

Comparison of Trademark Counterfeiting Laws that Harm Human Health in Indonesia and the United States



Kornelius Benuf¹, Bagus Rahmanda², Siti Mahmudah³, Amiek Soemarmi⁴, Kholis Roisah⁵

^{1,2,3,4,5}Faculty of Law, Universitas Diponegoro

ABSTRACT: This study will describe examples of cases of brand counterfeiting that endanger human health and will analyze how the legal protection for trademark rights holders for brand counterfeiting endangers human health, the comparison of Indonesian law with the United States of America. This research is a normative legal research with a statutory approach and a case approach. The data used is secondary consisting of primary and secondary legal materials. Based on the research results, it is known that examples of brand counterfeiting that endanger human health are the counterfeiting of the “One Care” brand and the “Bango” soy sauce brand counterfeiting. Legal protection for trademark rights holders for brand counterfeiting that endangers human health, the comparison of Indonesian law with the United States is that they both follow the development of international legal principles. The difference in Indonesia is regulated in the Trademark and Geographical Indication Law and the Perlinkos Law, while in the United States it is regulated in the Lanham Act of 1946 or the Federal Trademark Lanham Act.

KEYWORDS: Protection, Brand Rights, Health, Human

I. INTRODUCTION

Trademarks are part of the big building Intellectual Property Rights (IPR).¹ As part of the IPR, the mark also contains exclusive rights for the holder of the rights to the registered mark.² In the business world, a brand is something that is important for the existence of a business. The brand becomes the identity of a product, namely as a distinguishing element between the product and similar or dissimilar products. The function of a brand for a product is not only as an identity that distinguishes between products but also as a guarantee of the quality of the product.³ Through its product brand, a company is known to the wider community, so that the brand will lead to public trust.⁴ Even the thing that makes the brand important for the company is through its well-known brand, the price of a company's product can be expensive, the use of a brand on a product must be based on good faith.⁵ Because the function of the brand is so important for the business world, especially for a company, making a brand an object that must be protected by law.⁶

The business world is very synonymous with a company. Companies in Indonesia have at least 2 (two) main functions, namely as a subject that meets human needs and as a provider of job vacancies.⁷ In the first function, namely as a subject that meets human needs, a company or a business entity sells its products to the public through the market. The product is attached to a brand that becomes an identity in the market.⁸ A company considers a brand as an asset of the company, which is included in the group of

¹ Ruth L. Okedij, ‘Is Intellectual Property “Investment”?’ Eli Lilly V. Canada And The International Intellectual Property System’, *U. Pa. J. Int’l L.*, 35.1 (2013), 1121–1138. Hlm. 1122.

² Eddy Susilowati, *Hak Kekayaan Intelektual Dan Kontrak Lisensi HKI* (Semarang: Magister Ilmu Hukum Universitas Diponegoro, 2012). Hlm. 5.

³ Claudio Fassio Suma Athreye, ‘Why Do Innovators Not Apply for Trademarks? The Role of Information Asymmetries and Collaborative Innovation’, *Industry and Innovation*, 27.2 (2020), 1–21. Hlm. 2.

⁴ Renny N.S Koloay, ‘Fungsi Pendaftaran Merek Sebagai Upaya Menjamin Kepastian Hukum Bagi Pemegang Hak Eksklusif Atas Merek’, *Jurnal Hukum UNSRAT*, 19.2 (2011), 90–100. Hlm. 92

⁵ Ifrani ND, Mukti Fajar, Yati Nurhayati, ‘Iktikad Tidak Baik Dalam Pendaftaran Dan Model Penegakan Hukum Merek Di Indonesia’, *Jurnal Hukum IUS QUIA IUSTUM*, 25.2 (2018), 219–236. Hlm. 220.

⁶ Beata Smarzynska Javorcik Eugenia Baroncelli, Carsten Fink, ‘The Global Distribution of Trademarks: Some Stylised Facts’, *The World Bank*, 12.1 (2004), 765–782. Hlm. 767.

