

ABSTRACT

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“LEGAL PROTECTION OF FAMOUS BRANDS THAT HAVE ESSENTIAL EQUALITY IN THE PROVISIONS OF THE MARK LAW REGULATIONS IN INDONESIA (CASE STUDY OF DECISION No. 42/Pdt.Sus-Merek/2020/PN.Niaga.JKT.Pst. jo. Decision No. 881 K/ Pdt. Sus-HKI/2021)”

Trademark is one of the valuable aspects of business activity. In business activities, the trademark serves as a distinguishing power of a product with other company products. Trademark is one component of the protection of Intellectual Property Rights. A mark can grow to be a well-known mark along with its wide circulation in the community. The more famous a brand, the more likely some parties are trying to create a brand that resembles a well-known brand. To protect a well-known mark, the owner of a well-known mark has the right to file a lawsuit for cancellation of another mark which is essentially the same. Based on this explanation, the authors are interested in analyzing the legal protection of well-known brands and brands that have similarities in principle with well-known brands. In addition, the authors also analyze how the consideration of the Panel of Judges on decision no. 42/Pdt.Sus-Merek/2020/PN.Niaga.JKT.Pst. jo. Decision No. 881 K/Pdt.Sus-HKI/2021 on brands that have similarities in principle with well-known brands. The author uses an empirical normative legal research method using a law approach and a case approach using primary, secondary, and tertiary data through a literature study. In this case, the Panel of Judges of the Commercial Court granted part of the plaintiff's claim by declaring the plaintiff's mark as a well-known mark but did not grant the claim for canceling the defendant's mark based on equality in principle. This made the plaintiffs file a cassation to the Supreme Court with the same lawsuit and at this level of cassation, the Panel of Judges of the Supreme Court granted all of the Plaintiffs' claims, one of which stated that the Defendant's mark had similarities in principle with the Plaintiff's trademark.

Keywords: Well-known Marks, Similarity in Principle, Trademark cancellation
References: 43 (1997-2021)