**International Journal of Social Science and Human Research**

**ISSN (print): 2644-0679, ISSN (online): 2644-0695**

Volume 09 Issue 10 October 2026

DOI: 10.47191/ijsshr/v9-i10-64, Impact factor- 8.361

Page No: 9119- 9124

# Trademarks as Intangible Assets Legal Strategies for MSMEs To Access International Trade Financing

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**ABSTRACT:** Micro, small, and medium enterprises (MSMEs) play an important role in economic development and international trade. However, their participation in export markets is frequently constrained by limited access to financing, inadequate collateral, and insufficient legal protection for their business assets. Trademarks represent valuable intangible assets because they distinguish products, strengthen consumer recognition, support market expansion, and potentially generate economic benefits through licensing and commercial agreements. Despite their commercial significance, trademarks are often underutilised in financing strategies, particularly among MSMEs that rely primarily on tangible assets to demonstrate creditworthiness. This article examines the legal position of trademarks as intangible assets and identifies legal strategies that may assist Indonesian MSMEs in accessing international trade financing. The research employs normative legal research with statutory and conceptual approaches, focusing on Indonesian trademark legislation, intellectual property-based financing regulations, and international intellectual property frameworks. The analysis demonstrates that trademark registration, ownership verification, commercial valuation, licensing arrangements, and appropriate contractual documentation can strengthen the legal and economic credibility of MSMEs when approaching lenders and investors. International trademark protection can also support export readiness by reducing the risk of brand disputes in target markets. Nevertheless, trademark ownership does not automatically guarantee financing approval because lenders must consider valuation uncertainty, market demand, enforceability, and repayment capacity. The article argues that trademarks should be integrated into a broader financing strategy that combines intellectual property management, financial documentation, export contracts, and risk mitigation. Stronger cooperation among intellectual property authorities, financial institutions, export financing agencies, and MSME support organisations is necessary to make intellectual property-based financing more accessible and practical for small businesses.

**KEYWORDS:** Trademarks; Intangible Assets; MSMEs; Intellectual Property Financing; International Trade Financing.

## I. INTRODUCTION

Micro, small, and medium enterprises (MSMEs) constitute an important component of economic development because they generate employment, encourage entrepreneurship, and contribute to domestic and international commercial activities. The development of digital commerce and cross-border trade has created opportunities for MSMEs to introduce local products to international consumers. Nevertheless, entering foreign markets requires more than producing competitive goods. Businesses must also obtain sufficient working capital, maintain consistent product quality, establish reliable distribution networks, comply with market requirements, and protect their commercial identities.

Access to financing remains an important challenge for MSMEs seeking to expand internationally. Export activities frequently require businesses to pay for raw materials, production, packaging, certification, logistics, and marketing before receiving payment from overseas buyers. This timing difference creates working-capital pressure, particularly for enterprises that lack substantial financial reserves or conventional collateral. Consequently, even businesses with promising products and established customer relationships may experience difficulties financing export orders.

Traditional lending practices frequently emphasise tangible assets, financial statements, cash flow, and guarantees when assessing credit applications. This approach can disadvantage MSMEs whose economic value depends substantially on intangible resources, including brand reputation, customer loyalty, product identity, proprietary knowledge, and intellectual property rights. The World Intellectual Property Organization (WIPO, 2024) explains that intellectual property assets can support financing discussions by demonstrating commercial opportunities and providing potential sources of economic value. However, intellectual property-backed lending remains relatively uncommon because lenders face difficulties assessing and realising the value of these assets. (WIPO, 2024). .

## Trademarks as Intangible Assets Legal Strategies for MSMEs To Access International Trade Financing

Among the different forms of intellectual property, trademarks have particular significance for MSMEs engaged in international trade. A trademark identifies and distinguishes goods or services originating from one enterprise from those of other enterprises. It may consist of a name, logo, symbol, or another legally protectable sign. For an MSME producing coffee, clothing, processed food, handicrafts, cosmetics, or other consumer goods, the trademark can become an important commercial asset through which customers recognise product origin and associate products with particular qualities.

The economic importance of trademarks extends beyond their function as identifying signs. A recognised trademark may support customer retention, premium pricing, distribution partnerships, franchising, licensing, and entry into new markets. Where the business has developed consistent sales and a recognisable brand, the trademark may contribute to its overall economic value. The asset is therefore relevant not only to marketing but also to business development and financing.

