

# インドネシア知財ニュース

## IP News in Indonesia

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### ***<Indonesia> Trademark Dispute between two local entrepreneurs regarding “Dapur Sambal” case***

Wiwin Kartikasari, an entrepreneur from Yogyakarta who founded ‘Dapur Sambal’ restaurant, filed a trademark cancellation request against “Dapur Sambal” owned by Kuwat Subarja with the reason that the mark was filed with bad faith. Wiwin founded Dapur Sambal in 2008 and filed her trademark application to DGIPR in 2009, but her application was refused by DGIPR because there has already been “Dapur Sambal” filed by Kuwat Subarja. (Bisnis Indonesia, 20 August 2014)

### ***<Indonesia> Designers were Called to Attend the Court as Expert Witnesses***

This is the continuation of news of 5 August 2014 about industrial design dispute. The plaintiff brought its own expert witnesses to the court. Through its legal representative, Elisa, the plaintiff brought the designers of the tray, Mudakir and Badakir, and explained that both of the witnesses created the tray in 1989. Unfortunately, said Elisa, they both didn’t know anything about intellectual property so they didn’t register the design to DGIPR. Elisa also claimed that the defendant had conducted bad faith in business activity by prohibiting other craftsmen to produce the tray. (Bisnis Indonesia, 21 August 2014)

### ***<Indonesia> Honda lost at the Supreme Court***

Through decision number 588/K/Pdt.Sus-HKI/2013, Supreme Court rejected Honda’s cassation request against PT. Antar Nusamakmur Perkasa and Cucu Cuniati. The case began when PT. Antar Nusamakmur was sued to the commercial court of Surabaya because of selling counterfeit products which were distributed to Papua.

Unfortunately the first level court stated that they don’t have the authority to prosecute this case. (Bisnis Indonesia, 21 August 2014)

### ***<Indonesia> Counterfeits Drug Factory was Raided in Tangerang***

PT. IPF in Tangerang which is suspected producing counterfeit drug products was raided by the Police on 18 August 2014. This factory was caught producing illegal / counterfeit drugs of various brands such as: Tay Pin San, Cap Kupu-kupu, Laba-laba, Wan Tong, Pelangsing Sulami, Xian Ling, and Bala Bali. (Bisnis Indonesia, 22 August 2014)

### ***<Indonesia> Supreme Court won Multivision for Their Cassation against Rachmawati***

Supreme Court fulfilled cassation request of PT. Tripar Multivision Plus, Ram Punjabi, and Hanung Bramantyo regarding the copyright violation on Soekarno movie. Cassation decision number 305 K/Pdt.Sus-HKI/2014 from the Supreme Court annulled the Central Jakarta Commercial Court’s decision issued on 11 March 2014 that won Rachmawati on her lawsuit. Multivision said they hope that this decision will encourage art workers to keep on developing the creative industries and not be afraid of being sued for similar reasons. (Bisnis Indonesia, 25 August 2014)

### ***<Indonesia> Rachmawati Prepared a Judicial Review against Supreme Court’s Decision***

Through her legal representative, Turman Panggabean, Rachmawati Soekarnoputri is preparing a judicial review against Supreme Court’s decision that won the cassation request of Multivision Plus. Turman said that the judges of Supreme Court don’t have the competency and do not

understand the intellectual property rights matters by issuing such decision. Turman informed that initially Hanung Bramantyo (producer of Soekarno film, from Multivision) asked Widyawati to introduce him to Rachmawati (which is Soekarno's daughter) to gain detailed information about Soekarno's private life. Turman said that the status of rachmawati in this case is as an informant that played important role for the sake of originality of the movie.  
(Bisnis Indonesia, 26 August 2014)

### ***<Indonesia> Local Government of Malang is planning to register intellectual property protection for Dampit coffee under geographical indication***

Local government of Malang city is planning to apply for intellectual property protection for Dampit coffee under the geographical indication category, claiming that this coffee has a distinctive characteristic. They're planning that further said coffee will be named Asmtirdam which is an acronym of Ampelgading, Sumbermanjing, Tirtoyudo and Dampit. This coffee already has big fans coming from USA and Europe. By applying geographical indication protection for this coffee, it is expected that in the future there will be no area that sell or claim similar coffee other than Malang.  
(Bisnis Indonesia, 3 September 2014)

