

COMPARATIVE ANALYSIS OF LEGAL PROTECTION AND CRITERIA OF WELL- KNOWN MARKS (INDONESIA, UNITED STATES, INDIA, CHINA, AND GERMAN)

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Abstract: Trademark functions as a distinguishing mark between goods and/or services of its kind, as well as an identification mark for goods and/or services from the producer concerned. In order to be a well-known and widely recognized marks by the world community, also to gain a good reputation it requires a very high investment to maintain quality and perform a massive promotions in many countries. Considering its, lawful protection of well-known marks is a must. This research use a normative juridical method by examining regulations and analyzing the previous studies, as well as other relevant legal materials to determine the criteria of well-known marks and the law protection provided for well-known marks in Indonesia, using a comparative legal system approach in several countries, The United States, India, China, and Germany. The results of this study indicate that the regulation of the criteria for well-known marks in Indonesia still does not set concretely the minimum number that must be met for each criterion. Furthermore, in principle, Indonesia provides legal protection for well-known marks, both registered and unregistered in Indonesia.

Keywords: criteria; well-known mark; Intellectual Property Rights.

I. INTRODUCTION

Trademark's issue in Indonesia continuously evolving from time to time due to the increasingly creative way of thinking of people. This is along with creativity will continue to experience renewal if the creative person benefits according to the theoretical basis of the wealth regime. Therefore, the idea of creative ideas in intellectual property is naturally protected by the state through laws and regulations. Marks continue to develop in the world of trade and industry due to the function of the marks itself, which is to become an identifier for the uniqueness of the product produced by someone (Putra. R, 2021). In addition to the distinguishing function, the marks also serves as a means of promoting a product. This makes the brand a part of intellectual property which is very important in trading goods and/or services.

In considering preamble of UU No. 20 of 2016 concerning Marks and Geographical Indications point a, it is stated that the role of marks is very important in maintaining healthy business competition and for consumer protection itself (Mega Jaya, B., Fasyehhudin, M., & Naddifah, W., 2022). Based on the regulation, it can be understood that legal protection of trademark rights is very important. Trademark registration in Indonesia adheres to the principle of First to file which means that the protection of trademark rights is given to the party who first submitted the application for registration (Yakub Sukro, 2019). The problem that then arises in this registration system is that certain parties in bad faith use illegally, a well-known marks that has not been registered in Indonesia for their goods and/or services, then registering the famous mark in their own name. This is usually done to increase the profits of product sales, but using the wrong way, passing-off on the good reputation of a brand that is already well known in the world (Budi Santoso, Rinitami Njatrijani, A. A. W., 2017).

Those actions are certainly very detrimental to the original owner of a well-known brand. In addition to causing misguidance in the community over a product and/or service, several cases related to well-known trademark disputes occurred due to the refusal to register original famous marks by the Directorate of Marks, because those trademarks had previously been registered by other parties (Budi Santoso, Rinitami Njatrijani, A. A. W., 2017).

In the regulations related to intellectual property law in force in Indonesia, the term well-known trademark has been recognized and given special legal protection since the issuance of the regulation concerning Marks UU No. 15 of 2001 as amended by UU No. 20 of 2016 concerning Marks and Geographical Indications (Budi Santoso, Rinitami Njatrijani, A. A. W., 2017). Article 21 paragraph (1) stipulates that an application for a right to a mark is rejected if the mark has similarities in principle or in its entirety to a well-known mark belonging to another party for similar or dissimilar goods and/or services.

But in reality, there are still cases related to the use and registration of a well-known mark by other parties in Indonesia. One of them was experienced by the trademark of "Pierre Cardin" from France, where in the case of the Commercial Court Number 15/PDT.SUS-Merek/2015/PN Niaga JKT.PST, the judges decided to reject the lawsuit for the cancellation of the mark by Pierre Cardin France and determined Pierre Cardin's brand rights went to Alexander Satriyo Wibowo.

The criteria used in determining a brand can be called a well-known brand is a problem in itself, where there is still no uniform understanding among the experts and law enforcement (Qurniasari, A. N., Santoso, B., & Lestari, S. N., 2019). Based on the things mentioned above, this research was conducted to find out how the actual regulation related to the criteria that must be met by a brand in order to be called a well-known marks and legal protection of well-known marks in Indonesia..

