

Review of the Protection of the Sole Rights of the Famous Trademark Holder Crocodile (Study of Supreme Court Decision Number 74 PK/Pdt.Sus-HKI/2019)

Jeane Neltje Saly^{1,*} Bobbie Khoman¹

¹Faculty of Law, Universitas Tarumanagara, Jakarta, Indonesia

*Corresponding Author. E-mail:jeanenovember@gmail.com

ABSTRACT

In Law Number 20 of 2016 concerning Marks and Geographical Indications Article 1 Paragraph (5) it has been explained that the right to a mark is an exclusive right granted by the state to the owner of a registered mark for a certain period of time by using the Mark itself or giving permission to another party to use it. However, in the implementation, disputes often occur between parties, especially regarding the rights to this mark. This dispute also raises questions regarding legal protection for trademark rights holders and how the judge's considerations relate to the decision of a trademark dispute. So it's necessary to study which aspects can be considered as conditions for a mark to be canceled or removed to ensure legal protection for the parties who own the rights to the mark and also in an effort to achieve legal certainty itself. The type of research is normative research. To support this research, the author uses the type of literature study research. The method used is using a statutory approach and a case approach. It turns out that based on the results of the study, it can be seen that the conclusion is the applicable law is sufficient to regulate trademark rights, but it is necessary to re-optimize the application and implementation of this law by the parties concerned. Trademark as a product of intellectual result of certain parties must be guaranteed and protected by the state, one of which is to advance the country. it can be seen that the conclusion is the applicable law is sufficient to regulate trademark rights, but it is necessary to re-optimize the application and implementation of this law by the parties concerned. Trademark as a product of intellectual result of certain parties must be guaranteed and protected by the state, one of which is to advance the country. it can be seen that the conclusion is the applicable law is sufficient to regulate trademark rights, but it is necessary to re-optimize the application and implementation of this law by the parties concerned. Trademark as a product of intellectual result of certain parties must be guaranteed and protected by the state, one of which is to advance the country.

Keywords: Legal Protection, Mark, Sole Rights, Trademark Rights, Canceled Trademark.

1. INTRODUCTION

1.1. Background

In today's world of international trade, a brand is the identity of a product that has important meaning for producers or consumers. For manufacturers, the brand becomes a distinguishing feature from other brands, and can be a valuable business asset, especially for brands that are known throughout the world. Today's world-famous brands such as PT. Djarum has a brand value that amounts to trillions of rupiah. Meanwhile, for consumers, the brand can be a standard/benchmark to select and determine the quality of a product. With a brand, consumers can find out

the authenticity of a product and become a differentiator when choosing a product.

This brand becomes important if it is associated with an exclusive right that is owned and becomes the rights of the creator. These exclusive rights include moral rights as well as economic rights. Moral rights are rights to the protection of the reputation and interests that belong to the creator as an individual who expresses the idea of a creation. Ownership of Intellectual Property Rights (IPR) can be transferred to other parties, but the moral rights cannot be separated from the creator [1]. Economic rights are all benefits of economic value in the form of money or royalties as appreciation and rights for the work of the creator. Intellectual property rights in relation to economic rights can create a high-value economic advantage,

therefore intellectual property can be one of the company's assets and really needs to be protected.

Therefore, it is necessary to supervise and protect this rights so that the misappropriation of this rights by irresponsible parties for personal and/or group interests can be prevented and/or reduced. Because of the value of this brand, it is necessary to regulate protection and restrictions for those who wish to use a certain logo and/or name in their brand, lest the brand resembles and/or is considered to have similarities with other brands. In Indonesia, the brand itself has been regulated in Law Number 20 of 2016 concerning Marks and Geographical Indications.