However, the commercial value of a trademark must be distinguished from its legal existence. Registration provides evidence of a legally recognised right within the applicable jurisdiction, but it does not independently establish that the trademark possesses a particular monetary value. A newly registered trademark with limited commercial recognition may have a different financing potential from an established brand supported by recurring revenue, documented licensing income, and a stable customer base.

Accordingly, legal ownership, commercial performance, and financial valuation must be assessed together.

In Indonesia, trademark protection is principally governed by Law No. 20 of 2016 concerning Trademarks and Geographical Indications. The legislation establishes the national framework for trademark registration, protection, and enforcement. Its relevance to MSMEs lies in providing a legal mechanism through which enterprises can establish and defend their rights to distinctive commercial signs. The legislation also recognises the importance of international trademark registration in protecting national brands in international commerce. (Republic of Indonesia, 2016). .

The relationship between intellectual property and financing has also received attention through Indonesia's Government Regulation No. 24 of 2022 concerning the Implementation of the Creative Economy. This regulation establishes a framework for intellectual property-based financing in the creative economy. Its significance is that intellectual property may be considered within financing arrangements, subject to the applicable requirements and assessment mechanisms. Nevertheless, the existence of such a framework should not be interpreted as requiring every bank to accept every trademark as collateral. The availability of financing depends on the applicable legal mechanism, asset eligibility, valuation, lender policies, and the borrower's financial circumstances.

International trade financing presents a related but distinct issue. Financing may be provided to support production before shipment, bridge the period between shipment and payment, or facilitate transactions through instruments such as letters of credit and export receivables financing. Indonesia Eximbank, formally known as Lembaga Pembiayaan Ekspor Indonesia (LPEI), provides export-related financing and services intended to support national export activities. Its trade finance products include services connected with documentary credit transactions and trade receivables. (Indonesia Eximbank, n.d.). .

Although these facilities primarily address the financing needs associated with trade transactions, trademark ownership may strengthen the wider commercial profile of an MSME seeking financing. A legally protected brand, combined with credible sales records and export contracts, can help demonstrate the enterprise's market position and development potential. However, the trademark should be regarded as one component of the lender's assessment rather than a substitute for proof of repayment capacity.

The international dimension is equally important because trademark rights are territorial in nature.

Registration in Indonesia does not automatically provide equivalent protection in every foreign market. MSMEs intending to export should therefore assess trademark availability, registration requirements, and potential infringement risks in their intended destinations. The Madrid System administered by WIPO offers a centralised mechanism for seeking trademark protection in multiple participating jurisdictions, although each designated jurisdiction determines whether protection can be granted under its domestic law. (WIPO, n.d.). .

Despite these legal and commercial opportunities, MSMEs may face several obstacles when attempting to use trademarks as part of a financing strategy. These include inadequate awareness of intellectual property rights, incomplete ownership documentation, uncertainty regarding trademark valuation, limited understanding of financing contracts, and the absence of established procedures for assessing intellectual property-related risks.

Lenders may also be unfamiliar with the commercial characteristics of trademarks and may prefer conventional collateral that can be valued and liquidated more predictably.

These circumstances indicate a need to examine trademarks not merely as instruments of brand protection but as potential components of a comprehensive business financing strategy. Such an approach requires the integration of intellectual property law, commercial valuation, contractual arrangements, financial documentation, and export planning. The legal challenge is to ensure that trademark rights are adequately protected and documented while developing practical mechanisms through which their commercial potential can be communicated to financing institutions.

This article therefore examines the legal position of trademarks as intangible assets and analyses strategies through which Indonesian MSMEs may strengthen their access to international trade financing. It focuses on the relationship between trademark protection, commercial valuation, intellectual property-based financing, and export-related financial instruments. The central argument is that

a legally protected trademark can strengthen an MSME's financing position when supported by credible evidence of economic value, effective risk management, and an appropriate financing structure.

## II. FORMULATION OF THE PROBLEM

1. How can trademark protection and intellectual property-based financing regulations be utilised to strengthen the legal and financial position of Indonesian MSMEs seeking international trade financing?
2. What legal and commercial strategies can enable MSMEs to demonstrate the economic value of their trademarks, reduce financing risks, and improve their access to export-related financial facilities?

