use of the Cooperative name from a conventional system to digitalization, it is deemed necessary to further examine the mechanism for registering the approval of the Cooperative name in accordance with the latest legal regulations as a requirement for fulfilling the formal and material requirements for the ratification of the Cooperative name. In this study, it is also necessary to explore the form of legal protection provided by the state for the name of the Cooperative that has been registered. So that the name of the Cooperative that has been registered and has been ratified by the Ministry of Law and Human Rights will receive legal protection. Legal Protection according to Satjipto Raharjo is providing protection for the human rights (HAM) of people who feel disadvantaged so that they can enjoy all the rights granted by law<sup>13</sup>.

This research discussing the legal protection of the Cooperative name is relatively new, however, there are several other studies that have a correlation or relevance to the topic being studied, including research conducted by Dwi Seno Wijanarko and Slamet Pribadi, entitled "Preventive Legal Protection of Trademarks in Indonesia Based on Law Number 20 of 2016 concerning Trademarks and Geographical Indications".<sup>14</sup>In this journal, it is identified that preventive legal protection of trademarks has the intention to minimize the possibility of violations. The study has a correlation with this study, although on the other hand the object in the study concerns trademarks, while the author concerns the name of the Cooperative. Trademarks and the name of the Cooperative are both given legal protection by the State, only in that study only discussed the legal protection given preventively, while in this study discussed further about the legal protection of the name of the Cooperative, not only preventively, but also repressively.

Next is a research article written by Amalia Andini and Siti Ngainnur Rohmah, entitled "Legal Protection for Cooperative Customers Who Are Not Legal Entities Reviewed from the Consumer Protection Law and Islamic Law; Case Study at the Paguyuban Madinah Cooperative".<sup>15</sup>The article concludes that the Madinah Paguyuban Cooperative has not met the requirements of a Cooperative because it is not yet a legal entity, so there is no legal protection for customers of the Cooperative who are not yet a legal entity. The article is relevant to this study, namely that legal protection for the name of the Cooperative is given if the Cooperative has met the material requirements and formal requirements for approval to use the name of the Cooperative and the Cooperative has the status of a legal entity, while previous research articles do not explain the legal protection for the name of the Cooperative, which is not a legal entity.

The last research as can be referred to in Nursyahid's research, with the title "Legal Protection of Registered Brand Owners for Micro, Small and Medium Enterprises (MSMEs) in West Sumatra".<sup>16</sup>In the journal, it is identified that legal protection for registered trademarks is only granted by the state to trademark owners for a certain period of time, whereas in this study, legal protection for the name of the Cooperative as the official identity of the legal entity is for an unlimited period of time, unless the Cooperative is dissolved.

This research was conducted with the aim of studying and analyzing the name registration mechanism. Cooperatives as the official identity of the legal entity of Cooperatives in Indonesia, so that the material requirements and formal requirements that must be met regarding the registration of the Cooperative name can be known. Then if the mechanism has been described, then an understanding can be obtained regarding the form of legal protection provided by the State to the registered Cooperative name, both preventively and repressively.

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<sup>12</sup>OPD Disperinkopukm Kulon Progo, "Characteristics of Fraud Under the Guise of Cooperatives (Illegal Cooperatives)," Kulon Progo Industry, Cooperatives and SMEs Service, 2022, [https://diskopukm.kulonprogokab.go.id/publikasi/detail/Ciri-ciri%20Penipuan%20Berkedok%20Koperasi%20\(Koperasi%20Illegal\)](https://diskopukm.kulonprogokab.go.id/publikasi/detail/Ciri-ciri%20Penipuan%20Berkedok%20Koperasi%20(Koperasi%20Illegal))

<sup>13</sup>Satjipto Raharjo, Legal Science (Bandung: PT. Citra Aditya Bakti, 2000).

<sup>14</sup>Dwi Seno Wijanarko and Slamet Pribadi, "Preventive Legal Protection of Trademarks in Indonesia Based on Law Number 20 of 2016 concerning Trademarks and Geographical Indications," Logika: Research Journal of Kuningan University 13, no. 02 (2022): 192-201, <https://doi.org/10.25134/logika.v13i02.7178>.