Marks protection begins with the existence of a marks, so what exactly is this marks? Marks are part of Intellectual Property Rights (IPR). Based on trade agreements between member countries of the World Trade Organization (WTO) relating to intellectual property aspects based on the Trade Related Aspect Intellectual Property Rights (TRIPS) agreement, it does not define the meaning of intellectual property, but it is stated in Articles 1 and 2, that intellectual property consists of [2]:

1. Copyright;
2. Marks;
3. Industrial design;
4. Geographical indications;
5. Patent;
6. Integrated electronic circuit design;
7. Trade secrets; and
8. New plant varieties.

The marks itself according to Law Number 20 of 2016 concerning Marks and Geographical Indications, has a definition, namely: "A marks is a sign that can be displayed graphically in the form of images, logos, names, words, letters, numbers, color composition, in the form of 2 (two) dimensions and/or 3 (three) dimensions, sound, hologram, or a combination of 2 (two) or more of these elements to distinguish goods and/or services produced by persons or legal entities in the activities of trading goods and/or services [3]."

Then, to get legal protection by the state for trademark rights, the mark must be registered first at the Directorate General of Intellectual Property Rights. The registration process is regulated based on the Regulation of the Minister of Law and Human Rights Number 67 of 2016 concerning Trademark Registration. Parties wishing to register their trademarks must comply with the administrative and substantive requirements that have been determined. In addition, in Indonesia, the first to file principle is also known, which means that the party who registers the trademark first is the rightful one. However, in implementing this principle, it is still necessary to look at the good faith of the registrant, whether he has good intentions and does not imitate any party.

In Indonesia itself, although the laws governing trademarks have been around for a long time, in fact cases related to trademarks are still very common. Of the many cases related to marks that have occurred, the author will raise one case, namely between The Chillington Tool

Company Limited against HertinySoejianto. The dispute began when The Chillington Tool Company Limited as the plaintiff sued HertinySoejianto, hereinafter referred to as the defendant, arguing about the mark and the plaintiff is the owner of the rights to the mark in Indonesia and in the world from the trademarks: Crocodile, crocodile pictures, and Chillington. The Plaintiff considers that the defendant's Crocodile mark was registered in bad faith and has no other purpose than to complement and/or imitate the fame of the Plaintiff's trademark which is already well known in the world. However, the defendant denied the allegation and considered that the brand did not have bad intentions, and considered that the similarity of the marks was just a coincidence. The defendant also thought that the plaintiff's mark should be recognized as Chillington, because crocodile is a common word/name which means crocodile (animal). The defendant's trademark has also been registered in four classes of goods, namely, classes 6, 7, 8, and 16. In the decision of the district court, the plaintiff's claim was rejected, because considering that the protection of the plaintiff's mark was only valid until 2014, according to the judge, the plaintiff could not file the lawsuit because the legal standing for this case has not been fulfilled so that this lawsuit is rejected and the defendant is declared the first owner of the crocodile brand and the crocodile image class 6, 7, 8, and 16. The defendant also thought that the plaintiff's mark should be recognized as Chillington, because crocodile is a common word/name which means crocodile (animal). The defendant's trademark has also been registered in four classes of goods, namely, classes 6, 7, 8, and 16. In the decision of the district court, the plaintiff's claim was rejected, because considering that the protection of the plaintiff's mark was only valid until 2014, according to the judge, the plaintiff could not file the lawsuit because the legal standing for this case has not been fulfilled so that this lawsuit is rejected and the defendant is declared the first owner of the crocodile brand and the crocodile image class 6, 7, 8, and 16. The defendant also thought that the plaintiff's mark should be recognized as Chillington, because crocodile is a common word/name which means crocodile (animal). The defendant's trademark has also been registered in four classes of goods, namely, classes 6, 7, 8, and 16. In the decision of the district court, the plaintiff's claim was rejected, because considering that the protection of the plaintiff's mark was only valid until 2014, according to the judge, the plaintiff could not file the lawsuit because the legal standing for this case has not been fulfilled so that this lawsuit is rejected and the defendant is declared the first owner of the crocodile brand and the crocodile image class 6, 7, 8, and 16.

