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Legal Protection for Owners of Well-Known Trademarks Viewed from the Principle of Well-Known Marks

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Abstract: Legal protection for owners of well-known trademarks is a crucial topic in the context of increasingly competitive business environments. Well-known trademarks not only represent the quality of products but also reflect the reputation and image of a company. The principle regarding well-known marks plays an essential role in safeguarding such trademarks from any form of misuse and imitation, which can cause harm to both the trademark owner and consumers. This research aims to delve deeper into the legal protection afforded to owners of well-known trademarks. The methodology employed in this research is normative legal research, focusing on the exposition of concepts and doctrines within legal science. The findings of this study indicate that trademarks meeting the criteria for well-known status, as stipulated in positive law, are entitled to absolute legal protection. This means that if another party uses the same or imitates a well-known trademark, the trademark owner has the right to pursue legal action. In today's business era, we frequently encounter many well-known trademarks, both domestic and foreign. Therefore, it is essential to secure these well-known trademarks to prevent potential misuse in the trade of goods and services. Such protection is not only beneficial for trademark owners but also for consumers.

Keyword: Legal Protection, Brand, Well Known Marks.

INTRODUCTION

A trademark serves as an identity or distinguishing mark for a product, allowing differentiation between the goods produced by one company and those produced by another. Thus, a trademark not only functions to avoid similarity among products offered by various parties but also has a broader purpose. From a manufacturer's perspective, a trademark enhances the company's image and reputation, attracts consumer interest, and fosters customer loyalty. For traders, a trademark acts as an effective marketing tool, providing a competitive advantage in the market. On the other hand, for consumers, a trademark guarantees the quality and trustworthiness of the product purchased. Therefore, trademarks play a vital role in the commercial ecosystem, not merely as symbols but as strategic elements that support interactions among manufacturers, traders, and consumers.

For manufacturers, a trademark is not just a symbol; it is a guarantee of the quality of the goods they produce. A trademark reflects various aspects, such as quality, ease of use, and technological innovation inherent in the product. For traders, a trademark plays a strategic role in marketing efforts, enabling them to attract consumers' attention and expand market reach. Conversely, consumers utilize trademarks as an aid in making purchasing decisions. Trademarks provide a clear identity, allowing consumers to easily choose products that meet their needs and preferences. Thus, a trademark serves as a beneficial link between manufacturers, traders, and consumers within the trading ecosystem.

As time progresses, the definition of a trademark has undergone significant adjustments, especially in the context of globalization and rapid technological advancements. Under Law No. 20 of 2016 concerning Trademarks and Geographical Indications (Trademark Law), the term "trademark" includes various forms of signs that can be graphically represented. These signs may consist of images, logos, names, words, letters, numbers, color arrangements, and can be presented in two-dimensional or three-dimensional forms. Additionally, trademarks can also appear in the form of sounds, holograms, or combinations of two or more of these elements. The diversity of trademark forms aims to provide a clear distinction for goods or services produced by an individual or legal entity in trading activities, thereby creating a distinct separation among business actors in the market.

Legal protection for a trademark in Indonesia can be obtained through the registration process with the Directorate General of Intellectual Property of the Ministry of Law and Human Rights of Indonesia. In Indonesia, the trademark registration system is constitutive, meaning that exclusive rights to a trademark are legally recognized only for those who have registered it. This registration not only provides legal certainty but also grants the trademark owner exclusive rights to prohibit others from using or imitating the trademark without permission. Therefore, trademark registration is a mandatory step for anyone wishing to obtain legal protection and ensure their trademark rights are safeguarded. Through this constitutive system, trademark owners receive more secure protection and legal certainty in safeguarding their intellectual property assets.

Legal protection for a trademark is granted for a period of 10 years from the date of registration. After this period ends, the trademark owner has the right to apply for an extension for the same period, i.e., 10 years. This renewal process can be conducted directly by the trademark owner or through their attorney, either electronically or non-electronically, in accordance with applicable procedures. Applications for renewal can be submitted as early as six months before the protection period expires, or no later than six months after the expiration date, provided the applicant pays the stipulated fine. Provisions regarding the renewal of trademark protection are regulated in Articles 35 to 40 of the Trademark Law, which provide a legal basis to safeguard the interests of trademark owners in maintaining their exclusive rights.

