

ABSTRACT

This study aims to analyze the legal protection for trademark rights holders whose trademarks are commercially used without permission, with a case study of passing off involving the Alfamart and Almaduro trademarks in Rambipuji, Jember. The research employs a normative juridical approach using two main methods: the statute approach and the conceptual approach. The legal materials used consist of primary, secondary, and tertiary legal sources obtained through literature study and interviews. The analysis is conducted normatively by examining laws and regulations, legal doctrines, and relevant literature, particularly Law Number 20 of 2016 concerning Trademarks and Geographical Indications. The results indicate that the use of the Almaduro trademark has substantial similarities with the Alfamart trademark in terms of appearance and type of business, thereby constituting trademark infringement and indicating bad faith through an attempt to exploit the reputation (passing off) of the registered Alfamart trademark. Legal protection for the Alfamart trademark owner is provided through preventive and repressive measures. Preventive protection is implemented through the trademark registration system that grants exclusive rights to registered trademark owners, while repressive protection is carried out through civil lawsuits in the Commercial Court and the application of criminal sanctions. The legal consequences include compensation, cessation of the use of the infringing trademark, and potential criminal sanctions in accordance with applicable laws and regulations

Keywords: Legal Protection, Trademark, Passing Off, Unauthorized Commercialization.

ABSTRAK

Penelitian ini bertujuan untuk menganalisis perlindungan hukum bagi pemegang hak atas merek yang dikomersialisasi tanpa izin dengan studi kasus praktik passing off pada merek Alfamart dan Almaduro di Rambipuji, Jember. Penelitian menggunakan pendekatan yuridis normatif dengan metode pendekatan perundangundangan (statute approach) dan pendekatan konseptual (conceptual approach). Bahan hukum yang digunakan meliputi bahan hukum primer, sekunder, dan tersier yang diperoleh melalui studi kepustakaan dan wawancara. Analisis dilakukan secara normatif dengan mengkaji peraturan perundang-undangan, doktrin, dan literatur hukum yang relevan, khususnya Undang-Undang Nomor 20 Tahun 2016 tentang Merek dan Indikasi Geografis. Hasil penelitian menunjukkan bahwa penggunaan merek Almaduro memiliki persamaan pada pokoknya dengan merek Alfamart, baik dari segi tampilan maupun jenis usaha, sehingga dapat dikategorikan sebagai pelanggaran hak atas merek dan mengandung unsur iktikad tidak baik berupa upaya membonceng ketenaran (passing off). Perlindungan hukum bagi pemilik merek Alfamart diberikan melalui perlindungan preventif dan represif. Perlindungan preventif dilakukan melalui sistem pendaftaran merek yang memberikan hak eksklusif kepada pemilik merek terdaftar, sedangkan perlindungan represif dilakukan melalui gugatan perdata di Pengadilan Niaga dan penerapan sanksi pidana. Akibat hukum dari pelanggaran tersebut meliputi kewajiban membayar ganti rugi, penghentian penggunaan merek, serta ancaman sanksi pidana sesuai ketentuan peraturan perundangundangan.

Kata Kunci: Perlindungan Hukum, Merek, Passing Off, Komersialisasi Tanpa Izin.