## III. RESEARCH METHOD

This research employs normative legal research with statutory and conceptual approaches. The statutory approach examines the legal framework governing trademark protection and intellectual property-based financing in Indonesia, particularly Law No. 20 of 2016 concerning Trademarks and Geographical Indications and Government Regulation No. 24 of 2022 concerning the Implementation of the Creative Economy. These regulations are analysed to identify the legal position of trademarks, the protection available to rights holders, and the legal conditions relevant to the utilisation of intellectual property in financing arrangements.

The conceptual approach examines trademarks as intangible assets and considers their relationship with commercial valuation, secured financing, licensing, and international trade. The analysis draws on intellectual property financing publications issued by WIPO and information provided by Indonesia Eximbank concerning export financing services. These materials are used to explain the opportunities and limitations associated with the use of trademarks in financing discussions.

The research is qualitative and analytical rather than empirical. It does not claim to measure the actual number of MSMEs obtaining financing through trademarks or establish a statistical relationship between trademark registration and loan approval. Instead, it evaluates the relevant legal principles and identifies practical strategies that may strengthen an MSME's financing readiness. Particular attention is given to ownership verification, trademark registration, evidence of commercial performance, valuation documentation, contractual safeguards, and international protection.

The analysis proceeds through three stages. First, it identifies the legal characteristics of trademark ownership and the relevant framework for intellectual property-based financing. Second, it examines the commercial and evidentiary requirements necessary to demonstrate that a trademark possesses economic value. Third, it formulates legal strategies for integrating trademark assets into export financing applications while recognising that lending decisions remain subject to the requirements and risk assessments of individual financing institutions.

## IV. DISCUSSION 1. Trademarks as Intangible Assets and Their Economic Value for MSMEs

Trademarks are important intangible assets because they distinguish the goods or services of one business from those of other market participants. For micro, small, and medium enterprises (MSMEs), a trademark represents more than a name, logo, or visual identity. It can reflect the reputation of a business, consumer recognition, product consistency, and the commercial relationships developed over time. These characteristics may contribute to the long-term economic value of a business, particularly when the enterprise seeks to expand its operations beyond the domestic market.

The legal protection of trademarks in Indonesia is principally governed by Law Number 20 of 2016 concerning Trademarks and Geographical Indications. Trademark registration provides a legal basis for protecting a mark and strengthening the owner's position against unauthorised use, subject to the applicable statutory requirements (Republic of Indonesia, 2016). For MSMEs, registration is therefore an important step in establishing ownership and reducing uncertainty concerning the legal status of a brand. However, registration alone does not automatically establish a trademark's financial value. Its commercial significance also depends on factors such as market recognition, customer loyalty, sales performance, and the enterprise's ability to maintain the quality of its products or services.

The World Intellectual Property Organization (WIPO, 2024) explains that intellectual property assets may support financing arrangements when their ownership, value, and commercial potential can be demonstrated. This provides an opportunity for MSMEs to consider trademarks as part of their broader financial resources rather than viewing them exclusively as instruments of brand protection. A well-established trademark may help demonstrate the commercial identity and market position of an enterprise to potential investors, lenders, and international business partners. Nevertheless, the extent to which a trademark can support financing depends on the legal framework, financing institution, and evidence available to substantiate its value.

For MSMEs seeking to participate in international trade, trademarks may also support market differentiation and the development of long-term commercial relationships. A recognisable brand can help foreign buyers distinguish products in competitive markets and establish confidence in their commercial origin. However, trademark protection is territorial, meaning that protection in Indonesia does not automatically guarantee protection in every foreign market. MSMEs intending to export must therefore identify the countries in which protection is commercially necessary and consider the relevant registration procedures. The Madrid System administered by WIPO offers a mechanism through which eligible trademark owners can seek protection in multiple designated

member jurisdictions through an international application based on an existing national or regional application or registration. Each designated jurisdiction retains authority to determine whether protection will be granted under its own law (WIPO, n.d.).

Consequently, the economic value of a trademark for MSMEs should be understood through the relationship between legal ownership, commercial reputation, and access to potential financing. Legal registration establishes an important foundation, but the enterprise must also demonstrate that the trademark is connected to a viable business model. This relationship becomes particularly important when the business seeks financing for export production, distribution, packaging, marketing, or the fulfilment of international purchase orders.