### ***<Indonesia> Bina Darma University shall protect the intellectual properties of products and researches made by its Lecturers and Students***

Palembang - Bina Darma University is establishing cooperation with the Ministry of Law and Human Rights of South Sumatera area to protect the copyrights of works created by its lecturers and students. The rector said that there are hundreds of products and researches made by lecturers and students of this university every year, therefore such condition requires intellectual protection to protect those creations. This campus also collaborates with JICA (Japan International Cooperation Agency) to strengthen the intellectual properties of products or researches made by this institution.  
(Bisnis Indonesia, 3 September 2014)

### ***<Indonesia> Softex Lost their Cassation Request at the Supreme Court***

The effort of PT. Softex Indonesia to maintain their trademark

" Safecare" for their aromatherapy oil product has finally failed after Supreme Court rejected their cassation request. The case initially began when Surabaya Indah, a local company, filed the trademark "Safe Care" to DGIPR but was later rejected by the reason that such mark has similarity in its essential part with the mark "Safecare" owned by Softex. Surabaya Indah claimed that they have already received legal distribution certificate from BPOM on 15 December 2011 and also spent lots of fund for marketing said product. They also claimed that the product "Safecase" owned by Softex has not been in use for 3 consecutive years since it was first filed and that it hasn't got any legal distribution certificate. Therefore Surabaya Indah filed a trademark cancellation lawsuit against "Safecare" owned by Softex which was won by the Commercial Court of Central Jakarta. Softex then filed a cassation request to the Supreme Court to cancel said court decision.

(Bisnis Indonesia, 4 September 2014)

### ***<Indonesia> Bali Tribune Owner Lost***

Commercial Court of Center Jakarta granted the defense submitted by PT Indopersada Primamedia (defendant), brand owners Tribun Bali and once annulled Hendrawan (plaintiff) lawsuit. The lawsuit should be filed by PT. Media Nusantara Gemilang which is a legal entity of Bali Tribune not individuals who do not have any legal standing.

(Bisnis Indonesia, 10 September 2014)

### ***<Indonesia> Dapur Sambal Case***

Wiwin Kartikasari (plaintiff) wins a lawsuit to cancel Dapur Sambal trademark owned by Kuwat Subarja (defendant) because the trademark has not been used for three years consecutively. The judge also asks to DGIPR to delete trademark No. IDM000300331 class 43 owned by the defendant.

(Bisnis Indonesia, 11 September 2014)

### ***<Indonesia> Yamato Sewing Won Trademark Cancellation Case***

Trademark lawsuit filed by PT Yamato Sewing Machine Mfg Co., LTd (plaintiff) against Yamada trademark belongs to Ronny Wijaya (defendant) was granted by the Commercial Court of Jakarta. Judges said that plaintiff is a special holder of trademark rights in Indonesia and in the world for trademark Yamato. The defendant filed the trademark with having bad faith because the Yamada mark has similarity in its essential part with the Yamato mark.

(Bisnis Indonesia, 11 September 2014)

### **<Indonesia> Merck Sued Phapros**

Merck KGaA (a Germany Company, plaintiff) filed for trademark cancellation lawsuit against PT. Phapros in regard to the “Bioneuron” trademark (IDM000138153) because it is considered to have similar in principle with the plaintiff trademark (Neurobion; No. IDM000121814). Brand Neorobion + Logo filed on September 13, 2005 and have been registered in 13 countries of the world since 1957 so it can be considered as a well-known brand. Defendant assessed as having bad faith because the mark was similar to the plaintiff’s product packaging. (Bisnis Indonesia, 12 September 2014)

