

ABSTRAK

Pengetahuan masyarakat terhadap suatu merek berperan penting dalam menentukan apakah merek tersebut dapat dikategorikan sebagai merek terkenal. Kurangnya pengetahuan masyarakat mengenai pentingnya perlindungan merek serta perbedaan antara merek biasa dan merek terkenal dapat menimbulkan sengketa hukum. Penelitian ini bertujuan untuk mengetahui bagaimana pembuktian pengetahuan masyarakat terhadap merek dalam sengketa merek asing, khususnya dalam perkara merek terkenal asing seperti kasus Hakubaku. Penelitian ini menggunakan metode pendekatan yuridis normatif dengan spesifikasi penelitian deskriptif analitis. Data yang digunakan merupakan data sekunder, yang dikumpulkan melalui studi kepustakaan, kemudian dianalisis dengan metode analisis kualitatif. Hasil penelitian menunjukkan bahwa pembuktian pengetahuan masyarakat terhadap merek terkenal asing di Indonesia dapat dilakukan melalui bukti promosi, investasi dan pendaftaran merek di berbagai negara, serta dokumen distribusi. Namun, praktik di Indonesia masih cenderung administratif dan belum berbasis data konkret seperti hasil survei atau studi pasar sebagaimana diterapkan di Jepang, Singapura, atau Uni Eropa. Dalam kasus Hakubaku Co., Ltd. dari Jepang melawan PT Tona Morawa Prima di Indonesia, Hakubaku berhasil memenangkan perkara meskipun tidak secara langsung membuktikan pengetahuan masyarakat Indonesia terhadap mereknya, seperti melalui survei atau data distribusi lokal. Namun, Hakubaku membuktikan bahwa mereknya dikenal luas secara internasional melalui pendaftaran merek di berbagai negara, dokumen promosi, serta bukti ekspor ke Indonesia. Mahkamah Agung memutuskan merek Hakubaku layak dilindungi karena adanya pengakuan internasional dan terbukti pendaftaran ulang oleh PT Tona Morawa Prima dilakukan dengan itikad tidak baik, melanggar Pasal 21 UU No. 20 Tahun 2016.

Kata Kunci: Pembuktian; Pengetahuan Masyarakat; Sengketa; Merek Terkenal Asing.

ABSTRACT

Public knowledge of a brand plays an important role in determining whether a brand can be categorized as a well-known brand. Lack of public knowledge about the importance of brand protection and distinguishing ordinary brands from well-known brands can lead to legal disputes. This study aims to determine the proof of public knowledge of brands in foreign brand disputes, and to determine the Proof of foreign well-known brands in the Hakubaku case.

This research used normative juridical approach with descriptive analytical research specifications with secondary data as the main data. The method of collecting data through literature study, and after the data is collected, it is analyzed using qualitative analysis method.

The results of this study show that proving public knowledge of the brand in the dispute over the rights to foreign famous brands in Indonesia, can be done in several ways, showing the existence of evidence related to promotion, investment and registration of brands in various countries and the practice of proof still tends to be administrative and less based on strong data such as in Japan, Singapore, or the European Union. The case between Hakubaku Co., Ltd. from Japan and PT Tona Morawa Prima from Indonesia shows that Hakubaku Co., Ltd. managed to win the case. Hakubaku did not include any direct evidence of the Indonesian public's knowledge of their brand, such as survey results, promotions in the local media, or official distribution data in the Indonesian market. However, Hakubaku has proven that its brand has been widely recognized internationally through brand registrations in various countries, promotional documents, evidence of exports to Indonesia, and global distribution. The Supreme Court ruled that Hakubaku's trademark deserves to be protected because it is supported by international recognition, as well as evidence of re-registration by PT Tona Morawa Prima in bad faith and in violation of Article 21 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications.

Keywords: *Evidence; Public Knowledge; Dispute; Foreign Famous Mark.*