<sup>15</sup>Amalia Andini and Siti Ngainnur Rohmah, "Legal Protection for Cooperative Customers Who Are Not Yet Legal Entities Reviewed from the Consumer Protection Law and Islamic Law: Case Study at the Paguyuban Madinah Cooperative," *MIZAN: Journal of Islamic Law* 6, no. 1 (2022): 61-76, <https://www.jurnalfai-uikabogor.org/index.php/mizan/index>.

<sup>16</sup>Nursyahid, "Legal Protection of Registered Trademark Owners for Micro, Small and Medium Enterprises (MSMEs) in West Sumatra," *Unes Journal of Swara Justisia* 4, no. 1 (2020): 62-73, <https://doi.org/10.31933/ujsj.v4i1.152>.

## **2. METHOD**

This research uses a normative legal approach method with qualitative analysis. The juridical legal research method is a method that uses statutory provisions in collecting data, while the normative method is a method used to find out or recognize whether and how positive law is on a particular problem.<sup>17</sup> The approach used is the statute approach. The statute approach is carried out by examining all laws and regulations related to the registration and ratification of cooperative names including the UUK and Permenkumham No. 14 of 2019. Legal research for practical purposes carried out by legal practitioners absolutely uses the statute approach.<sup>18</sup> This type of research is also called normative legal research or also called doctrinal research. To support it, this research also uses secondary legal materials found in books and legal research journals, which are in line with related research.

## **3. RESULTS AND DISCUSSION**

### **3.1 The mechanism for registering the name of a Cooperative as the official identity of a legal entity in Indonesia.**

The name of the Cooperative is an important element that functions as the official identity of the cooperative's legal entity, which distinguishes the Cooperative from other Cooperatives and legal entities.<sup>19</sup> As a legal subject, the Cooperative legal entity can enter into legal relations and legal acts,<sup>20</sup> so that the name of the Cooperative must reflect the values, goals and business activities of the Cooperative. A strategic and relevant name can build a positive reputation and increase the attractiveness of the Cooperative to its members. Legally, the selection of the Cooperative name must comply with applicable provisions. The name submitted must be unique and not similar to the name of another Cooperative that has been registered. Registration of the Cooperative name can be done electronically by accessing the Cooperative SABH. Regulations regarding the granting and ratification of the Cooperative name are considered important in order to provide legal certainty and legal protection to the holder of the legitimate Cooperative name to avoid legal conflicts.

Review of the mechanism for regulating the registration of Cooperative names as the official identity of a legal entity has an important role to ensure that legal protection for registered Cooperative names can only be realized if the name meets the material and formal requirements set out in applicable regulations. Material requirements relate to the substance or content of the Cooperative name which includes: the name of the Cooperative must contain at least 3 (three) words, after the phrase Cooperative and include the type of Cooperative; use Latin letters; has not been legally used by another Cooperative; does not conflict with public order and/or morality; is not the same or similar to the name of a state institution, government institution, or international institution, unless permission is obtained from the institution; does not consist of numbers or series of numbers, letters or series of letters, which do not form words. Specifically, naming for Cooperatives that carry out certain business activities must add certain phrases in the naming of their Cooperative. For example, Cooperatives engaged in the field of stevedoring labor at the port must include the phrase "TKBM" at the beginning of the Cooperative name. Likewise, for secondary cooperatives, it must end with the abbreviation "(Skd)" and for cooperatives with a multi-party model, the phrase "multi-party" must be included after the word Cooperative and the type of Cooperative.<sup>21</sup> In the provisions of cooperatives in Indonesia, the naming of a Cooperative not only functions as an identity, but also as a form of legal confirmation of the form of business and scope of activities of the Cooperative. Therefore, in every Cooperative name, it is mandatory to include the type of Cooperative as an integral part of the name of the Cooperative's legal entity.

This obligation reflects the main meaning of the Cooperative as a legal subject formed in accordance with its business field. The name of the Cooperative is seen as an inseparable unity between the name of the Cooperative and the element of the type of Cooperative, meaning that the phrase "Mekar Jaya Abadi Consumer Cooperative", for example, must be written in full and consistently in all official documents, deeds of establishment, legal entity ratification, and other permits. The truncation or removal of one element, such as only listing "Mekar Jaya Abadi"

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<sup>17</sup>Dipa Syamsiar Perkasa and Ery Agus Priyono, "Legal Protection of Unregistered Trademarks under Law Number 20 of 2016," *Jurnal Notarius* 7, no. 2 (2024): 2127-42, <https://doi.org/10.14710/nts.v17i3.46316>.

