

The Impact of Intellectual Property Rights in Preserving the Authenticity of the Polo Ralph Lauren Brand in Indonesia: An Analysis of Supreme Court Case No. 365 K/Pdt Sus-HKI/2023

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Abstract

Intellectual property rights (IPR) are a form of legal protection against immaterial human creations, such as artworks, patents, industrial designs, and trademarks. In Indonesia, IPR is protected by a number of laws, such as Law No. 28 of 2014 concerning Copyright, Law No. 13 of 2016 concerning Patents, and Law No. 20 of 2016 concerning Trademarks. The registration process is the key to IPR legal protection, as regulated in the Trademark Law, which uses the first-to-file principle. Legally registered trademarks acquire exclusive rights, which not only protect ownership but also support the authenticity and reputation of the business. The research methodology used in this paper is a normative juridical approach, with data processing in the form of qualitative analysis of various relevant legal sources. The data used in this study consists of primary and secondary data, which is collected through an in-depth literature review. The result of this study is the trademark dispute case between Polo Ralph Lauren represented by Mohindar HB and PT. Manggala Putra Perkasa is an important example in the implementation of Intellectual Property Rights (IPR) protection in Indonesia. Through the Supreme Court Decision Number 365 K/Pdt.Sus-HKI/2023, the court affirmed the protection of the authenticity and reputation of well-known brands as well as the main principles in the protection of IPR. PT. Manggala Putra Perkasa was declared to have violated the principles of good faith and exclusive rights of Polo Ralph Lauren by registering a similar trademark without permission, as stipulated in Article 21 of Law No. 20 of 2016 concerning Trademarks. This ruling affirms the application of the first-to-file principle in Indonesia, where the party who first legally registers his trademark obtains exclusive protection. The Supreme Court ordered the cancellation of a similar trademark registered by PT. Manggala Putra Perkasa, strengthens legal protection for foreign brands, especially well-known brands, in Indonesia.

Keywords: Intellectual Property; Intellectual Property Rights; Trademarks; Polo Ralph Lauren Indonesia

Abstrak

Hak kekayaan intelektual (HKI) merupakan bentuk perlindungan hukum terhadap hasil kreasi manusia yang bersifat immaterial, seperti karya seni, paten, desain industri, dan merek dagang. Di Indonesia, HKI dilindungi oleh sejumlah undang-undang, seperti UU No. 28 Tahun 2014 tentang Hak Cipta, UU No. 13 Tahun 2016 tentang Paten, hingga UU No. 20 Tahun 2016 tentang Merek. Proses pendaftaran menjadi kunci perlindungan hukum HKI, sebagaimana diatur dalam UU Merek, yang menggunakan prinsip *first to file*. Merek yang terdaftar secara hukum memperoleh hak eksklusif, yang tidak hanya melindungi kepemilikan tetapi juga mendukung keaslian dan reputasi bisnis. Metodologi penelitian yang digunakan dalam makalah ini adalah pendekatan yuridis normatif, dengan pengolahan data berupa analisis kualitatif dari berbagai sumber hukum yang relevan. Data yang digunakan dalam penelitian ini terdiri dari data primer dan sekunder, yang dikumpulkan melalui tinjauan literatur yang mendalam. Hasil penelitian ini adalah bahwa kasus sengketa merek antara Polo Ralph Lauren yang diwakili oleh Mohindar HB dan PT. Manggala Putra Perkasa merupakan contoh penting dalam implementasi perlindungan Hak Kekayaan Intelektual (HKI) di Indonesia. Melalui Putusan Mahkamah Agung Nomor 365 K/Pdt.Sus-HKI/2023, pengadilan menegaskan perlindungan terhadap keaslian dan reputasi merek terkenal serta prinsip utama dalam perlindungan HKI. PT. Manggala Putra Perkasa dinyatakan melanggar prinsip itikad baik dan hak eksklusif Polo Ralph Lauren dengan mendaftarkan merek serupa tanpa izin, sebagaimana diatur dalam Pasal 21 UU No. 20 Tahun 2016 tentang Merek. Putusan ini menegaskan penerapan prinsip *first-to-file* di Indonesia, di mana pihak yang pertama kali mendaftarkan mereknya secara sah memperoleh perlindungan eksklusif. Mahkamah Agung memerintahkan pembatalan merek serupa yang didaftarkan oleh PT. Manggala Putra Perkasa, memperkuat perlindungan hukum bagi merek asing, khususnya merek terkenal, di Indonesia.

Kata Kunci: Kekayaan Intelektual; HAKI; Merek; Polo Ralph Lauren Indonesia

A. Introduction

The law acts as a protection over a right that is obligated to fulfill. In a lot of cases, the law acts as protection over ownership rights such as land, automotive, house, weapon and many more, but in this modern society there are also intellectual property rights. This intellectual property right is deemed to be much more complex because the property here refers to something that is intangible.¹ According to an Universitas Sumatera Utara Professor, OK Saidin, intellectual property rights is a right over property over something that is a product of human brain which is intelligence that exists in humans and results

¹ M. Citra Ramadhan, et al. *BUKU AJAR HAK KEKAYAAN INTELEKTUAL*. Universitas Medan Area Press, 2023. <https://repositori.uma.ac.id/jspui/bitstream/123456789/19863/1/Buku%20Ajar%20HKI.pdf>.

in an immaterial property.² This property then can be taken advantage of economically by the holder of the ownership.

This law is applied in most countries, including Indonesia. Indonesia has protected the right of intellectual property with a more popular acronym of HKI. This is an effort made by the government to push Indonesian people to produce creativity and innovation for the public while ensuring its protection and as an acknowledgement to the ownership of the intellectual property.³

In Indonesia itself, this protection is given to a set of intellectual property, it is currently divided into two major categories. The first one is industrial property rights, this includes intellectual property that is in relation to innovation or ideas of an industry, with intellectual property such as patent, trade mark, industrial design, trade secret and layout design of integrated circuits. The second one is protection for an art and theory, such as books, dance, song, a program and many more that fall under these categories, which is known as copyright.⁴ Just like their name, industrial property rights usually refer to rights for companies and trade to ensure protection over the business entity while copyright only gives rights exclusively to the creators of the property.⁵

With the growth of technology and digitalization, people now can access and receive information from many different sources easily with one click. The intellectual property rights in Indonesia aims to protect the property rights that are easily accessed to be illegal when it is used, changed, copied and/or modified when it is done without the consent of the holder of the right.⁶ This protection aside from acknowledgement of

² Henry Soelistyo. *Hak Kekayaan Intelektual Konsepsi, Opini Dan Aktualisasi*. Jakarta Selatan, Penaku, 2014.

