

Perlindungan Hukum Merek Terkenal Atas Tindakan Dilusi Terhadap Persaingan Curang Di Indonesia Dan Singapura = Legal Protection Of Well-Know Trademark For Dilution Agains Unfair Competition In Indonesia And Singapore

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Abstrak

Tesis ini membahas mengenai perlindungan hukum merek terkenal atas tindakan dilusi merek terhadap persaingan curang di Indonesia. Penulis mengajukan dua pokok permasalahan: Pertama, mengenai perlindungan merek terkenal atas tindakan dilusi merek terhadap persaingan curang berdasarkan perjanjian internasional dan hukum merek di Amerika Serikat, Uni Eropa, Singapura, dan Indonesia. Sedangkan kedua, mengenai penerapan teori dilusi oleh Hakim dalam pertimbangannya dalam memutus sengketa merek terkenal. Dengan menggunakan metode penelitian yuridis normative dengan pendekatan perundang-undangan dan metode perbandingan hukum. Perlindungan yang diberikan dalam Undang-Undang No. 20 Tahun 2016 tentang Merek dan Indikasi Geografis dan Peraturan Menteri Hukum dan Hak Asasi Manusia No. 12 Tahun 2021 tentang Pendaftaran Merek belum secara eksplisit mengatur dan memberikan perlindungan merek terkenal atas suatu tindakan dilusi merek terhadap persaingan curang di Indonesia. Disisi lain, Singapore Trademark Act 1998 Chapter 332 as revised 2005 yang telah memberikan perlindungan hukum pada merek terkenal atas tindakan dilusi merek terhadap persaingan curang di Singapura. Namun, jika merujuk dalam pertimbangan Majelis Hakim Pengadilan Niaga pada Pengadilan Negeri Jakarta Pusat secara tidak langsung telah menerapkan dan memberikan perlindungan hukum merek terkenal atas tindakan dilusi merek terhadap persaingan curang secara benar. Penulis menyarankan agar perlindungan merek terkenal terhadap dilusi merek dapat dijadikan sebuah ketentuan hukum baru demi memberikan kepastian hukum bagi pemilik merek terkenal.

.....This thesis discusses the legal protection of well-known trademarks for trademark dilution against unfair competition in Indonesia. The author proposes two main issues: First, regarding the protection of well-known trademarks for trademark dilution against unfair competition based on International Treaties and Trademark Law in the United States, European Union, Singapore, and Indonesia. While the second is regarding the implementation of dilution theory by the Judge in his consideration in deciding the well-known trademark dispute. By using a normative juridical research method with a statutory approach and a comparative law method. The protection provided in Law No. 20 of 2016 regarding Trademarks and Geographical Indications and The Regulation of Minister of Law and Human Rights No. 12 of 2021 regarding Trademark Registration has not explicitly regulated and provided protection for well-known trademarks for an act of trademark dilution against unfair competition in Indonesia. On the other hand, the Singapore Trademark Act 1998 Chapter 332 as revised in 2005 has provided legal protection for well-known trademarks for trademark dilution against unfair competition in Singapore. However, if referring to the consideration of the Panel of Judges of the Commercial Court at the Central Jakarta District Court, it has indirectly implemented and provided legal protection of well-known trademarks for trademarks dilution against unfair competition correctly. The authors suggest that the protection of well-known trademarks for trademark dilution can be used as a new legal provision to provide legal certainty for the owner of a well-

known trademark.