



# CIREBON INTERNATIONAL CONFERENCE ON EDUCATION AND ECONOMICS (CICEE)

## REDEFINITION OF FAMOUS BRAND RELATED TO THE APPLICATION OF TRADEMARK LAW BASED ON THE PRINCIPLE OF LEGAL CERTAINTY

Raden Handiriono<sup>1</sup>, Harmono<sup>2</sup>, Irma Maulida<sup>3</sup>, Nur Alma Azizah B<sup>4</sup>, Insan Kamil<sup>5</sup>  
<sup>1,2,3,4,5</sup> Universitas Swadaya Gunung Jati, Cirebon, Indonesia

\*Corresponding author: [raden.handiriono@ugj.ac.id](mailto:raden.handiriono@ugj.ac.id)

### Abstract

The presence of famous brands has become an inevitable phenomenon in modern society. These brands are not only a part of everyday life, but also play an important role in shaping the social and economic identity of individuals. Therefore, it does not rule out the possibility of infringement in the form of imitation and misappropriation so that it can harm the legitimate owners of well-known trademarks whose existence has not been clearly regulated in the legislation. This research aims to analyse the qualifications of famous brands and evaluate the effectiveness of the existing legal mechanisms in the Trademark Law to implement the principle of legal certainty for famous brands owners. This research examines the criteria used to determine the status of famous brands, including the level of public recognition, length of use, promotion, and market coverage. In addition, this research evaluates how the principle of legal certainty is applied in the enforcement of famous brands rights, as well as the challenges faced in legal practice. Through a normative approach that refers to the application of legislation, literature study, reviewing literature and theoretical studies of legal experts, this study found that although there are laws governing trademarks, there are some things that have not been clearly regulated in it and also the implementation in the field often faces obstacles such as lack of understanding among law enforcement officials and differences in interpretation by the courts. The results of this study are expected to contribute to the development of policies and regulations that are more effective in protecting well-known trademarks in Indonesia, as well as strengthening the principle of legal certainty in the trademark protection system.

**Keywords:** Famous Brands, Intellectual Property, Legal Protection.

### INTRODUCTION

In this era of globalization, the concept of famous brands has become increasingly important in the economic and legal context. In Indonesia, the view on famous brands has undergone significant changes since the enactment of Law Number 20 Year 2016 on Trademarks and Geographical Indications. This law not only regulates the protection of marks in general, but also sets out specific criteria that must be met in order for a mark to be recognized as "famous". However, the application of the principle of legal certainty in the context of the

definition of a famous brand remains an important debate, especially in determining the boundaries of the qualifications of a highly reputable mark. Thus, this article will review two main problem formulations: (1) how the rules regarding the qualification of famous brands are regulated in the Law on Trademarks and Geographical Indications Number 20 Year 2016, and (2) how the ideal form of legal regulation on famous brands in Indonesia can be achieved to ensure fair and effective protection of the brand owners.

The change in the definition of a famous brands is particularly relevant in the current context of economic globalization, where a mark is not just a product identity but also a valuable asset that can provide a competitive advantage for companies. The current law should reflect the Indonesian government's efforts to conform to international standards in brand protection, while setting a stronger foundation for the recognition and protection of famous brands domestically. In addition, a key challenge faced is how to establish objective and reliable criteria for determining the status of a mark as "famous". This requires the use of strong evidence and a transparent assessment process that is based on clear laws. Therefore, it is imperative to clarify the rules on the qualification of well-known marks in the Law on Trademarks and Geographical Indications to avoid ambiguous interpretations and unfair treatment of mark owners.

The ideal legal arrangement should be able to provide legal certainty to all parties involved in the trademark system, both trademark owners and parties who potentially violate the rights of the trademark. This not only includes assertiveness regarding the qualification criteria of renowned brands, but also effectiveness in law enforcement against trademark infringement. So that the legal protection of famous brands not only serves as a means to encourage innovation and investment, but also as an instrument to create a fair business environment and integrity in Indonesia. By delving deeper into the existing rules and challenges, this article is expected to provide a deep insight into how the concept of famous brands can be properly defined and applied in the Indonesian legal context. Thus, steps towards better legal protection for famous brands can be better formulated, creating a more stable and supportive legal environment for national economic growth.