⁷ Muh. Ali Masnun, ‘Reorientasi Pengaturan Pemberdayaan Hukum Usaha Mikro, Kecil, Dan Menengah Melalui Hak Atas Merek Kolektif’, *Jurnal Wawasan Yuridika*, 3.2 (2019), 217–234. Hlm. 218.

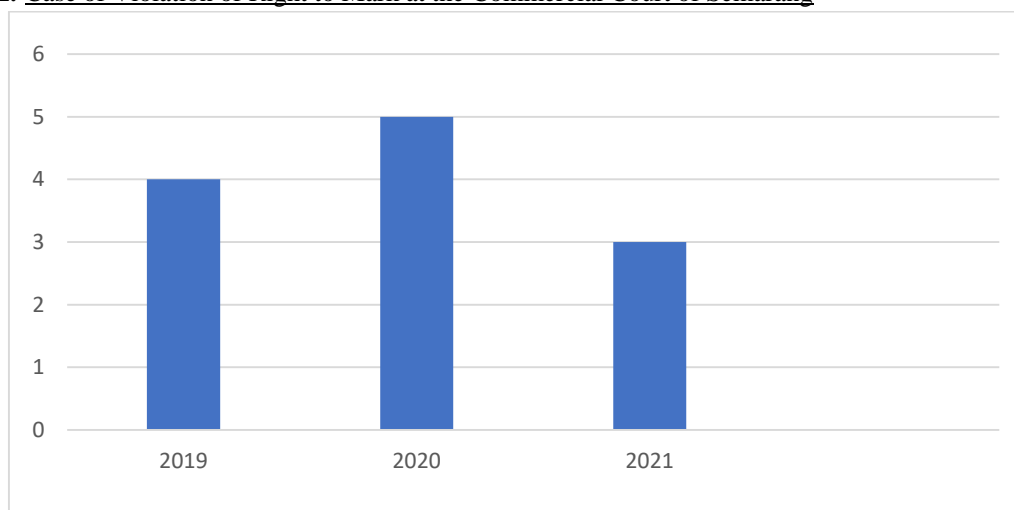
⁸ Marcel Seip Meindert Flikkema, Carolina Castaldi, Ard-Pieter de Man, ‘Trademarks’ Relatedness to Product and Service Innovation: A Branding Strategy Approach’, *Research Policy*, 48.2 (2019), 1340–1353. Hlm. 1342.

Comparison of Trademark Counterfeiting Laws That Harm Human Health in Indonesia and the United States

movable objects that are intangible (intangible assets).⁹ The position of the brand as a valuable company asset because it deals directly with consumers. Consumers will recognize and trust and give an assessment of the quality of a company's products from its product brands. Although Indonesia's positive law has facilitated the protection of trademark rights, in practice there are still frequent violations of trademark rights. Violation of the right to a mark is committed by a person who does not have the right to the mark against the holder of the registered mark right.

The number of violations of rights to or which in this study is equated with brand counterfeiting in Indonesia is quite high, this can be seen in the data released by the Directorate General of Intellectual Property Rights of the Ministry of Law and Human Rights (DJKI Kemenkumham), that throughout 2019 there were as many as 34 cases of Brand Counterfeiting reported to DJKI Kemenkumham.¹⁰ In addition to data released by the DJKI Kemenkumham, data showing that cases of violation of trademark rights are quite high can be seen in the following graph;

Graph I: Case of Violation of Right to Mark at the Commercial Court of Semarang



Source: Semarang District Court Case Investigation Information System ¹¹

The graph above provides information that from 2019 to May 2021 the number of cases of violation of trademark rights submitted to the Commercial Court at the Semarang District Court is increasing. The high number of brand counterfeiting in Indonesia indicates that regulations regarding the protection of trademark rights have not been implemented optimally.¹² The problem of trademark counterfeiting in Indonesia becomes even more concerning when such brand counterfeiting endangers human health, especially the Indonesian people, who are currently still in difficult conditions due to the spread of Covid-19. Brand counterfeiting that endangers human health is usually carried out on brands of medicinal products, medical device products and even food products. Various modes of counterfeiting products that endanger human health, including using the same brand in its entirety or the same in essence as the registered product or it can also be done by selling counterfeit products using used packaging of registered products.¹³

Based on the description of brand counterfeiting that endangers human health, especially the Indonesian people above, this study will describe and analyze 2 (two) problems, namely; First, this study will describe examples of cases of brand counterfeiting that endanger human health. Both of these studies will analyze how the legal protection for brand rights holders for brand counterfeiting that endangers human health, in the second part of this discussion will also describe the comparison of Indonesian law with the United States in terms of legal protection for brand rights holders for brand counterfeiting that endangers human health.