³ Nanda Rizkia, and Hardi Fardiansyah. *HAK KEKAYAAN INTELEKTUAL SUATU PENGANTAR*. Penerbit Widina, 2022, <https://repository.penerbitwidina.com/media/publications/557915-hak-kekayaan-intelektual-suatu-pengantar-1149f5fe.pdf>. Accessed 2 December 2024.

⁴ “Pentingnya Intellectual Property dalam Dunia Kreatif.” *Kementerian Pariwisata dan Ekonomi Kreatif*, <https://www.kemendparekraf.go.id/ragam-ekonomi-kreatif/Pentingnya-Intellectual-Property-dalam-Dunia-Kreatif>. Accessed 2 December 2024.

⁵ “Pentingnya Hak Kekayaan Intelektual untuk Karya atau Brand.” *IBLAM School Of Law*, 2 February 2024, <https://iblam.ac.id/2024/02/02/pentingnya-hak-kekayaan-intelektual-untuk-karya-atau-brand/>. Accessed 2 December 2024.

⁶ Universitas Airlangga. “Mengenal Jenis-Jenis Hak Kekayaan Intelektual untuk Lindungi Karyamu.” *Universitas Airlangga*, 1 March 2024, <https://unair.ac.id/mengenal-jenis-jenis-hak-kekayaan-intelektual-untuk-lindungi-karyamu/>.

the owner, also helps to maintain the originality of a work. Not only that, with the presence of intellectual property rights it gives legal certainty to the right holder.

The current law right now regarding intellectual property rights is under 4 main principles which are,

- a. Principles of economy
- b. Principles of fairness
- c. Principles of culture
- d. Principles of social

Those 4 principles work hand in hand to ensure that the law in Indonesia can produce results from the objective. The principles of economy, shows that the intellectual property has an economic value that can benefit only the creator or holder of the rights. While principles of fairness, ensure that the law will ensure fairness and justice to the creator and holder of the rights giving the full rights of the property to them.⁷ The principle of culture is acknowledging that intellectual property has an impact on the culture, it may benefit society and the country as a whole. The last principle is the principle of social, here it explains that the law regulates society and with the rights given over the intellectual property rights it is given when there's a balance between the interests of the individual and society ⁸

With the principles in the intellectual property rights, Indonesia has regulated the protection under a few laws in Indonesia as it is divided under a few categories. These law are;

- a. Copyright regulated under law number 28 year 2014.
- b. Patent regulated under law number 13 year 2016, as amended by law number 11 year 2020 re Job Creation

⁷ ADMINLP2M. "Hak atas Kekayaan Intelektual (HaKI) : Pengertian dan Jenisnya." *Lembaga Penelitian dan Pengabdian Masyarakat Universitas Medan Area*, 25 November 2021, <https://lp2m.uma.ac.id/2021/11/25/hak-atas-kekayaan-intelektual-haki-pengertian-dan-jenisnya/>.

⁸ "HAK atas KEKAYAAN INTELEKTUAL (HaKI) bagian 2." *repository unikom*, <https://repository.unikom.ac.id/67873/1/HAK%20atas%20KEKAYAAN%20INTELEKTUAL-PART%202.pdf>.

- c. Trademarks and Geographical Indication regulated under law number 20 year 2016 as amended by law number 11 year 2020 re Job Creation
- d. Trade secret regulated under law number 30 year 2000
- e. Industrial design regulated under law 31 year 2000
- f. Layout designs of integrated circuits regulated under law number 32 year 2000

These laws are something that we use on a day to day basis to ensure the protection over these intellectual property. One of them is trademarks, a trademark is an identity of a brand that serves as originality. According to Art.1(1) of Law No. 20/2016, trademark is; *“Merek adalah tanda yang dapat ditampilkan secara grafis berupa gambar, logo, nama, kata, huruf, angka, susunan warna, dalam bentuk 2 (dua) dimensi dan/atau 3 (tiga) dimensi, suara, hologram, atau kombinasi dari 2 (dua) atau lebih unsur tersebut untuk membedakan barang dan/atau jasa yang diproduksi oleh orang atau badan hukum dalam kegiatan perdagangan barang dan/atau jasa.”*⁹

It is not a secret that we find trademarks in our daily life and it is regulated under the law, for example the big yellow letter of M is trademarked under Mcdonalds and it has become their identity, or double G is trademarked under Gucci. These brands are given the exclusive right to use over the trademarked identity such as the logo, color scheme, letters, numbers, word, and many more as regulated in Art. 1(5);

*“Hak atas Merek adalah hak eksklusif yang diberikan oleh negara kepada pemilik Merek yang terdaftar untuk jangka waktu tertentu dengan menggunakan sendiri Merek tersebut atau memberikan izin kepada pihak lain untuk menggunakannya.”*¹⁰

The article explains how the law is protecting the brand by solely giving them exclusively the right to use the licensed trademark. This is very important because a specific trademark can heavily impact the successfulness of a business, with the law it ensures the protection over these benefits to the licensed holder of the rights.¹¹

⁹ Article 1(1) Law No. 20 of 2016 on Trademarks and Geographical Indications

¹⁰ Article 1(5) Law No. 20 of 2016 on Trademarks and Geographical Indications

¹¹ Nanda Rizkia, and Hardi Fardiansyah. *HAK KEKAYAAN INTELEKTUAL SUATU PENGANTAR*. Penerbit Widina, 2022, <https://repository.penerbitwidina.com/media/publications/557915-hak-kekayaan-intelektual-suatu-pengantar-1149f5fe.pdf>. Accessed 2 December 2024.

Trademarking will help to prevent loss or bad reputation of a business by refraining people to use certain trademarks without the consent of the right holder.¹²

For these trademarks to be protected under the law, as stated in Art. 1(5) it should be registered. This registration can be done by petitioning to the ministry, this process as regulated in Art. 4 of Law No. 20/2016;

“(1) Permohonan pendaftaran Merek diajukan oleh Pemohon atau Kuasanya kepada Menteri secara elektronik atau non- elektronik dalam bahasa Indonesia.

