

Trademark Dispute Case in International Civil Law (Case Study of PK MARI Decision No.274 PK/Pdt/2003)

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ABSTRACT

Brand disputes in the context of international civil law are increasing in line with the globalization of trade and rapid economic growth. This journal analyzes the Review Decision (PK) No. 274 PK/Pdt/2003 involving a trademark dispute between Prada SA, a leading fashion company from Italy, and PT Manggala Putra Perkasa in Indonesia. This study aims to explore the legal basis used by the Supreme Court in deciding this case as well as the implications of the ruling on trademark protection in international civil law. The research method used is a prescriptive legal approach whose data collection is through literature research and analysis of legal documents. The results show that the Supreme Court relies on previous jurisprudence and international treaties, such as the Paris Convention for the Protection of Industrial Property, in providing decisions in favor of the protection of well-known brands. This ruling emphasizes the importance of good faith in trademark registration and provides stronger legal protection for well-known brands than ordinary marks. The implications of this decision are very significant, the target is not only brand owners, but also consumers and stakeholders in the Indonesian business world. This increase in protection is expected to create a more favorable investment environment and increase foreign investors' confidence in the Indonesian market. This finding is expected to be a reference for policymakers and legal practitioners in an effort to strengthen the protection of intellectual property rights in Indonesia and other countries.

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1. INTRODUCTION

Trademark disputes in the context of international civil law are becoming increasingly prevalent along with the growth of global trade. International civil law contains rules governing disputes arising

from cross-border transactions, such as contractual agreements, property relationships, inheritances, disputes, marriages between countries, etc [3]. Crimes in the trade sector involving infringement of well-known brands that are exploited into commodities for profit are increasing, both

domestically and abroad. This alludes to the aspect of the application of Intellectual Property Rights (IPR) in dealing with international conflict issues. Intellectual Property Rights are works of the human mind that require legal protection from a business perspective, such as Copyrights, Brand Rights, and Patents [4]. The issue of Intellectual Property Rights in the field of trademarks continues to grow along with the advancement of science. The real evidence is disputes that arise due to the infringement of well-known brands in the world of trade, which are often caused by the malicious intentions of economic actors to win the competition to conquer the market [5].

Intellectual Property Rights cases in international civil law, especially in trademark disputes, one of which is in the case of Prada SA in Indonesia, the owner of the Prada SA brand from Italy filed a lawsuit against Prada Indonesia for registering the same trademark [6]. This paper intends to contribute to understanding how the law affects trademark law operating in a global context and its implications for the protection of intellectual property rights in Indonesia [7].

2. METHODS

In writing this research journal, the method applied is a Normative Juridical approach. Data will be collected through literature studies, analysis of legal documents, and related court decisions. The analysis will focus on legal interpretation and the application of international civil law principles in this case [8].

3. PROBLEM FORMULATION

1. What is the background and chronology of the trademark dispute between Prada SA and PT Manggala Putra Perkasa?
2. What are the challenges faced in enforcing trademark rights after the ruling, and how does this affect the investment climate in Indonesia?
3. To what extent does this decision reflect the application of international civil law principles in protecting

intellectual property rights, especially trademarks?

4. RESULTS AND DISCUSSION

4.1 *What is the background and chronology of the trademark dispute between Prada SA and PT Manggala Putra Perkasa?*

A trademark is a symbol that has distinctive features and characteristics, such as images, names, words, letters, numbers, three-dimensional color arrangements, holograms, sounds, or a combination of these elements. Used on products, packaging, and used to distinguish products and services from products and services produced by others [9]. Which has the function as:

1. Building an image, A strong brand can build a positive image in the minds of consumers, so that consumers prefer branded products over unbranded products.
2. Strengthening loyalty, Consumers who are loyal to a brand tend to continue to buy products from that brand, even if there are similar products at lower prices.
3. Increase selling value, Branded products generally have a higher selling value than unbranded products.
4. Protecting the company's investment, the Brand is a very valuable asset for the company. By protecting its brand, a company can protect the investments it has made in product development and marketing.

A dispute is a disturbance or disagreement between two or more parties who have claims or claims regarding the rights or interests of each party. Disputes can come in many forms, from simple setbacks in everyday life to complex conflicts involving state interests [10].