Not satisfied with the first decision, the plaintiff again filed a cassation requesting the cancellation of the defendant's trademark. However, the judge considered that the reason for filing an appeal was unacceptable, the available evidence stated that the period of protection of the mark from the plaintiff was 10 (ten) years, namely from March 12, 2004 to March 12, 2014 and there was no evidence of an extension, so that the plaintiff did not has legal standing to file a *quo* suit and reject the cassation

request from the applicant of The Chillington Company Limited.

However, the plaintiff is still trying to take other legal remedies, namely reconsideration. In retrospect, the plaintiff's argument which does not have legal standing is irrelevant due to the judge's error/mistake, the plaintiff has also been able to prove evidence of the extension of the registration of the Chillington Crocodile mark and the picture of a crocodile, besides the plaintiff's mark is a well-known mark, which has been registered in several country. Then in the reconsideration decision, the court decided that the plaintiff is the holder of the rights to the trademark in Indonesia from the trademarks Crocodile, crocodile pictures, and Chillington so that the plaintiff has the sole right/special right to use the trademark in Indonesia and cancel the trademark registered in the name the defendant.

Based on the description of the background above, the authors are interested in conducting research and reviewing "REVIEW OF THE PROTECTION OF THE SOLE RIGHTS OF THE FAMOUS TRADEMARK HOLDER CROCODILE (Study of the Supreme Court Decision Number 74 PK/Pdt.Sus-HKI/2019)" and then put it in the form of a thesis.

1.2. Formulation of the problem

Based on the above background, the problems contained in this study are as follows:

1. How is the legal protection for the famous crocodile brand rights holder? (Study of Supreme Court Decision Number 74 PK/Pdt.Sus-HKI/2019)
2. How is the judge's decision considered in this trademark dispute according to the provisions of Law No. 20 of 2016 in conjunction with the Regulation of the Minister of Law and Human Rights Number 67 of 2016?

1.3. Research methods

1.3.1. Types of research

This research is normative legal research (librarian research). This normative research is in the form of research on legal material data, both primary, secondary and tertiary. While the primary data in this study only acts as supporting data. This study also uses several approaches, namely the statutory approach (statute approach) which is carried out by reviewing all laws and regulations related to the legal issues being handled.

1.3.2. Research Data Source

The material contained in this thesis is obtained from primary, secondary, and tertiary data as referred to below:

- a. Primary legal materials.
Various legal materials consisting of statutory regulations in the field of civil law that are binding, including Law Number 20 of 2016 concerning Marks

and Geographical Indications and Regulation of the Regulation of the Minister of Law and Human Rights Number 67 of 2016 concerning Trademark Registration, TRIPS Agreement, Paris Convention.

- b. Secondary legal material.
Secondary data is data obtained through literature study obtained by researching legal materials including primary legal materials, as well as covering various secondary legal materials (books, journals, and the internet).
- c. Tertiary legal materials.
Tertiary legal materials are additional legal materials that aim to provide instructions and explanations for primary legal materials and secondary legal materials, such as legal dictionaries [4], encyclopedias, newspapers, journals, and the internet can also be helpful materials for this research as long as it contains relevant information, in accordance with the data required in the object of this legal research study.

2. DISCUSSION

2.1. Legal Protection for Famous Marks Rightsholders

From the results of the research that the author did, there are still many brand disputes related to brand cancellation. One of the reasons for the cancellation of this brand is due to similarities in principal and/or overall with a well-known brand. This cancellation is carried out as one of the state's efforts to protect the brand owner. The right to own mark is an exclusive right granted by the state to the owner of a registered mark for a certain period of time by using the mark itself or giving permission to other parties to use it [5].