⁹ Kholis Roisah, Yulia Widiastuti Hayuningrum, 'Perlindungan Hak Ekonomi Terhadap Penggunaan Merek Dalam Perjanjian Waralaba', *Jurnal Law Reform*, 11.2 (2015), 255–263. Hlm. 256.

¹⁰ No Name, 'Pelanggaran Merek Paling Banyak Diadukan Ke Kemenkumham', *CNN*, 2019 <<https://www.cnnindonesia.com/teknologi/20191231141341-185-461331/pelanggaran-merek-paling-banyak-diadukan-ke-kemenkumham>> [accessed 29 April 2021].

¹¹ PN Semarang, 'Daftar Perkara Hak Kekayaan Intelektual', *Pengadilan Negeri Semarang*, 2021 <http://sipp.pn-semarangkota.go.id/list_perkara/search>. Diakses pada 2 Mei 2021.

¹² Padrisan Jamba Irene Svinarky, Ukas, 'Efektivitas Undang-Undang Merek Dan Indikasi Geografis Terhadap Daftar Merek Usaha Dagang Industri Kecil Dan Menengah', *Jurnal Magister Hukum Udayana*, 7.1 (2018), 63–73.

¹³ Simona Bustani Ayu Diyanti, 'Kajian Yuridis Terhadap Penggunaan Kemasan Merek Terdaftar Oleh Pihak Lain Yang Berdampak Bagi Kesehatan Masyarakat Berdasarkan Undang-Undang Nomor 20 Tahun 2016 Tentang Merek Dan Indikasi Geografis' (Universitas Tri Sakti, 2019). Hlm. 12.

Comparison of Trademark Counterfeiting Laws That Harm Human Health in Indonesia and the United States

This research is different from previous studies that discuss the same theme. The previous research, among others, has been carried out by Ayu Diyanti and Ayu Diyanti in their research entitled "A Juridical Study on the Use of Registered Brand Packaging by Other Parties That Have an Impact on Public Health Based on Law Number 20 of 2016 concerning Brands and Geographical Indications". The study concluded that the act of using registered brand packaging by other parties that endangers human health is a violation of the right to trademarks, especially "Article 100 paragraph (3) of Law Number 20 of 2016 concerning Marks and Geographical Indications".¹⁴ In addition, similar research has also been carried out by Fajar Nurcahya Dwi Putra in his research entitled "Legal Protection for Trademark Rights Holders Against Mark Violations". The study concluded that the protection of trademark rights is an absolute must because if left unchecked, it will be very detrimental to the holder of the rights to registered trademarks and to the general public, losses to the community can be in the form of losses to health.¹⁵

Based on previous studies that discuss the same theme as this research, it can be stated that there is no research that specifically addresses the same problem as this research. So that this research has a distinguishing element with previous studies and this research is important to do.

II. RESEARCH METHODS

In writing this study using normative legal research methods with a statutory approach and a case approach. The data used is secondary consisting of primary and secondary legal materials.¹⁶ The primary legal materials used include the Trademark Law and Geographical Indications and examples of cases of violation of rights to trademarks that endanger human health. While the secondary legal materials used in this study are journals and books as well as other literature materials that discuss the violation of trademark rights that endanger human health, the legal materials were obtained through a literature study. The research approach used is qualitative which is then analyzed descriptively¹⁷ to answer the problems in this research.