<sup>18</sup> Irwansyah, *Legal Research: Choice of Methods and Practice of Writing Articles*, (Depok: Mirra Buana Media 2023).

<sup>19</sup> Tutwuri Handayani and Yulistya Adi Nugraha, *Exclusive Guide to the Establishment and Amendment of the Articles of Association of Cooperatives as well as the Technical and Online AHU System for Notaries Who Make Cooperative Deeds*, (Jakarta: Tutwuri Handayani, 2024).

<sup>20</sup> Abdul Kadir Muhammad, *Indonesian Civil Law*, (Bandung: PT Citra Aditya Bakti, 2019).

<sup>21</sup> Joniono Rahardjo, FX, *Cooperatives (Non-Sharia) in the Perspective of Indonesian Law* (Jakarta: Gramedia Pustaka Utama, 2024).



without including the type of Cooperative, can cause unclear legal identity and open up potential problems in terms of legality and administration. The affirmation of the obligation to include the type of Cooperative also aims to distinguish Cooperatives from other business entities and strengthen supervision and classification of cooperatives based on their type of business.

Meanwhile, formal requirements related to administration and registration procedures that must be met include: an application for approval of the Cooperative name is submitted to the Minister of Law through the Director General of General Legal Administration by accessing the Cooperative SABH; completing documents related to the application for the Cooperative name such as a power of attorney from the founders or a statement regarding full responsibility for the name of the Cooperative submitted; filling out the Cooperative name application format in the Cooperative SABH; continuing the process of ratifying the Cooperative's deed of establishment within a maximum period of 30 days after the name approval is given. Approval for the use of the Cooperative name is only valid for a period of 30 (thirty) calendar days from the date of approval issued by the Ministry of Law. If within that period the applicant does not continue the process of making the Cooperative's deed of establishment to the NPAK, and does not submit an application for ratification of the Cooperative's legal entity to the Ministry of Law, then the approval will be declared expired. As a result, the Cooperative name that has been approved does not receive legal protection and cannot be used. In order to be able to reuse the expired Cooperative name, the applicant is required to re-submit an application for approval of the Cooperative name to the Ministry of Law.

Regarding the registration of the name of a Cooperative in Indonesia, it is regulated by a number of regulations relating to the establishment of a Cooperative as a legal entity. The UUK is the basic basis for the establishment of a Cooperative which requires the inclusion of the name of the Cooperative in the articles of association of the Cooperative. The determination of the name of the Cooperative is further regulated in Permenkumham Number 14 of 2019, which provides more specific technical guidelines for the implementation of the law. As accompanying regulations, the Regulation of the Minister of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia Number 09 of 2018 concerning the Implementation and Development of Cooperatives (Permenkop No. 9 of 2018) and the Regulation of the Minister of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia Number 8 of 2021 concerning Cooperatives with a Multi-Party Cooperative Model can be referred to. The provisions regarding the submission of names regulated in Permenkop No. 9 of 2018, with the exception of article 8, still apply as long as they do not conflict with Permenkumham No. 14 of 2019.<sup>22</sup>

The initial process of establishing a Cooperative begins with the formation of a preparatory group known as a pre-cooperative. The purpose of forming a pre-cooperative group is to carry out various preparatory activities required in the process of establishing a Cooperative, including fulfilling the required documents for establishment and completing other technical aspects. One of the activities carried out in the pre-cooperative stage is that the founders agree on the name of the Cooperative to be submitted, taking into account its relevance to the type of business, management pattern and model of the Cooperative.

