

LEGAL PROTECTION OF REGISTERED MARKS IN INDONESIA BASED ON LAW NO. 20 OF 2016 ABOUT BRANDS AND GEOGRAPHICAL INDICATIONS

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ABSTRACT

Legal protection of registered trademark rights in Indonesia based on Law No. 20 of 2016 concerning marks and geographical indications. *research objectives*, To find out the Development of Intellectual Property Rights (IPR) in Indonesia, especially in the field of Brands. To know and analyze the legal protection of trademark rights in Indonesia in the implementation of the TRIPs agreement based on Law No. 20 of 2016. To find out the government's efforts in preventing brand counterfeiting in the implementation of TRIPs approval, the *Research Method* is to use qualitative research methods that are normative. *Research Results* If the world of trade is getting more advanced, transparency tools are getting better, and also the number of promotional tools, it makes the marketing area expand, so that this situation adds to how important the meaning of a brand is to distinguish the origin of quality product results. This is to prevent imitation or use of the brand without rights, the law is basically a rule deliberately created by the community in order to achieve an orderly, safe, and peaceful life. *Conclusion* Brands that have not obtained legal protection regarding the rights to their marks, to obtain legal protection first apply for registration in Indonesia, if it turns out that the registered mark has been registered by another party, then the legal remedy that must be taken is to file a lawsuit for cancellation of the registered mark

Keywords: Brand Protection, Geographical Indication

Introduction

Indonesia, along with the increase in international trade that leads to the creation of a global market in the form of a free market, the availability of an effective legal protection system in the field of IPR is increasingly needed. This role will actually be seen in the impact of legal protection in the field of IPR which can improve Indonesia's image in international forums, while domestically it will have an impact on improving the quality, creativity and innovation of the community in various fields, encouraging technology transfer, transferring knowledge, enlarging information in the field of IPR, stimulating

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foreign investment, protecting consumers and so on.

In international trade, where Indonesia has also signed international agreements that require the provision of IPR protection for participating countries. On April 15, 1994, Indonesia signed the TRIPs Agreement (*Agreement on Trade Related Aspect of Intellectual Property Rights, Including Trade in Counterfeit Goods*), and on May 7, 1997 followed the approval of the Paris Convention through Presidential Decree No. 15 of 1997 concerning Amendments to Presidential Decree No. 24 of 1979, State Gazette No. 15 of 1979 concerning ratification *Convention Establishing the World Intellectual Property Organization and Paris Convention for the Protection of Industrial Property* (Direktorat Jenderal Hak Kekayaan Intelektual Departemen Hukum dan Hak Asasi Manusia, 2015).

Brands have long been used as a means of identifying or identifying goods and services produced by a company from goods and / or services produced by other similar companies, or used to give marks of the products produced. The brand has good value or gives a good impression (*image*) if the branded product can meet the needs or desires of the user or consumer of the brand, this is what has economic value in the industrial world. (Direktorat Jenderal Hak Kekayaan Intelektual Departemen Hukum dan Hak Asasi Manusia, 2015). The trade sector is very important in the Indonesian economy, both domestically and internationally which is heading towards a competitive free trade era. In a global era where the level of competition will be increasingly difficult to face. Development can only be achieved based on science and technology (*Knowledge Base*) because technology has a very important role in efforts to improve and develop industry.

It is proven that developed countries can achieve rapid progress in the economy through the development of trade industries and adequate protection of IPR. In order to stimulate the growth of industry and trade, legal arrangements are needed that can guarantee and protect the rights of inventors in these fields. New discoveries can be used to advance and develop the industry, because the rapid economic development has left the development of law and jurisprudence.

In many cases, irresponsible imitation of the brand for similar goods in addition to harming the legitimate owner of the brand, will also harm the general public, especially users / consumers, because it is a fraudulent act that creates chaos regarding the origin of goods or industrial and commercial businesses, describes the business of entrepreneurs or industrial and commercial goods of the real brand owner with a violation of the mark, and deceive the public regarding the quality of an item. Therefore, it is necessary that brand issues get the best regulation to protect consumers as well as legitimate brand owners (Acmad Fauzan, 2004). The act of brand forgery, will certainly reduce the level of trust of foreign parties in the guarantee of protection for the brand they have. As a result, there is international distrust of the protection of trademark rights provided by the

Indonesian government or to conduct trade relations with the Indonesian side (Acmad Fauzan, 2004). Based on Law No. 20 of 2016 concerning Marks and Geographical Indications (hereinafter referred to as the Trademark Law), Article 1 Number 2 states that: "A trademark is a mark used on goods traded by a person or several people together or legal entities to distinguish it from other similar goods" (Acmad Fauzan, 2004).

