

JUDGE'S CONSIDERATION IN GRANTING EXCEPTIONS IN TRADEMARK CASES**Elman Wahyu Koesnoto**

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Mk122@ums.ac.id**ABSTRAK**

Merek sebagai bagian dari kekayaan intelektual memiliki peran penting dalam melindungi identitas produk dan mencegah persaingan usaha yang tidak sehat. Dalam perkara merek, eksepsi sering diajukan oleh tergugat untuk menggugurkan gugatan sejak tahap awal sebelum masuk ke pokok perkara. Penelitian ini bertujuan untuk mengetahui pertimbangan hakim dalam pengabulan eksepsi perkara merek dalam Putusan Nomor 52/Pdt.Sus-Trademark/2020/PN Niaga Jkt.Pst, Putusan Nomor 72/Pdt.Sus-Trademark/2020/PN.Niaga.Jkt.Pst, dan Putusan Nomor 1/Pdt.Sus-Trademark/2024/PN Niaga Jkt.Pst dan bagaimana upaya hukum yang dapat ditempuh dalam pengabulan eksepsi perkara merek. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan doktrinal serta studi kasus terhadap putusan pengadilan. Data yang digunakan merupakan data sekunder yang diperoleh melalui analisis dokumen dan studi kasus putusan pengadilan. Hasil dalam penelitian ini menunjukkan bahwa hakim dalam mengabulkan eksepsi mempertimbangkan beberapa aspek hukum, seperti prematuritas gugatan, cacat formil dalam surat kuasa, serta ketidakjelasan gugatan (obscuur libel). Pengabulan eksepsi ini selaras dengan ketentuan hukum yang berlaku. Selain itu, penelitian ini juga menelaah upaya hukum yang dapat dilakukan pihak yang keberatan terhadap putusan eksepsi, yaitu melalui kasasi dan peninjauan kembali. Kesimpulan dari penelitian ini pertimbangan hakim dalam pengabulan eksepsi perkara merek berfokus pada aspek legal dan prosedural. Putusan yang mengabulkan eksepsi menunjukkan bahwa gugatan yang diajukan tidak memenuhi syarat hukum yang berlaku, seperti ketidakabsahan surat kuasa, prematuritas, dan kekaburan dalam gugatan. Upaya hukum yang dapat ditempuh oleh pihak yang tidak puas terhadap putusan pengabulan eksepsi dalam perkara merek adalah kasasi dan peninjauan kembali.

Kata kunci : Pertimbangan hakim; Merek; Eksepsi.

ABSTRACT

A trademark as part of intellectual property has an important role in protecting product identity and preventing unfair business competition. In trademark cases, exceptions are often filed by defendants to dismiss lawsuits from the early stages before entering the main case. This study aims to determine the judge's considerations in granting exceptions in trademark cases in Decision Number 52/Pdt.Sus-Trademark/2020/PN Niaga Jkt.Pst, Decision Number 72/Pdt.Sus-Trademark/2020/PN.Niaga.Jkt.Pst, and Decision Number 1/Pdt.Sus-Trademark/2024/PN Niaga Jkt.Pst and what legal efforts can be taken in granting exceptions in trademark cases. This study uses a normative juridical method with a doctrinal approach and case studies of court decisions. The data used are secondary data obtained through document analysis and case studies of court decisions. The results of this study indicate that judges in granting exceptions consider several legal aspects, such as the prematurity of the lawsuit, formal defects in the power of attorney, and the ambiguity of the lawsuit (*obscuur libel*). The granting of this exception is in accordance with applicable legal provisions. In addition, this study also examines the legal remedies that can be taken by parties who object to the exception decision, namely through cassation and judicial review. The conclusion of this study is that the judge's considerations in granting exceptions in trademark cases focus on legal and procedural aspects. The decision that grants the exception shows that the lawsuit filed does not meet the applicable legal requirements, such as the invalidity of the power of attorney, prematurity, and ambiguity in the lawsuit. The legal remedies that can be taken by parties who are dissatisfied with the decision to grant exceptions in trademark cases are cassation and judicial review.

Keywords: Judge's considerations; Trademark; Exception.

BACKGROUND

Copyright trademark is part of intellectual property that plays an important role in supporting economic development and innovation. Copyright protects original works in the fields of art, literature, and science, while trademarks protect the identity of a product or service through a symbol, name, or logo that distinguishes it from other products or services. (1) Law No. 19 of 2002 concerning copyright also contains criminal law, both material criminal law and formal criminal law. There are two articles of material criminal law and one article of formal criminal law. Article 72 categorizes copyright crimes, with each paragraph containing nine formulations. Meanwhile, Article 73 contains the criminal sentencing system, including the confiscation of goods.