II. RESEARCH METHOD

This research is a normative juridical by using descriptive analysis method (Al-Fatih & Siboy, 2021), namely by conducting a study of primary law materials, secondary law materials, and tertiary law materials, in the form of statutory regulations, legal studies, legal dictionaries and other relevant law materials in this research to get a clear and comprehensive overview, using a comparative legal system approach in several countries, namely, the United States, India,

China, and Germany, the results of the data obtained, an in-depth analysis is carried out so that the results are able to answer the problems in this research.

III. RESULTS AND DISCUSSION

Trademarks as one of the intellectual works of humans play a very important role in economic and trade activities, so that legal protection of a marks is very necessary. In Article 1 paragraph (1) of UU No. 20 of 2016, it is stated that the notion of a mark is a sign that can be displayed graphically in the form of an image, logo, name, word, letter, number, color arrangement, in the form of 2 (two) dimensions and / or 3 (three) dimensions, sound, hologram, or a combination of 2 (two) or more of these elements to distinguish goods and/or services produced by persons or legal entities in goods and/or services trading activities. From these provisions, it can be understood that a mark is a sign that functions as an identifier of a product of goods and/or services and also to distinguish it from other similar goods and/or services in trading activities.

The regulation on the protection of trademark rights continues to develop and improve. one of which is the recognition of well-known marks as intellectual property that has been given special legal protection since the issuance of UU No. 19 of 1992 which has been revoked and amended by the latest regulation, UU No. 20 of 2016 concerning Marks and Geographical Indications. The purpose of providing legal protection "in particular" can be seen in the explanation of Article 83 paragraph (2) of UU No. 20 of 2016 which states that the granting of the right to file a civil lawsuit based on fraudulent acts committed by another party is intended to provide legal protection to owner of a well-known mark even though it has not been registered.

From the explanation above, it is known that Indonesia provides legal protection not only for well-known marks that have been registered, but also for well-known marks that have not been registered in Indonesia. The purpose of well-known marks protections is to prevent parties who, in bad faith, intentionally use well-known marks to increase sales of their products by fraudulent means. It is understandable, that to get the title as a well-known mark and has a good reputation in the eyes of the world community, requires a very large sacrifice of time and investment. Thus, legal protection for well-known marks is a must.

The regulation for the protection of well-known marks in the rules of international law can be found in the Paris Convention (Paris Convention for the Protection of Industrial Property, 1967) Article 6 bis paragraph 91, as well as the TRIPs Agreement Article 16 paragraph (2) and (3) (Sari. D, 2015). Each member has an international obligation to incorporate TRIPs into national intellectual property rights laws. In addition, the trademark office must apply the principle of due care with regard to the provisions regarding the examination of the mark to be registered by the Mark Office as well as consideration of the interests of third parties, among others, that the registration of a mark cannot be accepted or rejected if the trademark applied for has similarities in principle or entirely with the registered mark of another party (Febri Noor Hediati, 2020).

Next, regarding the well-known marks, World Intellectual Property Organization (referred to as WIPO) in 2000 has issued a provision contained in the Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks which contains the benchmarks of a mark

can be referred to as a well-known mark. In terms of Joint Recommendation Paris Convention, Factors Consideration in determining a mark can be referred to as a well-known mark, the competent authority may consider several things, including:

1. the level of knowledge or mark recognition in the relevant sector by the public;
2. the duration, extent and geographical area of each use of the mark;
3. the broad reach and geographic area of any promotion of the mark including advertisements or publicity and presentations, at fairs or exhibitions, of the goods and/or services that use the mark;
4. geographical area coverage of any registration, and/or any application for registration of a mark, to the extent that it reflects the use or recognition of the mark;
5. a record of successful enforcement of trademark rights, in particular the extent to which the mark has been recognized and recognized by the competent authority; and
6. the value of the mark (World Intellectual Property Organization (WIPO), 1999).

The factors above, are guidelines to help the competent authority to determine whether the marks is a well-known marks, is not a prerequisite for achieving it. WIPO itself actually provides space for each member country to determine their own definition and criteria for a well-known marks. Each member has the right to add its own terms or assessment factors related to well-known brands, according to their own policy considerations (Renggi Ardy Putra, 2018).

In the United States, the regulation regarding the criteria for well-known marks is contained in Trademark Dilution Revision Act of 2006. In this provision, a mark is considered a well-known mark, if it is widely recognized by the general consumer as a designation for a source of goods or services. In determining whether a mark has the required level of recognition, all relevant factors are taken into account by the court, namely the duration, reach and geographic spread of the marks's advertising and publicity, whether advertised or published by the owner or a third party, the amount, volume and geographic extent to which it where the sale of goods or services offered under the brand, as well as the actual level of recognition of the mark (Aldison, K. D. Sunarjo., Djaja, Hendra, 2021).