(2) Dalam Permohonan sebagaimana dimaksud pada ayat (1) harus mencantumkan:

- a. Tanggal, bulan, dan tahun Permohonan;*
- b. Nama lengkap, kewarganegaraan, dan alamat Pemohon;*
- c. Nama lengkap dan alamat Kuasa jika Permohonan diajukan melalui Kuasa;*
- d. Warna jika Merek yang dimohonkan pendaftarannya menggunakan unsur warna;*
- e. Nama negara dan tanggal permintaan Merek yang pertama kali dalam hal Permohonan diajukan dengan Hak Prioritas; dan*
- f. Kelas barang dan/atau kelas jasa serta uraian jenis barang dan/atau jenis jasa.*

(3) Permohonan ditandatangani Pemohon atau Kuasanya.

(4) Permohonan sebagaimana dimaksud pada ayat (1) dilampiri dengan label Merek dan bukti pembayaran biaya.

(5) Biaya Permohonan pendaftaran Merek ditentukan per kelas barang dan/atau jasa.

(6) Dalam hal Merek sebagaimana dimaksud pada ayat (4) berupa bentuk 3 (tiga) dimensi, label Merek yang dilampirkan dalam bentuk karakteristik dari Merek tersebut.

(7) Dalam hal Merek sebagaimana dimaksud pada ayat (4) berupa suara, label Merek yang dilampirkan berupa notasi dan rekaman suara.

(8) Permohonan sebagaimana dimaksud pada ayat (1) wajib dilampiri dengan surat pernyataan kepemilikan Merek yang dimohonkan pendaftarannya.

¹² Kemenkumham. “Haruskah Daftar Merek Simak Pentingnya Pendaftaran Merek Untuk Melindungi Brand Usaha Anda.” Kementerian Hukum dan HAM, <https://ntb.kemenkumham.go.id/berita-utama/haruskah-daftar-merek-simak-pentingnya-pendaftaran-merek-untuk-melindungi-brand-usaha-anda>.

(9) *Ketentuan lebih lanjut mengenai biaya permohonan sebagaimana dimaksud pada ayat (s) diatur dengan Peraturan Pemerintah.*"¹³

These procedures are the requirements that should be done for a brand's trademark are legal and are protected.

This registration of the trademark is a very important aspect in the protection because it acts as a legal certainty. Without registering the brand, there will be no legal trademark protecting it, making it available for anyone to use without the consent of the owner. This is based on the principles of first to file, as Indonesia only acknowledges a trademark when it is registered on Direktorat Jenderal Hak Kekayaan Intelektual (Dirjen HKI). When the registration is approved, that is when the protection exists over the parties registering.¹⁴ However, it may be protective, this doesn't close the chance for a brand to be copied due to the first to file principles.¹⁵ Brands that are not yet registered can be duped by registering first even if they existed first due to Indonesia's regulations not using first to use principles in protecting intellectual property. There are a few cases that explain these issues, one of the popular cases that creates an impact until now is the case between Polo Indonesia and POLOBYRALPHLAUREN, this has been an ongoing case and has been brought to court many times.

The case was first brought to court in 2022, as Mohindar H.B was the holder of the trademark of Polo, as a plaintiff sees that there are other brands that are way too similar to his trademark.¹⁶ This dispute happens between the plaintiff and PT. Manggala Putra Perkasa dan PT. POLO Ralph Lauren Indonesia, all these three parties are fighting for the

¹³ Article 4 Law No. 20 of 2016 on Trademarks and Geographical Indications

¹⁴ Caitlynn Nadya and Michelle Lim, "Legal Protection for Famous Trademark in Indonesia : Case Study of the Supreme Court Decision No . 264 / K / Pdt . Sus-HKI / 2015" 2, no. 1 (2024): 348–71.

¹⁵ ANGA PANGESTU. "PELAKSANAAN PRINSIP FIRST TO FILE DALAM PERLINDUNGAN MEREK ASING YOSHIMURA DI INDONESIA." *PELAKSANAAN PRINSIP FIRST TO FILE DALAM PERLINDUNGAN MEREK ASING YOSHIMURA DI INDONESIA*, 2022. FH UNRAM, <https://fh.unram.ac.id/wp-content/uploads/2022/01/ANGGA-PANGGIH-PANGESTU-DIA117035.pdf>.

¹⁶ Jolin, et al. "JLEB: Journal of Law Education and Business." *Perlindungan Hukum Terhadap Pengalihan Hak Atas Merek Berdasarkan Kasus Polo Ralph Lauren Indonesia*, vol. 2, no. 2, 2024. Universitas Tarumanagara, https://www.researchgate.net/publication/384477249_Perlindungan_Hukum_Terhadap_Pengalihan_Hak_Atas_Merek_Berdasarkan_Kasus_Polo_Ralph_Lauren_Indonesia.

right to use the trademark of an international brand POLO by Ralph Lauren.¹⁷ Plaintiff sees that his trademark of POLOBYRALPHLAUREN are too similar to another trademark of POLOBYRALPHLAUREN filed by PT. POLO Ralph Lauren Indonesia and also to R. L. P. C. Polo as trademarked by PT. Manggala Putra Perkasa. Plaintiff stated that his trademark of POLOBYRALPHLAUREN is too similar with the other stated trademark, as the holder of the intellectual property rights he argued that other company is copying his trademark.

This issue doesn't only revolve around the similar name but also the logo, plaintiff's trademarked logo is an illustration of a person riding a horse with a polo stick, while both POLOBYRALPHLAUREN of PT. POLO Ralph Lauren Indonesia and R. L. P. C. Polo has a similar logo of a person riding a horse with a polo stick.¹⁸ This similarity of logo and categories of business is the reason why plaintiff plead to the court regarding the originality of his trademark, this was petitioned under Putusan Pengadilan Negeri Niaga Jakarta Nomor 84/PDT.Sus-HKI/MEREK/2022/PN.¹⁹

The plaintiff believes that he as the holder of the right should be able to fully run his business without any other company copying his trademark. There is an unhealthy market competition because PT. POLO Ralph Lauren Indonesia and PT. Manggala Putra Perkasa is copying the plaintiff. Both, PT. POLO Ralph Lauren Indonesia and PT. Manggala Putra Perkasa using a similar trademark without permission and consent of plaintiffs. The plaintiff as the holder of the trademark should maintain their credibility as POLOBYRALPHLAUREN without being worried about their intellectual property and

¹⁷ Rheina Azis, and Budi Hermono. "ANALISIS YURIDIS PUTUSAN HAKIM BAGI PEMEGANG MEREK DAGANG POLO RALPH LAUREN DI INDONESIA (PUTUSAN NOMOR 614 K/PDT.SUS-HKI/2023)."