Trademark rights constitute exclusive rights granted by the state to the trademark owner. These rights give the owner the authority to use their trademark exclusively and to license others to use the trademark with the owner's permission. Since these rights originate from the state, trademark registration is essential for these rights to be legally recognized and protected by law. Without registration, trademark rights will not receive legal protection, allowing anyone to use the trademark without protection for the original owner. The rapid development of trademarks in the era of globalization has made trademark issues an international concern and often a topic of discussion in various forums, both at the national and international levels. However, violations of trademark rights remain frequent, indicating that legal protection of trademarks continues to be a practical challenge.

In Indonesia, violations of the rights of legitimate owners of well-known trademarks frequently occur. These violations typically arise due to the easy access to various goods sold freely in different places, from traditional markets to small shops. It is not uncommon for these products

to be marketed by street vendors or private vehicles along the roadside. More concerning, the goods sold often bear well-known trademarks without the legitimate owner's permission, exacerbating the state of intellectual property rights protection in the country. This situation indicates a legal gap that must be promptly addressed to effectively tackle trademark infringements.

These products are often offered at prices significantly lower than the original, sometimes with a striking difference. Even though some well-known trademarks have received official recognition from state authorities, many consumers still do not know how to differentiate between genuine and counterfeit products. Ironically, there are also consumers who deliberately choose to purchase counterfeit goods because they are enticed by the lower prices, even though they are aware that the products are not genuine. This phenomenon indicates a gap in consumer understanding regarding product authenticity and the potential need for stronger legal protection for both consumers and producers to prevent the circulation of counterfeit goods.

Based on the issues encountered, infringement of well-known trademarks is one of the most common forms of intellectual property rights violations, especially through the deliberate sale of counterfeit goods targeted at consumers. This infringement can be categorized as actions that fundamentally resemble the original trademark, as regulated in the Trademark Law. The importance of legal protection for well-known trademarks is crucial in this regard, considering that legal certainty provides owners with a good reputation in the community exclusive rights that can protect them from misuse or imitation of their trademarks. This protection also aligns with the principle of legal certainty recognized in Indonesia, providing a sense of security for trademark owners in conducting their business activities.

Well-known trademarks have exclusive rights acquired through fulfilling requirements as stipulated in the Trademark Law and related regulations by the Minister of Law and Human Rights concerning trademark registration procedures. These exclusive rights must be legally protected through applicable laws. The Trademark Law asserts that every new trademark application must not have substantial similarities to well-known trademarks that have received legal recognition from the state. If there are similarities between a new trademark and a well-known trademark during the registration process, the application must be rejected. Especially if such similarity causes potential confusion among the public or consumers regarding the identity of the trademark, the legal protection given to well-known trademarks must be prioritized to prevent actions that infringe or violate these exclusive rights.

As a state institution responsible for managing and protecting intellectual property, including trademark registration, the Directorate General of Intellectual Property of the Ministry of Law and Human Rights of Indonesia plays a crucial role. The Directorate General of Intellectual Property of the Ministry of Law and Human Rights of Indonesia, operating independently and serving as the frontline in the review and selection process of trademarks submitted for registration, has the duty to conduct a thorough assessment of each trademark. In this process, the Directorate General of Intellectual Property of the Ministry of Law and Human Rights of Indonesia must firmly reject trademarks that have fundamental similarities with existing ones, particularly when there is a strong indication of infringement or conflict with registered intellectual property rights. As part of legal protection and maintaining the integrity of the intellectual property system in Indonesia, the Directorate General of Intellectual Property of the Ministry of Law and Human Rights of Indonesia's role in preventing violations is essential. To date, there are still numerous cases of counterfeiting involving well-known trademarks, which suggests that the performance of the responsible authority is often perceived as less professional. This perception arises because the authority does not consistently refer to the Trademark Law as the primary guideline in the issuance of new trademarks. In practice, there are still many cases of trademark rights violations, where trademarks such as Pierre Cardin,

Rolling Stones, IKEA, Lexus, and others have fallen victim to plagiarism. This situation underscores the need for evaluation and enhancement of stricter monitoring and enforcement mechanisms to protect intellectual property rights, thereby providing assurance for trademark owners and fostering a healthier and fairer business climate.