In addition to the United States, the State of India in 1999 issued a legal product that regulates well-known marks, which was named The Trademark Art. In its provisions, the criteria for well-known marks include:

1. The mark is known by the Indian public;
2. Widespread use of the mark;
3. Promotion of goods or services using the mark;
4. Any registration of a mark in various countries where the place of sale of goods or services is;

Furthermore, in 2017, India issued a more concrete regulation regarding well-known marks in a regulation called Trademark Rules 2017. In its provisions, the owner of the mark can directly apply for a well-known mark to the court in that country. The application must be accompanied by relevant documents in accordance with the criteria for a well-known mark and pay a registration fee. With this regulations of well-known marks are not only nicknames but it will have a legitimate legal standing (Aldison, K. D. Sunarjo., Djaja, Hendra, 2021).

Several legal sources in Indonesia have tried to provide a formulation of the criteria for well-known marks themselves. Elucidation of Article 21 paragraph (2) of UU No. 20 of 2016

stipulates that in assessing a well-known brand, it is carried out by taking into account the general knowledge of the public regarding the mark in the relevant business field, vigorous and massive promotion, investment in several countries in the world that carried out by the owner and accompanied by evidence of registration of the said mark in several countries, and if this is not deemed sufficient, to increase the judge's confidence, the Commercial Court may order an independent institution to conduct a survey to obtain conclusions regarding the popularity or not of the mark which is the basis for rejection.

Furthermore, in the Decree of the Minister of Justice of the Republic of Indonesia Number M-02-HC.01.01 of 1987 Article 1, it defines a well-known mark as a trademark that has long been known and used in the territory of Indonesia by a person or entity for certain types of goods which is renewed by a Decree of the Minister of Justice. RI Number M.03-HC.02.01 of 1991 Article 1 which also provides the definition of a well-known mark, as a trademark which is generally known and used on goods traded by a person or entity both in the territory of Indonesia and abroad (Ridwan Khairandy, 1999). From this definition, we can conclude that the criteria for a well-known brand are that it is generally known and traded both in Indonesia and abroad.

The Supreme Court has also issued jurisprudence in the Supreme Court Decision Number 1486 K/Pdt/1991 which in essence a mark can be well-known if the sale of goods or services is already widespread and the registration has been in several countries. The Supreme Court then re-regulated the criteria for well-known marks through the Decision of the Supreme Court of Republic of Indonesia Number 022 K/HaKI/2002 dated December 20, 2002. The jurisprudence regulates the criteria for well-known marks, namely (Aldison, K. D. Sunarjo., Djaja, Hendra, 2021):

1. Public knowledge of the mark is very high;
2. Big promotion makes the mark has a high reputation in many countries;
3. In various countries there is evidence of trademark registration.

The basis of consideration in determining the criterias for a well-known marks are regulated more strictly in Peraturan Menteri Hukum Dan Hak Asasi Manusia Republik Indonesia No. 67 of 2016 concerning Mark Registration Article 18 paragraph (3) which determines that in determining the criteria for a Mark as a well-known Mark as referred to in paragraph (1) is carried out taking into account:

1. the level of knowledge or public acknowledgment of the Mark in the relevant business field as a well-known Mark;
2. the volume of sales of goods and/or services and the profits derived from the use of the mark by the owner;
3. the market share controlled by the Mark in relation to the circulation of goods and/or services in the community;
4. the area of use of the Mark;
5. the period of use of the Mark;
6. the intensity and promotion of the Brand, including the value of the investment used for the promotion;

7. registration of a Mark or application for registration of a the level of success of law enforcement in the field of Marks, in particular regarding the recognition of the said Mark as a well-known Mark by the authorized institution; or
8. the value attached to the Mark obtained due to the reputation and quality assurance of the goods and/or services protected by the Mark.