Thus, it is very detrimental to brand holders, because their trademarks are counterfeited, including the state because the goods do not pay taxes and the public themselves who do not understand which goods are genuine or fake because the quality of the goods is different and physically has similarities. Trademarks that are mass forged in physical form can sometimes look the same as the original if not examined further, although counterfeited goods, the quality of the goods is sometimes the same (Sumantha D. Slotkin, 2017).

Counterfeited brands not only harm the holders of registered trademarks, but also damage the image of the Indonesian nation in the world of international trade, moreover the Indonesian nation is a participant in multilateral negotiations called the *World Trade Organization (WTO)*, where the organization takes care of international trade. Because of the wide field of IPR use specified in the *Trade Related Aspect of Intellectual Property Rights* (hereinafter referred to as TRIPs). In section 5 of TRIPs on "*Criminal Procedures*" article 61 outlines that TRIPs members must provide criminal legal procedures with adequate punishment if there has been a willful forgery of trademark or copyright (Sudargo Gautama, 1994).

One aspect of brand protection in TRIPs is the protection of well-known marks (already known to the general public) listed in Article 16 paragraph (2) is Article 6 *bis* of the *Paris Convention (1967)* applies *mutatis mutadis* (with full amendment) to services. In determining whether a trademark is publicly known, a Member shall take into account knowledge of the trademark in the field concerned, including knowledge in that Member State associated with the acquisition as a result of the promotion of the trademark concerned (Sudargo Gautama, 1994).

In practice in Indonesia, it turns out that the determination of famous brands still experiences differences in views from legal experts, in particular, this can be seen from the many contradictory judges' decisions with one another, especially in the case of famous brands, situations like this in addition to differences in views also because until now there has been no Government Regulation regulating famous brands (<http://afewgoodwords.wordpress.com>). As one example in the case of the INTEL JEANS brand whose *cancellation lawsuit was filed by Intel, Corp.*, the *Commercial Court* declared INTEL JEANS not as a well-known brand, but the *Supreme Court at the cassation level* declared that the mark was a well-known mark (<http://afewgoodwords>)

Library Review

According to Fitzgerald, as quoted by Satjipto Raharjo, the beginning of the emergence of the theory of legal protection came from the theory of natural law or the flow of natural law. It was pioneered by Plato, Aristotle (a disciple of Plato), and Zeno (founder of the Stoics). Fitzgerald explained Salmond's theory of legal protection that law aims to integrate and coordinate various interests in society because in a traffic of interests, protection of certain interests can only be done by limiting various interests on the other hand.

Brand as one of the legal systems in Intellectual Property Rights certainly has a very high historical and economic value. According to the theory of natural law, a creator has the moral right to enjoy the fruits of his creation, including the benefits generated by his intellect (HD Effendy Hasibuan). Thomas Aquinas as one of the pioneers of natural law said that natural law is the law of reason, because it is only intended for rational beings. Natural law is more of a rational law, meaning that it is the law of nature in the participation of rational beings themselves in eternal law (HD Effendy Hasibuan). Furthermore, Aquinas said that the right to acquire property is one of the issues that natural law leaves to the state as the appropriate body to regulate social life, meaning that private property has a social function (W.Friedman, 1993)

Related to the protection of intellectual property rights, there are two theories that can underlie the protection of intellectual property rights, namely *reward theory* and *public benefit theory*. These two theories are impossible to escape in relation to brand protection. Reward theory states that basically the creator or inventor who will be given protection needs to be rewarded for his efforts or efforts or in other words there needs to be a recognition of a success of an inventor (Arry A Sigit, 1991)

Public benefit theory or also called *economic growth stimulus theory*, related to the protection of a brand as one of the Intellectual Property Rights systems, that the brand is a tool for economic development. Economic development is the overall purpose of building an effective Intellectual Property Rights protection system (Arry A Sigit, 1991).