¹⁸ Risqi Rifaldi, et al. "KAJIAN HUKUM TERHADAP PENYELESAIAN SENGKETA MEREK PADA POLO BY RALP LAUREN (Studi putusan No 83/Pdt.Sus-HKI/Merek2022/PN Niaga Jkt.Pst)." *Jurnal Magister Hukum Perspektif*, vol. 14, no. 2, 2023. *Research Gate*, https://www.researchgate.net/publication/377020666_KAJIAN_HUKUM_TERHADAP_PENYELESAIAN_SENGKETA_MEREK_PADA_POLO_BY_RALP_LAUREN_Studi_putusan_No_83PdtSus-HKIMerek2022PN_Niaga_JktPst.

¹⁹ SIANTURI, and Grand Dessoro. "Kepastian Hukum Terhadap Merek Dagang yang Belum Melakukan Perpanjangan Jangka Waktu Perlindungan Merek (Studi Putusan Nomor 84/Pdt.Sus-HKI/MEREK/2022/PN. Niaga Jkt.Pst)." *REPOSITORY UNIVERSITAS JEMBER*, 03 11 2023, <https://repository.unej.ac.id/handle/123456789/119715>.

credibility. As plaintiff has registered the trademark to Direktorat Jenderal Kekayaan Intelektual in accordance to Law No. 20/2016 making him the rightful owner as stated in article 3 stating that right to a trademark is obtained once the trademark itself is registered. His statements were further on proved because he registered the trademark in accordance to the law under registration number of 173934, as he was gifted this transfer of trademark by Jon Hiteley in 1986.²⁰

However after further legal process, the case has faced appeal, judicial review and casation with verdict under Putusan MA Nomor 10 PK/Pdt.Sus-HKI/2024 regarding this right of trademark of POLOBYRALPHLAUREN. This case shows that intellectual property really upholds the elements of authenticity and originality hence why this case has pushed the need for a research regarding “The Impact of Intellectual Property Rights in Preserving the Authenticity of the Polo Ralph Lauren Brand in Indonesia: An Analysis of Supreme Court Case No. 365 K/Pdt Sus-HKI/2023”.

The legal issues that will be researched for this journal is how Indonesia’s intellectual property rights law can act as a safety net for protection of a trademark and preserving the authenticity, using the case of Polo Ralph Lauren between Mohindar HB and PT. POLO Ralph Lauren Indonesia and PT. Manggala Putra Perkasa. Analysing this case of trademark issues and the court final and binding verdict under the supreme court case No. 365 K/Pdt Sus-HKI/2023, regarding it’s cassation and it’s legal cause of supreme court case No. 365 K/Pdt Sus-HKI/2023.

B. Research Methodology

The research methodology used in this paper is a normative juridical approach, with data processing in the form of qualitative analysis of various relevant legal sources. The data used in this study consists of primary and secondary data, which is collected

²⁰ Jolin, et al. “JLEB: Journal of Law Education and Business.” *Perlindungan Hukum Terhadap Pengalihan Hak Atas Merek Berdasarkan Kasus Polo Ralph Lauren Indonesia*, vol. 2, no. 2, 2024. Universitas Tarumanagara, https://www.researchgate.net/publication/384477249_Perlindungan_Hukum_Terhadap_Pengalihan_Hak_Atas_Merek_Berdasarkan_Kasus_Polo_Ralph_Lauren_Indonesia

through an in-depth literature review. Data collection techniques involve examining laws and regulations, court decisions, legal documents and scholarly literature related to intellectual property rights and trademark protection. This study engages a statutory approach to identify applicable norms, particularly regarding the protection of international trademarks in Indonesia as stipulated in Law No. 20 of 2016 on Trademarks and Geographical Indications. Moreover, a case study approach is applied to analyze legal implementation within the practice, specifically by referring to the Supreme Court Case No. 365 K/Pdt Sus-HKI/2023, which illustrates how the court addresses trademark infringement concerning the Polo Ralph Lauren Brand. Data processing is conducted through qualitative analysis, where the author examines court decisions, both from the Commercial Court and the Supreme Court, as well as assess the impact of legal protection on the authenticity of Polo Ralph Lauren brand in Indonesia. Additionally, The research methodology also incorporates an in-depth analysis of the legal reasoning patterns used in related court decisions to understand how judges interpret and apply existing norms. Therefore, this research aims to provide a comprehensive overview regarding the impact of intellectual property rights in preserving the authenticity trademark of Polo Ralph Lauren in the Indonesian market. Additionally, the methodology incorporates examining judicial interpretations and legal reasoning patterns, alongside assessing the broader implications of these decisions for the legal landscape of intellectual property rights.

C. Results and Discussion

C.1. The Influence of Intellectual Property Rights in Maintaining the Authenticity of the Polo Ralph Lauren Brand in Indonesia in Cassation Case Number 365 K/Pdt Sus-HKI/2023

Polo Ralph Lauren is one of the prominent brands in the fashion industry, founded by the Ralph Lauren Corporation from the United states in 1967. The brand is strongly associated with its iconic logo representing a person playing polo on horseback, symbolizing luxury and an elegant lifestyle. Polo Ralph Lauren offers products in various

categories, including men's, women's and children's apparel as well as perfumes and accessories. The brand dominates the fashion market by emphasizing its unique identity, characterized as "timeless American style," meaning its clothing features designs that transcend time.²¹ The brand's popularity has successfully built a strong reputation in the global market, supported by effective and clear marketing strategies. Polo Ralph Lauren operates stores in major cities worldwide, and its growth continues to generate significant profits. However, amidst its widespread popularity, the Polo Ralph Lauren brand inevitably faces unexpected challenges and issues. One of these involves trademark disputes. Such disputes can impact the production, sales, and reputation that Polo Ralph Lauren has built over more than a century.

