

Akibat hukum pencatatan pengalihan merek terdaftar dalam daftar umum merek terhadap pihak ketiga: pendekatan kasus gugatan pembatalan merek prolexus = Legal consequence of recordation of assignment of registered trademark in general register of trademark against third parties: case study of cancelation claim of prolexus trademark

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Abstrak

Pengalihan hak atas merek terdaftar dimohonkan pencatatannya kepada Menteri Hukum dan Hak Asasi Manusia. Pencatatan pengalihan hak atas merek terdaftar tersebut diumumkan dalam berita resmi merek. Setelah dicatatkan, pengalihan hak atas merek terdaftar tersebut baru memiliki akibat hukum terhadap pihak ketiga. Ketentuan ini telah secara jelas diatur dalam Undang-Undang Merek. Namun, di dalam proses persidangan terdapat pertentangan, dimana setelah pengalihan hak atas merek dicatatkan, justru Pengadilan Niaga tetap menghendaki agar pemilik lama hak atas merek terdaftar untuk diikutsertakan dalam gugatan pembatalan hak atas merek terdaftar. Hal ini tentunya menjadi kerancuan mengenai akibat hukum pencatatan pengalihan merek terhadap pihak ketiga.

.....The recordation of assignment of registered trademark needs to be applied to the Minister of Law and Human Rights. The recordation of assignment of registered trademark shall be announced in the general register of trademark. The assignment of registered shall only have legal consequence to the third parties after being recorded. This provision has been regulated clearly under the Trademark Law. However, the trial proceeding shows contradiction with the provisions as set out under the Trademark Law, in which after the assignment of trademark has been recorded the Commercial Court requires the former trademark owner to be involved in the cancellation claim of registered trademark. This of course will create confusion pertaining to the legal consequence of recordation of trademark assignment towards the third parties.