The reason the author uses the theory of the legal system is that the development of trademark rights protection cannot be separated from the existing legal system, and legal protection is the substance of the legal system itself. The development of law based on legal theory as said by Friedman about the legal system (legal system) *that law consists of 3 (three) elements, namely structural elements (structure), substantive (substance) and legal culture (legal culture)* (Lawrence M Friedman, 2001). Regarding structural elements in legal protection, it is certainly closely related to the House of Representatives (as the framer of the law) and institutions related to trademark

protection, namely the Directorate of Trademarks, Directorate General of Intellectual Property Rights of the Ministry of Law and Human Rights of the Republic of Indonesia in relation to efforts and ways to overcome problems arising in trademark law enforcement in Indonesia in connection with the ratification of TRIPs Agreement in order to support globalization or free trade (Bambang Kesowo, 1998). Soerjono Soekanto's opinion that Law Enforcement is an activity to harmonize the relationship of values described in solid rules and manifest and act attitudes as a series of final stage value elaboration, to create, maintain, and maintain social peace (Soerjono Soekanto, 2005).

Research Methods

In connection with problems that have been formulated previously and associated with existing theories, the research method in this writing uses the Normative Juridical method, which refers to legal norms contained in laws and court decisions and legal norms that exist in society (Sri Mamudji, et al. 2005). In addition, the author also uses qualitative research methods, first the author takes the following steps: This research is included in the type of empirical research, namely research on law in its implementation, research in this itself when associated with the theme / concept is normative in the process, principles, and procedures used. However, basically this research is not entirely normative considering the cases to be discussed in this writing occur in the actual scope (Sri Mamudji, et al. 2005). This research is analytical descriptive, by describing the applicable laws and regulations and associated with legal theories, in its implementation technology related to the problem to be studied, through this method will also describe and describe the facts that actually occur as a reflection of the implementation of laws and regulations and legal principles associated with legal theories and technology its implementation in the issue of legal protection of brands in Indonesia (Sri Mamudji, et al. 2005)

Primary Data, namely data obtained directly from the source, namely at the Directorate General of Intellectual Property Rights of the Ministry of Law and Human Rights. Skunder data, namely data obtained from official documents, books related to the issues discussed in this, research results in the form of reports, laws and regulations which are divided into: Primary legal materials, namely binding legal materials such as: Amendments to the Constitution of the Republic of Indonesia Year 1945, Law No. 20 Year 2016 concerning Trademarks and Geographical Indications (Sri Mamudji, et al. 2005) Skunder legal materials, namely those that provide explanations of primary legal materials such as literature literature, magazines, newspapers / daily news, law journals both nationally and internationally accredited, seminar papers and so on that are related to the problems to be discussed in this writing. Tertiary legal

material, which is legal material that provides guidance to primary legal material and skunder such as: dictionaries, legal kams, and the like related to the issues to be discussed in this writing. Data Collection Method In writing / research is carried out in two stages: *Library Research Method (Library Rescarch)* In this literature research method is carried out is by studying and reading books, magazines, other print media and related laws and regulations as well as other reading materials related to this research, in order to obtain a theoretical foundation as a basis for conducting research writing this.

Field Research Method This research method is research carried out by collecting data directly from competent parties, for that an interview method is carried out with related parties such as the Director General of Intellectual Property Rights. Qualitative research in data collection can be classified into two ways, namely interactive methods and non-interactive or documentary methods, so that in this study it is very likely to use more than one or many research strategies to obtain adequate data.

Discussion

Legal Protection of Rights to Registered Marks in Indonesia

The need for legal protection of brand rights is growing due to the rapid economy, giving rise to many imitations by irresponsible people. If the world of trade is getting more advanced, transparency tools are getting better, and also the number of promotional tools, it makes the marketing area expand, so that such a situation adds to how important the meaning of a brand is to distinguish the origin of quality product results. This is to (H OK Saidin, 2004) prevent imitation or use of the brand without rights, the law is basically a rule deliberately created by the community in order to achieve an orderly, safe, and peaceful life (H OK Saidin, 2004). Thus, people's lives are difficult to separate from the law, while the law is used as a benchmark for society in behavior, so that if there is a problem in people's lives, the law is a tool to facilitate social interaction.

In this case, the law cannot always function properly as expected by society. One of the constraints, especially in written law, is that the law is made by consideration of the circumstances at the time the law was made, so written law is usually static. However, the community in carrying out its activities tends to always change which is faced in the environment. Such an attitude of society takes place in order to gain prosperity in its life. Therefore, the law must be able to follow the development of changes that occur in society, so that the community will feel safe and peaceful, as a result of which the law in its implementation must not be forced.

The Trademark Law stipulated in Law No.21 of 1961 concerning Company Marks and commercial marks promulgated on October 11, 1961 and effective from October 11, 1961 was announced in the State Gazette of the Republic of Indonesia No. 290, Year 1961,

the Trademark Law 1961 replaced the old regulation on trademarks, namely " *Reglement Industriële Eigendom 1912* " (Stbl 1912 No.545) (H OK Saidin, 2004).