One notable case of trademark conflict happened in Indonesia that involved the conflict over the rights to the Polo Ralph Lauren trademark between Mohindar HB and Polo Ralph Lauren Indonesia, managed by PT. Manggala Putra Perkasa. This dispute has attracted considerable attention, specifically in the realm of Indonesian law. The conflict over the Polo Ralph Lauren trademark in Indonesia has drawn attention to the application of intellectual property rights in the country. The case revolves around the dispute between Mohindar HB, the legitimate owner of Polo Ralph Lauren and PT. Manggala Putra Perkasa, which manages Polo Ralph Lauren Indonesia. In addition, the case highlights the importance of protecting well-known trademarks and the legal measures in place to prevent their misuse in Indonesia.

PT. Manggala Putra Perkasa, as the cassation petitioner, filed a cassation appeal to the Supreme Court after losing the case at the Jakarta Central Commercial Court.²² The dispute centred around an alleged trademark infringement reported by Mohindar HB, the rightful owner of the "Polo Ralph Laure" trademark, against PT. Manggala Putra Perkasa, accused of using a similar trademark without authorization. This case highlights

²¹ Start Friday Asia Brand Consultant. "Bagaimana Cara Ralph Lauren Menguasai Pasar?" *Start Friday Asia Brand Consultant* (2022), www.startfriday.asia/ideas/bagaimana-cara-ralph-lauren-menguasai-pasar-2022.

²² Putusan Pengadilan Mahkamah Agung Nomor 365 K/Pdt.Sus-HKI/2023

the importance of intellectual property rights (IPR) protection, particularly regarding trademarks, as regulated in Law No. 20 of 2016 on Trademarks and Geographical Indications. Under Article 1 paragraph 5 of Law No. 20 of 2016 on Trademarks and Geographical Indications, a trademark right is an exclusive right granted by the state to the registered trademark owner for a specific period, allowing the owner to use the trademark personally or grant permission to others to use it. This exclusive right enables trademark owners to prohibit others from using their trademarks without prior authorization.²³

Based on the cassation memorandum filed on 24 January 2023, the counter-memorandum submitted on 10 February 2023, and the considerations of the *Judex Facti* at the Jakarta Central Commercial Court in Decision Number 93/Pdt.Sus-HKI/Merek/2022/PN.Niaga.Jkt.Pst., the court determined that Mohindar HB successfully proved that his “Polo Ralph Lauren” trademark had been registered with the Directorate General of Intellectual Property (DJKI) since 1996 under registration number IDM000387022 in Class 25. The trademark has a renowned reputation in the global market, including in Indonesia.²⁴ Conversely, PT. Manggala Putra Perkasa filed applications for trademarks such as R.L.P.C. POLO under registration number IDM000274575, R.L.P.C. POLO under registration number IDM000646948, and NAVYPOLORALPHLAUREN under registration number IDM000031864, which share substantial similarities with Mohindar HB’S registered trademarks.²⁵

The Jakarta Central Commercial Court found that the trademarks filed by PT. Manggala Putra Perkasa punctures significant similarities to the “Polo Ralph Lauren” trademark, not only in name but also in the logo, resembling Polo Ralph Lauren’s iconic symbol of a person playing polo on horseback. These similarities were deemed likely to mislead consumers and create market confusion. Moreover, these trademark

²³ Jolin, Gunardi Lie, Moody Rizqi Syailendra Putra. “Perlindungan Hukum Terhadap Pengalihan Hak Atas Merek Berdasarkan Kasus Polo Ralph Lauren Indonesia.” *Journal of Law Education and Business* 2.2 (2024): 1150–1153.

²⁴ Putusan Pengadilan Mahkamah Agung Nomor 365 K/Pdt.Sus-HKI/2023

²⁵ Putusan Pengadilan Mahkamah Agung Nomor 365 K/Pdt.Sus-HKI/2023

registrations were made without the permission of the legitimate owner of the Polo Ralph Lauren trademark, constituting a violation of the exclusive rights attached to registered trademarks.

The court ruled that the trademark applications violated Article 21 paragraph 1 and paragraph 3 of Law No. 20 of 2016 on Trademarks and Geographical Indications which states;

(1) Permohonan ditolak jika Merek tersebut mempunyai persamaan pada pokoknya atau keseluruhannya dengan:

- a. Merek terdaftar milik pihak lain atau dimohonkan lebih dahulu oleh pihak lain untuk barang dan/ atau jasa sejenis;
- b. Merek terkenal milik pihak lain untuk barang dan/ atau jasa sejenis;
- c. Merek terkenal milik pihak lain untuk barang dan/ atau jasa tidak sejenis yang memenuhi persyaratan tertentu.

(3) Permohonan ditolak jika diajukan oleh Pemohon yang beritikad tidak baik.²⁶

These two articles stipulate that trademark registration applications must be submitted in good faith.²⁷ PT Manggala Putra Perkasa was found to have acted in bad faith by deliberately using elements resembling a famous brand to deceive consumers and exploit its reputation.

In Supreme Court Decision Number 365K/PDT.Sus-HKI/2023, the court provided several legal considerations to resolve the trademark disputes between Mohindar HB, the rightful owner of the Polo Ralph Lauren and Polo Ralph Lauren Indonesia, PT. Manggala Putra Perkasa. The considerations included:

1. Protection of Famous Trademarks

The supreme Court recognized the Polo Ralph Lauren trademark as a well-known brand widely acknowledged in global and Indonesian markets. Protection of well-known trademarks in Indonesia is based on Article 21 paragraph 1 of Law No. 20

²⁶ Law No. 20 of 2016 on Trademarks and Geographical Indications

²⁷ Law No. 20 of 2016 on Trademarks and Geographical Indications

of 2016 on Trademarks and Geographical Indications, which prohibits the registration of trademarks substantially similar to famous trademarks, even if the latter are not yet commercially used in Indonesia.