So in general, a trademark dispute is a disturbance or conflict that arises due

to a claim or demand for the right to a brand. A trademark itself is a sign that can be in the form of words, images, combinations of words and images, letters, numbers, color arrangements, in the form of three-dimensions, holograms, sounds, or a combination of these elements that have distinguishing power and are used in goods, services, or packaging of goods to distinguish such goods, services, or packaging of goods from goods, services, or packaging of goods produced by others [11]. Some of the main causes of conflict disputes are Brand Imitation, Unauthorized Use of Marks, Prior Registration of Trademarks, Infringement of Exclusive Rights, Changes in Brand Use. Meanwhile, the impact caused by brand disputes is Financial Loss, Reputational Damage, Legal Uncertainty, and Consumer Loss. Therefore, it is necessary to resolve Brand Disputes by means of Negotiation, Mediation, Arbitration, Litigation [12].

The trademark dispute between the Italian luxury fashion company Prada SA, and PT Manggala Putra Perkasa, which originated from Indonesia, is one of the interesting cases in the realm of Intellectual Property Law, especially in the context of international trademarks. This case illustrates the importance of trademark protection, especially for international brands planning to enter the Indonesian market. Prada SA is a leading fashion company with a global reputation and a very well-known brand in different countries, even around the world. On the other hand, PT Manggala Putra Perkasa is a local company in Indonesia that has used the Prada brand name illegally.

The trademark dispute between Prada SA and PT Manggala Putra Perkasa began with the registration of the Prada brand in Indonesia by both parties. Prada SA, as the original owner of the brand that has existed since 1913, has registered its brand globally [13]. However, PT Manggala Putra Perkasa also conducts similar registrations in

Indonesia. This triggered a legal conflict with Prada SA, which then filed a claim for ownership of the brand. Prada SA argued that PT Manggala Putra Perkasa's actions were an infringement of Intellectual Property Rights and could cause confusion among consumers [14].

The trial between Prada SA and PT Manggala Putra Perkasa was held in Indonesia for several reasons. As one of the parties to the dispute (PT Manggala Putra Perkasa) is a company domiciled in Indonesia, the action that is the subject of the problem is the use of the Prada SA brand in the Indonesian legal area, and the last in accordance with international law principles civil cases are generally tried in the country where the legal event occurred (*lex loci actus*). Therefore, Indonesian courts are considered to have integrity and in accordance with the appropriate legal provisions to complete this settlement [15].

This dispute has a fairly wide impact, both for both parties and for the business world. For Prada SA, the victory in this case strengthens the legal protection of their brand in Indonesia. Meanwhile, for PT [15] Manggala Putra Perkasa's defeat certainly had a negative impact, both in terms of finance and reputation. If PT Manggal Putra Perkasa succeeds in registering the same brand, then the party from Prada SA will suffer losses. Among them are:

1. Legal Damages:
 - a) A registered trademark can be cancelled by a court at the request of Prada SA as the rightful owner. This means that all the investments that have been made in the brand will be in vain.
 - b) PT Manggala Putra Perkasa can also face legal sanctions, including fines or even criminal charges.
 - c) Prada SA has the right to file a civil lawsuit to claim compensation for losses

suffered due to trademark infringement.

2. Financial Losses:
 - a) Long and complicated legal proceedings can be costly, ranging from legal fees and court fees to expert witness fees.
 - b) Trademark infringement lawsuits can damage a company's reputation and lead to a loss of consumer confidence in the products it produces.
 - c) customers who are familiar with the Prada SA brand will definitely choose the original product, thereby reducing PT Manggala Putra Perkasa's market share.
 - d) The existence of identical trademarks can cause confusion for consumers and hinder the company's business growth efforts.

The legal process in deciding disputes goes through a long process because the case is related to trademark intellectual property rights, which must sulk at a number of laws and regulations that apply in Indonesia.

In general, the final verdict resulted in a lawsuit against Prada SA. The court ruled that the trademark "Prada" owned by Prada SA is a well-known trademark and is legally registered in various countries, including Indonesia. According to other sources, there are

3. legal bases used in this case, including:
 - a) Law Number 20 of 2016 concerning Trademarks and Geographical Indications. This law is the main legal basis that regulates everything related to trademarks in Indonesia,

from registration, protection, and prosecution. In this case, the Supreme Court of the Republic of Indonesia (MA RI) will refer to the provisions governing exclusive rights to trademarks, trademark infringement, and legal remedies available to the owner of the infringed rights.