The debate over the definition of a famous brands is not only relevant in the legal realm, but also has a significant impact on business practices and investment in Indonesia. Recognition as a famous brands can grant its owners exclusive rights that transcend geographical boundaries, allowing them to protect the reputation and commercial value of their marks more effectively. However, in order to achieve such recognition, brand owners must be able to meet the stringent standards set by the Law Number 20 Year 2016, which encourages them to gather strong and thorough evidence. In addition, another challenge is the harmonization between national legal provisions and internationally recognized principles in the protection of famous brands. This includes the recognition of internationally recognized famous brands, which requires Indonesia to consider the global implications of any policy taken in the context of famous brands. Thus, the ideal legal arrangement should be able to not only fulfill domestic needs but also accommodate international requirements, thus strengthening the position of Indonesian brands in the global market.

In addition, it is important to consider the role of legal institutions and policies in enforcing the protection of renowned brands. The involvement of independent and effective legal institutions in the resolution of trademark disputes can ensure that decisions are based on applicable law and valid evidence. This will give confidence to brand owners that their rights will be fairly respected and protected in accordance with applicable regulations. By basing itself on these aspects, this article will explore in more depth the rules of famous brands

qualification in Trademark Law Number 20 Year 2016 and formulate a view towards the ideal form of legal regulation of famous brands in Indonesia. Through a comprehensive analysis, it is hoped that this article can provide valuable insights for legal practitioners, academics, and entrepreneurs on the importance of legal certainty in defining and protecting famous brands in Indonesia.

## **METHOD**

The research uses a type of qualitative research with descriptive analysis method, that is, analyzing data on the object of research in the form of an existing situation where well-known trademark owners are suffering from the lack of protection of their rights in this business competition. This research discusses the regulations regarding the qualifications and position of famous brands in Trademark Law and Geographical Indications.

This research evaluates how the principle of legal certainty is applied in the enforcement of famous trademark rights, as well as the challenges faced in legal practice. using a juridical legal research approach that refers to literature studies, data collection, reviewing literature, and theoretical studies of legal experts in the form of scientific books related to the title "Redefinition of Famous Brand Related to the Application of Trademark Law Based on the Principle of Legal Certainty".

## **RESULT AND DISCUSSION**

The regulation of the criteria for famous brands in Trademark Law Number 20 Year 2016 in Indonesia is still not clearly regulated and requires in-depth improvement to provide more definite boundaries for famous brands. The main problem lies in the lack of firmness and adequate specifications in determining the factors that must be met for a mark to be considered famous. This leads to vagueness in the interpretation and application of such criteria in court, potentially resulting in varying decisions depending on the jurisdiction and the judge handling the case.

Further expansion and clarification of the criteria that must be met for the recognition of a famous mark is necessary. For example, although the Trademark Law mentions about "widespread recognition among the public," there is no clear guidance on how widespread and significant such recognition should be. The same goes for widespread and continuous use, as well as the concrete evidence needed to prove the reputation of the mark. With more clarity in this regard, brand owners will find it easier to adjust their business strategies to meet the set standards and plan for more effective legal protection.

Improvements in the legal setting regarding the criteria for famous brands may also include the development of more detailed practical guidance or interpretative guidelines. Such guidelines can assist courts in assessing the qualification of a mark as famous more consistently and objectively. This will help create greater legal certainty for owners of famous brands in protecting their rights against unauthorized use or misappropriation of the mark.

In formulating the ideal form of legal regulation of famous brands in Indonesia, several crucial aspects need to be considered to ensure clarity, fairness, and legal certainty for brand owners as well as other stakeholders. First of all, it is important to develop more specific and measurable criteria for recognizing a mark as famous. This includes a clear definition of what constitutes "widespread recognition among the public," as well as detailed standards

regarding the widespread and continuous use of the mark. By having more detailed guidelines, courts can make more consistent and objective decisions in assessing the status of famous brands.

In addition, transparency in the process of assessing the qualifications of famous brands is also key. A more open and proven mechanism can help reduce legal uncertainty and increase the confidence of famous mark owners in the legal system. This includes providing clear guidance on the evidence required, the procedures to be followed, and the expected time to complete the recognition process. Thus, brand owners can more easily plan their protection strategies and avoid lengthy and costly legal disputes.

Furthermore, it is important to consider the adaptation of the law to the rapid development of technology and consumer trends. The legal protection mechanism for famous brands should be able to address new challenges that arise, such as the use of marks in digital platforms or increasingly sophisticated copying attempts. Thus, revisions or additions in the law can incorporate provisions that are relevant to the conditions of the times, maintaining the sustainability of famous mark protection in this digital era.

