

# Analisis perbandingan perlindungan hukum bagi merek terkenal dari tindakan trademark piracy: studi komparatif Indonesia dan Republik Rakyat Cina = Comparative analysis on the legal protection of well-known mark from trademark piracy: comparative study Indonesia and people's Republic of China

Andrea Testarossa, author

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## Abstrak

Kepastian hukum sangatlah penting dalam iklim usaha, termasuk dalam perihal perlindungan terhadap hak merek. Praktik trademark piracy terjadi ketika terjadi pendaftaran merek oleh seorang individu atas merek yang bukan miliknya dengan itikad buruk. Terkait hal tersebut terdapat dua pokok permasalahan yang diteliti yaitu mengenai bagaimana pengaturan perlindungan hukum bagi Merek terkenal di Indonesia dan bagaimana perbandingan pengaturan dan penerapan perlindungan hukum bagi merek terkenal dari tindakan trademark piracy di Indonesia dan Republik Rakyat Cina. Penulis juga menganalisis sengketa merek terkenal di Indonesia dan Republik Rakyat Cina dan melakukan perbandingan mengenai penerapan peraturan merek terkenal dalam tindakan trademark piracy dengan metode penelitian yuridis-normatif dan dengan pendekatan kualitatif. Walaupun istilah trademark piracy belum diatur secara jelas dalam undang-undang nomor 20 tahun 2016 dan belum diatur secara jelas juga mengenai perlindungan bagi merek terkenal terutama terhadap praktik trademark piracy. Namun pada dasarnya suatu merek terkenal dapat memperoleh perlindungan dari praktik trademark piracy dengan adanya konsep merek terkenal dan itikad buruk.

.....Legal certainty is very important in the business climate, including in terms of the protection of trademark rights. The practice of trademark piracy occurs when there is a trademark registration by an individual for a trademark that does not belong to him in bad faith. In this regard, there are two main issues studied, namely how to regulate legal protection for well-known marks in Indonesia and how to compare the regulation and application of legal protection for well-known marks from trademark piracy in Indonesia and the People's Republic of China. The author also analyzes well-known trademark disputes in Indonesia and the People's Republic of China and compares the application of well-known trademark regulations in trademark piracy with juridical-normative research methods and with a qualitative approach. Although the term trademark piracy has not been clearly regulated in law number 20 of 2016 and has not been clearly regulated regarding protection for well-known marks, especially against the practice of trademark piracy. But basically a well-known brand can get protection from the practice of trademark piracy with the concept of a well-known brand and bad faith.