Based on the background described above, this research aims to formulate several issues that need further investigation. First, it is necessary to analyze how legal protection is obtained by owners of well-known trademarks within the context of applying the principle of well-known marks. This principle is essential as it provides recognition and extra protection for trademarks that are widely known by the public, thereby preventing misuse or infringement of the trademark by others. Second, this research will also identify various obstacles that may be encountered in efforts to implement legal protection for well-known trademarks. This includes analyzing challenges that arise from legal, administrative, and practical aspects that may hinder the effectiveness of legal protection. Moreover, the research will discuss various legal measures that can be taken to overcome these obstacles, including dispute resolution mechanisms and proactive steps that trademark owners can take to optimally protect their rights.

METHOD

The research aimed at understanding and analyzing legal aspects is known as legal research, encompassing various dimensions such as the study of law as an academic discipline, the analysis of legal doctrines, and the examination of legal norms that regulate human behavior in everyday life contexts. Fundamentally, legal research is an analytical and critical scientific activity that seeks to delve deeper into specific legal issues (Efendi & Ibrahim, 2016). Through this process, the researcher aims to identify, analyze, and provide solutions to existing legal issues, thereby contributing significantly to the development of legal science and the improvement of legal practice (Matheus, 2021). This research employs a normative legal approach. Research that elaborates on concepts or doctrines in legal science is known as normative juridical research (Ali, 2013).

RESULTS AND DISCUSSION

Legal Protection Granted to Owners of Well-Known Trademarks from the Perspective of the Well-Known Marks Principle

In the context of global trade, products bearing well-known trademarks tend to have a competitive advantage in marketing, easily attracting consumer interest, and are generally capable of generating significant economic profits. A trademark can be categorized as "well-known" when it is recognized not only in its country of origin but also in various other countries, which is usually evidenced by registration in multiple jurisdictions. Given the importance of the exclusivity associated with well-known trademarks, adequate legal protection is crucial. Such protection ensures legal certainty for creators, owners, and rights holders of the trademark, helping to preserve the integrity and economic value of the brand and safeguarding against potential infringements or unauthorized use by others. Furthermore, this protection helps deter trademark-related violations and crimes, while also encouraging businesses to be more proactive in registering their trademarks (Hariyani, 2010).

Legal protection for well-known trademarks is provided through two main approaches: preventive and repressive. Preventive protection aims to prevent trademark infringements by establishing various regulations to deter parties from committing violations, whether through warnings, registration, or legal awareness campaigns. On the other hand, repressive protection is applied when a violation has already occurred, where the infringing party will face legal consequences, which may include financial sanctions such as fines, imprisonment, or other additional penalties. This serves to enforce the trademark owner's exclusive rights and acts as a deterrent to others from committing similar violations in the future.

The trademarks law provides enhanced protection for marks recognized as well-known marks. This protection aims to prevent acts of misuse or imitation that may result in harm to the mark's owner (Dharmawan et al., 2019). If a new trademark registration application demonstrates similarity, whether in its entirety or in certain elements, to a registered well-known trademark, such application shall be rejected. This rejection primarily applies if the proposed trademark is similar to the well-known trademark in the context of goods and/or services of the same kind. This aims to protect the rights of the owner of the well-known trademark and to prevent confusion among consumers that may arise from the use of a similar trademark. This principle is in line with the legal provisions governing trademark protection, which emphasize the importance of maintaining the reputation and uniqueness of trademarks that are already recognized in the market.