2. Good Faith in Trademark Registration

The principle of good faith, as stated in Article 21 paragraph 3 of Law No. 20 of 2016 on Trademarks and Geographical Indications, requires trademark registration applications to be submitted honestly, without intent to imitate or deceive consumers. The Supreme Court found that PT. Manggala Putra Perkasa intentionally registered trademarks resembling Polo Ralph Lauren to mislead consumers and capitalize on its reputation. This action violated the principle of good faith and fostered unfair business competition. On the other hand, the registration of trademarks aims to foster healthy business competition, ensure compliance with regulations according to the law, and protect business actors to create fair market competition. Achieving healthy price and market competition has several objectives, including:

- a. Stabilizing public interest and economic efficiency to promote societal welfare;
- b. Creating a conducive business environment and ensuring trade certainty for all business actors;
- c. Minimizing monopolies and fraudulent practices that lead to unfair competition caused by business actors;
- d. Enhancing effectiveness and efficiency in business activity.²⁸

3. Implementation of the First-to-File System

Indonesia adheres to the first-to-file principle in intellectual property right, meaning trademark rights are granted to the party who first files a legitimate registration application with the Directorate General of Intellectual Property (DJKI), as stipulated in Article 1 paragraph 5 and Article 3 of Law No. 20 of 2016 on

²⁸ Risqi Aula Rifaldi, Trinah Asi Islami, Wedi Pratanto Rahayu. "KAJIAN HUKUM TERHADAP PENYELESAIAN SENGKETA MEREK PADA POLO BY RALP LAUREN (Studi Putusan No 83/Pdt.Sus-HKI/Merek2022/PN Niaga Jkt.Pst)." *Jurnal Magister Hukum PERSPEKTIF*, 14.2 (2023): 32–35.

Trademarks and Geographical Indications.²⁹ The first-to-file principle also underscores the importance of trademark registration as an essential step that trademark owners must take to secure exclusive rights over their marks, while also providing clear and strong legal protection for registered trademarks in Indonesia. Mohindar HB registered the Polo Ralph Lauren trademark in 1966 under registration number IDM000387022. Consequently, PT. Manggala Putra Perkasa lacks legal grounds to claim rights to trademarks substantially similar to Mohindar HB's.

Therefore, the outcome of Supreme Court decision number 365 K/Pdt.Sus-HKI/2023 is that the Supreme Court affirmed Mohindar HB's exclusive rights to the Polo Ralph Lauren trademark and rejected PT. Manggala Putra Perkasa's cassation appeal. The court upheld the Jakarta Central Commercial Court's decision in case number 83/Pdt.Sus-HKI/Merek/2022/PN.Niaga.Jkt.Pst., ruling that PT. Manggala Putra Perkasa's trademarks violated Mohindar HB'S exclusive rights. The court ordered the Directorate General of Intellectual Property (DJKI) to revoke PT. Manggala Putra Perkasa's registrations for the trademarks R.L.P.C POLO under the registration number IDM000274575, R.L.P.C. POLO under registration number IDM000646948, and NAVYPOLORALPHLAUREN under registration number IDM000031864, as these trademarks bore significant similarities to the Polo Ralph Lauren trademark and had the potential to mislead consumers.

The Supreme Court decision emphasized the importance of protecting well-known trademarks to prevent consumer confusion and safeguard the reputation of established brands. It also reinforced the principle of good faith in trademark registration, holding that PT. Manggala Putra Perkasa acted in bad faith by registering marks similar to the well-known brand, Polo Ralph Lauren. Also, it can be seen that the ruling in this case serves as a critical reminder of the significance of enforcing trademark laws, particularly

²⁹ Amrikasari, Risa. "Perlindungan Hak Merek, Ini Syarat Mendapatkannya." *Hukumonline* (2023), www.hukumonline.com/klinik/a/perlindungan-merek-terkenal-berdasarkan-hukum-di-indonesia-lt5941f01d7fa0e.

the protection of well-known brands.³⁰ The Polo Ralph Lauren trademark is not just a symbol of luxury, but also of the intellectual property rights that support its brand identity. The decision highlights how Indonesia's legal framework balances protecting the rights of original creators while ensuring fair competition in the market. The first-to-file system also ensures that trademark rights are granted to those who establish their claims first, thus avoiding confusion and unfair competition.

The ruling further reinforces the obligation of businesses to act in good faith when registering their intellectual property. By enforcing these principles, the legal system in Indonesia helps protect both consumers and business, ensuring that companies invest in their brand development without the risk of having their identity undermined by unauthorized usage. The Polo Ralph Lauren case sets a valuable precedent for future trademark disputes, demonstrating the importance of safeguarding the distinctive qualities of internationally recognized trademarks. It also provides a clear obstacle for entities attempting to exploit the reputation of established brands by registering similar marks in bad faith, thereby protecting the border commercial ecosystem.

C.2. The Influence of Intellectual Property Rights in Protecting Foreign Brands in Indonesia

The Indonesian state generally adheres to a constitutive system, where new brands get legal protection after registration (*first to file*). However, the first-to-file system has not yet provided a guarantee of legal certainty for the actual holder of a well-known brand³¹. Supposedly, in trademark registration, a trademark that has a substantially and/or wholly similar resemblance to a well-known trademark must be rejected by the Trademark Office. Building a brand to have a differentiating power is not something

³⁰ Natasha Nathalie Ratulangi, Ivone Sianjaya, and Ivena Alodia, "Analisa Yuridis Mengenai Tanggung Jawab Penyelenggara Sistem Elektronik Atas Counterfeit Goods Dari Merek Terdaftar," *Anthology: Inside Intellectual Property Rights* 2, no. 1 (2024): 169, 174, 175, <https://ojs.uph.edu/index.php/Anthology/article/view/8258>.

³¹ Istiqmalia, Medisita Nurfauziah, and Iwan Erar Joesoef. "Itikad Baik Dalam Pendaftaran Merek: Studi Perlindungan Hukum Pemilik Merek Terkenal Di Indonesia." *Jurnal Penegakan Hukum Indonesia* 2.3 (2021): 406-426.

easy, because it requires effort in the form of creativity, time and funds³². Therefore, people who have invested in efforts to build a brand need to get protection.