In addition to the legal sources above, research related to well-known marks has also been carried out by many legal experts in Indonesia. Several studies discuss the criteria for a brand to be called a well-known mark, among others, such as the research conducted by Aldison, et al (2021) in their scientific article entitled, "*A Juridical Study of Well-Known Marks And Legal Remedies For Infringement*" In their research, Aldison, et al, stated that the setting of criteria for well-known brands in Indonesia is still abstract. This can be seen from the limitations given to well-known marks which are only limited to words without anything exact number or nominal what must be achieved to become a well-known mark. Furthermore, according to Aldison (Aldison, K. D. Sunarjo., Djaja, Hendra, 2021), there are several criteria that must be met by a mark in order to be called a well-known mark, namely:

1. Records of success in marketing a product or service using a mark;
2. Promotion of an item or service using a mark that is vigorous in any media;
3. A large income from the sale of goods or services using the mark is stable for a long time;
4. Goods or services marketed using the mark become a dream for the community;
5. The sale of goods or services using the mark is not only domestic but also abroad;
6. Registered as a well-known mark to the relevant institutions (Aldison, K. D. Sunarjo., Djaja, Hendra, 2021).

In line with the results of the analysis in this study, that the limitation setting given for a brand to be called a well-known brand in Indonesia, is still abstract, only limited to words without definite numbers or nominals that must be met to become a well-known brand. The provisions that are still abstract in their application are still very subjective in nature, depending on the knowledge and belief of the judges conviction. This will always provide space for different interpretations from law enforcers. Based on the results of the analysis, it is known that regulation of criteria of well-known marks with concrete limitations in the form of minimum numbers that must be met by the marks to become a well-known mark is very important so that the benchmark in assessing the criteria for well-known marks clearer.

In the case of registration of a mark as a well-known mark, as is the case in India as described by Aldison et al., this is in contrast to the results of this study, which from the results of the analysis, it is known that the existence of provisions for registering well-known marks at the relevant institution will narrow or weaken the protection of well-known marks. Based on the analysis, there are many factors that cause a well-known mark not to enter or be registered in a country, including the possibility of an import ban from the destination country, the existence of an embargo, the country in question has not become the target market of a well-known brand, and many other factors which in this case does not reduce the reputation of well-known marks in the other countries. Thus, if there is an obligation to register as a well-known mark, the unregistered mark, even though it is widely known in various countries and meets the criteria for a well-known mark, will not be legally protected. In fact, in accordance with the explanation of

Article 83 paragraph (2) legal protection is provided, even for well-known marks that have not been registered..

Other research related to well-known brands was also carried out by Indira Hastuti (Indira Hastuti, 2019), in his scientific writing entitled, "Legal Protection for Owners of Well-Known Marks Based on UU No. 20 of 2016 concerning Marks and Geographical Indications". The study regarding the criteria for well-known marks, only analyzes based on the explanation of Article 21 paragraph (1) letter b with the conclusion that in evaluating the criteria for well-known marks, there are two important elements, namely:

1. Public knowledge of the mark in the relevant business field; and
2. The reputation of the mark which is obtained due to intensive and massive promotion, investments in several countries in the world by the owner, accompanied by proof of registration of the said mark in several countries.

Indira Hastuti also gave an explanation of the differentiation of brands based on fame and reputation, namely ordinary marks, famous marks, and well-known marks (Indira Hastuti, 2019).

Furthermore, research on well-known brands was carried out by Lionita Putri Lobo (Lionita Putri Lobo dan Indirani Wauran, 2021) in independent research as outlined in a scientific article entitled, "*Special Position of Famous (Foreign) Marks in Indonesian Trademark Law*". In the article, Lionita Putri Lobo and Indirani Wauran explained the sources of applicable law in Indonesia regarding the criteria for well-known marks, which can be seen in the Jurisprudence of the Supreme Court of the Republic of Indonesia Number 1486 K/Pst/1991, Elucidation of Article 21 paragraph (1) letter b. In addition, it also explains the regulation of well-known marks that apply in China which states that well-known marks are marks that are widely known in the public sector and have a relatively high reputation in China. Also explained about the criteria for well-known marks issued by Court in Germany, that the well-known marks criteria if the survey results show 80% of respondents know it and are considered the famous marks if the survey shows 40% of respondents know the marks well enough (Lionita Putri Lobo dan Indirani Wauran, 2021).

From the independent research conducted by Lionita Putri Lobo and Indirani Wauran above, it can be seen that in China and Germany, the criteria for well-known marks are based on high reputation and broad public knowledge of the brand in question in their country. Thus, this is not in line with the purpose of protecting well-known marks in Indonesia, where the protection of well-known marks is given even to a well-known mark that has not been registered in Indonesia. Even so, the German State Court has succeeded in determining, in concrete terms, the minimum number that must be met in assessing a well-known mark based on a survey and this is something that should be imitated and applied in Indonesia.

