

ABSTRACT

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BAD FAITH REGARDING PRINCIPLE OF SIMILARITY IN WELL-KNOWN TRADEMARKS DISPUTE

(xii + 126 pages: 1 tables: 3 attachmets)

As a part of Intellectual Property Rights, brands play an important role in the smooth running of trade and investment, and can satisfy consumer needs. From the producer side, the brand is an invaluable company asset, especially for brands that are well known in the community. Regulations regarding trademark protection in Indonesia are contained in Act number 20 of 2016 concerning Brands and Geographical Indications. Even though it contains a well-known mark, there are no provisions that explicitly regulate the definition and criteria of a brand being considered a famous mark. In addition, the regulation regarding trademark protection also does not explicitly include protection for well-known mark owners who have not registered their trademarks in Indonesia. There are inconsistencies in the regulation of these brands, causing many parties to try to imitate, plagiarize, or piggyback on brands that are considered famous. As in fact, many famous trademark dispute resolution in court is considered insufficient in proving his trademark is a well-known trademark so that the case is won by the wrong party, in the sense that the party is basically trying to commit bad faith. Where, this happened in the case of the famous FLM brand dispute between the owner of the foreign brand *Polo Sportswear* and the owner of the local brand John Wibowo, who both have the identical brand. This paper will based on valid facts about a concrete event that becomes the object of research. With the type of research used, namely normative legal research and refers to Article 21 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, regarding the registration of marks that have substantially similarities or in entirety with well-known brands.

Keywords : Well-known Marks, Bad Faith, Principle of Similarity
References : 84 (1982 – 2020)