Law No. 21 of 1961 which adheres to the Declarative system is the first user to get legal protection. . While the person / legal entity that registers is a mere legal allegation and there is no difference with the user of the mark, whether the mark is used as a famous mark or not, so that there are many violations of the use of marks without rights whose settlement is based on Article 1365 of the Civil Code concerning Unlawful Acts, and for crimes still using the provisions of the Criminal Code Article 393 paragraphs (1) and (2) (H OK Saidin)

That based on the Declarative system, if there is a dispute in the Court, the owner of a mark that is not registered in the General Register of Marks, if it can prove in Court about its legal use in the market, is considered the rightful owner of the disputed mark, and vice versa if the Registrant of the mark cannot prove its use legally/factually then the registration will be canceled by the Court. That the declarative system causes many problems and is not much profitable for the world of commerce, because it does not provide legal certainty to the owner of a registered mark, many opportunities for the owner of a mark who is not entitled to a famous mark to be registered, even though he knows that the famous mark has been used by its owner outside the territory of the Republic of Indonesia (Inssan Budi Maulana) So that the owner of the famous brand who painstakingly builds and promotes the brand name to be famous, if his product wants to be marketed in the territory of the Republic of Indonesia, must first deal with the owner of the mark who is not entitled to be registered, by filing a lawsuit for cancellation of the registered mark through the Court which is bound by a grace period of 9 months (Inssan Budi Maulana).

Along with the development of an increasingly advanced economy, Law No. 21 of 1961 concerning corporate brands and commercial brands turned out to be less up-to-date. As a result, there are many trademark violations, for that Law No. 21 of 1961 needs to be replaced by a new trademark Law, namely Law No. 19 of 1992 concerning Trademarks.

It is stated as a general opinion that, a brand can be considered a brand if it has met the absolute requirement of sufficient distinguishing power, should not be too simple (for example: consisting of only one letter, dot form, comma, question mark, exclamation mark.) and also too ruwed. (tangled thread shape) The brand mark has the power to distinguish one company's product goods from another company, both service marks and trademarks.

According to the provisions of Article 1 of the number of legal protection of trademark rights in Indonesia based on Law No. 20 of 2016 concerning Brands and

Geographical Indications., Brand is a sign in the form of images, names, words, letters, numbers, color arrangements, or combinations of these elements that have distinguishing power and are used in trading activities for goods or services. Such marks are imprinted on the goods concerned, or are imprinted in a certain way on the product, or the packaging of the product and or for services are imprinted on the matters of the type of service concerned.

A service mark is a mark used on services traded by a person or several people together or a legal entity to distinguish other similar services. That from both types of marks are regulated in one Law, and the protection is not differentiated both services and trade. That in the provisions of Article 6 paragraph (1) the application for registration of trademarks and services can be rejected, based on the similarity both in principle and in whole with marks that have been registered first in the General Register for similar goods / services. Thus, the brand is an identifying mark of origin of goods and services. In addition, the brand also has a function that connects the goods and services concerned with its production. This describes the assurance of the personality (individual) and reputation of goods and services when the results of the business are traded.

Protection of a mark will only take place, if the right has been requested registration, thus registration is an absolute right for the occurrence of rights to the mark. Without registration there is no right to the mark, so there is no legal protection. But once it has been registered and obtained a trademark certificate, then it will be protected, and others cannot wear the same mark. In other words, his rights have been regarded as "special rights" or "exclusive rights". Only the person registered as the rightful owner can use it and give permission to others to use it (with the licensing system) it is impossible for others to use it without these conditions. If it is not registered, then there is no protection at all because there is no right to the mark (Sudargo Gautama and Rizawanto Winata, 1994). That the first time Indonesia had Law No. 21 of 1961 adopted the Declarative system, but this system can no longer be maintained, because it is no longer in accordance with the current situation and situation.

That as a country based on law, where one of the characteristics of the state of law is legal certainty, it is appropriate for the Indonesian state to strive for legal certainty in terms of trademark registration, namely by replacing the trademark registration system adopted by Law No. 21 of 1961 declarative system in Law No. 19 of 1992 into a constitutive system, with this system legal certainty will be more guaranteed, and the person/legal entity whose mark has been registered cannot be contested by others.