III. DISCUSSION

1. Examples of Brand Counterfeiting Cases That Harm Human Health

In this section, several examples of cases of brand counterfeiting that endanger human health will be presented. However, before that, it should be noted that cases of brand counterfeiting that endanger human health generally occur in brands in the fields of medicine, oil and lubricants, spare parts and cosmetics.¹⁸ In addition, cases of brand counterfeiting that endanger human health can also occur in brands in the field of food and medical devices. The following is an example of a case of brand counterfeiting that endangers human health, especially the Indonesian people.

a. "One Care" Registered Mark Counterfeit Case

One Care is a brand owned by PT. Central Medika Indonesia, having its address at JL. Mutiara Selatan Temple III No. 317 Rt. 003 Rw. 006 Ex. Kalipancur, Kec. Ngaliyan Semarang City, Central Java 50183. Products traded under the One Care brand by PT. Sentral Medika Indonesia is "Medical instruments, surgical apparatus and instruments, medicine, dentistry and veterinary medicine, limbs, eyes and dentures, materials for suturing surgical wounds, orthopedic objects including medical masks". The One Care Mark was submitted for registration by PT. Sentral Medika Indonesia has registered status, so that according to the provisions of Article 3 of the Law on Trademarks and Geographical Indications, the One Care brand has the right to the mark and has been protected by law since July 30, 2018 and ends on July 30, 2028, as quoted on the Data Base page. Intellectual Property of the Indonesian Ministry of Law and Human Rights.¹⁹ Because it is a brand for medical equipment, One Care has also obtained a distribution permit from the Ministry of Health of the Republic of Indonesia in 2018.

However, from 2020 to 2021, it turned out that there were other parties who registered trademarks under the names One Care and One Care Plus for the same class code and type of goods. Another party that registered the mark is PT. Aghar Dipta Sanjaya and PT. Tirta Dewi Jaya, and Eka Gunawan, all of which are still in the registration process.

Compared to the One Care brands registered with the One Care and One Care Plus brands, they are as follows:

¹⁴ Simona Bustani, Ayu Diyanti, *Ibid*, Hlm. 1.

¹⁵ Fajar Nurcahya Dwi Putra, 'Perlindungan Hukum Bagi Pemegang Hak Atas Merek Terhadap Perbuatan Pelanggaran Merek', *Jurnal Mimbar Keadilan*, 12.1 (2014), 97–108. Hlm. 98.

¹⁶ Yulianto Achmad Mukti Fajar, *Dualisme Penelitian Hukum Normatif Dan Empiris* (Yogyakarta: Pustaka Pelajar, 2017). Hlm. 42.

¹⁷ Depri Liber Sonata, 'Metode Penelitian Hukum Normatif Dan Empiris Karakteristik Khas Dari Metode Meneliti Hukum', *Fiat Justisia Jurnal Ilmu Hukum*, 8.1 (2014), 15–35. Hlm. 21.

¹⁸ BPHN, *Hasil Penyelarasan Naskah Akademik RUU Tentang Merek* (Jakarta, 2015). Hlm. 5.

¹⁹ Ditjen HKI, 'Pangkalan Data Kekayaan Intelektual', *Kementerian Hukum Dan HAM RI*, 2018 <<https://pdki-indonesia.dgip.go.id/detail/D002018035802?type=trademark&keyword=one+care>>. Diakses pada 2 Mei 2021.



The top One Care brand is a registered brand while the One Care and One Care Plus brands below are brands that are suspected of imitating or falsifying the registered One care brand. This One Care registered trademark forgery case is currently in the process of submitting a clarification and subpoena by a legal representative to PT. Aghar Dipta Sanjaya and PT. Tirta Dewi Jaya, and Eka Gunawan, all of whom are applicants for registration of the One Care and One Care Plus brands who are still in the registration process.

b. Case of Counterfeiting “Bango” Soy Sauce Brand

The Bango brand is the name for the soy sauce product owned by PT Unilever Indonesia TBK, which is located at Jl. BSD Boulevard Barat Green Office Park Lot 3, BSD City, Tangerang 15345. The Bango mark was registered with the DJKI Kemenkumham with Application Number D002016056196 and was received by the DJKI Kemenkumham on 15 November 2016. So the Bango brand has received legal protection on 15 November 2016 until November 15, 2026. However, in its development in 2021, there are other parties who market soy sauce products with the Gajah brand, which has the same logo as the Bango brand. When comparing the Bango brand logo with the Gajah brand, it is as follows;

