

ABSTRACT

Indonesia as a legal state based on Pancasila is closely related to the concept of welfare. The concept is based on Article 1 paragraph (3), the opening of the fourth paragraph and Article 34 of the 1945 Constitution. For this matter, regulations must be implemented that fight for the equality of every citizen, prioritizing humans as social beings, and economic efficiency. Therefore, the state through the government is required to make special provisions through statutory regulations to ensure justice, certainty, and legal benefits in order to create order and harmony between the government and citizens. Intellectual Property Rights are tangible manifestations that have commercial value that must be protected, especially in the area of trademarks. The concept of legal protection for trademarks is regulated in Law no. 20 of 2016 concerning Marks and Geographical Indications, and cannot be separated from the basis for establishing these provisions through international agreements such as the Paris Convention, Trademark Law Treaty, Madrid Protocol, and TRIPs Agreement. Trademark owners in protecting their trademark rights must register the trademark with the DJKI through the stages of formality, substantive announcement, and certification to prevent misuse of the mark without the permission of the mark owner. An application for registration of a mark may be rejected if the mark has similarities in principle as contained in Article 21 paragraph (1) of Law no. 20 of 2016 concerning Brands and Geographical Indications. A registered mark can be deleted by an interested party if a mark is not used in trade based on the provisions in Article 74 paragraph (1) of Law no. 20 of 2016 concerning Brands and Geographical Indications. In addition, the author also analyzes legal cases through Decision Number 16/Pdt.Sus/Merek/2018/PN.Niaga.Jkt.Pst. In this decision, the author agrees with the opinion of the judge, which as his decision was correct based on the basis of Article 74 paragraph (1) of Law no. 20 of 2016 concerning Marks and Geographical Indications, by deleting the Defendant's trademark and the Defendant must pay the court fees.

References : 34 (1986-2020)

Keyword : Intellectual Property Rights, Trademarks, Well-known Marks, Trademark Registration, Equality in Principle or in Whole, Deletion of Marks