

Analysis of Trademark Dispute Cases of PT. Gudang Garam and Gudang Baru

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Abstract

This writing aims to discuss trademark disputes between Gudang Garam and Gudang Baru regarding image names and logos. The problem that arises is a dispute over the brand name and image displayed on the new Warehouse product. Indonesian law regulates two ways to deal with Intellectual Property Rights (IPR) issues, either through a judicial process (litigation) or through a process outside the court (non-litigation). Laws relating specifically to intellectual property rights, viz. HaKi. Brand Law No. 20 of 2016, regulates trademark protection. What is studied in this study is related to the settlement of rights in trademark disputes between Gudang Garam and Gudang Baru, and on the other hand with substantive and legal considerations of judges in trademark disputes between Gudang Garam and Gudang Garam. New. The author of this study will examine in detail the trademark dispute between Gudang Garam and Gudang Baru.

Keywords: Trademarks, Brand Disputes



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INTRODUCTION

The emergence of Intellectual Property Rights as a subject of discussion at the national, regional and even international levels cannot be separated from the formation of a world trade organization or world trade organization (Sembiring: 2022). A brand or trademark is the identity of a product or service that differentiates it from similar products or services on the market. A trademark can be a name, symbol, logo, design, word or a combination thereof. The main purpose of branding is to provide a unique and easily recognizable identity for a product or service in the market. In the world of retail, brands play a very important role. A good brand can help a product or service stand out from the competition. Strong brands can also help build customer loyalty and streamline marketing processes. However, changes in the business and technological environment have led to significant changes in the meaning of brands. Brand is not only an identity, but also an important corporate asset. A good brand can increase the company's brand value so that it can increase the company's profits and growth.

In addition, the use of signs also extends to various fields of life such as culture, society, and politics. Trademarks can be symbols of certain values or culture, and can be used as a tool to enhance the image or reputation of a person or organization. This shows how important brands are in modern life and how a good branding strategy can help companies or individuals achieve their goals in various fields for manufacturers, the brand is a guarantee of production value combined with quality and consumer satisfaction. With a strong brand that is widely known by consumers, manufacturers can differentiate their products from competitors and create a strong and positive brand image.

Quality brands that are well known to consumers can also be imitated or imitated by others. This can be dangerous for genuine producers and consumers as counterfeit or pirated brands can cause financial losses and even health risks to consumers. Trademarks are also an invaluable asset for companies, especially for brands that are known as household names. Well-

known brands have high added value because consumers prefer products from brands they know and trust. In addition, well-known brands can also be a source of income for companies through licensing, sponsorship, and collaboration with other companies. In using a brand, manufacturers must respect and protect the rights of the mark so that it is not misused by other parties. This allows manufacturers to maintain their brand equity and build brand reputation.

The trademark dispute between Gudang Garam and Gudang Baru concerns the use of the trademark "Gudang" in the tobacco industry in Indonesia. Gudang Garam is one of the largest cigarette manufacturers in Indonesia and has been using the brand name "Gudang Garam" since 1958. Gudang Baru, on the other hand, is a tobacco company that was founded in 2001 and has been using the brand name "Gudang Baru" ever since. Gudang Garam filed a lawsuit with the Commercial Court in 2015 alleging that Gudang Baru had violated its copyright on the Gudang Garam trademark by using the Gudang Garam trademark. Gudang Baru denied the claim and said their brand was not to be confused with the Gudang Garam brand.

After going through a lengthy trial process, in 2018 the Central Jakarta Commercial Court ruled that Gudang Baru had violated Gudang Garam's copyright and was prohibited from using the "Gudang Baru" trademark in the cigarette industry. However, in 2021, the Supreme Court decided to cancel the decision and stated that Gudang Baru did not violate Gudang Garam's copyright. The decision ended years of trademark disputes between the two companies.

Problem Formulation: What is the outcome of the decision regarding the Gudang Garam trademark? How is the juridical protection of well-known brands and their legal basis?

RESEARCH METHODS

This research uses quantitative research methods by collecting data that is in online media. This research also uses an approach that is focused on library materials.

RESEARCH RESULTS AND DISCUSSION

Basically, a well-known brand does not want a debate about the brand it owns, but there are actually 2 (two) brands that are basically similar or similar which cause trademark lawsuits. As a legal protection for trademark ownership in resolving famous trademark disputes, it is examined from the point of view of legal protection as the rightful owner of the trademark, the theory of dispute resolution, where trademark disputes must be resolved. philosophically.

This case occurred due to the similarity of the main elements between the Gudang Garam and Gudang Baru brands. On this basis, PT Gudang Garam sued the owner of Gudang Baru, the defendant, before the Commercial Court at the Surabaya High Court. the plaintiff firmly opposed the registration of the Gudang Baru trademark because it has a fundamental resemblance to the Gudang Garam trademark. The main similarities between these brands are the shape and structure of the letters, style of writing, spelling, sound of speech, color structure, etc. way of positioning the images. Apart from the essential similarities to Gudang Garam, Gudang Baru is sort of branded, belongs to the same class as Gudang Garam which belongs to group 34 in the form of tobacco and cigarette products. In bad faith, Gudang Baru intends to take advantage of the fame of the Gudang Garam brand name. Besides that, the famous Gudang Garam brand is proven by being registered in several countries in the world, including Japan, Singapore, Argentina, Malaysia, South Korea, Paraguay, Saudi Arabia, Philippines, Taiwan since 1989.