Then regarding this legal protection, the regulation is contained in Law Number 20 of 2016 concerning Marks and Geographical Indications in conjunction with the Regulation of the Minister of Law and Human Rights Number 67 of 2016 concerning Trademark Registration. Trademark protection is given by the state to protect for a period of 10 (ten) years. Regarding well-known marks, the settings are the same as for regular marks, except that there is a difference that well-known marks can protect even different types of products. In determining the criteria for a well-known mark, the regulation is stated in Article 18 Paragraph (3) of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 67 of 2016 concerning Mark Registration, namely [6]:

- a. the level of knowledge or public acknowledgment of the Mark in the relevant business field as a well-known Mark;
- b. the volume of sales of goods and/or services and the profits derived from the use of the mark by the owner;

- c. the market share controlled by the Mark in relation to the circulation of goods and/or services in the community;
- d. the area of use of the Mark;
- e. period of use of the Mark;
- f. the intensity and promotion of the Mark, including the value of the investment used for the promotion;
- g. registration of a Mark or application for registration of a Mark in another country;
- h. the level of success of law enforcement in the field of Marks, in particular regarding the recognition of the said Mark as a well-known Mark by the authorized institution; or
- i. the value attached to the Mark obtained because of the reputation and quality assurance of the goods and/or services protected by the Mark.

The criteria for this well-known marks is the standard for the recognition of a well-known marks in Indonesia, and is a tangible manifestation that a well-known marks is recognized in Indonesia. Recognition of well-known marks in Indonesia also creates an obligation for the government to protect these well-known marks. Legal protection related to a marks starts from the date of receipt of a trademark registration application, and to be accepted, a trademark registrar must register his trademark in good faith. Good faith in the sense that a marks is created because of an idea for thought alone or together to create words, images, and/or logos which are then called marks and this creation is an original work and does not imitate any party.

The tendency to imitate/carry other people's marks is a form of bad faith that still often occurs in Indonesia and often happens to well-known brands with the aim of taking advantage of the well-known marks that has made promotional efforts to be known by the wider community, so that this marks that supports it gets fame for its own sake that creates unfair business competition and creates misdirection for consumers.

Therefore, it is necessary to protect the rights of well-known marks, so that the holder of the rights to this marks is not harmed by irresponsible parties, and this protection is the right of the marks holder and is the obligation of the government to protect the registered marks. The protection of these trademark rights is an effort to enforce the law, because the law is essentially related to the rights and obligations of the intersecting parties.

Protection of this marks is obtained from registration, and in Indonesia trademark registration adopts a *stelselkonstitutif* system, which means that the only party who has the right to a marks is the party who registered the marks first and other parties must respect it as the party entitled to the marks. In this system, there is also a principle called first to file, where registration of a marks will only be granted to the party who first registered the marks. In connection with this first to file principle, it also means that the state will no longer accept registration of a similar marks if it is submitted by another party for similar goods and/or services. In connection with that, the purpose

of the registration of the marks is in addition to the conditions for the birth of trademark rights [7].

The legal protection of registered marks holders is closely related to two legal theories, namely the theory of legal protection and the theory of justice. Legal protection as a tangible manifestation of the functioning of state functions and institutions creates a repressive nature that is created when a rule of law is violated. This is intended so that the law can be enforced in an effort to achieve the objectives of the law itself, namely, certainty, justice, and legal expediency. Legal certainty is inherent in every individual and every individual and all legal actions are entitled to protection from the law.

Then, in relation to marks, pursuant to Article 35 of the Law on Marks and Geographical Indications, registered marks receive legal protection for a period of 10 (ten) years from the date of receipt and can be extended for the same period of time. This legal protection means that the right to the registered marks can only be used by the party who owns and/or holds the right to the marks based on the prior permission of the marks owner. However, in contrast to the legal protection for the general public by the state described above, the protection of the marks is only obtained by those who have registered the marks and already have the rights to the marks. So here, protection is not obtained directly, but only for certain parties.

Based on the explanation above, it can be concluded that the theory of legal protection aims to protect human rights as legal subjects and in relation to this trademark dispute, legal subjects who have carried out their obligations, namely registering their trademarks, must also be given their rights by means of legal protection for these registered marks. which is also in an effort to enforce existing legal certainty in accordance with applicable laws and regulations.