Permenkumham No. 14 of 2019, specifically in Articles 5 to 10, has regulated the procedures and requirements for submitting a Cooperative name. The process of submitting a Cooperative name is carried out through an application to the Ministry of Law and Human Rights of the Republic of Indonesia through the Director General of General Legal Administration. The founders of the Cooperative, namely a group of people who meet the requirements to become members of the Cooperative and declare themselves to be members in the Cooperative establishment meeting, can submit an application for a Cooperative name directly through the SABH Cooperative electronic system. If the founders of the Cooperative are unable to attend or do not understand the system in the SABH Cooperative, they can give written power of attorney to the founder to a Notary. The Notary in question is the Cooperative Deed Making Notary (NPAK), which is different from the position of Notary in general. Notaries who are appointed as NPAK are Notaries who have attended training in the field of cooperatives as evidenced by ownership of an NPAK certificate and have been appointed by the Ministry of Cooperatives. NPAK is understood as a public official appointed according to the Notary's job regulations who is given the authority to make deeds of establishment, deeds of amendment to the articles of association and other deeds related to Cooperative activities.<sup>23</sup> The existence of NPAK is an effort to improve the quality of legal services in the cooperative sector.<sup>24</sup>

<sup>22</sup> Joniono Rahardjo, FX, *Cooperatives (Non-Sharia) in the Perspective of Indonesian Law* (Jakarta: Gramedia Pustaka Utama, 2024).

<sup>23</sup> Brilian Al Azhar Wibowo, "The Role of Notaries in the Deed of Establishment of Cooperatives and the Legal Consequences if the Establishment of Cooperatives Does Not Involve a Notary", Thesis, Islamic University of Indonesia, 2021.

In general, the application for a Cooperative name does not require official documents, simply by submitting the name of the Cooperative and its type to the Notary. Determining the type of Cooperative is influenced by the main business activities of the Cooperative that suit the needs and objectives of its members. The types of cooperatives consist of 1. Service cooperatives is a form of Cooperative whose main activity is providing services to members and the general public; 2. Savings and loan cooperatives are Cooperatives that work in the field of fostering savings from their members, to then be lent back to members who need financial assistance; 3. Marketing cooperatives as Cooperatives that help their members in marketing the products of goods or services produced by their members; 4. Producer cooperatives are Cooperatives whose members do not have their own business entities, but work together in a Cooperative to produce and market goods or services; and 5. Consumer cooperatives are A cooperative that carries out activities for members in order to provide goods or services needed by members.<sup>25</sup> Finally, based on Presidential Instruction (Inpres) Number 9 of 2025 concerning the Acceleration of the Establishment of Red and White Village/Sub-district Cooperatives, a new type of Cooperative was issued, known as the Red and White Cooperative. Meanwhile, the Cooperative model consists of a multi-party Cooperative model and a non-multi-party Cooperative model. Multi-Party Cooperatives are in accordance with the Regulation of the Minister of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia Number 8 of 2021 concerning Cooperatives with a Multi-Party Cooperative Model. Furthermore, the notary will input the data into the Cooperative name submission format in the SABH Cooperative system. However, in the author's opinion, in the process of submitting a Cooperative name, the founder of the Cooperative must submit an official application letter to the notary. The letter must include the granting of power of attorney to the notary to register the name of the Cooperative. This application letter should contain the name of the proposed Cooperative, type of Cooperative, management pattern, Cooperative model, and a statement that the name of the Cooperative ordered meets the specified requirements and the applicant is responsible for this. The existence of this application letter is very important as evidence for the notary, considering that in filling out the Cooperative name submission format, the notary is asked to approve an electronic statement regarding the risks that are the responsibility of the applicant. These risks include, but are not limited to, criminal, civil, and/or administrative sanctions.<sup>26</sup>

To ensure that the name of the Cooperative submitted is not identical to another Cooperative, the SABH Cooperative system will automatically check the conformity of the name with the data contained in the General Legal Administration (AHU) database. When filling in the Cooperative name submission format, the SABH Cooperative system will filter the names that have been registered and display a list of Cooperative names that are similar to the name submitted. This process aims to avoid duplication of names and ensure the uniqueness of the identity of the Cooperative name. The verification and approval process for the name of the Cooperative requested can be approved immediately when filling in the Cooperative name submission format. However, there is a possibility that the Cooperative name submission will be rejected because the name submitted does not meet the requirements in accordance with applicable regulations. The rejection is conveyed electronically by the Minister of Law and Human Rights. If the submission is rejected, the applicant is required to propose a new Cooperative name, ensuring that the name is different from the previous name and in accordance with the requirements set.