### **<Indonesia> King Point Enterprise Failed to Cancel Patta Trademark**

King Point Enterprise (plaintiff) failed to cancel Patta Trademark belong to Wartono (No. IDM000363935 and IDM000200096) because the judges of the Commercial Court stated that the registration of the plaintiff mark was rejected by the DGIPR because the mark have similar in principle with the defendant trademark who already first file to the DGIPR and already got the certificate of registration by 12 April 2010. Besides that, the plaintiff only provides all evidence with copies not the original one; so that, the judge cannot consider this evidence in examine this case. (Bisnis Indonesia, 15 September 2014)

### **<Indonesia> Revision of Indonesian Copyright Law**

The House of Representatives and the Government have agreed to revise the Indonesian Copyright Law No. 19 year 2002. Among the most influential changes is the addition of period of protection to become 70 years after the creator passed away. Some new important aspects have been added into the new Law, such as the ability of a Minister to cancel / annul any creations which are considered to violate religious and moral norms, public order, state’s defense and security, and national regulations. (Bisnis Indonesia, 16 September 2014)

### **<Indonesia> Teavana filed a trademark cancellation lawsuit against “Teayana” owned by local entrepreneur**

Teavana, an American company specializing in selling tea and its accessories by offering various tastes and herbal touch since 1997 and has been widely spread in 35 countries having no less than 330 coffeeshops, filed a trademark cancellation lawsuit against trademark

“Teayana” owned by Ahmed Mohamed Saleh Baeshen & Co. Teavana claimed that the mark “Teayana” has not been commercially used by the defendant for three consecutive years since registration date. (Bisnis Indonesia, 16 September 2014)

### **<Indonesia> The House of Representatives finally approved the revision of Copyright Law**

The plenary of Indonesian House of Representatives finally approved the draft law of the Copyright Law to become a replacement Law against the old Law No 19/2002 to strengthen the legal protection of the creators in respect to the economical aspect.

The Head of the special committee, Didi Irawadi, said that the draft law has been legally approved in the plenary court led by vice chairman of House of Representatives, Priyo Budi Santoso. With this new law, the government is expected to be able to protect the copyrights in any forms such as arts, culture, novel science, technology, and computers. The new law also regulates about the rewards / royalties for creators who created his / her works in his / her capacity as a worker / employee for a certain company / institution. Other matter such as settlement of copyright dispute is also included. (Bisnis Indonesia, 17 September 2014)

### **<Indonesia> Yuasa Corp filed a lawsuit again against GS Garuda Sakti**

Yuasa Corp once more filed a trademark cancellation lawsuit against “GS Garuda Sakti” owned by Yudhi, local entrepreneur, claiming that that mark has similarity with the mark “GS” owned by Yuasa. Yuasa claimed that the trademark GS has been internationally used since 1908, which is an initial of Genzo Shimadzu, the founder. This mark “GS” was first filed in 1958 and had been awarded as top brand in 2012. This mark has also been registered in many countries such as Japan and Indonesia. According to Yuasa, Yudi produced batteries products using packaging that looks similar to that of Yuasa’s to deceive consumer’s opinion as if the product is the same with GS owned by Yuasa.

On the other hand, Yudi argued that there are differences between Yudi’s GS and Yuasa’s GS and that it had been underwent a substantive examination process at DGIPR and decided to be granted by DGIPR. These factors have shown that GS mark owned by Yudi is different from GS owned by Yuasa. (Bisnis Indonesia, 18 September 2014)

### **<Indonesia> US Company Cancel C&C Trademark**

The Commercial Court of Central Jakarta cancels the registration of C&C trademark and logo owned by Febriyanto (No. IDM000365553 and IDM000276717) because it has similarity in its essential part with the C&C trademark owned by CRC Industries (plaintiff) and were filed with having a bad faith. Judges said that plaintiff is a special holder of trademark rights for trademark C&C. (Bisnis Indonesia, 22 September 2014)

### **<Indonesia> Court Cancel Insulation Patent of PT. Toilon**

PT Toilon Indonesia (defendant) loses their patent right of insulation (ID P0029369B) after the court granted a lawsuit filed by PT Cintas Sentul Raya (plaintiff). Judges assess the patent is considered having lack of novelty and lack of an inventive step, so that this patent is considered to be rejected or cannot be registered. (Bisnis Indonesia, 22 September 2014)