Registered Mark	Unregistered Mark

The picture above shows that there are similarities between the registered Bango brand and the unregistered Kecap Cap Gajah brand. The similarity lies in the color combination of the Image and Text on the Mark. Consumers will be fooled by the similarity of the brand, where the Cap Gajah soy sauce brand does not necessarily meet the health standards that have been determined by the Food and Drug Inspection Agency (BPOM), in Indonesia, so this can endanger the safety of consumers who consume the Cap Gajah soy sauce. Based on the 2 (two) examples of brand counterfeiting cases above, the first is the “One Care” Registered Mark Counterfeit Case and the second case is the “Bango” Soy Sauce Brand Counterfeit Case. The two examples are brand counterfeiting that endangers human health, especially the Indonesian people because it involves medical device products and food products.

2. Legal Protection of Trademark Rights Holders for Counterfeiting of Trademarks That Harm Human Health, Comparison of Indonesian Laws with the United States

In this section, we will describe the comparison of legal protection for trademark rights holders for brand counterfeiting that endangers human health between Indonesian law and the United States law. In principle, there are similarities between legal

Comparison of Trademark Counterfeiting Laws That Harm Human Health in Indonesia and the United States

arrangements regarding trademarks in Indonesia and the United States, namely that the arrangements follow developments according to the principles of International Law.²⁰ The law here is interpreted as a statutory regulation that regulates the protection of rights to trademarks, which includes the regulation of trademark rights for brand counterfeiting that endangers human health. So that the function of law here is to become an instrument of regulating and protecting rights,²¹ especially trademark rights. In addition, the law here is also interpreted as an instrument to regulate and realize the protection of human health.²²

The function of law as an instrument for regulating and protecting trademark rights against brand counterfeiting that endangers human health is absolutely necessary, especially in Indonesia. This is because the purpose of the Unitary State of the Republic of Indonesia as stated in the opening of the 1945 Constitution of the Republic of Indonesia is to protect the entire Indonesian nation and the entire homeland of Indonesia. The context of protection in the goals of the Unitary State of the Republic of Indonesia is related to the protection of human health due to brand counterfeiting, so consumers of counterfeit brand products must be protected by law. Consumers of counterfeit brand products here are those who consume medicinal products, oils and lubricants, spare parts and cosmetics, food products and medical devices, as examples of cases of brand counterfeiting that endanger human health have been described in the first discussion above. All Indonesian people are essentially consumers so protecting consumers is the same as protecting all Indonesian people,²³ especially the Indonesian people who consume products using fake brands.

In addition, parties whose rights need to be protected by law are registered trademark holders whose trademarks are counterfeited by other parties and such trademark counterfeiting endangers human health. The embodiment of legal protection for brand rights holders for brand counterfeiting that endangers human health must be realized in a policy in the form of statutory regulations. The following is a comparison of the legal protection for trademark rights holders for trademark counterfeiting that endangers human health between the law in Indonesia and the law in the United States.

a. Legal Protection for Trademark Rights Holders for Counterfeiting Trademarks That Harm Human Health in Indonesian Law

Legal protection for trademark rights holders for brand counterfeiting that endangers human health in Indonesian law is regulated in 2 (two) laws (UU). The first law is the Trademark Law and Geographical Indications and the second law is Law No. 8/1999 on Consumer Protection, hereinafter referred to as the Perlinkos Law. 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 himself or giving permission to other parties to use it. The right to a mark is obtained when the mark is approved or registered.²⁴ This is in line with the provisions of Article 3 of the Trademark Law and Geographical Indications. The period of protection of a mark is 10 years from the time the mark is received as regulated in Article 35 paragraph 1 of the Trademark Law and Geographical Indications and can be extended for the same period of protection as stipulated in paragraph 2 of the article.

