

Brand Dispute Case at GoTo Company

Alessandro Christian Max¹ Gunardi Lie² Moody Rizky Syailendra Putra³
Faculty of Law, Universitas Tarumanagara, West Jakarta, Province of DKI Jakarta,
Indonesia^{1,2,3}

Email: alessandro.205200255@stu.untar.ac.id¹ gunardi.lie@untar.ac.id²
moodys@fh.untar.ac.id³

Abstract

This study aims to analyze the GoTo company's brand dispute resolution arrangements, which managed to escape a lawsuit of Rp. 2 trillion related to a brand dispute filed by PT Terbit Financial Technology on November 2, 2021. Trademark rights are special (exclusive) matters. The special rights consist of the right to use and the right to give permission to other people to use the trademark rights. If a person or other party uses the special rights without the permission of the brand owner, then there has been a violation of the trademark rights. If there is a violation of trademark rights, of course there will be laws that can provide sanctions or penalties for violators. In this GoTo case, GoTo was sued by PT Terbit Financial Technology because it was accused of violating brand rights or committing plagiarism. Of course, this has caused many parties to suffer losses, both from the company's and users' side, because GoTo is a company that is quite large and has an impact in Indonesia. Law No. 15 of 2001 concerning Mark is one of the legal remedies that can resolve and become a way out of trademark dispute cases like this. The content of the lawsuit is principally in the form of a claim for compensation and/or termination of all actions related to the use of the mark.

Keywords: Brand dispute, GoTo, Infringement



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INTRODUCTION

A dispute is a situation where a party feels aggrieved by another party, which then conveys this dissatisfaction to the second party. If this situation shows differences of opinion, then what is called a dispute occurs. In the legal context, especially business contract law, what is meant by a dispute is a dispute that occurs between the parties due to a violation of the agreement that has been stated in a contract, either in part or in whole. In other words, there has been a default by the parties or one of the parties (Nurnaningsih Amriani, 2012).

Takdir Rahmadi (2011) which means that conflicts or disputes are situations and conditions where people experience factual disputes or disputes that exist only in their perceptions. Thus, what is meant by a dispute is a dispute that occurs between two or more parties who mutually defend their respective perceptions, where the dispute can occur due to an act of default on the part of the parties or one of the parties in the agreement. The recent dispute case that I also take as the title and object of this research is the GoTo case which was sued by PT Terbit Financial Technology. This case was widely discussed when this incident was exposed in the mass media and social media. This brand dispute case involves a large Indonesian technology company, namely GoTo, which was sued for IDR 2 trillion because it was deemed to have committed a trademark dispute or plagiarism.

The country of Indonesia has a lot of companies in the technology sector that are currently running or are starting up, one of which is GoTo. GoTo is a combination of Gojek and Tokopedia. Gojek and Tokopedia decided to merge on May 17, 2021. After the merger, GoTo is claimed to be the largest technology company in Indonesia. However, not long after that a plagiarism lawsuit emerged that violated the rights to the brand name.

Problem Statement: Why did GoTo become such a big company that news of a brand dispute involving it became such an impactful issue? How to resolve this trademark dispute case based on legal channels? Is there a significant impact on the company after this case occurred? The purpose of this research is to show that big companies can also be sued for tax disputes, but on the other hand I also want to tell how these big companies find a way out through legal channels.

RESEARCH METHODS

The research method that I used in this research is descriptive research method. Because the contents of the discussion describe the facts of the object under study.

RESEARCH RESULTS AND DISCUSSION

Causes of brand disputes involving the GoTo company

The beginning of this dispute case occurred after two large companies from Indonesia, namely Gojek and Tokopedia, decided to merge or unify the companies to become GoTo on May 17 2021. Not long after that, a plagiarism lawsuit appeared which violated the rights to the brand name. The lawsuit was filed by PT Terbit Financial Technology in November 2021.

TFT sued four CEOs of Gojek and Tokopedia over the GoTo brand dispute, for approximately six months. The two were asked to pay compensation of IDR 2 trillion. In its petitum (conclusion of the lawsuit) quoted on the official SIPP PN Central Jakarta website, TFT stated that it was the only one who owns and holds the legal rights to the GoTo brand. They claim that the GoTo brand has already been registered with the Director General of Intellectual Property of the Ministry of Law and Human Rights with the number IDM000858218 on behalf of PT Terbit Financial Technology. The registration is claimed to occur in 2020, before the announcement of the unification of the two large companies. This was used as the basis for TFT accusing them of infringing on trademark rights, and finally sued Article 83 paragraph 1 of the Trademark Law.

The legal basis governing cases of trademark or trademark disputes

One area of intellectual property law that is playing an important role today is trademarks. Intellectual property cases are closely related to brand disputes that occur at GoTo companies in the form of goods and services. Consumers who use these services will create their own assumptions regarding the user's social status, because producers are considered to be detrimental to consumers. These brand regulations are regulated in several regulations that apply in Indonesia, among others:

1. Article 1 and Article 83 of Law no. 20 of 2016. Trademarks are images, logos, names, words, letters, numbers, color schemes, combinations of two dimensions and or three dimensions, sounds, holograms or two dimensions. In relation to trade in goods and services, one or more factors that characterize goods and services produced by individuals or legal entities. The owner of the registered trademark or the licensee of the trademark can claim compensation from parties who unlawfully use a similar trademark for similar trademarks.
2. Article 18 of the Regulation of the Minister of Law and Human Rights of 2016. A mark can be classified as a well-known mark if the mark can fulfill the requirements as stipulated in Article 18 of the Regulation of the Minister of Law and Human Rights Number 67 of 2016, in particular it can be in the form of criteria for establishing a mark well-known as referred to in Article 16 paragraph 2 is carried out from the general public's knowledge of marks in the field of activity concerned.

