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The Principle of Good and Bad Faith in Business Dispute Resolution (A Critical Juridical Study on The Trademark Dispute Case Between Mohindar H.B and Pt Polo Ralph Lauren Indonesia)

Nandana Faith Mahadana[1], Budi Santoso[2]

[1] Master of Law Student, Diponegoro University, Semarang

[2] Lecturer at the Faculty of Law Diponegoro University, Semarang

ABSTRACT: The trademark polemic involving PT Polo Ralph Lauren and Mohindar H.B. was removed from the closeness regarding the Polo brand by Ralph Lauren, where Mohindar H.B. managed to defeat Polo by Ralph Lauren. The purpose of this study is to explore the legal meaning of the application of the principle of bad faith in the fight between PT Polo versus Mohndar H.B. This study also aims to explore how to resolve the dispute between PT Polo and Mohindar in accordance with the Trademark and Geographical Indications Law. The approach method used is normative legal with data collection techniques through library studies and online research, descriptive analytical in nature. The types of data collected include secondary data consisting of primary, secondary, and tertiary legal materials. This study applies systematic analysis to the data. The findings of this study indicate that the trademark owned by PT Polo Ralph Lauren was cancelled and deleted based on the Decision Number 9 PK/Pdt.Sus.HKI/2024 won by Mohindar H.B, with the consideration that the application of the principle of bad faith by PT Polo and non-compliance with the principle of first to file were important factors for the Supreme Court Judge in making a decision on the case.

KEYWORDS: First to File, Bad Faith, and Brand

I. INTRODUCTION

A brand serves as the identity of a corporation, making trademark registration a crucial and vital matter. This registration acts as legal proof of ownership for individuals or juridical entities over the trademark, while also providing a foundation for protecting the owner from potential infringements by competitors amidst today's increasingly fierce business competition. In the context of positive law in Indonesia, the trademark registration system adheres to the "first to file" principle, also known as "first to register," meaning that trademark rights are valid for the first party who submits the registration through the official government agency, namely the Directorate General of Intellectual Property.

Owners of officially registered trademarks are granted exclusive rights by the state— rights provided to registered trademark owners in the general register for a specified period. These rights allow them to use the trademark personally or grant permission to others to use it. If there is unauthorized use of the trademark, the owner has the right to file legal claims in accordance with Article 76 of the Trademark and Geographical Indications Law.

The Supreme Court Decision Number 9 PK/Pdt.Sus-HKI/2024 serves as an example of a trademark dispute case between PT Polo Ralph Lauren Indonesia and Mohindar H.B. The 1 registration for the Polo by Ralph Lauren trademark and the Horse Rider Logo was initially filed under Jon Whiteley's name on November 20, 1982, and subsequently obtained official registration on July 5, 1983, with a validity period of ten years. In 1986, Mohindar H.B acquired the trademark from Jon Whiteley through a deed of sale. Later, in 1993, Mohindar renewed his ownership rights to extend the expiration date to July 5, 2003.

The dispute began in 1992 when PT Manggala Putra Perkasa purchased the "Polo by Ralph Lauren" trademark along with the Horse Rider Logo from Jon Whiteley through a notarial deed dated June 17, 1992. This conflict arose because Jon Whiteley sold an object or trademark that was no longer his property. Legal proceedings occurred in 1993 when PT Manggala Putra Perkasa sued Mohindar H.B., arguing that their transaction with Jon Whiteley, documented in a notarial deed, held higher legal authority than Mohindar H.B.'s deed of sale. However, during legal proceedings, Mohindar was declared the legitimate owner of the trademark, and PT Manggala Putra Perkasa's allegations regarding a forged deed of sale were dismissed after signature verification at the Criminal Laboratory of Indonesian National Police Headquarters.