The protection of rights to famous trademarks in Indonesia is comprehensively regulated under the Trademark Law. This provision is specifically reflected in several key articles, such as Article 21 paragraph (1) letters b and c, which outlines the prohibition of trademark registration that is similar, either in whole or in part, to a famous trademark. Additionally, this protection is reaffirmed in Article 83 paragraph (2), which grants the owners of famous trademarks the right to file a lawsuit. Further elaboration on this protection can be found in the Explanation of Article 76 paragraph (2) and the Explanation of Article 83 paragraph (2), which reinforce the legal protection mechanisms for the rights of famous trademark owners in Indonesia. This demonstrates Indonesia's legal commitment to protecting famous trademarks from misuse by unauthorized parties.

In Indonesia, trademark protection is based on a constitutive registration system. This means that a trademark must first be officially registered to obtain legal protection. This principle is also known as the "first to file" system, where exclusive rights to a trademark are granted to the party that first files for registration. Nevertheless, Indonesia provides special exceptions for famous trademarks that have not been formally registered in the country. Protection for these famous trademarks is based on Indonesia's obligations as a member of the Paris Convention and the TRIPS Agreement under the World Trade Organization (WTO), which require member countries to protect famous trademarks even if they are not locally registered.

Article 21 paragraph (1) letters b and c of the Trademark Law explicitly state that trademark registration applications may be rejected if the submitted trademark is similar, either in part or in whole, to another party's famous trademark. This rejection applies not only to similar goods and/or services but may also extend to different goods and/or services, provided that specific requirements regulated further are met. This aims to protect the reputation of famous trademarks and prevent confusion or misunderstanding among consumers.

The rejection of a trademark registration is one preventive measure to protect trademark rights. The primary principle in the protection of famous trademarks is the obligation to observe good faith during the registration process. This means that individuals or parties who are not the rightful owners of a widely recognized trademark are not allowed to intentionally exploit the fame of that trademark for personal gain or to benefit from the promotion carried out by its original owner without permission. On the other hand, if a trademark right violation occurs, repressive protection may be enforced. The rightful trademark owner has the right to seek compensation in the form of damages, file for the cancellation of the infringing trademark registration, or pursue criminal action through the competent law enforcement authorities to enforce their rights.

Since the enactment of the Intellectual Property Law in Indonesia, issues related to the misuse, abuse, and use of names or domains that are similar or identical to renowned trademarks have become significant challenges for the development of companies in the industry (Usman, 2003). This phenomenon not only threatens the existence and reputation of the affected companies but also creates legal uncertainty and undermines a healthy competitive business

climate. Therefore, more intensive efforts are required to monitor and enforce the law, ensuring that the protection of intellectual property rights is effectively guaranteed and that companies can operate fairly and competitively in the global market.

The regulations concerning trademarks are designed to provide comprehensive protection for the rights of trademark owners, with the primary objective of preventing various forms of infringement that may cause harm. Such infringements include counterfeiting, which involves the unauthorized appropriation or imitation of a trademark, the use of similar names that may lead to consumer confusion, and the appropriation of names or domains associated with a particular trademark. The Trademark Law is established to promote the smooth functioning and enhancement of the trade in goods and services. One of the approaches taken is through the marketing of trademarks to the public. Trademarks, as manifestations of human creativity, are not merely identifiers but also constitute intangible assets with economic value (Hidayati, 2011). In this context, the existence of trademarks serves as a symbol of the uniqueness of products or services, which can influence consumer decisions and create competitiveness in the market.

The protection of well-known trademark owners in Indonesia plays a crucial role in fostering industry development. This protection aims not only to provide a sense of security for the rights holders but also to create the legal certainty necessary for all business actors. With this guarantee of protection, business practitioners can operate without fear of intellectual property rights violations that could harm them. The legal certainty arising from this protection also contributes to a more conducive business climate, where innovation and competitiveness can develop optimally.

