

ABSTRACT

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PROTECTION OF WELL-KNOWN FOREIGN MARKS IN INDONESIA (CASE STUDY NO. 167PK/PDT.SUS-HKI/2018)

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In this era of globalisation, trademarks is a part of Intellectual Property Rights that has a very important role. Its existence creates a high selling value as a tool to be able to compete in the era of free trade, especially for well-known marks. However with that being said, it may also lead to unfair competitions created by competitors with bad intentions. Therefore, well-known marks owners has the right to forbid other parties to use a similar or same trademark. They also have the right to cancel the registration of a trademark if it is found to be duplicating their trademark. Recognizing the importance of well-known marks, the international community has first regulated this matter in international agreement such as Paris Convention, TRIPS Agreement and WIPO Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks. In Indonesia, the protection of a well-known marks is regulated in Act No. 20 of 2016 regarding Marks and Geographical Indication that has already encounter many changes. To support the effectiveness of this regulation, there are derivative regulations such as the Regulation of the Minister of Law and Human Rights No. 67 of 2016. These regulations aim to give legal certainties and protection of well-known marks, but in reality, there are still a lot of disputes related to well-known foreign marks in Indonesia. This thesis aims to analyse more deeply to the legal protection of well-known foreign marks provided by trademark regulations in Indonesia. Based on this statement, the author also wants to discuss the dispute analysis of Keen by Keen Inc. that applied for the cancelation of trademark registration of Keen dan Keen Kids by Arif based on an indication of bad faith.

Keywords: Well-Known Marks, Bad Faith, Trademarks Cancellation