By registration of its mark, then, it has been protected by law. However, even though Law No. 19 of 1992 adheres to a constitutive system, it basically still protects only trademark owners who are in good faith who can be accepted to be registered. Thus, the

aspect of legal protection remains only given to those who are in good faith (Sudargo Gautama and Rizawanto Winata, 1994)

In Law No. 19 of 1992 there are still weaknesses and have not provided service and comfort for brand owners, especially for famous brand owners, so that Trademark Law No. 19 of 1992 was revised again in accordance with international agreements and the formation of Law No. 14 of 1997 which is an amendment of Law No. 19 of 1997 The Law still has many loopholes that have not provided services to the community so it was revised reverted to Law No. 20 of 2016 concerning Geographical Marks and Indications which is now in force.

Efforts Taken by the Government in Preventing Counterfeiting of Registered Marks

The rapid advancement of information and transportation technology has also encouraged the globalization of Intellectual Property Rights. A good or service that today is produced in a country or a region, the next time it can be presented in another country or another region. The presence of goods or services that in the production process have used Intellectual Property Rights, thus also have presented Intellectual Property Rights at the same time when the goods or services concerned are marketed (M. Yahya Harahap., 1996).

The need to protect intellectual property rights thus also grows along with the need to protect goods or services as a trade commodity. The need to protect goods or services from possible counterfeiting or from unfair competition (cheating), also means the need to protect intellectual property rights used in or to produce those goods or services. Such Intellectual Property Rights are no exception to brands (M. Yahya Harahap., 1996).

To prevent the occurrence of the above, it is necessary to have legal protection of trademark rights, in order to prevent and eradicate brand counterfeiting. The reason is that any counterfeiting of the brand not only damages the good name of the brand concerned, but can also cause harm to the owner and this will damage the image of the country concerned in international trade.

This condition is also strongly felt by the Indonesian people when their goods or services require protection in terms of brand. Therefore, departing from this awareness in Indonesia, a law has been made that specifically regulates brands. Now the intended Trademark Law is the government's effort to prevent the emergence of brand counterfeiting in Indonesia. Based on the Presidential Decree of the Republic of Indonesia No. 34 of 1986, a working team was formed which later became known as the Presidential Decree Team 34. This Presidential Decree team is assigned to solve problems arising in the implementation of the Law on Trademarks and the Law on Copyright, as well as complete

the preparation of the Law on Patents. As is known before the formation of the Presidential Decree Team 34, Indonesia already has laws and regulations in the field of trademark rights, namely Law No. 21 of 1961 concerning Company Marks and Commercial Marks which was promulgated on October 11, 1961 and entered into force one month after the date of its promulgation.

After the establishment of the Presidential Decree 34 Team, the results of the work obtained by the Presidential Decree 34 Team in carrying out improvements to the laws and regulations in the fields of Copyright, Patents, and Trademark Rights are explained as follows:

As a result of the work of the Presidential Decree 34 Team, on August 28, 1992 was promulgated by Law No. 19 of 1992 concerning Trademarks which came into effect on April 1, 1993 to replace Law No. 21 of 1961 concerning Company Marks and Commercial Marks. Then Law No. 19 of 1992 was amended by Law No. 14 of 1997 concerning amendments to Law No. 19 of 1992 concerning Trademarks, and in 2001 it was replaced again with Law No. 20 of 2016 concerning Brands and Geografic Indications. Social changes that occur within the community can occur for various reasons, these causes can come from the community itself or from outside the community itself. As causes from within the community itself can be mentioned, among others, such as population increase or population loss, new discoveries and *conflicts (conflicts)* in the community itself.

As causes from outside society itself include causes derived from the physical natural environment, cultural influences of other societies or other countries. A social change is easier to occur if a society often interacts with other communities or already has an advanced education system. The formation of a culture, including legal culture, actually goes through a process and takes a long time. A culture is formed through a long process even years. According to Koentjaraningrat, a culture is formed through processes including: Internalization, socialization, and enculturation. Internalization is the process of instilling cultural values in a person's person all the feelings, desires, passions, and emotions that are needed throughout his life. Socialization is the process of learning cultural values against patterns of action in interaction with people who occupy various social roles that may exist in everyday life. Enculturation / *institutionalization (culture)* is the process of a person learning and adjusting his thoughts and attitudes to the customs, norm systems, and regulations (laws) that live in his culture (Koentjaraningrat., 1986).