The articles above are legal protection rules for trademark rights in Indonesia in general. In particular, legal protection for trademark rights holders for trademark counterfeiting that endangers human health is regulated in Article 100 paragraph 1, paragraph 2 and paragraph 3. In essence, if an individual or legal entity commits counterfeiting of a registered mark, criminal sanctions will be imposed and/or or fines. If the counterfeiting of the mark has similarities in its entirety or in essence with a registered mark and endangers human health, environmental sustainability, and even results in death, the sanction that can be imposed is a maximum imprisonment of 10 (ten) years and/or a maximum fine of Rp5. 000,000,000.00 (five billion rupiah), this is specifically regulated in paragraph 3. In addition, Article 19 of the Perlinkos Law stipulates that business actors, both individuals and legal entities, must be responsible for compensation for goods and/or services produced. or traded. Compensation can be in the form of refunds or replacement of goods and/or services of similar or equivalent value, or health care and/or compensation in accordance with the provisions of the applicable laws and regulations.

Based on the description of the legal protection for trademark rights holders for brand counterfeiting that endangers human health in Indonesian law, it is known that this is facilitated in the Trademarks and Geographical Indications Law and the Perlinkos Law. Specifically for protection for trademark rights holders, they can file a lawsuit with the Commercial Court and those who falsify can be subject to criminal sanctions and/or fines and compensation.

²⁰ R. Murjiyanto, 'Konsep Kepemilikan Hak Atas Merek Di Indonesia (Studi Pergeseran Sistem "Deklaratif" Ke Dalam Sistem "Konstitutif")' (Universitas Islam Indonesia, 2016). Hlm. 54.

²¹ Henry Arianto, 'Hukum Responsif Dan Penegakan Hukum Di Indonesia', *Lex Jurnalica*, 7.2 (2010), 115–23.

²² Ton Wilthagen Aalders, Marius, 'Moving Beyond Command-and-Control: Reflexivity in the Regulation of Occupational Safety and Health and the Environment', *Law & Policy*, 19.4 (1997), 415–435. Hlm. 417.

²³ Kornelius Benuf, Siti Mahmudah, and Ery Agus Priyono, 'Perlindungan Hukum Terhadap Keamanan Data Konsumen Financial Technology Di Indonesia', *Refleksi Hukum: Jurnal Ilmu Hukum*, 3.2 (2019), 145–160
<<https://doi.org/10.24246/jrh.2019.v3.i2.p145-160>>. Hlm. 152.

²⁴ Setia Dharma, 'Perlindungan Merek Terdaftar Dari Kejahatan Dunia Maya Melalui Pembatasan Pendaftaran Nama Domain', *Jurnal Cita Hukum*, 2.2 (2014), 193–206. Hlm. 195.

Comparison of Trademark Counterfeiting Laws That Harm Human Health in Indonesia and the United States

b. Legal Protection Against Trademark Rights Holders For Mark Counterfeiting That Endangers Human Health Under United States Law

It is the same in Indonesia, namely that brands that are often counterfeited and endanger human health in the United States often occur in brands of medicines, food, and medical devices. Legal protection for trademark rights holders for brand counterfeiting that endangers human health in United States law is regulated in the Lanham Act of 1946 or the Federal Trademark Lanham Act, hereinafter referred to in this study as Law in the United States. The law in the United States dictates that the definition of a mark is:

“The Lanham Act, which governs nationally registered marks, defines a trademark as “any word, name, symbol, or device” used by a person in commerce to identify and distinguish goods from those manufactured by other”

Which means that a mark is a word, name, symbol, or any device” that is used by a person in commerce to identify and distinguish goods produced by others. In the United States of America recognizes that a mark is an object of rights that is equivalent to property so it is important to protect it.²⁵

The United States adheres to the doctrine of first to file and first to use simultaneously, so that the right to a mark is obtained when the mark is first used and the mark is first registered.²⁶ As provided for in section 2 or g 1052, 15 USC, and section 3 or g 1053, 15 USC, United States Law. Specifically regarding legal protection for trademark rights holders for trademark counterfeiting that endangers human health in United States law, it is regulated in Article 29 or g 11 1 1, 15 USC United States Law, which in essence provides protection to the owner of trademark rights that has the right to register his trademark and obtain the registration symbol R (R in circles) together with the Mark, so that the use of the registration symbol will no longer be a barrier against the existence of a fake Mark or hold an appropriate defense against a lawsuit for infringement of the right to the mark