An exception is a response or objection submitted by the defendant to a lawsuit submitted by the plaintiff before entering the main case (3). The granting of an exception by the judge can stop or cancel the case process at an early stage if a strong legal basis is found, without the need to continue the examination to the main dispute.

The importance of granting exceptions in copyright and trademark dispute cases lies in protecting the legal rights of the defendant from unfounded or formally flawed lawsuits. Granting exceptions can minimize the risk of abuse of the legal process by parties who do not have a strong basis for filing a lawsuit (4). In trademark dispute cases, exceptions are often filed regarding the absolute or relative competence of the court or formal defects in the lawsuit, such as mistaken identity of the party or inappropriate legal basis.

In the context of intellectual property protection, granting exceptions has a significant impact, especially in terms of providing legal certainty for the disputing parties (5). When exceptions are granted, the decision can reflect that the lawsuit filed does not comply with applicable legal requirements, thereby helping to maintain the integrity of the justice system (6). Decisions that allow exceptions also make it clear what rules must be followed by people wanting to file trademark copyright disputes, and they help avoid wasting legal and financial resources on processes that won't work.

This study aims to analyze how judges apply exceptions in trademark copyright disputes and their impact on legal certainty in Indonesia. In this context, it is necessary to further examine the judge's considerations in Court Decisions Number 23/Pdt.Sus-Trademark/2020/PN. Niaga. Jkt.Pst, Number 3/Pdt.Sus.HKI/Trademark/2022/PN Niaga Mdn, and Number 9/Pdt.Sus-Trademark/2023/PN.Niaga.Jkt.Pst, and what legal remedies can be taken in granting exceptions to trademark cases.

Previous research by Heniyatun, Puji Sulistyaningsih, Bambang Tjatur Iswanto, Yeni Asiyah, and Chrisna Bagus Edhita Praja, in their study called "Legal Study of Trademark Protection Against Famous Person Name Trademark Lawsuits," looked at the exceptions made in Decision 48/Pdt.Sus/Trademark/2018/PN.Niaga.Jkt.Pst. In this case, the lawsuit was dismissed because the plaintiff did not appeal to the Trademark Appeal Commission (KBM) and made a mistake by incorrectly naming the Directorate General of Intellectual Property (DJKI) as

a co-defendant; it should have been named as a defendant since it issued the trademark certificate in question. In this case, the lawsuit was declared *Niet Ontvankelijke Verklaard* (NO) because the plaintiff had not appealed to the Trademark Appeal Commission (KBM) and had committed an Error in Subjecto by incorrectly designating the Directorate General of Intellectual Property (DJKI) as a co-defendant; instead, the Directorate General of Intellectual Property should have been named as a defendant, as it is the party that issued the disputed trademark certificate. (7) Meanwhile, this study analyses the judge's considerations regarding the exceptions in Decision Number 52/Pdt.Sus-Trademark/2020/PN Niaga Jkt.Pst, which addresses premature lawsuits; Decision Number 72/Pdt.Sus-Trademark/2020/PN.Niaga.Jkt.Pst, concerning invalid power of attorney; and Decision Number 1/Pdt.Sus-Trademark/2024/PN Niaga Jkt.Pst, related to vague lawsuits (obscure libel). Both previous studies and this study demonstrate that judges tend to grant exceptions when formal defects are identified in the lawsuit, highlighting the significance of procedural aspects in ensuring legal certainty within the court.

METHOD

The research method used in this study is normative legal research with a statutory regulatory approach and case studies of court decisions such as Decision Number 52/Pdt.Sus-Trademark/2020/PN Niaga Jkt.Pst, Decision Number 72/Pdt.Sus-Trademark/2020/PN.Niaga.Jkt.Pst, and Decision Number 1/Pdt.Sus-Trademark/2024/PN Niaga Jkt.Pst. This research is descriptive and utilizes secondary data from relevant legal documents. According to Sugiyono, the descriptive research method is a research method that aims to describe a phenomenon or event in detail and systematically. This research not only describes the state or condition of an object but also seeks the relationship between existing variables. The main data source is secondary data. Data collection techniques are carried out through document analysis and literature studies. Analysis of legal materials is carried out using qualitative methods. This normative doctrinal research aims to analyse the legal theories and principles contained in related documents, providing an in-depth understanding of the normative aspects of the research (8). The use of secondary data from legal documents is considered appropriate because it provides valid and relevant references to the research topic. Document analysis and

literature study methods allow researchers to explore legal texts in depth and build strong arguments.

RESULT AND DISCUSSION

1. Judge's Considerations in Court Decisions Decision Number 52/Pdt.Sus-Trademark/2020/PN Niaga Jkt.Pst, Decision Number 72/Pdt.Sus-Trademark/2020/PN.Niaga.Jkt.Pst, and Decision Number 1/Pdt.Sus-Trademark/2024/PN Niaga Jkt.Pst.