The socialization of the importance of a brand being registered at the Directorate General of Intellectual Property Rights and the penalties given to counterfeiters or pirates by law enforcement on marks are good steps taken in preventing brand counterfeiting in Indonesia. This is so that the law on marks can be understood by the public and become one of the legal cultures. The steps taken by the Government of Indonesia in order to

prevent the emergence of brand counterfeiting in the context of TRIPs approval must be supported by professional law enforcement officials and committed to conducting firm and fair law enforcement. This must be proven through the handling of counterfeiting cases ranging from investigations to permanent court decisions, from these evidences it is hoped that a pattern of cultural change will be formed from ignoring the Right to the Brand, turning into a culture of respecting the Right to the Brand.

Procedures for Registering a Registered Mark in Indonesia

Trademark registration in Indonesia is the authority of the Ministry of Justice and Human Rights Directorate General of Intellectual Property Rights. This institution manages administration in the field of Intellectual Property Rights which includes administration in the field of trademarks. In trademark registration there are several things and requirements that must be met and passed by the applicant, According to international treaties, a person who applies to register a mark in a country that has signed an international agreement can be given priority rights. This means that the person is allowed to precede others who register the mark.

In Indonesia provided that the initial registrant submits registration of the mark in Indonesia within a period of 6 (six) months from the initial application in another member country, this is explained in Law No. 20 of 2016 concerning Marks and Geogrfic Indications Article 11, which states: Application using the Right of Priority must be submitted within a maximum of 6 (six) months from the date of receipt of the trademark registration application that was first received in other countries. Who is a member of the *Paris Convention for the Protection of Industrial Property* or a member of the *Agreement Establishing the World Trade Organization*.

If the IPR Office believes that the registered mark meets all the requirements under the provisions of the law, the mark is then announced. The announcement lasted for three months. The brand for which registration is applied is announced in the Official Gazette of the Brand.

During the period of such announcement (i.e. for 3 months), a person (for example a competitor) may object to the registration of the mark and submit written reasons why the mark should not be registered (Law No. 20 of 2016 concerning Marks and Geogrfic Indications Article 24 (1)).

Rejection may be filed if there is sufficient evidence to support that the mark cannot be registered (Law No. 20 of 2016 concerning Marks and Geogrfic Indications Article 24 (2)). The applicant will be notified of the rejection within 14 days of the IPR Office receiving it (Law No. 20 of 2016 concerning Marks and Geogrfic Indications Article 24 (3)) and have the opportunity to submit a refutation of the objection to the IPR Office

(this objection must be submitted within a maximum period of 2 (two) months from the date of receipt of a copy of the objection (Law No. 20 of 2016 concerning Marks and Geografic Indications Article 25 (2)). The IPR office then uses these objections and rebuttals as considerations to decide whether the mark is rejected or accepted (Law No. 20 of 2016 concerning Marks and Geographical Indications Article 26 (1)).

If the trademark applicant is not satisfied with the decision, he can appeal to the Trademark Appeal Commission (Article 26 (4) of Law No. 20 of 2016 concerning Marks and Geographical Indications) within a maximum of 3 (three) months from the decision of the Directorate General of IPR to accept or reject the registration application (Article 30 (1) of Law No. 20 of 2016 concerning Marks and Geographical Indications).

The Trademark Appeal Commission must make a decision within a maximum of 3 (three) months (Article 31 (1) of Law No. 20 of 2016 concerning Marks and Geographical Indications). However, if the applicant believes that the Trademark Appeal Commission has committed a mistake, he may file a lawsuit with the Commercial Court (Article 31 (3) of Law No. 20 of 2016 concerning Marks and Geographical Indications). And then filed a cassation to the Supreme Court (Article 31 (4) of Law No. 20 of 2016 concerning Brands and Geographical Indications).

Conclusion

Based on the descriptions as the author has stated in the previous chapters, the author in this paper provides the following conclusions: Legal protection of rights to Registered marks in Indonesia in the implementation of the TRIPs agreement based on Law No. 15 of 2001. Legal protection of trademark rights is growing due to the rapid economy, giving rise to many imitations by irresponsible people. If the world of trade is getting more advanced, the means of transparency are getting better, and also the number of promotional tools, it makes the marketing area more widespread, so that this situation adds to how important the meaning of a brand is to distinguish the origin of quality product results. Foreign brands that have not received legal protection about rights to their brands.

Efforts made by the government in preventing the emergence of counterfeiting of registered marks. To prevent counterfeiting of marks from happening, it is necessary to have legal protection of trademark rights, in order to prevent and eradicate brand counterfeiting. The reason is that any counterfeiting of the brand not only damages the good name of the brand concerned, but can also cause harm to the owner and this will damage the image of the country concerned in international trade.

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