### **<Indonesia> Tray Design owned by Sindu Handoyo to be cancelled by DGIPR upon the court's decision**

Tray design owned by local entrepreneur, Sindu Handoyo, shall be cancelled by DGIPR upon the court's decision No. 40/Pdt.Sus-DI/2014/PN.Niaga.Jkt.Pst issued by the South Jakarta Commercial Court. The Judges led by Bambang Koestopo said that the tray type oval décor and foc décor have been made since 2008 meanwhile the defendant had just registered the designs in 2011. This decision also instructed DGIPR to cancel the registration of Industrial Designs No. ID 0031478D and ID 0031479D owned by the defendant. (Bisnis Indonesia, 24 September 2014)

### **<Indonesia> GS Yuasa's Lawsuit Rejected by the Court**

The Judges at the Commercial Court of North Jakarta led by Head Judge Robert Siahaan rejected the trademark cancellation lawsuit filed by GS Yuasa against the mark "Garuda Sakti" owned by Yudhi Tanto, a local entrepreneur. The Judges decided that the lawsuit about similarity in its essential part between GS Yuasa and Garuda Sakti is not proven in the court. By comparing both trademarks and their packaging, the judges found significant differences between both products. The judges also claimed that Garuda Sakti had undergone the substantive examination stage at DGIPR and received

grant decision from the examiner. (Bisnis Indonesia, 30 September 2014)

### **<Indonesia> Protection of Copyrights creations shall trigger the creative industries**

The new Copyrights Law which was just recently passed by the House of Representative replacing the old Copyrights Law No. 19 Year 2002 is considered as a serious effort done by the Government to protect the economical and moral rights of creators and also owner of related rights. Among the new crucial points in the new Copyright Law are addition of protection duration for the creator from 50 years to 70 years (20 years longer), better protection for the economical rights of the creator and owner of related rights, including limitation of rights transfer in the form of sold flat system. (Bisnis Indonesia, 1 October 2014)

### **<Indonesia> Japanese Sewing Company Lost their Lawsuit Againsts Local Entrepreneur**

PT. Yamato Sewing Machine Mfg Co., Ltd, a Japanese company, lost their trademark cancellation lawsuit against "Yamano" trademark owned by Fadhil Srinaga in the court. The Head of Judges of the Commercial Court of North Jakarta, Aswijon, stated that both trademarks have no similarity in its essential parts neither in the aspects of performance, writing structure, nor the type of goods. The Judges stated that the trademark "Yamano + logo" is considered not confusing the public because anyone can simply distinguish both marks. However, the Judges refused counterclaim asked by the defendant requesting the plaintiff to clean the good reputation of Yamano in front of the public through advertisement announcement. (Bisnis Indonesia, 2 October 2014)

### **<Indonesia> Toilon Indonesia Filed a Cassation Request**

PT. Toilon Indonesia finally filed a cassation request after the court decided that their Patent claim of ID P0029369 B (Heat Insulation) was considered do not contain novelty. Toilon claimed that the method used in comparing their claims with those of PT. Cintas Sentul Raya is wrong because their claims should be completely compared as one entity which creates new invention that contains novelty and inventive steps. (Bisnis Indonesia, 2 October 2014)

### ***<Indonesia> Industrial Design dispute on Tray Design***

The Judges at the Commercial Court of North Jakarta won the cancellation lawsuit filed by entrepreneurs from Cirebon against the tray design owned by Korean citizen, Kim Soo Chang. Head Judge, Heru Prakosa, claimed that said design in the type of oval décor has long been a public domain of the craftsman of Cirebon. Cirebon people has been producing said tray long before the tray designs were registered.  
(Bisnis Indonesia, 3 October 2014)

### ***<Indonesia> The New Copyrights Law Obligates Copyrights Dispute to be settled thorough Mediation***

In article 95 verse 4 inside the new Copyright Law, the parties who are in the middle of copyrights dispute are obligated to first settle their dispute through mediation prior to submitting any lawsuit to the court, this is different with the old Law which does not obligate mediation before proceeding the case to the court. This new rule is made because so far in most copyrights violation cases, the lawsuits filed by the plaintiff were not too excessive and not realistic with the material damages experienced by the plaintiff. Not only mediation, the new Copyrights Law also replaced the crime report procedure from criminal offenses to legal complaint.  
(Bisnis Indonesia, 10 October 2014)

