ABSTRACT

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LEGAL PROTECTION TOWARDS THE HOLDER OF WELL-KNOWN TRADEMARK FROM TRADEMARK DILUTION

In Commercial Business area, trademark has become an asset of company, especially the well-known one. The existence of well-known trademark attracts defendant for infringing trademark, one of which is trademark dilution, is an act of diminishing trademark’s strength, or distinctiveness through the use of the mark on an unrelated product, usually blurring the trademark’s distinctive character or tarnishing it with an unsavory association. It is different with traditional trademark infringement, which trademark dilution only may occur when the use is not competitive and creates no likelihood confusion. In Indonesia, the term of dilution itself is still uncommon. Therefore the Protection is still questionable, in article 6(2) Law No. 15 year 2001 regarding Marks, has regulated that a trademark can not be registered if it has a similarity in essential part or in its entirely with a well-known mark owned by another party for the goods/services which are not of the same kind, that will be further regulated by Government Regulation. Also, in international agreements which Indonesia has ratified, such as Paris Convention and TRIPs Agreement regulate protection toward well-known trademark. In case of Christian Dior vs Baby Dior, Christian Dior as a well-known trademark lost to Baby Dior, with reason that it is not in the same category. It created a question whether the protection is there or not.

References: 18 (1993-2014)