- b) Government regulations related to trademark law provide further details regarding trademark registration procedures, trademark requirements, trademark requirements, and trademark dispute resolution procedures. This government regulation is also an important reference for judges in deciding trademark cases.
- c) Jurisprudence or previous court decisions, including Supreme Court decisions, are a very important source of legal information. In the Prada case, the Supreme Court can rely on previous decisions related to high-level trademark disputes to provide a strong legal basis for the decisions taken.
- d) International Agreements, Indonesia is a party to various international treaties that regulate the protection of intellectual property including trademarks. These agreements are a reference for Indonesian courts in deciding trademark cases that contain international elements. In the Prada case, international conventions such as the Paris Convention for the Protection of Industrial Property will most

likely be considered by the Supreme Court.

General law principles, in addition to the written legal sources above, the Supreme Court can also use common law principles that are universally enforced, such as good faith principles, consumer protection principles, and fair competition principles. These regulations are used to fill legal gaps that are not specifically regulated in laws or regulations.

This decision has an important meaning in the protection of well-known brands in Indonesia, MARI Review Decision (PK) No.274 PK/Pdt/2003 was stipulated on December 14, 2007. This ruling strengthens the legal protection of well-known trademarks and affirms the principle of bad faith in trademark registration.

The Review Decision No. 274 PK/Pdt/2003 involving the Prada trademark dispute is an important milestone in the enforcement of intellectual property law that has had a significant impact on trademark protection in Indonesia, especially in the context of international civil law. This ruling emphasizes the importance of protecting well-known trademarks and shows Indonesia's commitment to harmonizing trademark law with international standards.

4.2 *What are the challenges faced in the enforcement of trademark rights after the decision, and how does this affect the investment climate in Indonesia?*

After the PK decision No.274 PK/Pdt/2003, the enforcement of trademark rights in Indonesia faces several significant challenges. First, even though the decision provides legal certainty for well-known brand owners, of course there are still cases of illegal trademark registration by parties in bad faith, which can create market volatility and harm legitimate brand owners. In addition, the lack of legal awareness among business actors, especially at the local level, often leads to unintentional

infringement of trademark rights. Weak law enforcement is also an obstacle, where the implementation of regulations is often inconsistent, reducing the effectiveness of brand rights protection. Unexpected regulatory changes can add to uncertainty for brand owners. These challenges have an impact on the investment climate in Indonesia, where strong protection of intellectual property rights is an important factor for foreign investors. Uncertainty in the enforcement of brand rights can undermine investor confidence, while effective protection can create more conducive investment conditions, attract more foreign investors as well as healthy competition in the market. Thus, despite the challenges, efforts to strengthen brand protection can have a positive impact on the investment climate in Indonesia.

The implications of the PK decision No. 274 PK/Pdt/2003 in trademark protection strengthen the protection of well-known brands that have been recognized in international law. Well-known brands have stronger legal protection compared to ordinary brands because they have high appeal and reputation among consumers. As well as the importance of legally registering a trademark in the country where the trademark will be used, trademark registration is a crucial first step in protecting trademark rights. This ruling also highlights the importance of considering the element of bad faith in fighting for a trademark if it is proven that the party registering the trademark has bad faith by having the purpose of taking advantage of a well-known trademark belonging to another party, then the trademark registration can be canceled.

This decision shows Indonesia's efforts to harmonize national trademark law with international standards. This is important to create a conducive investment climate and protect the intellectual property rights of both domestic and foreign business actors. With this decision, it has an impact on

legal certainty on foreign investment of well-known brand holders from abroad who want to do business in Indonesia. With strong legal protection, foreign investors will feel safer to invest their capital in Indonesia.

The implications of the decision of PK No. 274 PK/Pdt/2003 on international civil law show the application of general principles of international civil law such as the law where legal events occur, and the protection of legitimate rights. This ruling reflects respect for intellectual property rights owned by foreign nationals in line with international legal principles that uphold the protection of the rights of individuals and legal entities. This decision also contributes to the development of international civil law, especially in the field of trademark protection. This decision can be used as a reference for other countries in resolving similar brands.