Harmonization with international standards should also not be overlooked in formulating the ideal legal arrangement. By adopting globally recognized principles regarding famous brands, Indonesia can strengthen its position in international trade and increase its attractiveness for foreign investment. It will also expand the protection of Indonesian marks in the global market, reduce the risk of brand abuse, and increase the fight against counterfeit products that harm the national economy.

Lastly, to achieve the ideal form of legal regulation on famous brands, active collaboration between the government, legal experts, industry, and civil society is required. This inclusive dialog is important to ensure that all perspectives and interests are accommodated in the formulation of a balanced and sustainable policy. Thus, Indonesia can build a legal environment that supports innovation, investment, and development of famous brands, while still maintaining fairness and legal certainty for all stakeholders.

## **CONCLUSION**

Although Trademark Law No. 20/2016 has provided an important foundation for the recognition of famous brands in Indonesia, there is an urgent need to make changes to improve legal certainty for owners of famous brands. Currently, the implementation of this Act still poses challenges, especially in determining objective criteria and sufficient evidence to recognize a brand as famous. The existing criteria can be considered too general and require clearer interpretation in practice.

To formulate the ideal form of legal regulation of famous brands in Indonesia, it is necessary to consider more detailed and specific changes to the law. These include improvements in the use of reliable evidence, a more transparent assessment mechanism, as well as further clarification regarding critical aspects such as duration of use, public recognition, and economic impact of renowned brands. In addition, strengthening legal institutions in enforcing these rules is crucial, including in terms of fair and efficient dispute resolution. By making these changes, Indonesia can not only improve the legal protection of famous brands, but also build a solid foundation to create a more stable and attractive business environment for domestic and international investment. These measures are expected to reduce the uncertainty that exists in the practice of famous mark law in Indonesia, as well as bring tangible benefits to economic development and innovation in the country.

## REFERENCES

- Citra Rosa Budiman, “Perlindungan Hukum Terhadap Merek Terkenal di Indonesia”, *Reformasi Hukum*, Volume 23, Nomor 1, 2019, hlm. 1-18.
- Ahmad Yakub Sukro, “Perlindungan Hukum Terhadap Merek Dagang Terkenal Atas Tindakan Passing Off Pada Praktek Persaingan Usaha” dalam *Syiar Hukum Jurnal Ilmu Hukum*. Volume 16 Nomor 1 Halaman 97 – 123 (2017)
- Lionita Putri Lobo, Indirani Wauran. (2021). *Kedudukan Istimewa Merek Terkenal (Asing) Dalam Hukum Merek Indonesia*. hal 71
- Putu Eka Krisna Sanjaya dan Dewa Gede Rudy, *Perlindungan Hukum terhadap Hak Merek Terkenal di Indonesia*, Fakultas Hukum Universitas Udayana: Bagian Hukum Bisnis, hlm. 7
- Pahlevi, M. R., & Budiyanto, D. A. (2021). Redefinisi Merek Terkenal dalam Perspektif Hukum dan Ekonomi. *Jurnal Kekayaan Intelektual*, Universitas Indonesia.
- Dewi, I. S., & Rachmawati, N. (2020). Harmonisasi Peraturan Merek Terkenal di Indonesia dengan Hukum Internasional. *Jurnal Hukum dan Masyarakat*, Universitas Padjadjaran.
- Wicaksana, F. S., & Meirani. (2019). *Perlindungan Hak Merek Terkenal dalam Konstitusi Republik Indonesia*. *Jurnal Konstitusi*, Mahkamah Konstitusi Republik Indonesia.
- Astuti, R. D., & Setyowati, R. A. (2023). *Perlindungan Merek Terkenal Terhadap Peniruan Merek Serupa di Era Digital*. *Jurnal Hukum Merek*, Universitas Muhammadiyah Surakarta.
- Rini, D. E., & Lestari, S. E. (2022). *Penegakan Hukum Terhadap Pelanggaran Merek Terkenal di Indonesia*. *Jurnal Ilmu Hukum*, Universitas Sebelas Maret.
- Nurchayani, I., & Trihastuti, R. (2018). *Dampak Penerapan Prinsip Kepastian Hukum Terhadap Perlindungan Merek Terkenal di Indonesia*. *Jurnal Hukum Bisnis*, Universitas Diponegoro.