In the context of trademark law, three forms of infringement may occur: trademark piracy, trademark counterfeiting, and imitation of product labels or packaging. Infringement of trademark rights, particularly those of widely recognized trademarks, can have detrimental effects on society. One significant consequence of infringing upon well-known trademarks is the degradation of the quality associated with the trademark, which in turn can influence consumer perception. In today's era of global trade, trademarks not only serve as product identities but also play a crucial role in maintaining competitiveness in the market. Therefore, the existence of a healthy competitive business climate is essential for trademarks to endure and thrive.

Effective legal protection of trademarks is expected to create an environment conducive to innovation and product quality, thereby providing greater benefits to consumers. Infringement of rights to well-known trademarks in Indonesia can be categorized as a violation under the Trademarks Law. Provisions in Articles 100 to 102 of the Trademarks Law stipulate that individuals involved in the trade of counterfeit goods may face criminal sanctions of imprisonment for a maximum duration of five years and/or fines of up to IDR 2,000,000,000.00 (two billion rupiah). Furthermore, registered trademark owners have the right to file lawsuits against parties who intentionally and without authorization use or imitate well-known trademarks. This action includes similarities in total or in part with the goods and/or services protected by the trademark (Miru, 2005).

Obstacles and Legal Efforts in the Implementation of Legal Protection for Famous Trademarks

Despite the enactment of the Intellectual Property Law, which specifically regulates trademark protection, numerous challenges continue to hinder the effectiveness of legal protection implementation. Some of these obstacles include, among others:

1. Public Awareness

The level of awareness and understanding of Intellectual Property Rights among the Indonesian public remains relatively low. This phenomenon presents one of the main challenges in the

efforts to protect and develop Intellectual Property Rights in the country, which, in turn, negatively impacts innovation and creativity within society. According to a survey conducted by the Directorate General of Intellectual Property of the Ministry of Law and Human Rights of Indonesia in 2022, only approximately 35% of the general population comprehends the basic concepts of Intellectual Property Rights. This figure highlights the urgent need to enhance public literacy regarding the importance of protecting Intellectual Property Rights. To address this issue, Directorate General of Intellectual Property of the Ministry of Law and Human Rights of Indonesia has implemented an Intellectual Property Rights socialization program that encompasses all 34 provinces in Indonesia, successfully reaching over 100,000 participants in 2022. This initiative aims to increase public knowledge and awareness about Intellectual Property Rights. Furthermore, the Ministry of Education Indonesia has taken proactive steps by incorporating Intellectual Property Rights content into the curriculum at both secondary and tertiary educational levels, which is set to be implemented in the 2023/2024 academic year. This strategic action is expected to strengthen the foundational understanding of Intellectual Property Rights among the younger generation, thereby fostering greater sensitivity and awareness of the intellectual property rights they possess.

2. Law Enforcement

One of the main challenges facing the enforcement of Intellectual Property Rights in Indonesia is the weak implementation and oversight of existing laws. This contributes to the high incidence of violations, as infringements of intellectual property rights continue to rise. This situation indicates that the protective measures undertaken thus far have been suboptimal, creating a detrimental environment for the rights holders of intellectual property. Data obtained from the 2023 USTR Special 301 Report indicates that Indonesia remains on the Watch List due to issues related to the enforcement of Intellectual Property Rights. This ranking reflects global concerns about the inadequacy of actions taken to protect intellectual property rights, which may, in turn, hinder investment and innovation in the country.

In an effort to address these challenges, several legal measures have been implemented. First, there is a particular focus on Intellectual Property Rights within the context of business law, encompassing the protection and enforcement of trademarks and patents in Indonesia. As part of this strategy, the government established the Anti-Piracy Task Force for Intellectual Property Rights in 2022, involving collaboration between the Indonesian National Police, the Attorney General's Office, and the Directorate General of Intellectual Property of the Ministry of Law and Human Rights of Indonesia. This initiative aims to enhance the efficiency of law enforcement against violations of intellectual property rights.