Overall, the PK Decision No. 274 PK/Pdt/2003 has contributed to improving the quality of legal protection for trademarks in Indonesia and strengthening Indonesia's position in the international civil law scene. In addition to the decision of PK No. 274 PK/Pdt/2003, based on Article 85 of Law No. 151 of 2001, the party whose trademark rights are infringed can obtain a preliminary order to prevent the import of goods related to trademark infringement and to keep evidence related to the trademark infringement of the Commercial Court to obtain an order. Trademark Infringement File a trademark application. The purpose of this provisional determination is to prevent further losses for the party whose rights are violated. This provision is also regulated in Article 44 (I) of the TRIPS.

But unfortunately, even though the MARI PK Decision No.274 PK/Pdt/3003 has been determined in 2007, it turns out that the Supreme Court still decided on the new decision stipulated in Decision No. 449K/Pdt.Sus-HKI/2014. Although PK No.274 of 2007 has provided

strong legal certainty for the Prada brand, it does not necessarily end all potential debates related to the brand. There are several reasons why this case can resurface, even after the enactment of a final and binding decision, including:

- a) Appeal and Cassation: After a first-instance decision, the losing party still has the right to file an appeal and cassation remedy. If the legal remedy is granted, the previous decision can be canceled or changed. In the case of Prada, even though the PK Decision has been issued, there may still be other legal remedies carried out by interested parties.
- b) Registration of Similar New Brands: Even if there is a decision protecting the Prada SA brand, other parties can still register similar or identical marks. The owner of the Prada brand must then file a new lawsuit to cancel the registration of the trademark. This legal process can take quite a long time.
- c) Legal developments: Intellectual property law, especially trademark law, is bound to continue to evolve. Changes in new regulations or court decisions can affect the interpretation of a case. This can be the basis for interested parties to file a new lawsuit or other legal remedies.
- d) Application of Law at the First Level: Although there are high-level judgments that are escalating, the application of law at the first trial level can vary. This can be caused by various factors such as differences in legal interpretation, different facts, or the influence of external pressures.

Therefore, in the case of Prada SA, the emergence of Supreme Court Decision No. 449 of 2014 after PK Decision No. 274 of 2007 can be

explained that PT Manggala Putra Perkasa filed a cassation or new legal application related to the use of the Prada brand after the PK Decision of 2007. This application can be in the form of a new lawsuit, a trademark cancellation permit, or other legal remedies. There are new problems that arise related to the use of the Prada brand after 2007, for example the emergence of new products using similar brands or there are changes in the business strategies of the parties to the dispute. As well as the emergence of changes in laws and regulations or new court decisions can be the basis for PT Manggala Putra Perkasa to submit a new legal application.

The presence of a brand plays an important role in trading activities. A brand is not only a differentiator from other products, but can also be the foundation for the development of modern commerce. It also includes the reputation (goodwill) of the use of the brand as a symbol of quality and quality standards that can penetrate all types of markets. In Indonesia, the trademark registration system uses a first-to-file system, and the person who applies and receives the application is the first person to obtain the right to the registered trademark.

The similarity in this case gives the impression that there is a similarity not only in the sounds of the language contained in the sign, but also in the shape, arrangement, spelling, or combination of elements. However, the use of similar trademarks can certainly be registered if they belong to a different trademark class. This provision is regulated in Government Regulation Number 24 of 1993 concerning Types of Goods or Services for Trademark Registration (PP 24/1993). Trademark class is a grouping of business fields carried out based on trademarks, and according to PP 24/1993 there are 45 different classes of goods and services and the applicant must determine the

trademark class. These are used in their trademarks.