IV. CONCLUSION

Based on the discussion of the 2 (two) research problems above, it can be concluded that; Cases of brand counterfeiting that endanger human health generally occur in brands in the fields of medicine, oil and lubricants, spare parts as well as cosmetics, food and medical devices. An example of a brand counterfeiting case that endangers human health is the “One Care” Registered Mark Counterfeit Case and the second case is the “Bango” Soy Sauce Brand Counterfeit Case. Whereas in principle there are similarities between legal arrangements regarding trademarks in Indonesia and in the United States, namely that the regulations follow developments according to the principles of International Law. Legal protection for trademark rights holders for brand counterfeiting that endangers human health in Indonesian law is regulated in the Trademarks and Geographical Indications Law and the Perlinkos Law. Specifically for protection for trademark rights holders, they can file a lawsuit with the Commercial Court and those who falsify can be subject to criminal sanctions and/or fines and compensation. Meanwhile, legal protection for trademark rights holders for brand counterfeiting that endangers human health in United States law is regulated in the Lanham Act of 1946 or the Federal Trademark Lanham Act, which essentially stipulates that the trademark owner has the right to register his trademark and obtain the registration symbol R (R in a circle). Together with the Mark, so that the use of the registration symbol will no longer be a barrier against the existence of a fake Mark or provide an appropriate defense against a lawsuit for infringement of the right to the mark.

REFERENCES

- 1) Aalders, Marius, Ton Wilthagen, ‘Moving Beyond Command-and-Control: Reflexivity in the Regulation of Occupational Safety and Health and the Environment’, *Law & Policy*, 19.4 (1997), 415–35
- 2) Arianto, Henry, ‘Hukum Responsif Dan Penegakan Hukum Di Indonesia’, *Lex Jurnalica*, 7.2 (2010), 115–23
- 3) Ayu Diyanti, Simona Bustani, ‘Kajian Yuridis Terhadap Penggunaan Kemasan Merek Terdaftar Oleh Pihak Lain Yang Berdampak Bagi Kesehatan Masyarakat Berdasarkan Undang-Undang Nomor 20 Tahun 2016 Tentang Merek Dan Indikasi Geografis’ (Universitas Tri Sakti, 2019)
- 4) Benuf, Kornelius, Siti Mahmudah, and Ery Agus Priyono, ‘Perlindungan Hukum Terhadap Keamanan Data Konsumen Financial Technology Di Indonesia’, *Refleksi Hukum: Jurnal Ilmu Hukum*, 3.2 (2019), 145–60
<<https://doi.org/10.24246/jrh.2019.v3.i2.p145-160>>
- 5) BPHN, *Hasil Penyelarasan Naskah Akademik RUU Tentang Merek* (Jakarta, 2015)
- 6) Depri Liber Sonata, ‘Metode Penelitian Hukum Normatif Dan Empiris Karakteristik Khas Dari Metode Meneliti Hukum’, *Fiat Justisia Jurnal Ilmu Hukum*, 8.1 (2014), 15–35
- 7) Dharma, Setia, ‘Perlindungan Merek Terdaftar Dari Kejahatan Dunia Maya Melalui Pembatasan Pendaftaran Nama Domain’, *Jurnal Cita Hukum*, 2.2 (2014), 193–206
- 8) Eugenia Baroncelli, Carsten Fink, Beata Smarzynska Javoreik, ‘The Global Distribution of Trademarks: Some Stylised

²⁵ Akila Sankar McConnell, ‘Making Wal-Mart Pretty : Trademarks And Aesthetic Restrictions on Bog- Box Retailers’, *Duke Law Journal*, 53.5 (2004), 1537–1567.

²⁶ Murjiyanto. Hlm. 159.