Furthermore, to strengthen the protection of Intellectual Property Rights, there are plans to revise the Trademarks Law, which is expected to be completed by the end of 2024. This revision includes increasing criminal penalties for offenders, which is anticipated to serve as a deterrent and reinforce measures against violations of intellectual property rights in Indonesia. These efforts reflect the government's commitment to creating a more conducive environment for innovation and investment, as well as to more effectively protecting the rights of intellectual property owners.

This initiative aims to enhance public knowledge and awareness of intellectual property rights. Additionally, the Ministry of Education has taken proactive steps by incorporating intellectual property rights education into the curriculum at the secondary and higher education levels, which will be implemented starting in the 2023/2024 academic year. This strategic step is expected to strengthen the foundation of understanding regarding intellectual property rights among the younger generation, making them more sensitive and aware of the intellectual property rights they possess.

3. Human Resources Capacity

One of the significant challenges faced by Indonesia in the field of Intellectual Property Rights is the shortage of competent professionals. The availability of skilled and experienced human resources is crucial for supporting the development and implementation of effective Intellectual Property Rights policies. In the absence of adequate expertise, efforts to protect intellectual property rights in Indonesia will be hindered, which may adversely affect the national economic competitiveness. Data released by the Directorate General of Intellectual Property of the Ministry of Law and Human Rights of Indonesia indicates that in 2022, the ratio of trademark examiners to the number of trademark applications in Indonesia was 1:150. This figure is far below the standard established by the World Intellectual Property Organization (WIPO), which recommends an ideal ratio of 1:50. This discrepancy reflects a backlog in the trademark registration process, which not only slows down the approval of applications but also hampers the innovation and brand protection necessary for business actors.

To address this challenge, the Indonesian government has taken proactive steps by launching scholarship programs for advanced education (Master's and Doctoral degrees) in the field of Intellectual Property Rights. This program aims to educate 100 individuals annually, starting in 2023. Through this initiative, it is hoped that more professionals will emerge to meet the demands of the Intellectual Property Rights sector and contribute to the development of a stronger and more competitive legal system. By increasing the number of qualified professionals, it is anticipated that the examination and approval processes for trademarks will become more efficient, thereby enhancing business actors' confidence and creating a more conducive business environment.

4. Technology Infrastructure

Currently, the registration system and database for Intellectual Property Rights in Indonesia face challenges regarding comprehensive integration and digitization. This lack of cohesion results in difficulties in accessing and managing information related to Intellectual Property Rights registration, which in turn can hinder the registration process and the enforcement of intellectual property rights. Statistically, the average time required for trademark registration in Indonesia tends to exceed the established timeframe. This indicates inefficiencies in the registration process that can impede business actors in swiftly and effectively protecting their trademarks.

In order to enhance the efficiency and effectiveness of the Intellectual Property Rights registration system, the government has undertaken various legal efforts, including the launch of an integrated e-Filing system for Intellectual Property Rights in 2023. With the implementation of this system, the registration time is expected to be reduced by up to 40%, which will undoubtedly provide significant benefits to trademark applicants. Furthermore, an investment of IDR 500,000,000,000 has been allocated to update the information technology infrastructure of the Directorate General of Intellectual Property of the Ministry of Law and Human Rights of Indonesia during the period of 2023-2025. These efforts are anticipated to strengthen the protection and enforcement of trademark rights in Indonesia, thereby creating a more conducive business climate for entrepreneurs.

5. Harmonization of International Law

One of the key issues that must be addressed is the need to adjust intellectual property regulations in Indonesia to align with international standards. This adjustment is crucial to ensure that the national IP system is not only effective in protecting the rights of intellectual property owners but also capable of functioning within an increasingly complex global context. As of 2023, Indonesia has successfully ratified only six out of a total of twenty-six international agreements on intellectual property administered by WIPO. This indicates a deficiency in Indonesia's commitment to harmonizing its intellectual property regulations with applicable international norms, thereby impacting the country's competitiveness and position in the global arena. To tackle these challenges, the Indonesian government plans to ratify the Madrid

Protocol, which pertains to international trademark registration, in 2024. This ratification is expected to facilitate business operators in protecting their trademarks in international markets while simultaneously strengthening Indonesia's position within the global intellectual property system.

