

Penerapan prinsip national treatment dalam gugatan pembatalan merek yang menggunakan simbol negara studi kasus cap kaki tiga di Indonesia = Implementation of the national treatment principle in the lawsuit of brand revocation using the state symbol a case study of cap kaki tiga brand case in Indonesia

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Abstrak

ABSTRAK

Perlindungan Hak Kekayaan Intelektual HKI adalah bagian dari upaya mengatasi penyalahgunaan HKI itu sendiri. Penerapan prinsip National Treatment Perlakuan Nasional adalah salah satu upaya untuk melindungi HKI secara internasional dimana setiap warga negara anggota WTO/WIPO diperlakukan sama dengan warga negara domestik didalam pendaftaran dan perlindungan HKI di masing-masing negara. Namun demikian, penerapan prinsip perlakuan nasional dalam gugatan pembatalan HKI khususnya merek harus disesuaikan dengan hukum internasional dan hukum nasional yang berlaku di negara-negara anggota WTO/WIPO tersebut. Kasus Gugatan pembatalan merek Cap Kaki Tiga oleh warga negara Inggris Russel Vince melawan Wen Ken Drug, perusahaan Singapura di Indonesia dikarenakan merek Cap Kaki Tiga dianggap peniruan emblem atau simbol bendera negara koloni Inggris yang disebut isle of man. Russel Vince menggugat dalam kapasitasnya sebagai warag negara Inggris dengan menggunakan prinsip national treatment perlakuan nasional.

ABSTRACT

Protection of Intellectual Property Rights IPR is part of the effort to resolve the misuse of IPR itself. The application of the National Treatment principle is one of the efforts to internationally protect the IPR where every citizen of WTO WIPO member is treated the same with domestic citizen in the registration and protection of intellectual property rights in each country. However, the application of the national treatment principle in the lawsuit of IPR revocation, in particular the brand, must be in accordance with international law and national law that apply in the WTO WIPO member countries. symbols or emblems are merely symbols emblems of countries that are registered as WTO WIPO members while the Isle of Man is not a country and there is no notification from the United Kingdom as a WIPO WTO member of the Isle of Man flag symbol. Moreover, the principle of national treatment applies only to brand registration not to conduct a lawsuit of the brand revocation in the court .