

インドネシア知財ニュース

IP News in Indonesia

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<Indonesia> Toyota Lost their Lawsuit Against Local Businessman

Toyota Jidhosa Kabushiki Kaisha lost their cancellation lawsuit against Welly Karlan, a local businessman, regarding “Prolexus” trademark. According to the Judges, with Bambang Kustopo as Chief of Judges, Toyota failed to prove that the defendant has filed “Prolexus” trademark with having bad faith. “Prolexus” was filed under class 25 with registration number IDM000249048. Through its legal advocate, Oktroi Rooseno, Toyota claimed that “Prolexus” belonging to the defendant has a similarity in its essential part with “Lexus” belonging to them. Toyota said that the defendant only added the word “Pro” in front of “Lexus” which may confuse public in general.

The defendant, through its advocate from Mulia & Partners, argued that “Prolexus” had been earlier registered on 28 August 2001 (which was later extended on 31 May 2010) and this mark was clearly aimed for class 25 which is for clothing, meanwhile Toyota’s products are for automotive goods. They argued that Toyota is too excessive by claiming “Prolexus” as a famous mark, while the famous one is “Toyota” and not “Lexus” itself. They also opined that it is impossible if the public would get confused because Toyota’s “Lexus” is used for automotive goods meanwhile his client’s product is for clothing.

(Bisnis Indonesia, 20 March 2014)

<Indonesia> Trademark Dispute between TCF (The Cheesecake Factory) Co. LLC and Local Businessman Ended Up with a “NO” Result

NO (niet ontvankelijke verklaard) decision (meaning that this case is unacceptable) was given by the Chief of Judges at the Central Jakarta Commercial Court, Kustopo. In their considerations, the Judges said that currently there is still a similar case involving the same parties and

same trademark case being examined by the Supreme Court.

This case began when TCF filed a cancellation lawsuit against “Cheese Cake” trademark owned by the defendant (De Silva) in class 35 with registration number IDM000050336. TCF is claiming that their mark “The Cheesecake Factory” is a famous trademark and was first used in 1972 in Los Angeles, USA. Currently this mark has been registered in European Union, Singapore, Hong Kong, Macau, Philippines, New Zealand, Russia, Canada, Thailand, Kuwait, and Lebanon for classes 30, 42, and 43. In Indonesia, TCF has registered this mark in class 30 and 43 with registration numbers IDM000068652 and IDM0000108999.

TCF stated that the mark “Cheese Cake” owned by the defendant has similarity in its essential part with their mark. Besides that, TCF also claimed that “Cheese Cake” is not a non-registrable mark for it is a generic word. Therefore TCF accused that the defendant had filed his trademark with bad faith that is to free ride the famous mark “The Cheesecake Factory”.

(Bisnis Indonesia, 28 March 2014)

<Indonesia> Filing Trademarks or Trading Marks?

In 2013, it was recorded that 99 cases on trademark lawsuit had been filed, meanwhile up to this February 2014, there were 9 cases that took place in related to trademark dispute.

Based on the data from DGIPR, there are at least 300-400 new trademark applications each day. In 2013, totally there were 62.954 new trademark applications filed and 19.523 extended old trademarks. Although not all were accepted, but we can imagine how many trademarks officially registered in Indonesia. The huge amount of trademarks registered in Indonesia has a high potential trademark dispute which may end up in the courts.

In most cases, trademark lawsuits were aimed based on the claim of famous trademark by the plaintiffs. One of the reason used for supporting the concept of famous

trademark claimed by the plaintiff is that they have filed their marks in several countries including in Indonesia, even in some cases those marks were not yet famous among the Indonesian public nor it has been filed here.

The ideal concept about famous mark has sparked a debate among the IP dan law practitioners which has caused this issue became a grey area.

The Director of Trademark of DGIPR, Bambang Iriana Djajaatmadja, said that there currently there is still no official definition on famous mark. However, he generally divided the famous level of a mark into three categories:

- first; a famous mark; which is famous and has a high quality most people has already known it.
- second; a well-known; mark or only well-known.
- third; common trademark; which is only an ordinary mark.

Bambang said that any trademarks which fall in the first category (free ride) shall be rejected for sure, but if it falls in the third category then it is still debatable. Other factors that may cause a trademark to be considered as a famous mark is the marketing / advertising efforts that has been spent for related mark and also the scope of market area.

(Bisnis Indonesia, 2 April 2014)

<Indonesia> AAJI (Association of Indonesian Life Insurance) filed a lawsuit against Mitra Integrasi on Copyright Case

The Association of Indonesian Life Insurance (AAJI) filed a lawsuit against PT. Mitra Integrasi Komputindo (MIK), DGIPR, and PT. Digital Fidusia Indonesia (DFI) on a Copyright case. AAJI claimed their self as the sole copyright owner of five materials of computer programs for limited bancassurance agency certification training, unit link life insurance product, traditional life insurance product, limited life insurance, and bancassurance insurance.

