

ABSTRAK

Sengketa penghapusan merek terkenal di Indonesia antara pelaku usaha asing dengan pelaku usaha lokal seringkali disebabkan oleh perbenturan antara hak eksklusif yang lahir dari pendaftaran dengan kewajiban penggunaan nyata dalam perdagangan. Fenomena ini muncul akibat celah pada sistem pendaftaran konstitutif yang sering dimanfaatkan pihak tertentu untuk membonceng reputasi merek terkenal global atau sebaliknya, menghambat inovasi pelaku usaha lokal yang telah menggunakan merek secara jujur. Penulis merumuskan masalah bagaimana penerapan hukum dan konsistensi pertimbangan hukum hakim terhadap penyelesaian sengketa penghapusan merek terkenal antara pelaku usaha asing dan pelaku usaha lokal berdasarkan putusan yang diteliti. Penelitian ini bertujuan mengevaluasi konsistensi pertimbangan hukum hakim dalam putusan sengketa penghapusan merek. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan kasus dan perundang-undangan, penelitian ini membedah 3 (tiga) putusan kasus yang sama dengan pertimbangan hukum hakim yang berbeda. Analisis penelitian menggunakan Teori Kepastian Hukum, Teori HKI, dan Asas Itikad Baik. Hasil penelitian menunjukkan penafsiran hukum hakim secara konsisten menunjukkan bahwa penerapan hukum telah sesuai dengan peraturan perundang-undangan yang berlaku. Hakim juga secara konsisten menerapkan tentang siapa yang aktif menggunakan merek dalam perdagangan maka berhak atas merek tersebut. Simpulan penelitian ini mengungkapkan bahwa perbedaan hasil akhir putusan, yakni ditolaknya gugatan Tiktok dan Mogu-Mogu serta dikabulkannya gugatan IKEA, bukan disebabkan oleh inkonsistensi norma, melainkan variasi diskresi hakim dalam menilai kualitas dan bobot alat bukti untuk membuktikan penggunaan nyata merek dalam perdagangan di Indonesia.

Kata Kunci: Konsistensi, Pertimbangan Hukum Hakim, Putusan, Sengketa Penghapusan Merek.

ABSTRACT

Disputes over the cancellation of well-known marks in Indonesia between foreign and local businesses are often caused by a conflict between the exclusive rights arising from registration and the obligation of actual use in commerce. This phenomenon arises due to loopholes in the constitutive registration system, which are often exploited by certain parties to free-ride on the reputation of globally renowned brands or, conversely, to hinder innovation by local businesses that have used the mark in good faith. The author formulates the problem of how the application of the law and the consistency of judicial considerations in judges' decisions regarding the resolution of trademark cancellation disputes between foreign and local businesses are based on the examined judgments. This study aims to evaluate the consistency of judges' legal reasoning in trademark cancellation dispute judgments. This study employed a normative legal method with case-based and statute-based approach, and analyzed 3 (three) judgments of the same case with differing judicial reasoning. The research analysis employs the Theory of Legal Certainty, Intellectual Property Law Theory, and the Principle of Good Faith. The research findings indicate that the judges' legal interpretations consistently demonstrate that the application of the law aligns with applicable legislation. The judges also consistently apply the principle that the party actively using the trademark in commerce is entitled to the trademark. The conclusion of this study reveals that the differences in the final judgments, namely the dismissal of the Tiktok and Mogu-Mogu complaints and the granting of the IKEA complaint, were not caused by inconsistencies in legal norms, but rather by variations in judicial discretion in assessing the quality and weight of evidence to prove the actual use of the trademark in commerce in Indonesia.

Keywords: *Consistency, Judicial Legal Considerations, Judgment, Trademark Cancellation Dispute.*