

PEMBATALAN PENDAFTARAN MEREK *PASSING OFF* DAN KAITANNYA DENGAN ASAS UMUM PEMERINTAHAN YANG BAIK

ABSTRAK

Demi mendapatkan ketenaran Merek, pihak lain rela melakukan pendaftaran merek dengan itikad tidak baik membonceng nama *well-known mark* tanpa izin disebut *passing off*. Salah satu kasus yang akan peneliti bahas mengenai tindakan *passing off* merek Starbucks milik Starbucks corporation melawan starbucks milik PT sumatera tobacco trading company. Starbucks corporation dinyatakan kalah di tingkat pertama karena tidak dapat membuktikan keterkenalannya dan menang di tingkat kasasi karena dapat membuktikan ketenarannya. dan menyatakan adanya tindakan *passing off*. Bagaimana Dasar Yang Digunakan Hakim Agung Dalam Mengabulkan Permohonan Kasasi Starbucks Corporation dan Bagaimana Pelaksanaan Pendaftaran Merek yang terbukti melakukan *Passing Off* Jika Dikaitkan Dengan Asas Umum Pemerintahan Yang Baik karena saat pemeriksaan adanya persamaan merek haruslah ditolak. Penelitian ini menggunakan pendekatan deskriptif kualitatif. Hasil dari penelitian ini adalah bahwa adanya kekeliruan hakim tingkat pertama memerhatikan peraturan internasional yang terikat dengan indonesia dalam memutus perkara *passing off* starbucks corporation dan tidak terpenuhinya beberapa asas umum yang baik

Kata kunci : *Passing off*, *Well-known mark*, Asas Umum Pemerintahan yang Baik

CANCELLATION OF PASSING OFF TRADEMARK REGISTRATION AND ITS RELATION TO THE PRINCIPLE OF GOOD PUBLIC ADMINISTRATION

ABSTRACT

In order to gain brand fame, another party willing to register a mark in bad faith using a well-known mark name without permission is called passing off. One of the cases that the researcher will discuss is the act of passing off the Starbucks brand owned by Starbucks Corporation against Starbucks owned by PT Sumatra Tobacco Trading Company. Starbucks Corporation was declared defeated at the first level because it could not prove its fame and won at the cassation level because it could prove its fame. and stated that there was an act of passing off. How was the basis used by the Supreme Court justices in granting the Starbucks Corporation's Cassation Application and how was the implementation of trademark registration which was proven to have passed off if it was related to the general principle of good governance because during the examination the existence of brand similarities had to be rejected. This research used an approach qualitative descriptive. The results of this study are that there is a first-instance judge's mistake in paying attention to international regulations that are bound by Indonesia in deciding cases of passing off Starbucks Corporation and not fulfilling some good general principles

Keywords : *Passing off, Well-known mark, General Principles of Good Governance*