### ***<Indonesia> Malaysian Company Sued Appeal Commission***

Excel Rim Sdn Bhd (a Malaysian Company, plaintiff) file a lawsuit against to the Trademark Appeal Commission (defendant) regarding the verdict of refusal to the request of filling application of their trademark in Indonesia. The Trademark Directorate sends a notification of refusal letter of the application request because the plaintiff's mark have the similarities with trademark "Excelasiam" No. IDM00054333 belonging to another party which already file first to the DGIPR with similar goods. The plaintiff claimed that this is a well-known Malaysian company which produces velg for motorcycle.  
(Bisnis Indonesia, 5 November 2014)

### ***<Indonesia> Counterfeiters Brand were Asked to Compensation***

Andy Najanurdin (plaintiff) file a compensation lawsuit to Harry Sucipto, Janwar T. Sucipto, PT. Sipatek Putri Lestari, Dhanny S. Suwaji (owner of CV Pan Surya), and

Handoko (owner of Moro Seneng Store) because all the defendants had been produce, distribute and market of Nakamichi trademark without the permission of the plaintiff as the owner. Nakamichi was a registered trademark No. IDM000068148 class 24 (textile product) in the name of Andy Najanurdin.  
(Bisnis Indonesia, 7 November 2014)

### ***<Indonesia> Management of the Mall Prepare to Judicial Review***

Indonesia Shopping Center Management Association planned to take judicial review relating to article 10 of Copyright Law No. 28/2014 which said that the management of a place of trade prohibited let sales and/or the multiplication of violation copyright products and/or a right related in their place. The Association planned to file a lawsuit to the Constitutional Court to re-examination again the Copyright Law 2014. In response to this matter, DGIPR said that that this law still can be revision by doing amendment and this was something natural in any new rules there was input and criticisms from the other party.  
(Bisnis Indonesia, 10 November 2014)

### ***<Indonesia> Sunstar Inc. asked to Delete Local Trademark***

Sunstar Inc. (a Japanese company, plaintiff) submits a lawsuit of deletion of trademark "Sunstar" No. IDM000200812 (class 03); IDM000200813 (class 16); IDM000200814 (class 30) IDM000200815 (class 34) in the name of Hermanto Chandra (defendant) because it has similarity in its essential part with trademark owned by the plaintiff and it was filed with having bad faith.  
(Bisnis Indonesia, 13 November 2014)

### ***<Indonesia> Multicon Lawsuit is Considered Not Relevant***

Multicon (plaintiff) as a trademark holder of "I Box" asks to the Commercial Court to cancel Ibox trademark belong to PT Padang Digital and asks to close the entire iBox store that located in each malls. The mall managements of Senayan City and Central Park (two of defendant from 13 malls) said that the plaintiff lawsuit do not have relevance with the trademark cancellation, they argue that this lawsuit should be only between the plaintiff and the owner of the iBox store not to the mall managements.  
(Bisnis Indonesia, 24 November 2014)

**<Indonesia> *CHRP Become a Public Domain***

CHRP trademark owned by Yon Nofiar was deleted from the trademark general list after the judges of the Commercial Court approved the lawsuit of PT GML Performance Consulting. The judge said that CHRP trademark already known in various countries and it's already become a public domain. Besides that, Yon Nofiar filed the trademark with having bad faith.  
(Bisnis Indonesia, 4 December 2014)

**<Indonesia> *Sharp and Sanken Scrambling Dispenser System***

PT. Sharp Electronics Indonesia (plaintiff) ask for patent rights cancellation of water dispenser with a groove charging double diffusing automatically belonging to PT.Sanken Argadwija (defendant), because the patent (No. IDS00001292, dated 8 October 2014) is considered to having lack of novelty. This dispute entering phases of substantiation which is commanded the defendant to submit evidence on the next trial.  
(Bisnis Indonesia, 17 December 2014)

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