3. Civil Code. In a civil lawsuit, without prior approval and permission from the owner of the registered trademark, legal consequences for the infringing party may be sued for compensation for the use of trademark rights without such permission. Because the owner of the brand results in loss of trademark rights, commercial value and also economic value. This can be considered an unlawful act because it can cause harm to the person who has the rights to the mark he owns and is obliged to compensate for his actions.
4. The Criminal Code. Companies that do not register trademarks, so that brands do not have valid patents. Legal fee insurance has an important role in this trademark dispute case, because it aims to ensure that the mark is not imitated or misused or unlawful representation.

What about legal protection and resolution of brand disputes that occur at GoTo companies?

Trademark protection is given only to brand owners whose trademarks are legally registered. This brand protection occurs when the trademark ownership rights are used by other parties who do not have the rights to the brand. In the world of business or trade, a brand plays an important role because it can create a company's image or branding, can increase the selling value of the company and also influence the success of a company. Indiscriminate use of trademarks generally occurs in companies with big names like GoTo. The merger carried out by Gojek and Tokopedia certainly attracted public attention because both of them are one of the largest companies in Indonesia. The causes of trademark use violations in Indonesia are:

1. Indonesia's intellectual property law is still weak and in general their market value is more expensive and of lower quality.
2. Weaknesses in monitoring and enforcement of this regulation.
3. The general public's affinity for well-known goods at low prices or usually made in counterfeit versions.
4. Economic capabilities that cause market value are still few who can afford it.

The plaintiff, PT TFT, sued the four CEOs of Gojek and Tokopedia for IDR 2.8 trillion consisting of IDR 1.8 trillion in material losses and IDR 250 billion in immaterial losses. The first trial was held on Tuesday, November 9, 2021, for approximately 219 days of legal processing and through 17 hearings, finally the Commercial Court rejected PT Financial Technology's lawsuit on Thursday, June 2, 2022. In this decision, the court stated that it approved the exception regarding the authority prosecute those filed by Gojek and Tokopedia. "The Commercial Court has no authority to adjudicate a lawsuit for Brand Intellectual Property Rights Number 71/Pdt.Sus-HKI/Merek/2021/PN Niaga Jkt.Pst," read one of the decisions. The court decided to penalize the plaintiff, namely PT TFT, to pay court costs in the amount of Rp 2,500,000.00.

The Ministry of Law and Human Rights can provide preventive protection efforts by registered parties by refusing to submit an application for trademark registration on behalf of GoTo (Gojek Tokopedia) because previously the Goto brand had previously been registered with the owner of PT Terbit Financial Technology. This preventive effort by refusing is very constitutional as a form of legal protection for the intellectual property of the Goto brand owned by PT TFT which has been registered beforehand so that there are no similarities in the brand names. The brand dispute that occurred between Goto owned by PT Terbit Financial Technology and GoTo from the company that merged between Gojek and Tokopedia is a special civil case that concerns intellectual property rights over brands. Efforts to resolve cases using repressive legal protection, meaning that it is a firm action as an effort to affirm the violations

committed. This dispute is carried out by means of civil law, which means that it must be resolved through a legal institution, namely the commercial court.

The above description is very clear that the dispute experienced by Goto owned by PT Terbit Financial Technology with GoTo owned by Gojek and Tokopedia is a problem based on registration administration issues in terms of intellectual property rights owned by both parties, so herewith the legal remedies that can be taken are civilly only with an effort to legalize the ownership of the brand that is currently owned. This legal effort is a constitutional legal effort and is in accordance with the results of the commercial court which resolves all cases related to intellectual property disputes.

The impact experienced by GoTo after this brand dispute case

The impact experienced by GoTo after this dispute case will certainly make it difficult for it to enter the Indonesian market. Because GoTo offers a high share value to the technology sector index on the Indonesia Stock Exchange (IDX). With cases like this, it will certainly be difficult for GoTo to regain consumer confidence in using goods and services that have been developed for a long time. But with the good news that GoTo has been released from the lawsuit, of course the trust from consumers will slowly return in the future.

CONCLUSION

Using other people's trademark rights in the business world is a violation that can harm many parties, especially the owner of the mark. Because it can harm the brand owner in terms of sales value, the good name of the company and also their market value. What's more, at this time there are many parties who deliberately use other people's designs or branding. Usually it happens a lot to companies that are starting up with the assumption that it will not be highlighted too much because the sales value and the name of the company are not as big as the company they use the brand rights for. This is also influenced by human resources who do not think long about whether the actions they take are actually good or not. Many people underestimate cases like this. With the trademark dispute case from GoTo, which is the largest company in Indonesia, it can be a reference or example for other large companies or those who are pioneering not to use other people's property without certain permission or to use other people's work carelessly.

Suggestion: For the Indonesian government to pay more attention to cases like this, because it will be very detrimental to various parties. Strengthen monitoring of companies with registered and unregistered trademark rights. Improving product quality in order to create its own market so that it is not easily imitated by others. Expanding public awareness of trademark rights infringement. Eliminate the trade in counterfeit goods that still occurs in the Indonesian market by developing local products.

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