Initially, AAJI appointed MIK and DFI to create those software for making the e-learning system of insurance materials training. Those five programs were made during 2005-2006 and were not yet registered at the DGIPR. It was later found that MIK register said five programs at DGIPR on July 2013. Therefore, AAJI claimed that the copyrights of those software belong to them as the party who appointed MIK and DFI to create such programs.

(Bisnis Indonesia, 2 April 2014)

<Indonesia> Eigerindo threatening Counterfeiters

PT. Eigerindo Multi Produk Industri, the owner of trademark “Eiger”, is threatening to take legal actions

against counterfeiters who are currently making counterfeit products using “Eiger” brand. Mountaineering boot is one of the products being counterfeited the most, said Eko Wiharja, legal advocate of Eigerindo.

(Bisnis Indonesia, 3 April 2014)

<Indonesia> Copyright Dispute on Soekarno Movie

PT. Tripar Multivision Plus, Ram Punjabi, and Hanung Bramantyo filed a cassation against the court’s decision of Commercial Court of Central Jakarta which instructed them to pay a compensation to Rachmawati Soekarnoputri, daughter of Soekarno. Rivai Kusumanegara, attorney of the three parties, said that the decision was awkward because in that decision they were considered as not violating the copyright aspect but they have to pay the compensation to Rachmawati.

The Judges at Commercial Court of Central Jakarta explained that previously these parties had signed a cooperation agreement prior to making the Soekarno movie, and they considered that the movie’s script was coming from Rachmawati which was based on her stage performance named “Dharma Gita Maha Guru” that depicted the life story of Soekarno.

(Bisnis Indonesia, 7 April 2014)

<Indonesia> Continuation of Cheese Cake Trademark dispute

In close time, TCF Co. LLC as the owner of The Cheesecake Factory is planning to file a cassation against the decision of Commercial Court of Central Jakarta in related to the trademark dispute on “Cheese Cake” trademark. TCF claimed that their mark is a famous mark which was first used in 1972 in Los Angeles, USA, by the couple Oscar and Evelyn Overton and has now spread out in many countries such as European Union, Singapore, Hong Kong, Macau, Philippines, New Zealand, Russia, Canada, Thailand, Kuwait, and Lebanon for classes 30, 42, and 43. In Indonesia, TCF has registered this mark in class 30 and 43 with registration numbers IDM000068652 and IDM0000108999. TCF also stated that the mark “Cheese Cake” owned by the defendant has similarity in its essential part with their mark. Besides that, TCF also claimed that “Cheese Cake” is not a non-registrable mark for it is a generic word. Therefore TCF accused that the defendant had filed his trademark with bad faith that is to free ride the famous mark “The Cheesecake Factory”.

(Bisnis Indonesia, 11 April 2014)

<Indonesia> Mitra denied Conducting Any Copyright Violation

PT. Mitra Integrasi Komputindo (MIK) denied conducting any legal violation as claimed by AAJI (Association of Indonesian Life Insurance) in related to a copyright dispute. Through its legal advocate, Niriziki Perdana Putra, MIK explained that inside the agreement between them and AAJI, it's been arranged that any kind of transfer technology and end result of the program belongs to the Mitra. Indeed the information data was coming from AAJI, but the transfer technology for the software is from us. He also explained that the main problem is about the agreement between both parties and not about legal violation in related to the copyright applications filed by his client.

(Bisnis Indonesia, 16 April 2014)

<Indonesia> 14th World IPR Anniversary

April 26th, will be commemorated as the 14th World IPR Anniversary by Indonesia along with the other 187 member countries of WIPO. For Indonesia, commemorating IPR day is an important thing because in 2013 the US government placed Indonesia in priority watch list which shows us how IP enforcement is still very low in Indonesia especially in the area of copyrights. The Indonesian government has actually conducted several actions to combat piracies such as conducting raids in many shopping places, seminars on the importance of IPR to SMEs businessman even to elementary schools.

(Bisnis Indonesia, 25 April 2014)

<Indonesia> Nidia Prima Lost their Lawsuit in the Court

PT. Nidia Prima Tirta, owner of "OSONOUVEAU", filed a trademark cancelation lawsuit against "OSO" trademark owned by Ita Thaher, a local entrepreneur. This lawsuit was rejected by the judges because they said that said lawsuit was already too late (it has passed the time limit given to file such a lawsuit, which is 5 years after the registration date). Responding to the decision, Redynal Saat, legal representative of Nidia Prima, will further discuss this situation with his client.

(Bisnis Indonesia, 29 April 2014)

<Indonesia> Akan Enterprise filed a cassation request against Prima Karya

Akan Enterprise filed a cassation request against the decision of Central Jakarta Commercial Court which rejected their trademark cancelation request against Prima Karya. Initially, Prima Karya was the license holder of

trademarks "SD" and "AKAN SD" belongs to Akan Enterprise but their license was then revoked by Akan in 2008 because Prima Karya had registered a new trademark "SD Pipes System", which is quite similar to those of Akan's, without any permission. From this point, Akan considered that Prima Karya has filed their new trademark with bad faith by freeriding the popularity of trademarks "SD" and "AKAN SD".