Comparison of Trademark Counterfeiting Laws That Harm Human Health in Indonesia and the United States

- Facts', *The World Bank*, 12.1 (2004), 765–782
- 9) HKI, Ditjen, 'Pangkalan Data Kekayaan Intelektual', *Kementerian Hukum Dan HAM RI*, 2018 <<https://pdki-indonesia.dgip.go.id/detail/D002018035802?type=trademark&keyword=one+care>>
 - 10) Irene Svinarky, Ukas, Padrisan Jamba, 'Efektivitas Undang-Undang Merek Dan Indikasi Geografis Terhadap Daftar Merek Usaha Dagang Industri Kecil Dan Menengah', *Jurnal Magister Hukum Udayana*, 7.1 (2018), 63–73
 - 11) Masnun, Muh. Ali, 'Reorientasi Pengaturan Pemberdayaan Hukum Usaha Mikro, Kecil, Dan Menengah Melalui Hak Atas Merek Kolektif', *Jurnal Wawasan Yuridika*, 3.2 (2019), 217–34
 - 12) McConnell, Akila Sankar, 'Making Wal-Mart Pretty : Trademarks And Aesthetic Restrictions on Bog- Box Retailers', *Duke Law Journal*, 53.5 (2004), 1537–67
 - 13) Meindert Flikkema, Carolina Castaldi, Ard-Pieter de Man, Marcel Seip, 'Trademarks' Relatedness to Product and Service Innovation: A Branding Strategy Approach', *Research Policy*, 48.2 (2019), 1340–53
 - 14) Mukti Fajar, Yulianto Achmad, *Dualisme Penelitian Hukum Normatif Dan Empiris* (Yogyakarta: Pustaka Pelajar, 2017)
 - 15) Murjiyanto, R., 'Konsep Kepemilikan Hak Atas Merek Di Indonesia (Studi Pergeseran Sistem "Deklaratif" Ke Dalam Sistem "Konstitutif")' (Universitas Islam Indonesia, 2016)
 - 16) Name, No, 'Pelanggaran Merek Paling Banyak Diadukan Ke Kemenkumham', *CNN*, 2019 <<https://www.cnnindonesia.com/teknologi/20191231141341-185-461331/pelanggaran-merek-paling-banyak-diadukan-ke-kemenkumham>> [accessed 29 April 2021]
 - 17) ND, Mukti Fajar, Yati Nurhayati, Ifrani, 'Iktikad Tidak Baik Dalam Pendaftaran Dan Model Penegakan Hukum Merek Di Indonesia', *Jurnal Hukum IUS QUIA IUSTUM*, 25.2 (2018), 219–36
 - 18) Okedij, Ruth L., 'Is Intellectual Property "Investment"? Eli Lilly V. Canada And The International Intellectual Property System', *U. Pa. J. Int'l L.*, 35.1 (2013), 1121–38
 - 19) Putra, Fajar Nurcahya Dwi, 'Perlindungan Hukum Bagi Pemegang Hak Atas Merek Terhadap Perbuatan Pelanggaran Merek', *Jurnal Mimbar Keadilan*, 12.1 (2014), 97–108
 - 20) Renny N.S Koloay, 'Fungsi Pendaftaran Merek Sebagai Upaya Menjamin Kepastian Hukum Bagi Pemegang Hak Eksklusif Atas Merek', *Jurnal Hukum UNSRAT*, 19.2 (2011), 90–100
 - 21) Semarang, PN, 'Daftar Perkara Hak Kekayaan Intelektual', *Pengadilan Negeri Semarang*, 2021 <http://sipp.pn-semarangkota.go.id/list_perkara/search>
 - 22) Suma Athreye, Claudio Fassio, 'Why Do Innovators Not Apply for Trademarks? The Role of Information Asymmetries and Collaborative Innovation', *Industry and Innovation*, 27.2 (2020), 1–21
 - 23) Susilowati, Ety, *Hak Kekayaan Intelektual Dan Kontrak Lisensi HKI* (Semarang: Magister Ilmu Hukum Universitas Diponegoro, 2012)
 - 24) Yulia Widiastuti Hayuningrum, Kholis Roisah, 'Perlindungan Hak Ekonomi Terhadap Penggunaan Merek Dalam Perjanjian Waralaba', *Jurnal Law Reform*, 11.2 (2015), 255–263