Legal rules in the context of the protection of well-known trademarks in international law can be found in the Paris Convention for the Protection of Industrial Property 1967 Article 6 bis paragraph 91), as well as the TRIPs Agreement Article 16 paragraphs (2) and (3)³³. Each member state has an international obligation to incorporate TRIPs into national laws on intellectual property rights. In addition, the trademark office must apply the principle of due diligence with regard to the provisions regarding the examination of the trademark to be registered by the Trademark Office and also consideration of the interests of third parties (among other things, that trademark registration is unacceptable and can be rejected if it has a fundamental similarity with other parties).³⁴

Indonesia is one of several countries that are members of the WTO, so the protection of well-known brands is a consequence of Indonesia's recognition of TRIPs (Agreement on Trade Related Aspects of Intellectual Property Rights) is inseparable from Indonesia's recognition of the World Trade Organization (WTO)³⁵. In addition to being regulated in the TRIPs Agreement, well-known brands are also regulated in the Paris Convention. The Paris Convention provides protection for a brand that is known in a country even when the mark is not used or registered in that country if a third³⁶:

- a) register or use the same or similar trademarks; and/or
- b) using the same or similar brand in a way that constitutes unfair competition

³² Wijanarko, Dwi Seno, and Slamet Pribadi. "Perlindungan Hukum Preventif terhadap Merek Dagang di Indonesia Berdasarkan Undang-Undang Nomor 20 Tahun 2016 tentang Merek dan Indikasi Geografis." *Logika: Jurnal Penelitian Universitas Kuningan* 13.02 (2022): 192-201.

³³ Lobo, Lionita Putri, and Indirani Wauran. "Kedudukan Istimewa Merek Terkenal (Asing) Dalam Hukum Merek Indonesia." *Masalah-Masalah Hukum* 50.1 (2021): 70-83.

³⁴ Muhammad Azwar Am, "Sengketa Merek Dagang MS Glow Dan PS Glow Atas Merek Dalam Perspektif Hukum Di Indonesia," 2016, 143–53.

³⁵ Rizkia, Nanda Dwi, and Hardi Fardiansyah. *Hak Kekayaan Intelektual Suatu Pengantar*. Penerbit Widina, 2022.

³⁶ Patricia, Laurene, and Wilma Silalahi. "Perlindungan Hukum Merek Terkenal Terhadap Tindakan Pemboncengan Reputasi di Indonesia: Studi Yuridis." *Ranah Research: Journal of Multidisciplinary Research and Development* 7.1 (2024): 105-110.

The jurisprudence of the Supreme Court of the Republic of Indonesia No. 1486 K/Pst/1991 dated November 28, 1995 expressly provides the following legal criteria: "A trademark is included in the definition of Well Known Mark, in principle, it is interpreted that the trademark has circulated outside regional boundaries or even to transnational boundaries, therefore if it is proven that a mark has been registered in many countries in the world, So it is qualified as a well-known brand because it has circulated to the limit outside of its country of origin."

The protection of foreign trademarks in Indonesia is regulated in Law Number 20 of 2016 concerning Trademarks and Geographical Indications. This law stipulates that a foreign trademark can be registered in Indonesia by its owner or an authorized party, provided that the trademark has not been registered by another party in Indonesia. The main principle used is "first to file," where the rights to the trademark are granted to the party who first registered it, regardless of whether the trademark has already been used or not. This allows foreign brands to obtain legal protection officially if they follow the applicable registration process.³⁷

Foreign trademarks to be registered in Indonesia must meet several requirements, including including proof of ownership or use of the mark in the country of origin and providing translations or explanations if the mark is in a foreign language or a specific character. Once registered, foreign brands will get legal protection for a period of 10 years and can be extended for the same period³⁸. The law also provides protection for brands that are considered internationally renowned, even if they are not registered, provided that the owner can prove the reputation and recognition of the brand among Indonesian consumers.

In the event of infringement of a registered foreign trademark, the trademark owner has the right to file a lawsuit, either in the form of a civil lawsuit or criminal reporting. The law regulates sanctions in the form of compensation and prohibition of the use of

³⁷ Kansil, Christine ST, and Rigel Budiman. "PENEGAKAN HUKUM TERHADAP PELANGGARAN HAK ATAS MEREK DI INDONESIA." *Jurnal Pendidikan Sejarah dan Riset Sosial Humaniora* 4.3 (2024): 345-355.

³⁸ Nurmawati, Ir Bernadete, and MH SH. *HUKUM MEREK*. MEGA PRESS NUSANTARA, 2024.

trademarks for civil cases, as well as imprisonment or fines for criminal cases. In addition, there is an alternative dispute resolution mechanism through mediation or arbitration.³⁹ This protection aims to create legal certainty for foreign brand owners and encourage a healthy investment climate in Indonesia.

Protection of Foreign Trademarks in Indonesia Based on the Intellectual Property Law in Law Number 20 of 2016 concerning Trademarks and Geographical Indications. This law protects foreign trademarks by applying the first-to-file principle, which is that trademark rights are granted to the party who first registered the trademark in Indonesia, even if the trademark is already in use in another country.⁴⁰ This principle encourages early trademark registration by the owner to avoid legal conflicts due to claims by other parties who registered similar trademarks first. In addition, the protection of well-known trademarks is also guaranteed by this law, even though the trademarks have not been used commercially in Indonesia, as stipulated in Article 21 paragraphs (1) and (2).

The law also regulates the principle of good faith in trademark registration. Article 21 paragraph (3) states that trademark registration must be done in good faith, without the purpose of imitating, misleading, or deceiving consumers. This protection is aimed at preventing unfair business competition and ensuring fairness for original brand owners. However, in some cases, the law has been controversial, especially regarding the treatment of unregistered foreign brands, which are often the subject of legal disputes.

In terms of protection, the current trademark law in Indonesia offers significant advantages to foreign trademark owners by establishing a legal framework that allows them to prevent the unauthorized use of similar marks. This legal mechanism is crucial for maintaining brand integrity and protecting the interests of businesses that invest considerable resources into building their brand reputation.

³⁹ Andrew Chow, Low Wei Xu, and Vanessa Evelyn Sukanto, "The Objectivity of Intellectual Property Rights in Indonesia," *Law Journal* 1, no. 1 (2023): 96–111.

⁴⁰ Claudio Ricky Adhitya, Fidelia Evangelyn Abigail, and Florence Hermawan, "Fighting Fake Fashion: Legal Protection Of Brand Owners Towards Counterfeit Branded Fashion Goods In The Lens Of Intellectual Property Law," n.d., 1–17.