(Bisnis Indonesia, 7 May 2014)

<Indonesia> Sony Won a Trademark Lawsuit Case against Local Entrepreneur

The Central Jakarta Commercial Court on May 14th has decided to cancel trademark "Vaio" belongs to Susanti by considering that the trademark belongs to Susanti has a similarity in principle with the mark "Vaio" belongs to Sony although they were registered in different classes. Sony's Vaio is registered in class 9 (personal computer), while Susanti's Vaio is registered in class 7 (vehicle spare parts) and 11 (faucets, sauna cabinet, etc).

(Bisnis Indonesia, 16 May 2014)

<Indonesia> Indonesia towards ASEAN ECONOMIC COMMUNITY 2015 in the field of IPR

How well Indonesia prepared itself in welcoming the ASEAN ECONOMIC COMMUNITY 2015 in the field of IPR? To see how well Indonesia is, we can simply use the economic assessment conducted by the US government in terms of IPR. Through USTR, the US government annually assesses / evaluates and classifies its partner countries in terms of IP enforcement. The result is made in three criteria, ie., watch list, priority watch list, and foreign priority country.

What is Indonesia's position in this list? According to the latest release by USTR, Indonesia is placed in priority watch list. This result has clearly shows how well Indonesia is in protecting and enforcing IPR. Therefore, the Indonesian government should immediately conduct necessary actions to increase the level of protection and enforcement of IPR to be able to compete with other Asean countries in order to provide a conducive situation to stimulate foreign investors to invest in Indonesia.

(Bisnis Indonesia, 16 May 2014)

<Indonesia> Semendo Coffee to obtain Geographical Indication from DGIPR

The Provincial Government of South Sumatera is planning to apply for Geographical Indication protection for Semendo Coffee to DGIPR in order to obtain legal recognition and to be known for export markets. The

Directorate general of Plantation of South Sumatera said that there will be three coffees that will obtain IP protection, namely: Semendo, Ranau, and Kota Agung. As the first step, they will apply for Semendo coffee in fiscal year 2014. So far, local and international markets have known that Semendo coffee comes from Lampung, Indonesia.

(Bisnis Indonesia, 22 May 2014)

<Indonesia> Trademark Dispute between Multicom Persada vs Padang Digital & Several Other Companies

Multicom Persada filed a trademark cancelation lawsuit for trademark “iBox” against Padang Digital and 20 other parties, ie., Grandoff International Limited, Trademark Directorate of DGIPR, Erajaya Swasembada, Data Citra Mandiri, Sim Chee Ping, and 13 malls in Jakarta.

Trademark “iBox” had been registered on 27 April 2001 (IDM000255853) under class 9 owned by Multicom Persada, meanwhile Padang Digital’s “iBox” was registered on 20 August 2008 (IDM000173959) under class 35.

(Bisnis Indonesia, 22 May 2014)

<Indonesia> Hendrik filed an Competency Exception on a Trademark Dispute

Hendrik, the defendant in the trademark dispute case “Ets Zilli” filed a competency exception against Central Jakarta Commercial Court. He considered that the Central Jakarta Commercial Court is not authorized to prosecute him in the court because he is domiciled in Medan. The court schedule on May 21st was supposed to be replic from the plaintiff, but it was not conducted because of said competency exception. Therefore, the next court schedule shall be presentation of evidence in exception before the panel of judges can give decision about the authority of the Central Jakarta Commercial Court to conduct this court.

(Bisnis Indonesia, 22 May 2014)

<Indonesia> Trademark cancelation case of “Kopitiam”

The Central Jakarta Commercial Court has decided to reject the trademark cancelation lawsuit filed by Phiko Leo against Abdul Alex regarding “Kopitiam” trademark. Initially, Phiko Leo filed a trademark cancelation lawsuit against “Kopitiam” trademark belongs to Abdul Alex because he considered that this word is derived from combination of two words, ie., “kopi” (Indonesian; coffee) and “tiam” (Chinese; food stall) which basically means “a place to drink coffee”, so it is a generic term. Besides that, Phiko also added that this trademark is a descriptive mark because it clearly describe the product / service being sold.

(Bisnis Indonesia, 23 May 2014)

<Indonesia> It’s time to give serious punishment against IP violators

Indonesia has just commemorated the 14th World IPR Anniversary last April, but there are still so many homework to do for the Indonesian government in order to enforce IP protection in this country. In many shopping malls such as Mangga Dua, it’s very easy to find counterfeits products from various brands such as Chanel, Etienne Aigner, Gucci, Louis Vuitton, Coach, Crocs, etc. Based on a survey result conducted by the Economic Faculty of University of Indonesia and MIAP (the anti-counterfeit Indonesian community) on June - October 2010, it was found that mostly the products that are being counterfeited are retail products such as leather products, cosmetics, pharmaceutical products, software, and clothes.

Therefore, it is very important to give serious punishment against those counterfeiters so that people will no longer dare to produce / sell counterfeit products.

(Bisnis Indonesia, 2 May 2014)

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