Legal Protection of Well-Known Marks in Indonesia and The United States

As previously explained, well-known marks have been recognized in Indonesia since the issuance of Keputusan Menteri Kehakiman Republik Indonesia Nomor M-02-HC.01.01 of 1987 Article 1, which defines a well-known mark as a trademark that has long been known and used in the territory of Indonesia by a person or entity for certain types of goods. Then, it was updated with Keputusan Menteri Kehakiman RI Nomor M.03-HC.02.01 of 1991 Article 1 which also

provides the definition of a well-known mark, as a trademark which is generally known and used on goods traded by a person or entity/whether in Indonesian territory and abroad (Khairandy, R., 2016).

A mark serves as a distinguishing sign between goods and/or services of the same type, as well as identification for goods and/or services from the producer concerned. To become a well-known and widely recognized mark by the world community, as well as to gain a good reputation, it requires a very large investment to maintain quality and carry out vigorous and massive promotions in many countries. Taking into account the foregoing, legal protection of well-known marks is a must.

In the General Section of the Elucidation of UU No. 20 of 2016 it is explained that with Indonesia's participation in ratifying the Convention on the Establishment of the World Trade Organization (World Trade Organization) which includes the Agreement on Trade Aspects of Intellectual Property Rights (Trade Related Aspect of Intellectual Property Rights/TRIPs) as ratified by UU No. 7 of 1994 concerning Ratification of Approval for the Establishment of the World Trade Organization (Agreement Establishing tlw World Trade Organization), has demanded Indonesia to comply with and implement the contents of the international agreement. Ratification of the regulation encourages Indonesia's participation in ratifying the Paris Convention (Paris Convention for the Protection of Industrial Property) which has been ratified by Keputusan Presiden No. 15 of 1997 and the Trademark Law Treaty (Trademark Law Treaty) which has been ratified by Keputusan Presiden No. 17 of 1997. The international agreement requires Indonesia to adapt the applicable Trademark Law with the provisions of the ratified international agreement.

The latest regulation on trademarks, namely UU No. 20 of 2016 concerning Marks and Geographical Indications, further emphasizes legal protection for well-known marks. Article 21 paragraph 1 of the regulation stipulates that the application for a mark will be rejected by the Minister, if the mark has similarities in principle or in whole with (Alfarizi, M., & Tien F, M. A., 2022):

1. A registered mark belonging to another party or previously requested by another party for similar goods and/or services;
2. Well-known marks belonging to other parties for similar goods and/or services;
3. Well-known marks belonging to other parties for goods and/or services of a different kind that meet certain requirements; or
4. Registered Geographical Indications.

From these provisions it can be understood that an application for a mark will be rejected, not only if there is a similarity with a registered mark, but also if there is a similarity in principle or in its entirety to a well-known mark. The similarity is not only for well-known marks on similar goods and/or services, but also for dissimilar goods and/or services that meet certain requirements. Regulation regarding terms The specifics referred to can be seen in the Peraturan Menteri Hukum dan HAM No. 67 of 2016 concerning Mark Registration in Article 19 paragraph (3), covering:

1. There is an objection filed in writing by the owner of a well-known Mark against the Application; and
2. Well-known mark that has been registered.

Owners of well-known marks, in the provisions of Article 83 paragraph (2) of UU No. 20 of 2016 based on a court decision may file a lawsuit against another party who unlawfully uses a Mark that has similarities in principle or in its entirety for similar goods and/or services as regulated in Article 83 paragraph (1), in the form of:

1. Lawsuit for compensation; and/or
2. Cessation of all actions related to the use of the mark.

In relation to the lawsuit for the cancellation of the mark, it is regulated in Article 76 paragraph (2) of UU No. 20 of 2016 which stipulates that "unregistered trademark owners" may file a lawsuit as referred to in paragraph (1) after submitting an application to the Minister. In the Elucidation, what is meant by "unregistered mark owner" is among others the owner of a mark in good faith but not registered or the owner of a well-known mark but whose mark is not registered. This provision is again strengthened in the Elucidation of Article 83 paragraph (2) which explains that the granting of the right to file a civil lawsuit based on fraudulent acts committed by another party is intended to provide legal protection to the owner of a well-known mark even though it has not been registered.

