

ABSTRACT

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MARK CANCELLATION PROBLEMS IN INDONESIA VIEWED FROM THE LIKELIHOOD OF CONFUSION CONCEPT (CASE STUDY OF DECISION No. 79/Pdt.SUSMerek/2019/PN.NIAGA.Jkt.Pst jo. DECISION No. 1153 K/Pdt.Sus-HKI/2020)
(xi+102)

In the practice of trademark cancellation courts, the judge has a very strategic responsibility and position in determining and deciding that consumers will experience confusion from the existence of the two brands. Judges in court practice tend to find it difficult to determine whether the existence of the two brands will create confusion among consumers as seen from the many provisions. Related to this problem, the authors argue that court practice in canceling trademarks in Indonesia tends to be unfair because it ignores the substantive elements that should not only be "similarity in essence" which is the basis for trademark cancellation tests, but also considers "likelihood of confusion" as a result caused by the similarity or resemblance. However, even in the trademark legal system in Indonesia there is no sufficient explanation regarding similarities in principle and there are no clear provisions regarding guidelines, formulas or principles in determining criteria for similarities in principle. This creates legal uncertainty and injustice in the judgment of judges. Because, there is no sufficient explanation regarding equality in essence and there are no clear provisions regarding the criteria for equality in essence, it makes the extent of the subjectivity of judges because there are no clear boundaries. Therefore, the author is interested in analyzing the judge's considerations in deciding to cancel a mark regarding the similarity in principle to a registered mark.

References: 36 (1996-2022)

Keywords: *trademark cancellation, similarity in principle, likelihood of confusion*