The approved Cooperative name is valid for a period of 30 (thirty) days from the date of approval for the use of the name. Regarding the validity period of the Cooperative name approval for 30 (thirty) days from the date of approval, the founders of the Cooperative need to take steps in the form of formulating the Cooperative deed of establishment with a notary, preparing supporting documents for the establishment of the cooperative and then registering the ratification of the Cooperative deed of establishment to the Cooperative SABH system to obtain legal entity ratification from the Minister of Law and Human Rights. Registration of the Cooperative by the founders has an important role to be implemented immediately, to provide legal certainty regarding the status of the Cooperative business entity and legal protection for members.<sup>27</sup> All administrative processes must be completed

<sup>24</sup> Diana, "The Role of Notaries in Making Deeds of Amendment to the Articles of Association of Cooperatives and Their Ratification at the Ministry of Law and Human Rights," *Jurnal Notarius* 2, no. 2 (2023). <https://jurnal.umsu.ac.id/index.php/notarius/article/view/17050>.

<sup>25</sup> Aathifah Fauziyyah et. al., "Types of Cooperatives and Cooperatives as Business Entities," *MUSYTARI: Management Balance, Economics* 3, no. 4 (2023), DOI: 10.8734/mnmae.v1i2.359.

<sup>26</sup> Tutwuri Handayani and Yulistya Adi Nugraha, *Exclusive Guide to the Establishment and Amendment of the Articles of Association of Cooperatives as well as the Technical and Online AHU System for Notaries Who Make Cooperative Deeds*, (Jakarta: Tutwuri Handayani, 2024).

<sup>27</sup> Ridha Wahyuni et al., "Community Assistance in the Abyakta Cooperative Registration Process to Provide Protection for Cooperative Members," *Jurnal Abdimas Indonesia* 3, no. 1 (2023): 111-18. DOI: 10.53769/jai.v3i1.439.

within 30 days, so that the name approval does not expire. If the approved name expires because it is not used within the specified time, the founder must re-submit a new cooperative name application.

The name of a Cooperative that has obtained approval from the Minister of Law and Human Rights will be issued with proof of the Cooperative name order by the Directorate General of General Legal Administration which contains details of the name of the Cooperative, type of cooperative, management pattern, Cooperative model, order date, expiration date, name of the person ordering, telephone number of the person ordering and email of the person ordering. For changes to the name of a Cooperative that already has legal entity status, this can be done through changes to the Cooperative's articles of association. In the changes to the articles of association, the agenda regarding the proposed change to the Cooperative's name must be clearly stated. The decision to change the articles of association of the Cooperative, including changing the name, is made through a member meeting which is the highest decision-making forum in the Cooperative. Before the member meeting discusses changes to the articles of association, the Cooperative management should first submit a request for approval to use the new Cooperative name through the Legal Entity Administration System (SABH). The process of submitting a new name must follow the applicable mechanism, as explained previously. This aims to ensure that the new name submitted meets the requirements and obtains approval before being decided in a member meeting.

### **3.2 Legal Protection of Cooperative Names in the Cooperative Legal System in Indonesia.**

In the business world, the company name has an important economic value, because it can show the image of the business and affect the ability to compete in business. A good image in the minds of customers will create high loyalty so that the company can survive.<sup>28</sup> Company value is also a reflection of the reputation obtained by a company during its activities in a certain period. High company value is the main target for a company, because the better the company value, the greater the interest for investors to establish business cooperation.<sup>29</sup> Cooperatives like companies are important to maintain the reputation of the Cooperative name. Cooperatives as a business entity that prioritizes the welfare of members, must maintain the reputation of the Cooperative name, so that it remains trusted by members, business partners, and the community. A good reputation will increase the credibility of the Cooperative, attract more members, and expand opportunities for cooperation with other parties. Investors are more likely to be interested in companies with well-known names, because they are able to show stability and potential for business growth. On a global scale, even a strong company name can facilitate product expansion and penetration into other regions or countries. Conversely, if the Cooperative has a bad reputation, then the trust of members and business partners can decrease, which has the potential to hinder business growth and sustainability. As an example of a Cooperative that has successfully built its image, namely Kospin Jasa Pekalongan, which has become the Cooperative with the highest asset ownership in Indonesia with an asset value of > 1 trillion rupiah.<sup>30</sup> Due to the importance of a company name, Cooperatives like companies need to get legal protection for the name of the Cooperative itself. The name of the Cooperative that has been registered with the Ministry of Cooperatives and the Ministry of Law gets legal protection in the form of exclusive rights over the name of the Cooperative.

