

ABSTRACT

The piggybacking on the reputation of foreign well-known mark belonging to other people is the cause of the emergence of many cases of passing off in Indonesia. Although reputation (goodwill) is intangible, it is a valuable asset for the mark owner so that it needs legal protection. This study was conducted to determine the legal protection of foreign well-known mark in Indonesia from passing off as happened in the dispute over the foreign well-known mark PUMA against the PUMADA mark in Decision No. 10/Pdt.Sus.Merek/2020/PN.Niaga.Jkt.Pst. jo. Decision No. 39 PK/Pdt.Sus-HKI/2021.

This research uses a normative juridical approach with clinical legal research specifications. The data sources used are secondary data consisting of primary, secondary and tertiary legal materials collected by the literature study method and presented in the form of qualitative descriptions that are systematically arranged and analyzed using qualitative normative methods.

The Commercial Court and the Supreme Court in this case have failed to provide repressive legal protection against the violation of reputation/goodwill owned by the foreign well-known mark PUMA from passing off by the PUMADA mark. Likewise with the Directorate General of Intellectual Property cq. The Directorate of Marks as a Co-Defendant has also failed to provide preventive protection by continuing to receive PUMADA trademark registrations. The doctrines of passing off and dilution should be incorporated into the amendments to the Indonesian Trademark Law to further increase its effectiveness in dealing with cases of infringement of well-known marks which cannot be handled or reached by relying solely on the doctrine of similarity or it can also be accommodated in the Law on Fraudulent Competition which Indonesia does not yet have.

Keywords : *Legal Protection, Foreign Well-Known Mark, Passing Off.*