## 2. Legal Challenges in Using Trademarks to Access International Trade Financing

Although intellectual property can provide opportunities for financing, using trademarks as financial assets presents several legal and practical challenges. One of the most significant difficulties concerns valuation. Unlike tangible assets such as land, buildings, or machinery, trademarks do not necessarily have an easily observable market price. Their value may depend on consumer recognition, future income expectations, market conditions, licensing opportunities, and the continued ability of the business to use the brand commercially. WIPO identifies valuation and the assessment of intellectual property-related risks as important challenges in developing intellectual property-backed financing (WIPO, 2024).

These challenges may affect MSMEs more severely than larger companies. Many small businesses do not maintain comprehensive financial statements, documented licensing agreements, formal brand valuation reports, or reliable records of trademark-related income. As a result, a lender may find it difficult to assess whether a trademark has sufficient economic value to support a financing decision. The problem is not necessarily that the trademark lacks value, but that its value may not be adequately documented or independently verifiable.

A further challenge concerns the distinction between recognising a trademark as an intangible asset and accepting it as collateral. A trademark may be commercially valuable without automatically being accepted by a financial institution as security for a loan. A lender must consider whether the relevant legal system permits the proposed security arrangement, whether the security interest can be validly established and registered where required, and whether the asset can be realised if the borrower defaults. The lender must also consider whether the trademark would retain its value following enforcement, particularly if the brand's reputation depends heavily on the continued operation of the borrower.

Accordingly, the legal analysis must distinguish between three situations. First, a trademark may function as evidence of the enterprise's commercial strength. Second, intellectual property may contribute to a broader assessment of creditworthiness or investment potential. Third, a trademark may be proposed as a specific asset supporting a security arrangement, subject to applicable legal requirements. These situations are related but not identical. The first two may be relevant to financing discussions even when a lender is unwilling or legally unable to accept the trademark as collateral.

In Indonesia, Government Regulation Number 24 of 2022 concerning the Implementation of the Creative Economy provides a relevant legal framework for discussions about intellectual property-based financing. Nevertheless, MSMEs should not interpret the existence of this regulation as a guarantee that every registered trademark will qualify for a loan. Eligibility depends on the applicable requirements, the legal characteristics of the intellectual property, the financing structure, and the assessment conducted by the relevant financial institution. The legal status of the asset and the lender's commercial evaluation must therefore be considered together.

International trade financing also involves risks that extend beyond trademark ownership. Exporters may require working capital before shipment, financing after shipment, guarantees, or other facilities associated with international transactions. Indonesia Eximbank provides trade finance products and export-related financing services intended to support business activities connected with exports (Indonesia Eximbank, n.d.). These facilities illustrate that financing can be structured around the transaction, the exporter's business capacity, and the underlying trade documents. A trademark may strengthen the broader commercial profile of an MSME, but it does not necessarily replace purchase orders, invoices, shipping documents, repayment capacity, or other requirements imposed by a financing provider.

The principal legal challenge is therefore to create a reliable connection between trademark ownership and financing eligibility without assuming that intellectual property automatically functions as readily realisable collateral. Effective financing arrangements require clear ownership, credible valuation, appropriate documentation, and enforceable legal rights. Without these elements, the existence of a trademark registration may have limited influence on the lender's final decision.

## 3. Legal Strategies for MSMEs to Strengthen Trademark-Based Financing Opportunities

MSMEs seeking international trade financing should begin by establishing clear legal ownership of their trademarks. The enterprise should ensure that the mark is registered in the correct name, that the registration corresponds to the goods or services actually offered, and that ownership records are consistent with the business's legal and commercial documentation. Where a trademark was created by a founder, employee, designer, or external agency, the enterprise should also examine whether the relevant ownership or assignment arrangements have been properly documented. Uncertainty concerning ownership can undermine negotiations with lenders, investors, or potential licensees.

The second strategy involves developing a documented relationship between the trademark and the enterprise's economic performance. MSMEs should maintain reliable records of sales, invoices, distribution agreements, licensing income where applicable, marketing expenditure, customer relationships, and the markets in which the brand is used. These records can help demonstrate that the trademark is associated with an operating business rather than merely existing as a registered legal right. Although financial performance does not determine trademark value by itself, transparent documentation can assist a financing institution in assessing commercial potential and repayment capacity.

