

ABSTRAK

Penelitian ini bertujuan untuk menganalisis pembelian Merek Gajah Duduk yang dibeli PT. Pisma Abadi Jaya (PAJ) dari PT. Gajah Duduk yang gagal beralih kepemilikannya karena belum dicatatkan di Kemenkumham yang membuat penulis ingin mengetahui bagaimana pengaturan dan pandangan teori tentang peralihan merek serta implementasi dari putusan pengadilan nomor 107/PID.SUS/2023/PN PKL dan putusan 438/PID.SUS/2023/PT SMG.

Penelitian ini disusun menggunakan metode pendekatan yuridis normatif yaitu penelitian dilakukan dengan menelaah teori, konsep, asas hukum, dan norma hukum yang diatur dalam peraturan perundang-undangan, putusan pengadilan serta norma-norma yang hidup dalam masyarakat, yang kemudian dianalisis lebih jauh menggunakan spesifikasi penelitian deskriptif-analitis dan metode analisa data kualitatif. Hasil penelitian ini menemukan pengaturan dan pandangan teori mengenai peralihan merek serta implementasi dari putusan pengadilan nomor 107/PID.SUS/2023/PN PKL dan putusan nomor 438/PID.SUS/2023/PT SMG, yaitu Undang-Undang Nomor 20 Tahun 2016, Permenkumham Nomor 67 Tahun 2016, Hak atas Merek dapat diaihkan karena pewarisan, wasiat, wakaf, hibah, perjanjian, atau sebab lain yang dibenarkan oleh undang-undang, peralihan merek baru sempurna jika telah dicatatkan di Kemenkumham, Kemenkumham dalam menerbitkan Surat Keputusan Nomor; HKI.4-KI.06.01-230 juga telah menyalahi aturan dalam Pasal 44 Permenkumham No. 67 Tahun 2016.

Kata Kunci: Peralihan Hak Merek, Undang-Undang Merek, Pencatatan Merek.

ABSTRACT

This study aims to analyze the purchase of the Gajah Duduk brand by PT. Pisma Abadi Jaya (PAJ) from PT. Gajah Duduk, which failed to transfer ownership due to its non-registration with the Ministry of Law and Human Rights (Kemenkumham). This issue led the author to examine the regulations and theoretical perspectives on trademark transfers, as well as the implementation of court decisions No. 107/PID.SUS/2023/PN PKL and No. 438/PID.SUS/2023/PT SMG.

This research employs a normative juridical approach by reviewing theories, concepts, legal principles, and legal norms stipulated in legislation, as well as court rulings and prevailing societal norms. The study is further analyzed using a descriptive-analytical research specification and qualitative data analysis methods. The findings reveal the regulatory framework and theoretical perspectives regarding trademark transfers, along with the implementation of the aforementioned court decisions. Based on Law No. 20 of 2016 and Minister of Law and Human Rights Regulation No. 67 of 2016, trademark rights may be transferred through inheritance, wills, endowments, grants, agreements, or other legally permissible means. However, a trademark transfer is only considered valid upon registration with Kemenkumham. Additionally, Kemenkumham's issuance of Decision No. HKI.4-KI.06.01-230 was found to be in violation of Article 44 of Ministerial Regulation No. 67 of 2016.

Keywords: Trademark Transfer, Trademark Law, Trademark Registration.