The exclusive rights granted are in the form of special rights owned by certain Cooperatives to use the name of the Cooperative that has been registered as an official identity that can only be used by the Cooperative, so that it cannot be used by other Cooperatives. The purpose of this legal protection is to prevent duplication or use of the same or similar names that can cause confusion and misuse by irresponsible parties in the community or business community. Sanctions for users of the Cooperative name that has been registered, namely the cooperative that is harmed can report to the local Ministry of Cooperatives to file an objection and file a lawsuit through the court.

The theory of legal protection put forward by Soerjono Soekanto states that, in principle, legal protection

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<sup>28</sup>Feti Fatimah Maulyan et al., "The Effect of Service Excellent on Company Image and Customer Loyalty: Theoretical Review," *Journal Ars University* 4, no. 1 (2022): 8-17. <https://doi.org/10.51977/jsm.v4i1.660>.

<sup>29</sup>Ni Putu Irma Aprilawati and Karnila Ali, "The Effect of Profitability and Dividend Policy on the Value of Manufacturing Companies (In Manufacturing Companies Listed on the IDX)," *Journal of Diversification Management* 2, no. 1 (2022): 182-89, <https://scholar.ummetro.ac.id/index.php/diversifikasi/article/view/1205/914>.

<sup>30</sup>Between News, As many as 100 Indonesian Cooperatives Record Accumulated Assets of IDR 66.6 Trillion, edited on February 24, 2021, <https://www.antaranews.com/berita/2016075/sebanyak-100-koperasi-indonesia-catat-akumulasi-aset-Rp666-trillion>.

provided to legal subjects can be in the form of legal instruments.<sup>31</sup> Legal instruments are also defined as a set of rules or laws and institutions that regulate the behavior, rights and obligations of individuals and organizations in a society. So it can be understood that the theory is in line with the rules in the UUK stating that Cooperatives must have a legal and registered name to obtain legal entity approval. While the technical rules are regulated in Permenkumham No. 14 of 2019, so it can be said that if the material requirements and formal requirements of the two regulations have been met, then legal protection for ownership of the Cooperative name can be given. Legal protection can be done in two ways, namely preventive and repressive. Preventive legal protection efforts are a manifestation of protection in the form of legal dispute prevention measures.<sup>32</sup> Protection of the Cooperative name includes supervision of the use of the Cooperative name carried out by the Cooperative Service in the region and the Cooperative itself can find out about it via the website link: <http://nik.depkop.go.id/>. Cooperatives registered with the Ministry of Law and the Ministry of Cooperatives must have complete data listed on the website, such as their legal entity number, legal entity date, address, cooperative registration number (NIK) and Cooperative certificate. On the other hand, the existence of legal regulations related to the Cooperative name registration process uses one-door access, namely the Cooperative SABH system, where in this system it is impossible for the same or similar Cooperative name to be owned by several Cooperatives. If the Cooperative name is indicated to have similarities or similarities with another Cooperative that has been registered, the proposed Cooperative name will be immediately rejected by the system.

Like trademark registration in Indonesia which adopts a trademark registration system with a constitutive system or a first to file system,<sup>33</sup> Cooperatives in registering their names adhere to the same principle where the first applicant submits an application for a Cooperative name, then the Cooperative has the right to receive the name. In the constitutive system, registration of a Cooperative name will only be given to the applicant who first submits an application for registration for approval of the use of a Cooperative name and the state does not accept registration for a Cooperative name that has overall similarities or has similarities with the name of the Cooperative that was submitted first, to another applicant. This system determines the ownership of the Cooperative name is who registers it first and not who uses it first. The applicant who registers the name of the Cooperative is the party entitled to the name of the Cooperative and other parties must respect the rights of the Cooperative name registrant as an absolute right. The constitutive system is considered to provide more legal certainty because as explained above, that in this system the party who registers a Cooperative name is the only party who has the right to the name of the Cooperative. This is in line with the theory of legal certainty conveyed by CST Kansil that legal certainty is interpreted as a condition, provision, provision against something that is certain, the function of law is realized if the law has a fair, certain, and can be carried out with certainty.<sup>34</sup> So, it can be concluded that legal certainty can be realized by law, through legal provisions which are then obeyed by society.