The legal protection that is trying to happen is also related to the theory of legal justice which states that justice must occur for the benefit of the rightful party who to achieve justice is based on the rules of positive law that apply in society. Then, regarding this well-known brand, there are advantages compared to ordinary brands, namely related that famous brands can protect their brands even for goods and/or services of different types. This advantage is obtained as a result of that in order to obtain a brand to become a well-known mark, various efforts are required as stated in Article 18 Paragraph (3) of the Regulation of the Minister of Law and Human Rights Number 67 of 2016.

2.2. Judges Considerations in Trademark Disputes Based on Law No. 20 of 2016 (Study of Supreme Court Decisions Number 74 PK/Pdt.Sus-HKI/2019)

In the Supreme Court's decision Number 74 PK/Pdt.Sus-HKI/2019 which is a Judicial Review (JR), the plaintiff, namely The ChillingtonTool Company Limited, filed a JR with the argument that there was a *novum* and the judge's error in the cassation decision which rejected the appeal on grounds This plaintiff has no legal standing. Then, the

plaintiff also stated that he was a well-known brand as evidenced by registration in various countries and in this JR decision, The Chillington Tool Company Limited won and deleted the crocodile mark belonging to the defendant HertinySoedjianto.

In the decision of the Supreme Court Number 74 PK/Pdt.Sus-HKI/2019 it was also decided as follows:

1. Granted the plaintiff's claim in its entirety.
2. Stating that the Plaintiff is the holder of special rights in Indonesia of the Crocodile and Crocodile Pictures + Chillington Trademarks and therefore has the sole/special right to use the trademarks in Indonesia.
3. Stating that the words "Crocodile and Crocodile Pictures" are an essential part of the Plaintiff's trademark.
4. Stating that the brands of Defendant I listed Number IDM000210793, IDM000244086, IDM000476990 and IDM000451018 contain as an essential part the words "Crocodile and Crocodile Pictures", which in speech and sound are the same as the words "Crocodile and Crocodile Pictures", which is an essential part of the brand Plaintiff's trade.
5. Declaring the registration of trademarks Number IDM00020793, IDM000244086, IDM000476990 and IDM000451018, in the General Register on behalf of Defendant I, with all legal consequences.
6. Ordered Defendant II to comply with this Decision by canceling the Registration Numbers IDM00020793, IDM000244086, IDM000476990 and IDM000451018 in the General Register.

Based on this court decision, several things can be analyzed, which are described as follows:

1. The basis for submitting a Judicial Review (JR) is based on Article 67 of Law No. 14 of 1985 as amended by Law no. 5 of 2004 concerning the Supreme Court states as follows:

"A request for judicial review of a civil case decision that has obtained permanent legal force may be submitted only on the basis of the following reasons:

- a. *if the decision is based on a lie or trick of the opposing party which is known after the case is decided or is based on evidence which is later declared false by the criminal judge;*
- b. *if after the case is decided, decisive evidence is found which at the time the case was examined could not be found;*
- c. *if something has been granted which is not demanded or more than what is required;*
- d. *in the event that a part of the claim has not been decided without considering the reasons;*
- e. *if between the same parties regarding the same matter, on the same basis by the same Court or at the same level a decision has been given that contradicts one another;*
- f. *if in a decision there is an error of the Judge or a real error."*

Based on this article, it can be said that in relation to this case, the requirements for submitting a JR which were

used as the basis for submitting and even being accepted by this JR were related to evidence of registration and extension of the mark from the plaintiff and related to that in this a quo case there was an error because it confirmed the registration of the mark "Crocodile + Crocodile Pictures" on behalf of the respondent for judicial review I submitted in bad faith. These things became the basis and acceptance of the JR application from the plaintiff.