During the dispute, PT Manggala Putra Perkasa continued selling products under the same brand. Furthermore, on December 19, 2014, a new company named PT Polo Ralph Lauren Indonesia was established as an affiliate of PT Manggala Putra Perkasa, with Fahmi Babra serving as President Director at that time. Additionally, registrations for trademarks and other intellectual property rights were carried out, including Prada trademarks that had been decided by the Supreme Court and held permanent legal force. Mohindar then filed lawsuits against trademarks registered by PT Manggala Putra Perkasa and transferred to PT Polo Ralph Lauren Indonesia.

The principle of bad faith became the basis for judges at Jakarta Central Commercial Court on December 29, 2022, to rule that PT Manggala Putra Perkasa and PT Polo Ralph Lauren Indonesia acted improperly when filing their trademark registrations. This was because they already knew that these trademarks belonged to another party—Mohindar H.B. Subsequently, on March 14, 2024, this case entered its Judicial Review phase filed by plaintiff PT Polo Ralph Lauren Indonesia against defendant Mohindar H.B. Through Decision Number 9 PK/Pdt.Sus-HKI/2024, Supreme Court Judges rejected PT Polo Ralph Lauren Indonesia's lawsuit and thereby established Mohindar H.B as the rightful owner of Polo Ralph Lauren trademarks and Horse Rider Logo.

Based on this background description, I am interested in further exploring this topic in my thesis titled**: "The Principle of Good and Bad Faith in Business Dispute Resolution (A Critical Juridical Study on Trademark Dispute Case Between Mohindar H.B and PT Polo Ralph Lauren Indonesia)."**

II. RESEARCH METHOD

The research method used by the author is normative legal research. Research using normative legal research is based on the approach and analysis of legislation. This approach is used by the author in this study is by means of literature study (library research). The data collected comes from scientific works such as scientific journals, books, dictionaries and so on. The writing that has been analyzed will be described to see the relationship between variables. In this case, to analyze legal protection analysis of geographical indications as an effort to preserve local and indonesian products.

III. DISCUSSION REGULATION REGARDING THE PRINCIPLES OF GOOD FAITH AND BAD FAITH THE PRINCIPLE OF GOOD FAITH

The principles in contract law is the principle of good faith, as stated in Article 1338(3) of the Indonesian Civil Code (KUHPerdata), which emphasizes the obligation of parties to execute agreements in good faith. Over time, this provision has been interpreted broadly (extensive interpretation), leading to the understanding that good faith plays a role not only during the execution phase but also during the signing phase and the pre-contractual phase. Agreements are thus seen as a process toward the fulfillment of rights and obligations by the parties, with each stage guided by the principle of good faith.

Good faith in an agreement signifies compliance, meaning an evaluation of a party's actions in fulfilling what has been promised, aiming to prevent improper and arbitrary behavior by one party. The application of good faith is not a simple matter but is essential because it does not only refer to values prevailing in society; rather, it is an integral part of society itself.

The Principle of Bad Faith

According to Gatot Suparmono, bad faith refers to intentional actions aimed at imitating another's trademark by violating provisions in the Trademark and Geographical Indications Law, which should uphold values and principles of good faith. Article 4 of the Trademark and Geographical Indications Law states: "A trademark cannot be registered based on an application submitted by an applicant acting in bad faith." This provision implies that even though Indonesia adopts a constitutive system, it still protects trademark owners acting in good faith. Only applications submitted by trademark owners acting in good faith can be accepted for registration. Therefore, legal protection is provided to those acting in good faith, while trademarks registered dishonestly or with bad intentions can be canceled by the Directorate General of Intellectual Property (Dirjen KI).

Legal Implications of Implementing the Bad Faith Principle in PT Polo Ralph Lauren Indonesia's Trademark Dispute The Principle of Bad Faith in Trademark Registration in the Dispute Between PT Polo and Mohindar H.B

The principle of bad faith was applied by PT Polo in registering its trademark, leading to a dispute involving PT Polo and Mohindar H.B over the "Polo by Ralph Lauren" trademark. Both parties claimed legitimacy based on their historical acquisition of the trademark through transfers and sales from John Whitley. However, during dispute resolution—from the Commercial Court to the Supreme Court—the lawsuit was won by Mohindar H.B., who was deemed the rightful owner based on his 1986 deed of sale with John Whitley.

