

ABSTARCT

The use of a person's portrait on a trademark can cause a polemic, considering that both are in 2 (two) different dimensions, Copyright and Trademark Rights. This polemic is further complicated when the Brand had to be sold due to the bankruptcy of a company. This happened to PT. Bumi Empon Mustiko, based on Court Decision No. 2 / Pdt.Sus-HKI / Cipta / 2020 / PN Niaga Sng, PT Bumi Empon Mustiko was sued for the use of the portrait of Lauw Ping Nio (Nyonya Meneer) in the trademark that the company had purchased as a bankruptcy property from PT. Perindustrian Njonja Meneer. This research aims to knowing the regulations regarding the copyright for the use of portraits on trademarks that have been sold by bankrupt companies and knowing the form of legal protection against the use of Lauw Ping Nio's portraits on Nyonya Meneer products marketed by PT. Bumi Empon Mustiko.

The research method used in this research is normative juridical with the research specification is descriptive analytical research. The method of data collection by the author by examining secondary data obtained through library research.

Based on the results of the research, the regulation on the use of portraits on a trademarks that have been sold by a bankrupt company has not been clearly regulated in the constitution, but in the Copyright and Trademark Law there are regulations that indirectly allow the use of portraits on marks with the permission of the person being photographed. so that the Portrait and the Trademark become one unit and when the trademark is transferred, copyright is transferred. The portrait is also protected by moral and economic rights as regulated in the Copyright Law.

Key Word : Potrait, Trademark, Bankruptcy