However, on the other hand, this first to file registration system also has weaknesses. The main weakness of this system is the opportunity for the hijacking or hijacking of the Cooperative name, especially for the name of the Cooperative that has not been registered. It is possible that there are registrants with bad intentions who register the name of the Cooperative for criminal acts, especially in Savings and Loan Cooperatives. In this constitutive system, legal protection is based on the first registration with good intentions.

Repressive legal protection is a legal effort made after a violation or legal dispute occurs, with the intention of restoring violated rights, imposing sanctions on the perpetrators of the violation, and restoring the legal condition to its original state. Meanwhile, the form of repressive legal protection can be carried out by the Cooperative management against misuse or use of the Cooperative name by other parties in bad faith, namely through litigation or court efforts and non-litigation efforts or dispute resolution outside the court. Dispute resolution outside the court such as arbitration and alternative dispute resolution such as consultation, negotiation, mediation, conciliation and

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<sup>31</sup>Online Legal Team, "Understanding Legal Protection and Enforcement," Online Law, 2024, <https://www.hukumonline.com/berita/a/mengenal-protection-and-law-enforcement-lt6230577e1a784/>.

<sup>32</sup> Dwi Seno Wijanarko and Slamet Pribadi, "Preventive Legal Protection of Trademarks in Indonesia Based on Law Number 20 of 2016 concerning Trademarks and Geographical Indications," *Logika: Research Journal of Kuningan University* 13, no. 02 (2022): 192-01, <https://doi.org/10.25134/logika.v13i02.7178>.

<sup>33</sup> Dwi Seno Wijanarko and Slamet Pribadi, "Preventive Legal Protection of Trademarks in Indonesia Based on Law Number 20 of 2016 concerning Trademarks and Geographical Indications," *Logika: Research Journal of Kuningan University* 13, no. 02 (2022): 192-01, DOI: <https://doi.org/10.25134/logika.v13i02.7178>.

<sup>34</sup>Dipa Syamsiar Perkasa and Ery Agus Priyono, "Legal Protection of Unregistered Trademarks under Law Number 20 of 2016," *Jurnal Notarius* 7, no. 2 (2024): 2127-42, <https://doi.org/10.14710/nts.v17i3.46316>.



expert assessment.<sup>35</sup> Repressive legal protection functions as a path to resolving disputes that have arisen due to violations.<sup>36</sup> Law enforcement as a manifestation of repressive legal protection,<sup>37</sup> if there is a violation of the misuse of the registered Cooperative name, by an irresponsible party. Misuse of the Cooperative name can occur in its business activities or in products produced by a Cooperative, then the owner of the registered Cooperative name can file a civil lawsuit and a criminal lawsuit. Repressive legal protection is the last form of protection provided through the application of sanctions, such as fines or compensation, if a dispute occurs or a violation has occurred.<sup>38</sup> A civil lawsuit may be filed to request a cessation of all activities or behavior related to the misuse of the Cooperative's name. It is important to understand that the legal protection granted by the state to the owner of a registered Cooperative name is limited to the Cooperative name as the official identity of the legal entity, not as a trademark ownership entity. The right to a brand is an exclusive right stipulated by the state for its owner to be able to use the brand or grant a license to another party to use it.<sup>39</sup> Cooperatives that have registered their names in the SABH Cooperative system are required to register their names as trademarks through the Directorate General of Intellectual Property or abbreviated as DJKI. Registration aims to ensure that the name of the Cooperative as a trademark right is protected and approved by the state as a trademark. If a trademark is not registered, the trademark cannot be protected by the state, which results in the trademark being used by each individual. This is different from the Trademark Law which includes criminal sanctions for trademark violations.<sup>40</sup> However, there are no explicit provisions regarding criminal sanctions for parties who use the name of a Cooperative that has been registered by another party in the UUK.

Legal protection for registered trademarks is given for a period of 10 years and you can request an extension for the same period.<sup>41</sup> The purpose of the time limit is to ensure that the registered trademark is still used on goods/services and/or the goods/services are still being produced and traded. Application for extension of trademark registration period can be done within 6 months before the trademark protection period ends. Unlike trademarks, legal protection for the name of the Cooperative can be given without a time limit or for a certain time according to the agreement of the Cooperative members. The period of protection for the Cooperative name is adjusted to the period of establishment of the Cooperative's legal entity, which is stated in the Cooperative's articles of association. Thus, it can be concluded that legal protection for the Cooperative's name depends on and is attached as long as the Cooperative is still operating. If the Cooperative dissolves itself, then automatically the legal protection for the Cooperative's name also ends.

