

Aspek perlindungan hukum pemilik merek tidak terdaftar di Indonesia : studi kasus pembatalan merek soman sozo formula manggata 1 dan sozo formula manggata 3 = Legal protection aspect of unregistered brand owner in Indonesia case study of brand cancellation of soman sozo formula manggata 1 and sozo formula manggata 3

Windiharto, author

Deskripsi Lengkap: <https://lib.ui.ac.id/detail?id=20389156&lokasi=lokal>

Abstrak

[ABSTRAK

Pengaturan tentang merek di Indonesia telah mengalami empat kali perubahan dengan penggantian undang-undang, UU merek Kolonial tahun 1912, Undangundang nomor 21 tahun 1961 tentang Merek Perusahaan dan Merek Perniagaan kemudian melakukan penyesuaian dengan perjanjian Internasional mengenai Aspek-aspek yang terkait dengan perdagangan dan Hak Kekayaan Intelektual (TRIPs)-GATT, Pemerintah melakukan pembaharuan dengan mengeluarkan UU nomor 14 tahun 1997 dan Undang Nomor 15 tahun 2001 tentang Merek adalah merupakan UU Merek yang terakhir. Merek telah menjadi kepedulian Negaranegara di dunia. Perubahan yang dilakukan terhadap Undang-undang ini adalah sebagai kontribusi Indonesia di dalam pergaulan ekonomi Negara-negara di dunia dan karenanya Indonesia adalah Negara yang diperhitungkan dalam sistem tatananan perekonomian dunia. Sejak dilakukannya perubahan Undang-undang merek pada tahun 1997, sistem yang digunakan adalah sistem konstitutif, prinsip first to file ini diartikan bahwa perlindungan terhadap suatu merek dilakukan apabila merek tersebut sudah terdaftar dengan kata lain bahwa merek tidak terdaftar tidak mendapatkan perlindungan. Meski demikian, pada suatu kondisi dimana pemilik merek tidak terdaftar dapat membuktikan bahwa ia adalah pemilik merek, pihak pemilik merek tidak terdaftar dapat melakukan upaya upaya hukum yang memenuhi syarat formal untuk membuktikan bahwa yang bersangkutan adalah pemilik merek. Sebab dibatalkannya suatu merek adalah apabila dapat dibuktikan bahwapemilik merek terdaftar beritikad tidak baik dan hal-hal lain yang diatur oleh undang-undang. Suatu kondisi dimana para pihak yang bersengketa memiliki perbedaan dalam menafsirkan undang-undang maka dibutuhkan peran pengadilan dalam memutus suatu perkara yang berdasar pada sifat undang-undang itu sendiri, melindungi dan adil memperlakukan semua pihak.

<hr>

ABSTRACT

The regulation of brand inIndonesia has been changedfour times through amendment of statutes. The regulation commenced with Act1912Colonialbrand, Act No.21of 1961on Corporate Brand and Brand of Commerce it was then

adjusted to the International treaty on aspects related to trade and Intellectual Property Rights (TRIPs) - GATT. Indonesian Government had issued a renewal of the Act No.14 of 1997 and ActNo.15of 2001 regarding brand as the last Trademark Laws in Indonesia. Brand is a concern for countries in the world. Amendment of Brand Act is as an Indonesian contribution to economic relationships within countries in the world. Because of Indonesias contribution, Indonesia matters a lot in the world economic order system. Indonesia Brand Laws using constitutive system started from 1997 amendment.The first to file principle is recognized a legal protection on a brand after registration, which means that an unregistered brand do not have legal protection. In spite of that in particular conditions that the owners of unregistered brand have evidences proving that they are the owner of the right of registered brand can take a legal action as formally required by the law to get their right.Indonesia Brand laws regulating file of brand cancellation in several chapters, cancellation of a registered brand if its proven that owner of a registered brand have a bad faith in the process of registering of brand and other indicators of cancellation as regulated by the law. In regards of discrepancies of law interpretation in a dispute case, a court is required to intervene to give a fair conclusion as nature of law itself, giving protection and equal treatment before the law.All parties have equal legal standing before the law as adage;The regulation of brand inIndonesia has been changedfour times through

amendment of statutes. The regulation commenced with Act1912Colonialbrand, Act No.21of 1961on Corporate Brand and Brand of Commerce it was then adjusted to the International treaty on aspects related to trade and Intellectual Property Rights (TRIPs) - GATT. Indonesian Government had issued a renewal of the Act No.14 of 1997 and ActNo.15of 2001 regarding brand as the last Trademark Laws in Indonesia. Brand is a concern for countries in the world. Amendment of Brand Act is as an Indonesian contribution to economic relationships within countries in the world. Because of Indonesias contribution, Indonesia matters a lot in the world economic order system. Indonesia Brand Laws using constitutive system started from 1997 amendment.The first to file principle is recognized a legal protection on a brand after registration, which means that an unregistered brand do not have legal protection. In spite of that in particular conditions that the owners of unregistered brand have evidences proving that they are the owner of the right of registered brand can take a legal action as formally required by the law to get their right.Indonesia Brand laws regulating file of brand cancellation in several chapters, cancellation of a registered brand if its proven that owner of a registered brand have a bad faith in the process of registering of brand and other indicators of cancellation as regulated by the law. In regards of discrepancies of law interpretation in a dispute case, a court is required to intervene to give a fair conclusion as nature of law itself, giving protection and equal treatment before the law.All parties have equal

legal standing before the law as adage, The regulation of brand in Indonesia has been changed four times through amendment of statutes. The regulation commenced with Act 1912 Colonial Brand, Act No. 21 of 1961 on Corporate Brand and Brand of Commerce it was then adjusted to the International treaty on aspects related to trade and Intellectual Property Rights (TRIPs) - GATT. Indonesian Government had issued a renewal of the Act No. 14 of 1997 and Act No. 15 of 2001 regarding brand as the last Trademark Laws in Indonesia. Brand is a concern for countries in the world. Amendment of Brand Act is as an Indonesian contribution to economic relationships within countries in the world. Because of Indonesia's contribution, Indonesia matters a lot in the world economic order system. Indonesia Brand Laws using constitutive system started from 1997 amendment. The first to file principle is recognized a legal protection on a brand after registration, which means that an unregistered brand do not have legal protection. In spite of that in particular conditions that the owners of unregistered brand have evidences proving that they are the owner of the right of registered brand can take a legal action as formally required by the law to get their right. Indonesia Brand laws regulating file of brand cancellation in several chapters, cancellation of a registered brand if it's proven that owner of a registered brand have a bad faith in the process of registering of brand and other indicators of cancellation as regulated by the law. In regards of discrepancies of law interpretation in a dispute case, a court is required to intervene to give a fair conclusion as nature of law itself, giving protection and equal treatment before the law. All parties have equal legal standing before the law as adage]