Furthermore, with regard to the time limit for filing a lawsuit for the cancellation of a mark in the provisions of Article 77 paragraph (2), it may be filed indefinitely if there is an element of bad faith and/or the mark in question is contrary to state ideology, laws and regulations, morality, religion, decency, and public order. Based on these provisions, if it can be proven that a mark is registered by imitating, plagiarizing, or following a well-known mark, so that it has similarities in essence or in its entirety with a well-known mark, it can be said that the mark was registered by the applicant in bad faith.

Regarding "applicants with bad faith", it has also been explained in the Elucidation of Article 21 paragraph (3), that what is meant by "applicants with bad faith" is applicants who are reasonably suspected in registering their trademarks having the intention to imitate, plagiarize, or follow other parties' trademarks for their business interests create conditions of unfair business competition, deceive, or mislead consumers. For example, a trademark application in the form of writing, painting, logo, or color arrangement is the same as a mark belonging to another party or a mark that has been known to the general public for many years, imitated in such a way that it has similarities in essence or in its entirety with the well-known marks. From this example, the Petitioners have bad faith because at least it should be known that there was an element of intentional imitation of the well-known brand.

In The United States, as established in the Trademark Dilution Revision Act 2006, provides a protection right from use that can blur the mark distinctiveness or causing a negative impact for the reputation. This is called as a trademark dilution concept (Onerva Aline Härmä, 2020). In the Black Law Dictionary the concept of dilution is: impairment of a value mark (distinctiveness) on the well-known mark as blurring or tarnishment as a result of mark use without permission by other parties on the different classes and types of product, regardless of existence confusion about the origin source of a product and the presence of unfair competition on the market (K. Roisah, and J. Setiyono, 2019). the dilution claim allows the well-known owner to receive a protection with no proof of likelihood of confusion. Based on Article 1125 (c) of the Lanham Act enacts two concepts of dilutive acts, blurring and tarnishment. Blurring itself refers to any

use of well-known mark that reduces the power of the mark. Tarnishment denotes the acts which particularly create associations to the well-known mark which derogates the value of the company. Assessment of well-known mark in the US system conducted by examines the degree of knowledge of the public in general instead of targeted group of consumers. Moreover, the US system does not require evidence of the actual dilution of the infringement (Onerva Aline Härmä, 2020)

IV. CONCLUSION

Based on the results of the analysis both sourced from primary and secondary data, it can be concluded that the basic considerations in determining the criteria for a well-known mark in Indonesia that are currently in effect can be seen in the Elucidation of Article 21 paragraph (1) letter b and in more detail it is also regulated in a Ministerial Regulation. Peraturan Menteri Hukum dan HAM No. 67 of 2016 concerning Trademark Registration Article 18 paragraph (3). However, from all the criteria for evaluating the regulated well-known marks, there is still no certainty of the minimum number that must be achieved by a mark to be considered a well-known mark. The government through its legal regulations should begin to set concretely the minimum amount that must be met in assessing the criteria for well-known marks to be used in determining, among others, the percentage of knowledge of the people who are respondents in the survey, the number of countries where the famous mark is registered, the investment value that must be achieved. , and also the minimum period of use of well-known brands.

Well-known marks as one of the intellectual property are recognized and given special legal protection in UU No. 20 of 2016 concerning Marks and Geographical Indications. Any registered mark will be rejected by the Minister if it is proven to have similarities in principle or in whole with a well-known mark. In addition, well-known marks are given the right to file civil lawsuits and/or trademark cancellations against registered marks. Legal protection is specifically intended to provide legal protection not only for registered well-known marks, but also for well-known marks that have not been registered in Indonesia. A lawsuit for cancellation of a registered mark that is proven to have similarities in principle or in whole with a well-known mark should be indefinitely, based on the provisions of Article 77 paragraph (2) of UU No. 20 of 2016 which states that a lawsuit for the cancellation of a mark can be filed indefinitely if there is an element of bad faith and/or the mark in question is contrary to state ideology, laws and regulations, morality, religion, decency, and public order. Where in the Elucidation of Article 21 paragraph 3 of UU No. 20 of 2016 explains that an application for registration of a mark that imitates, plagiarizes, or follows the mark of another party that has been known to the public in general for many years, so that it has similarities in principle or in its entirety is a form of bad faith from the Petitioner because at least it should be known intentional element in imitating the well-known brand.

V. ACKNOWLEDGMENTS

Researchers would like to thank all parties who have provided support and assistance in this research completion. Especially to the Rector and LPPMK of Ngurah Rai University for “*Hibah PDP Dana Internal Universitas Ngurah Rai*” programme that has funded this research.

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