A third strategy is to obtain an appropriate valuation where the proposed financing arrangement requires one. Trademark valuation should be conducted using a method suitable for the purpose of the assessment and supported by verifiable information. The analysis may consider the income associated with the brand, comparable market transactions where reliable data are available, or the costs relevant to developing and maintaining the trademark. The chosen method should reflect the nature of the business and the limitations of the available evidence. MSMEs should avoid relying on unsupported estimates of brand value because inflated or poorly substantiated valuations may reduce lender confidence rather than improve financing prospects.

The fourth strategy is to examine the legal structure of the proposed financing before offering a trademark as security. The enterprise should determine whether the trademark can be used in the proposed arrangement, what documentation is required, whether registration or recordation of a security interest is necessary, and how enforcement would operate in the event of default. These questions should be assessed under the applicable Indonesian legal framework and any relevant cross-border arrangements. Where foreign lenders or overseas assets are involved, the enterprise may also need advice concerning the law governing the security agreement, the recognition of rights, and the enforcement process. The availability of a financing structure must be verified rather than assumed from the mere existence of a registered trademark.

A fifth strategy is to strengthen trademark protection in the export destinations that matter most to the business. MSMEs should identify target countries based on actual or anticipated commercial activities, assess the availability of the mark, and consider whether international registration mechanisms are appropriate. The Madrid System may simplify the process of seeking protection in multiple participating jurisdictions, but it does not create a single worldwide trademark right. Each designated jurisdiction applies its own legal requirements when deciding whether to grant protection (WIPO, n.d.). Careful territorial planning can reduce the risk that an enterprise invests in export marketing while leaving its brand insufficiently protected in a key market.

Finally, MSMEs should approach trade finance as a comprehensive commercial arrangement rather than relying exclusively on the value of their trademarks. A stronger financing application may combine legal proof of trademark ownership with financial statements, export contracts, purchase orders, transaction records, production capacity information, and a realistic repayment plan. Depending on the financing provider and the type of facility, a trademark may function as supporting evidence of commercial strength, part of an intellectual property-based financing proposal, or a potential component of a security arrangement where legally permitted. Indonesia Eximbank's export financing and trade finance services provide an example of institutional facilities that MSMEs may investigate when developing export-related financing plans (Indonesia Eximbank, n.d.).

These strategies demonstrate that trademark protection and financing readiness should be developed together. Registration establishes a legal foundation, while documentation, valuation, export-market planning, and compliance with financing requirements make the asset more useful in commercial negotiations. The objective is not to assume that every trademark can secure a loan, but to improve the ability of MSMEs to demonstrate the legal and economic significance of their intellectual property to prospective financing partners.

## V. CONCLUSIONS

Trademarks have an important role in the development of MSMEs because they protect business identity, distinguish products in competitive markets, and may contribute to commercial reputation and long-term economic value. For enterprises seeking to participate in international trade, trademark protection can support market differentiation and strengthen the legal position of a brand in export destinations. Nevertheless, the existence of a registered trademark does not automatically establish its financial value or guarantee access to international trade financing.

The main legal and practical challenges concern trademark valuation, proof of ownership, lender acceptance, and the enforceability of any proposed security arrangement. A trademark may support a lender's assessment of commercial potential without necessarily being accepted as collateral. Therefore, the legal recognition of intellectual property as an intangible asset must be distinguished from the separate question of whether that asset can be used effectively within a particular financing structure.

MSMEs can strengthen their financing opportunities by ensuring clear trademark ownership, maintaining reliable commercial and financial records, obtaining credible valuations where necessary, examining the legal requirements for intellectual property-based financing, and protecting their brands in relevant export markets. They should also combine trademark documentation with evidence of export transactions, repayment capacity, and operational readiness. These measures can improve the credibility of financing applications without creating unrealistic expectations that trademark registration alone will secure funding.

## Trademarks as Intangible Assets Legal Strategies for MSMEs To Access International Trade Financing

Ultimately, trademarks should be treated as one component of a broader legal and commercial strategy for accessing international trade financing. Effective use of trademark assets requires coordination between intellectual property protection, business documentation, financial assessment, and enforceable financing arrangements. A supportive legal framework and appropriate financing practices can help MSMEs demonstrate the economic significance of their trademarks while ensuring that lending decisions remain grounded in verifiable value, legal certainty, and realistic assessments of risk.

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