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In response to this challenge, the Directorate General of Intellectual Property of the Ministry of Law and Human Rights of Indonesia has taken proactive measures by establishing the intellectual property rights Cyber Patrol unit. In 2022, this unit successfully addressed a total of 5,000 online infringement cases. This effort demonstrates the government's commitment to strengthening law enforcement against intellectual property rights violations, as well as creating a safer environment for businesses and innovators in the digital realm.

CONCLUSION

After conducting an in-depth analysis of the existing issues, it can be concluded that the protection of well-known trademarks is implemented through two main approaches: preventive and repressive legal protection. The Trademark and Geographical Indications Law, provides a legal foundation for the protection of well-known trademarks in Indonesia. In this regard, the law stipulates that trademark registration applications shall be rejected if there is similarity, either in whole or in part, with well-known trademarks used for similar goods and/or services. However, despite the existence of this legal framework, several challenges continue to hinder the effectiveness of well-known trademark protection. These include a lack of public awareness regarding the importance of trademark protection, weak law enforcement that impacts infringement practices, and limited capacity in human resources and adequate technological infrastructure. Furthermore, the lack of legal harmonization at the international level poses an additional obstacle, compounded by the increasingly complex protection challenges arising in the digital era.

Several recommendations can be made in this research, including the following:

1. The importance of enhancing protection for well-known trademarks cannot be overlooked, given the inherent economic and commercial value attached to them. Therefore, the role of the government in overseeing and ensuring this protection becomes crucial. With proactive measures taken by the government, it is expected that any potential losses suffered by the owners of well-known trademarks can be minimized, thus ensuring that their rights are better safeguarded and not neglected.
2. The enforcement of sanctions against violators of well-known trademark rights must be strengthened. The imposition of stricter penalties aims to create a deterrent effect for individuals or entities with malicious intent in using trademark rights. Additionally, this measure is expected to prevent practices of imitation or unjust enrichment from others'

intellectual property, thereby preserving market integrity and fostering a healthy business climate for all stakeholders.

3. There is a need for a reform of the existing Trademark Law. This is due to the absence of specific provisions that more comprehensively regulate well-known trademarks. In this regard, if necessary, the creation of a specialized law governing the protection of well-known trademarks could be a strategic step to reinforce the existing legal framework and ensure legal certainty for owners of well-known trademark rights.

REFERENCE

- Ali, Z. (2013). *Metode Penelitian Hukum*. Sinar Grafika.
- Dharmawan, N. K. S., Wiryawan, W., Dunia, N. K., Darmadha, N., Mudana, N., Dharmadi, A. A. S. W., Sukihana, I. A., Indrawati, A. A. S., & Atmadja, I. P. (2019). *Buku Ajar : Hak Kekayaan Intelektual (Pertama)*. Deepublish.
- Efendi, J., & Ibrahim, J. (2016). *Metode Penelitian Hukum: Normatif dan Empiris*. Prenada Media.
- Hariyani, I. (2010). *Prosedur Mengurus HAKI yang Benar*. Pustaka Yustisia.
- Hidayati, N. (2011). Perlindungan Hukum pada Merek yang Terdaftar. *Ragam Jurnal Pengembangan Humaniora*, 11(3), 174–181.
- Matheus, J. (2021). E-Arbitration: Digitization Of Business Dispute Resolution Pada Sektor E-Commerce Dalam Menyongsong Era Industri 4.0 Di Tengah Pandemi Covid-19. *Lex Renaissance*, 6(4), 692–704.
- Miru, A. (2005). *Hukum Merek: Cara Mudah Mempelajari Undang – Undang Merek*. RajaGrafindo Persada.
- Usman, R. (2003). *Hukum Hak atas Kekayaan Intelektual Perlindungan dan Dimensi Hukumnya di Indonesia (1st ed.)*. PT Alumni.