However, the application of the first-to-file principle presents numerous challenges that can complicate the registration process for foreign entities. One notable issue arises when parties acting in bad faith register well-known foreign brands, often with the intent to exploit the established reputation of these brands for their own gain. This practice can have detrimental effects on genuine brand owners, particularly if they are delayed in registering their trademarks in Indonesia. The first-to-file principle prioritizes the date of registration over prior use, meaning that a foreign brand could lose its rights to its own trademark if another party registers it first. This situation underscores the urgency for foreign companies to act swiftly in securing their trademarks upon entering the Indonesian market. A pertinent example illustrating these complexities is the trademark dispute between Mohindar HB, the legal owner of Polo Ralph Lauren, and PT. Manggala Putra Perkasa.

This case highlights the intricate nature of foreign brand protection within Indonesia's legal framework. Although Indonesian intellectual property laws are designed to protect well-known marks, they also create a paradox: if foreign trademark owners do not promptly register their trademarks, they risk losing exclusive rights to those marks. Other parties can exploit this legal loophole by registering similar or identical marks, which complicates efforts to ensure effective legal protection for foreign brands. The implications of this system are far-reaching. For instance, while well-known marks are afforded some level of protection under Indonesian law, the lack of immediate registration can lead to significant challenges for brand owners seeking to enforce their rights.

The first-to-file principle effectively creates a race among businesses to secure trademark registrations, which can disadvantage those who may be slower to navigate the registration process due to various reasons such as bureaucratic delays or unfamiliarity with local regulations. Furthermore, the high volume of trademark applications and approvals has led to widespread trademark squatting globally, including in Indonesia. Even internationally recognized corporations have faced

difficulties; notable examples include IKEA and DC Comics' Superman character, both of which lost trademark disputes in Indonesia due to prior registrations by squatters who acted before them. Such cases illustrate not only the vulnerabilities inherent in a first-to-file system but also highlight the need for robust legal strategies for foreign brands operating in Indonesia. In conclusion, while Indonesia's trademark law provides a framework aimed at protecting foreign brands, it simultaneously presents significant challenges due to its reliance on the first-to-file principle.⁴¹ The case of Polo Ralph Lauren serves as a cautionary tale for foreign entities looking to establish their trademarks in Indonesia, emphasizing the importance of timely registration and proactive measures against potential infringements. As such, effective legal protection for foreign brands necessitates a comprehensive understanding of both local laws and strategic approaches to trademark registration and enforcement.⁴²

D. Conclusion

The trademark dispute case between Polo Ralph Lauren represented by Mohindar HB and PT. Manggala Putra Perkasa is an important example that shows how the protection of Intellectual Property Rights (“IPR”), especially in the realm of brands, is implemented in Indonesia. Through the Supreme Court Decision Number 365 K/Pdt.Sus-HKI/2023, the Court issued a decision that not only protects the authenticity and reputation of well-known brands, but also upholds the main principles in IP protection. In this case, the Supreme Court upheld the decision of the Central Jakarta Commercial Court which stated that the action of PT. Manggala Putra Perkasa registering a brand that resembles Polo Ralph Lauren without permission is an infringement of the exclusive rights of the brand.

⁴¹ Fajar Sugianto, Astrid Athina Indradewi, and Yohanie Maretta, “Book Pirates and Copycats : Infringement That Speaks For Itself” 2, no. 1 (2024): 259–69.

⁴² Azis, Rheina Zetiah Akhtar Chulaizinda, and Budi Hermono. "ANALISIS YURIDIS PUTUSAN HAKIM BAGI PEMEGANG MEREK DAGANG POLO RALPH LAUREN DI INDONESIA (PUTUSAN NOMOR 614 K/PDT. SUS-HKI/2023)." *NOVUM: JURNAL HUKUM* (2024): 326-338.

Law Number 20 of 2016 concerning Trademarks and Geographical Indications plays a central role in the settlement of this case. The law protects well-known brands such as Polo Ralph Lauren under Article 21 paragraph (1), which prohibits the registration of similar trademarks even though they have not been used commercially in Indonesia. In addition, the principle of good faith, which is regulated in Article 21 paragraph (3), is also the main determinant in this matter. PT Manggala Putra Perkasa is considered to have violated this principle by deliberately registering a brand that resembles Polo Ralph Lauren to mislead consumers and exploit the brand's reputation. This not only violates the exclusive rights of brand owners but also creates unfair business competition.

This decision also emphasizes the implementation of the first-to-file principle in Indonesia, which grants exclusive rights to the party who first legally registers its trademark. In this case, Mohindar HB has registered the Polo Ralph Lauren brand since 1996, so it is entitled to exclusive protection in accordance with Article 1 paragraph (5) of Law Number 20 of 2016. The Supreme Court recognized that PT Manggala Putra Perkasa has no legal basis to claim the rights to brands that resemble Polo Ralph Lauren. This decision also ordered the cancellation of the registration of similar brands that had been carried out by PT Manggala Putra Perkasa.

The positive impact of this decision is the strengthening of legal protection for foreign brands in Indonesia, especially for well-known brands. This ruling shows that the IPR legal system in Indonesia not only protects administrative registration but also considers the reputation and recognition of the brand in the international market. By protecting well-known brands, Indonesian courts promote a fair business environment and support a healthy investment climate. This is a positive signal for foreign business actors that Indonesia is serious about enforcing brand protection. However, challenges remain, especially in ensuring that foreign brands immediately register their trademarks in Indonesia to avoid legal conflicts. The first-to-file system, while providing legal clarity, is often used by parties who do not have good faith to register a well-known trademark

that has not yet been registered in Indonesia. The process of proving the status of a well-known brand also requires a lot of time and money, which can be an obstacle for foreign brand owners in protecting their rights.

The Ralph Lauren Polo case also reflects the importance of cooperation between national law and international rules, as enshrined in the Paris Convention and the TRIPs Agreement. Indonesia, as a member of the WTO, has an obligation to protect well-known brands in accordance with international standards. This includes the prohibition of registration or use of similar trademarks without permission and the prevention of unfair competition. The Supreme Court's ruling in this case shows that Indonesia is committed to fulfilling these international obligations.

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