## 4. CONCLUSION

The name of the Cooperative is an important element that functions as the official identity of the Cooperative legal entity. Therefore, it needs to be regulated, so that it gets legal protection for the owner of the registered Cooperative name. The development of technology in the digitalization era has an impact on the registration process of the Cooperative name from conventional to electronic by accessing the Cooperative SABH system. The mechanism for registering the cooperative name needs to be carried out carefully and precisely, in order to meet the material and formal requirements of the Cooperative name approval by the Ministry of Law. Legal protection for the owner of the registered Cooperative name is in the form of preventive (prevention) and repressive (law enforcement). Protection is given limited to the Cooperative name as the official identity of the Cooperative legal entity, not as a trademark. Cooperatives whose names have been registered in the Cooperative SABH system, so

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<sup>35</sup>Zennia Almaida and Mochammad Najib Imanullah, "Preventive and Repressive Legal Protection for Electronic Money Users in Conducting Non-Cash Toll Transactions," *Jurnal Privat Law* 9, no. 1 (2021): 218-26, <https://doi.org/10.20961/privat.v9i1.28858>.

<sup>36</sup>Ni Nyoman Diani Tri Widia Ardani, "Legal Protection for Cooperative Members Against Dissolved Cooperatives Reviewed from the Cooperative Law Number 25 of 1992," (2023), *Scientific Journal* (2023), <https://eprints.unram.ac.id/41165/2/JURNAL%20NI%20NYOMAN%20DIANI.pdf>.

<sup>37</sup>Kevin Rayindra Arnanto and Hervina Puspitosari, "Legal Protection for Inconsistency in the Application of the Element of "Similarity in Essence" in the Enforcement of Trademark Disputes," *Unes Law Review*, no. 4 (2024), <https://doi.org/10.31933/unesrev.v6i4>.

<sup>38</sup>Bambang Waluyo, *Law Enforcement in Indonesia* (Jakarta: Sinar Grafika, 2016).

<sup>39</sup>Fatmawati Aminah, "Legal Protection of Trademarks for MSMEs in Indonesia," *Jurnal Notarius* 16, no. 1 (2023), <https://doi.org/10.14710/nts.v16i1.42116>.

<sup>40</sup>Hounaid and Desak Putu Dewi Kasih, "Legal Protection Against the Use of Famous Trademarks Without Permission According to the Perspective of Trademark Law and Geographical Indications," *Kertha Desa Journal* 11, no. 6 (2023): 2575-86, <https://ojs.unud.ac.id/index.php/kerthadesa/article/view/97831>.

<sup>41</sup>Maruli Hutasoit, "Legal Guarantee for Registered Trademarks," *Journal of Law and Social Politics* 2, no. 1 (2024): 246-59, <https://doi.org/10.59581/jhsp-widyakarya.v2i1.2178>.

that the Cooperative name as a trademark right gets protection and approval by the state, like a trademark, are required to register their name as a trademark through the Directorate General of Intellectual Property or abbreviated as DJKI. Unlike the Trademark Law which includes criminal sanctions for violations, the UUK does not include criminal sanctions for parties who violate the use of the registered Cooperative name.

The Ministry of Cooperatives through the Regional Cooperative Office needs to actively disseminate legal regulations regarding the procedures, requirements, and importance of registering the name of the Cooperative to prospective founders of the Cooperative. The goal is so that the name of the Cooperative is not rejected by the Cooperative SABH system and to minimize conflicts related to the naming of the Cooperative. Cooperative Managers are encouraged to register the name of the Cooperative not only as the identity of the Cooperative legal entity, but also as a trademark with the Directorate General of Intellectual Property. This situation is important to provide comprehensive legal protection for the name of the Cooperative that has economic value. Cooperative Managers, the Ministry of Cooperatives, the Ministry of Law, NPAK and related stakeholders must write the name of the Cooperative consistently and in full in all official documents, starting from the deed of establishment, permits, to other documents. The truncation of elements of the name, especially the type of Cooperative, must be avoided because it can cause unclear legal identity and has the potential for legal disputes.

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