

Tinjauan yuridis mengenai itikad tidak baik dalam sengketa merek yang memiliki persamaan dengan merek terkenal = Legal analysis on bad faith in trademark disputes that has similarities with a well known mark

Aussielia Amzulian, author

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Abstrak

[Itikad tidak baik merupakan salah satu dasar untuk membatalkan pendaftaran suatu merek. Pada sengketa merek yang memiliki persamaan dengan merek terkenal, itikad tidak baik seringkali dianggap ada. Pertanyaan pokok yang hendak dijawab dalam tulisan ini adalah apakah pemilik merek terdaftar yang mereknya memiliki persamaan dengan merek terkenal dapat selalu dianggap memiliki itikad tidak baik dalam mendaftarkan dan menggunakan mereknya. Tulisan ini menganalisis berbagai sengketa merek terkenal dalam putusan pengadilan. Kesimpulan yang diperoleh dari tulisan ini adalah bahwa pemilik merek terdaftar yang mereknya memiliki persamaan dengan merek terkenal tidak dapat selalu dianggap memiliki itikad tidak baik, karena terdapat beberapa faktor yang dapat dipertimbangkan dalam membuktikan adanya tidaknya itikad tidak baik dari suatu pihak.

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Bad faith is one of the reasons to cancel an application of a trademark. In trademark disputes, when having similarities with a well-known mark, judges often assume that the trademark owner always has bad faith. The legal issue in this article is whether a trademark owner that it's trademark has similarities with a well-known mark always has bad faith in filing and using it's trademark. This article will analyze well-known mark cases from court rulings. This article concludes that bad faith doesn't always exist when a trademark has similarities with a well-known mark, because there are some conditions that could be considered to prove that a party does not have bad faith.

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