PT Gudang Garam Tbk (GGRM) filed a trademark lawsuit at the Surabaya District Court. The company filed a lawsuit for cancellation of the Gudang Baru brand at the Commercial Court of the Surabaya District Court on March 22, 2021 with Case Number 3/Pdt.Sus.HKI/Merek/2021/PN.NiagaSby. Previously, there was MA Decision No. 104 PK/Pid.Sus/2015 dated 10 November 2015 and MA Decision No. 119 PK/Pdt.Sus-HKI/2017

dated 28 August 2017. However, Gudang Baru ignored the decision. uses a trademark that looks very similar to the Gudang Garam trademark". The trial in this case took place on April 6, 2021. PT Gudang Garam Tbk was not Ali Khosin's first trial. On May 29, 2013, the company also sued Ali Khosin in a trademark case. As a result, Gudang Garam was declared the winner by the Supreme Court both criminally and civilly. Ali Khosin was only sentenced to 10 months in prison because of the many lawsuits filed by PT Gudang Garam Tbk. tempus delicti due to differences of opinion in the trademark criminal process. Ali also lost a civil case.

The judge stated that the plaintiff's claim was granted in part; Statements that the salt warehouse and the applicant's painting are a famous sign; the jury also stated the brands and paintings numbered IDM000381985, IDM000381705, IDM000491292, IDM000491291, IDM000528993, IDM000528994 and IDM000528995, New Gudang New Origin and Figure No. IDM000661350 and IDM000661355 and NEW BUILDING and no. IDM000528996 Class 34 in the name of Gudang Garam are principally and/or wholly similar to the well-known GUDANG GARAM trademark + image of the complainant; and stated that Defendant I and Defendant II jointly and severally paid court fees of Rp. 3,109,000.- (three million one hundred nine thousand rupiahs), the judge also ordered Defendant II to reject all trademark applications based on the words GUDANG BARU, GUDANG BARU ASAL and the name of the NEW BUILDING submitted by Defendant I, the same owner or all well-known items. the GUDANG GARAM brand and the image belong to the plaintiff.

In this case, the judge stated that PT. The new warehouse violates article 21 paragraph 1 of Law No. 20 of 2016 (Brand Law), at the request of PT. Gudang Garam and PT Gudang Baru, Surabaya Commercial Court, and their accessories; states as follows: (1) The application is rejected if the mark is the same in principle or in its entirety with: a. a registered mark belonging to another party or was applied for beforehand by another party for similar goods and/services or previously used by another entity for goods and/ or similar services; From this it can be concluded that the Gudang Baru brand has similarities with the Gudang Garam brand which is a well-known brand.

The definition of a brand according to Article 1 number 1 Law Number 20 of 2016 concerning marks and geographical indications, namely as a Mark is a sign that can be displayed graphically in the form of logos, names, words, letters, numbers, color arrangements, in 2-dimensional and 3-dimensional forms , sound, hologram, or a combination of 2 or more elements to differentiate goods or services produced by a person or legal entity in the activity of trading goods or services. In accordance with the provisions of article 21 paragraph 1a and Law no. 20. 2016 concerning Trademarks and Geographical Indications, applications will be rejected if the mark has a substantial or general similarity with a registered trademark owned by another company, and was previously requested by another subject for similar goods and/or services. The purpose of rejecting applications for trademarks that are substantially or wholly similar to affiliated trademarks registered with other entities is intended to prevent the public from being misled in determining the identity of goods because they cannot identify the origin of the goods. Presence-based rejection The equations mentioned in this article must take into account the possibility of conflicts arising due to the presence of each brand in the same sales area of similar products/services.

Provisions regarding the protection of well-known marks are regulated in Article 21 article 1 of the MIG Law that: The application is rejected, if the mark is basically or wholly the same as: The registered mark belongs to another party or was requested by another party for similar goods or services; Famous brand belonging to another party for similar goods or services; Well-known marks belonging to other parties for goods or services that are not of the same type that meet certain requirements; Registered geographical indication. Well-known

brand protection according to Law no. 15 of 2001 listed in article 16 paragraph 1b, indicating a request for character registration must be removed if basically or wholly similar to a mark that is known to belong to another person for goods and/or the like. of the same type as long as it fulfills certain requirements stipulated in a Government Decree. So if there is an indicator of fundamental equality, then there is an option to demand dissolution (claim for cancellation) or waiver of scores, each institution that takes part must consistently comply with and approve applicable and relevant laws and guidelines (Anugrah: 2019).

CONCLUSION

Legal protection provided by the Directorate General of Intellectual Property Rights to prevent trademark infringement in Indonesia with the aim of preventing trademark rights infringement. So that legal protection can be given to trademark holders in Indonesia, in article 21 paragraph 1 uu no 20 of 2016 law on brands there is content, namely that famous brands get protection even though they have not been registered in Indonesia, however, a brand must meet the criteria in order to be called a famous brand. .

If there is a trademark infringement, the legitimate brand owner can file a lawsuit to the court office (because of trademark infringement including complaint offenses). Where the form of protection in the Gudang Garam case is that PT Gudang Garam can file a lawsuit against Gudang Baru because there are similarities in trademarks and paintings. owned by Gudang Garam, therefore there is legal protection, namely the owner of a registered mark can file a lawsuit against other parties who unlawfully use a mark that is similar in principle or in its entirety for similar goods or services in the form of a claim for compensation and/or termination of all acts relating to the use of the mark.

Suggestion: Every PT owner must register their trademark with the intention of preventing trademark disputes from occurring in the future with other parties, and in registering a trademark they must pay attention to various aspects, both checking the trademark name, this serves to avoid trademark similarities, so Therefore, trademark owners must pay attention to various existing regulations.

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