Government Regulation Number 24 of 1993 concerning Classes of Goods or Services for Trademark Registration (PP 24/1993) is a regulation that regulates the classification of goods and services that can be registered as trademarks. The main purpose of this regulation is to create a clear and uniform classification system in trademark registration in Indonesia, thereby facilitating the process of registration, search, and protection of trademarks. Each class contains a type of good or service that has similar characteristics and functions. With this classification, trademark registration applicants can easily determine the class that corresponds to their brand. In addition, this classification system also makes it easier for trademark registration officers to conduct examinations and evaluations of trademark registration applications. Broadly speaking, PP 24/1993 regulates the following matters:

- a) Definition of class of goods and services, this regulation provides a clear definition of what is meant by class of goods and services in the context of trademark registration.
- b) The list of classes of goods and services, PP 24/1993 contains a complete list of classes of goods and services that can be registered as brands, along with examples of goods or services included in each class.
- c) How to determine the class, This regulation explains how to determine the right class for a good or service to be registered as a trademark.
- d) Trademark registration application, PP 24/1993 regulates the requirements and procedures for applying for trademark registration, including requirements regarding the

determination of the class of goods or services.

With the existence of PP 24/1993, it is hoped that a more effective and efficient trademark registration system can be created. Trademark owners can more easily protect their trademark rights, while the authorities can better supervise and enforce laws against trademark rights infringement.

4.3 *To what extent does this decision reflect the application of international civil law principles in protecting intellectual property rights, especially trademarks?*

PK Decision No.274 PK/Pdt/2003 reflects the significant application of international civil law principles in protecting intellectual property rights, especially trademarks by emphasizing the importance of protecting well-known trademarks in the global context. One of the main principles adopted in this decision is the LEX LOCI ACTUS decree which refers to the law that applies in the place where the legal event occurred. In this context, Indonesia shows its commitment to respect and protect intellectual property rights owned by foreign nationals in line with international standards regulated in treaties such as TRIPs (Trade Related Aspects of Intellectual Property Rights).

This ruling also highlights the importance of legal trademark registration as an initial form of protecting trademark rights which is a fundamental element in international trademark law. In addition, this ruling underline the need to consider good faith in trademark registration, where registrations made with the intention of profiting from the reputation of a well-known brand can be canceled. Thus, this decision not only provides legal certainty for well-known brand owners but also contributes to the harmonization of trademark law in Indonesia with international standards, creates a safer climate for foreign investment and encourages business actors to respect intellectual property rights. Overall, this

decision is an important milestone in the enforcement of intellectual property law in Indonesia, reflecting the state's commitment to protecting the rights of individuals and international civil legal entities.

5. CONCLUSION

This journal examines in depth the brand dispute between the Italian luxury fashion company, Prada SA, and PT Manggala Putra Perkasa from Indonesia. This case reflects the challenges faced by international brands in protecting their intellectual property rights in the domestic market, especially in countries with different regulations and legal practices. Through this analysis, the authors emphasize that trademark protection is not only important for brand owners, but also for consumers and the market as a whole. PK Decision No. 274 PK/Pdt/2003 issued by the Supreme Court of the Republic of Indonesia on December 14, 2007, is an important milestone in the enforcement of intellectual property law in Indonesia. In this ruling, the Supreme Court affirmed that well-known brands should get stronger protection than ordinary brands, given the reputation and attractiveness that the brand has among consumers. This is in line with the principles of international law that recognize the importance of protecting intellectual property rights. One of the key aspects of this ruling is the affirmation of good faith in trademark registration. The Supreme Court emphasized that trademark registrations made in bad faith, especially if they aim to take advantage of the reputation of a well-known brand, can be canceled. This shows that Indonesian courts are committed to protecting the rights of legitimate trademark owners and preventing harmful practices. In addition, this journal also discusses the implications of the decision on international civil law. This ruling reflects the application of general principles of international civil law, such as *lex loci actus*, which states that civil cases are generally tried in the country where the legal event occurred. Thus, Indonesian courts are considered to

have the appropriate authority to resolve this dispute, considering that the action that is the subject matter occurs in Indonesian jurisdiction. Furthermore, this decision has a positive impact on the investment climate in Indonesia. With strong legal protection for well-known brands, foreign investors will feel safer to invest their capital in Indonesia. This is important to create a conducive and attractive business environment for business actors, both domestic and foreign. Overall, the journal emphasizes that trademark protection is a crucial aspect in maintaining reputation and competitiveness in the global market. PK Decision No. 274 PK/Pdt/2003 not only strengthens the legal protection of well-known trademarks in Indonesia, but also makes a significant contribution to the development of international civil law, especially in the field of trademark protection. Thus, this case can be used as a reference for other countries in resolving similar trademark disputes, as well as a reference in the development of intellectual property rights protection policies at the international level.

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