2. The Plaintiff, The Chillington Tool Company Limited is declared the sole right holder/special right of the "Crocodile + Crocodile Pictures" marks, because it is considered an essential part of the Plaintiff's trademark. This sole right/special right is an exclusive right granted by the state to use a marks because as a result the trademark has been registered. However, regarding the "Crocodile + Crocodile Pictures" marks, it is actually still too broad/general because the marks should not only be known based on its name and/or shape, for example resembling a crocodile, but also must pay attention to such as font, shape, color, and image, and shape. of a brand that becomes a unified logo.

Here are the marks logos of the plaintiffs and defendants:



Figure 1

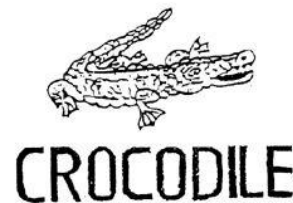


Figure 2

Picture a is the marks logo of the plaintiff, namely, The Chillington Tool Company Limited and picture b is the marks logo of the defendant I, namely, the Crocodile marks. Then how is the judge's consideration in this decision case which states in the JR decision that the plaintiff is the holder of special rights/sole rights to the trademark "Crocodile + Crocodile Pictures", as can be seen above that these two marks have significant differences in some parts and do not it can immediately be said that there are similarities and/or even be said to be supporting another party's marks in bad faith. Because based on the definition of a marks in Law Number 20 of 2016 it is stated that: "A marks is a sign that can be

displayed graphically in the form of images, logos, names, words, letters, numbers, color composition, in the form of 2 (two) dimensions and/or 3 (three) dimensions, sound, hologram, or a combination of 2 (two) or more of these elements to distinguish goods and/or services produced by individuals or legal entities in the activities of trading goods and/or services [8].

Based on this definition, it can be said that a mark is a symbol consisting of one and/or several elements which are combined to become a symbol/logo that has distinguishing power from the marks belonging to another party.

These two marks have similarities in the word "crocodile" and there is a "image of a crocodile", but if you look further, the two marks are completely different, with regard to the color, shape of the crocodile, and in picture a, there is the word "Chillington" which should also become an identifying feature of the marks. So that these two marks should be different marks and can stand on their own, and there should be no similarities in essence/similarity in general between these two marks.

Then, regarding the bad faith of the defendant in forming this mark, it also cannot be clearly proven, because the word "crocodile" or in Indonesian "*buaya*" and the image of the crocodile is a common reptile animal that can be used by everyone to become part of the community of the marks, of course with certain changes and additions.

The plaintiff's mark which is declared famous by the plaintiff is still unclear, because to say a mark is famous it must meet the terms and conditions stipulated in the Regulation of the Minister of Law and Human Rights Number 67 of 2016 concerning Trademark Registration, for example related to sales volume, public knowledge, and so on, but in this case the plaintiff only stated that his trademark was a well-known mark based on that he had registered his marks in several countries. This of course does not meet the requirements for a brand to be said to be a well-known mark. And also in addition to registration in other countries, it is also necessary to have production activities related to goods and/or services in these countries.

So that in this Judicial Review (JR) decision, it can be said that the judge was quite hasty in making a decision, because indeed the requirements in submitting this JR which had not been met previously in the cassation had been fulfilled, but regarding the defendant's mark it was canceled and declared nullified, it can be considered inappropriate because the logo has a significant difference and there is no evidence related to the defendant's mark is based on bad faith and in the plaintiff's claim that the mark is a well-known mark also does not meet the provisions stipulated in the Regulation of the Minister of Law and Human Rights Number 67 of 2016 concerning Trademark Registration.

Based on the theory of justice by Hans Kelsen, it is also stated that justice is indeed something relative, in the sense that each individual can have different understandings related to justice. However, the scale of justice must be conical and relevant to the general public, so that regulations are formed as a relevant basis for determining

a scale of justice. In this case, if it is related to this trademark dispute case, it can be said that this JR decision is fair to the plaintiff, namely The Chillington Tool Company Limited. However, this decision is not necessarily fair to the opposing party or the defendant. This relative meaning of justice must be linked to the relevant regulations as well, namely Law Number 20 of 2016 concerning Marks and Geographical Indications.