The principle of bad faith represents actions violating provisions outlined in Article 21 of the Trademark and Geographical Indications Law. In this context, Dirjen KI must adhere to Article 21 when examining trademark registration applications to ensure that trademarks are registered in good faith. Substantive examinations should verify that trademarks meet requirements stipulated in Articles 20–23 and are registered with good intentions. If elements of bad faith are found during registration, such applications should be rejected or canceled if already registered.

Trademark applications containing elements described under Article 20 cannot be accepted or may be canceled if already registered due to bad faith during registration. Such actions also contravene conditions set forth under Article 21.

Applications with similarities to well-known trademarks for similar goods or services may be rejected based on public knowledge about such trademarks, their reputation established through extensive promotion and investment across multiple countries, and evidence of registration in various jurisdictions. If insufficient evidence exists, Commercial Courts may order independent bodies to conduct surveys assessing whether a trademark qualifies as well-known.

The concept of "substantial similarity" under Article 21 aligns with the doctrine of "nearly resembles," meaning a trademark is considered substantially similar if it closely resembles another trademark based on factors such as image similarity, word arrangement, color or sound resemblance, and whether usage causes actual confusion or misleads consumers.

Acts committed in bad faith—violating Article 21—constitute fraudulent attempts to exploit well-known trademarks or widely recognized works without permission from their rightful owners. Such actions breach intellectual property ethics governed by law.

Legal Implications for Resolving Trademark Disputes Under Indonesia's Trademark and Geographical Indications Law

Trademark disputes involving individuals, groups, or business entities claiming damages due to similarities between trademarks can be resolved under Articles 83(1–3) of the Trademark and Geographical Indications Law:

a) Registered trademark owners or license holders may file lawsuits against unauthorized users for:
   Compensation claims;
   Ceasing all activities related to unauthorized use;
b) Lawsuits can also be filed by well-known trademark owners based on court rulings;
c) Such lawsuits are submitted to Commercial Courts.

Procedures for filing lawsuits under Article 83(3) are detailed in Article 85(1–9), including steps for submission, registration, case examination timelines (90 days extendable by 30 days), public pronouncement of rulings, and notification requirements.

If parties disagree with Commercial Court decisions, appeals can be filed with the Supreme Court for final rulings. Further objections may lead to judicial review (PK).

Alternatively, disputes can be resolved non-litigiously through arbitration, negotiation, mediation, conciliation, or other methods agreed upon by disputing parties. Non-litigious methods offer cost-effective alternatives compared to lengthy litigation processes. Examples include:

Consultation: Legal advice provided by consultants for clients seeking optimal solutions; Negotiation: Direct discussions between disputing parties aiming for mutually acceptable resolutions.

Mediation: Facilitated negotiations mediated by impartial third parties;

Arbitration: Resolution outside general courts based on arbitration agreements. Trademark disputes—such as those involving PT Polo Ralph Lauren Indonesia—can also be resolved through Indonesia's Intellectual Property Arbitration and Mediation Agency (BAMHKI). Litigious routes allow claimants to pursue civil damages or criminal charges as ultimum remedium (last resort).

IV. CONCLUSION

Trademarks registered in bad faith result in legal consequences for violators. Under Article 72 of Indonesia's Trademark and Geographical Indications Law, such registrations may lead to cancellation or deletion from public records—as evidenced by Supreme Court Decision No. 9 PK/Pdt.Sus.HKI/2024 favoring Mohindar H.B over PT Polo Ralph Lauren Indonesia.

This case exemplifies compliance with Indonesia's Trademark Law provisions (Article 76), allowing aggrieved parties to file lawsuits with Commercial Courts.

Recommendations for Dirjen KI: Exercise greater scrutiny when approving trademark registrations to prevent overlaps. For business actors: Stay vigilant amid competitive markets and remain updated on applicable laws to avoid plagiarism or exploitation cases.

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