3. CONCLUSION AND SUGGESTIONS

3.1. Conclusion

Regarding the sole right which is the exclusive right to use a mark as a result of trademark registration, parties who have obtained this right must be protected by the state in an effort to achieve legal protection and justice for parties who have sought their marks to be accepted by the Directorate General of Intellectual Property. This legal protection is one of the efforts to achieve legal justice which can also be obtained by optimizing the implementation of any provisions that are clearly regulated in the law, especially Law Number 20 of 2016 concerning Marks and Geographical Indications and the Regulation of the Minister of Law and Human Rights Number 67 of 2016 concerning Trademark Registration [9].

For the case in this thesis, related to the Supreme Court's decision Number 74 PK/Pdt.Sus-HKI/2019, it is considered inappropriate because this judge's decision is not in accordance with the purpose of the Act, namely to provide more legal protection to registered mark owners. In this case, the defendant, HertinySoedjianto, did not get legal protection in accordance with his rights as the party who had registered the mark and even his trademark was canceled so that it was deleted by the opposing party. Legal protection and legal justice are not created from this JR decision because as has been explained based on the analysis of the case, research data, and the law, the reason for canceling the "crocodile" marks belonging to HertinySoedjianto is not enough because there are many considerations to state that a mark has similarities in principle and there are also many considerations for a mark to be declared a well-known mark which has not been fulfilled and/or proven by the plaintiff The Chillington Tool Company Limited.

3.2. Suggestions

The rights to trademarks are very complex and there are still disputes, more optimal supervision is needed, especially for the Directorate General of Intellectual Property Rights in examining a registered trademark, in order to minimize related trademarks that are considered similar/there are basically similarities in the future. So it may be necessary to set up rules regarding the procedures and provisions in the examination of marks before they are accepted. This is of course in an effort to achieve the objectives of Law Number 20 of 2016 concerning Marks

and Geographical Indications, namely to increase protection for registered trademark holders, especially well-known trademark holders so as to create justice for the parties. With optimization like this, it is expected to reduce the gap between *das sollen* and *das sein* so as to reduce disputes, especially in this brand area.

Then the understanding of the Indonesian people must also be optimized regarding the importance of marks, because it is felt that the Indonesian people still tend to be less concerned and consider that the use of fake marks and/or pretend that a fake marks is a natural thing, so things like this will eventually hinder development of trademarks in Indonesia even hinder the protection and legal justice of the marks itself. This understanding of trademarks is considered important in the context that if the public already understands and understands related to the field of trademarks, especially, then the decision-making process in court is also expected to be even better and can provide protection and justice for the parties.

[9] Indonesia, Law Number 20 of 2016 concerning *Marks and Geographical Indications*, General Explanation.

REFERENCES

[1] Muh. Djumhana, R. Djubaedillah, *Hak Milik Intelektual (Sejarah, Teori, dan Prakteknya di Indonesia)*, (Bandung: PT. Citra Aditya Bakti, 1997), hal. 72.

[2] SuyudMargono, *Hak Milik IndustriPengaturan dan Praktik di Indonesia*, (Bogor: Ghalia Indonesia, 2011), hal. 16.

[3] Indonesia, Law Number 20 of 2016 concerning *Marks and Geographical Indications*, Article 1 paragraph (1).

[4] Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum NormatifsuatuTinjauanSingkat*, (Jakarta: PT. Raja GrafindoPersada, 2013), hal. 14-15.

[5] Indonesia, Law Number 20 of 2016 concerning *Marks and Geographical Indications*, Article 1 paragraph (5).

[6] Indonesia, the Regulation of the Minister of Law and Human Rights Number 67 of 2016 concerning *Trademark Registration*, Article 18 paragraph (3).

[7] Dwi Rezki Sri Astarini, *PenghapusanMerekTerdaftar*, (Bandung: Alumni, 2009), hal.132.

[8] Indonesia, Law Number 20 of 2016 concerning *Marks and Geographical Indications*, Article 1 paragraph (1).