No.	Description	Judge's Considerations	Compliance with Regulations
1.	Decision Number 52/Pdt.Sus-Trademark/2020/PN Niaga Jkt.Pst	<p>1. The court finds that the defendant's request to dismiss the plaintiff's lawsuit as premature and improperly filed because the trademark they seek to remove has not been used for three (3) years since its registration is valid and should be granted.</p> <p>2. Considering that, as the panel has noted in its examination of the exception, the plaintiff's lawsuit qualifies as a premature lawsuit;</p>	<p>This procedure is in accordance with Article 74, paragraph (1), of the Law of the Republic of Indonesia Number 20 of 2016 concerning Trademarks and Geographical Indications. The BODYGUARD Trademark Certificate has a registration date of October 18, 2019, and is registered under the name of Luasan Ferdinand (Defendant) with List Number IDM 000656529, which the Plaintiff has requested to be deleted. Consequently, the requirement that the</p>

No.	Description	Judge's Considerations	Compliance with Regulations
		<p>therefore, it must be declared unacceptable (Niet Onvankelijke Verklaard).</p>	<p>trademark has not been used for three (3) consecutive years in the commerce of goods and/or services since the registration date has not been met.</p>
2.	<p>Decision Number 72/Pdt.Sus-Trademark/2020/PN.Niaga.Jkt. Pst</p>	<p>The defendant's valid objection to the plaintiff's invalid power of attorney renders the plaintiff's lawsuit invalid, necessitating its rejection</p>	<p>Accordingly, it does not meet the requirements as a special power of attorney as stipulated in Article 123, paragraph (1), HIR. Based on the legal facts from the translation of the special power of attorney dated November 14, 2019, the power of attorney granted by Robert Dawson is intended for the purpose of cancelling the defendant's trademark. However, the lawsuit filed by the plaintiff's attorney in this case seeks to remove the defendant's "NEFO" trademark, not cancel it; therefore, the special power of</p>

No.	Description	Judge's Considerations	Compliance with Regulations
			attorney dated November 14, 2019, fails to meet the requirements of a special power of attorney.
3.	Decision Number 1 / Pdt.Sus-Trademark / 2024 / PN Niaga Jkt. Pst.	Since the vague lawsuit (obscure libel) was accepted, the judges don't need to look at the other exceptions anymore	According to the definition of (obscure libel), the Plaintiff's original lawsuit mixed up the personal debt issue between the Plaintiff and the Defendant, which is a civil case, with the trademark transfer issue, which is a business case.

The three decisions pertain to trademark copyright, an exclusive right granted by the state to the "owner of a registered trademark" in the general register of trademarks for a specific period of time. This right allows the owner to use the trademark themselves or grant permission for individuals or legal entities to use it (9). For producers, a trademark serves as a representation and a positive name for the company, functioning as an element of business strategy. A trademark that is essentially identical for dissimilar goods can be detrimental to both the trademark owner and the public as consumers. The trademark owner suffers from the imitation of a well-known trademark, while the consumer public is misled by the presence of a trademark that is fundamentally the same but associated with different goods (10).

If someone uses a trademark that is similar or identical in its entirety to a registered trademark without permission for goods or services that are similar to those of the registered

trademark owner or licensee, the trademark owner may file a civil lawsuit in the commercial court. This is outlined in Article 83, paragraph (1), of Law 20/2016, which states, "The owner of a registered trademark and recipient of a registered trademark license may file a lawsuit against another party who unlawfully uses a trademark that is essentially or wholly similar to it for similar goods and services in the form of a lawsuit for damages and termination of all acts related to the use of the trademark" (11).

In the court's decisions, specifically Decisions 52/Pdt.Sus-Mark/2020/PN Niaga Jkt.Pst., 72/Pdt.Sus-Mark/2020/PN Niaga Jkt.Pst., and 1/Pdt.Sus-Mark/2024/PN Niaga Jkt.Pst., a legal entity involved in resolving trademark disputes is highlighted. The Intellectual Property Rights Arbitration and Mediation Agency (BAM HKI), a specialized body that handles alternative dispute resolution in the field of intellectual property rights (IPR), is involved in this process. According to Article 93 of Law 20/2016, parties have the option to settle their disagreements through arbitration or other dispute resolution methods. This process primarily involves BAM HKI, a private organization that assists in resolving IPR disputes. mediator to help the parties reach an agreement. BAM HKI can also serve as a mediator to assist the parties in settling their disputes. The judges' considerations in these three decisions indicated that the plaintiff's lawsuit was timely (not expired).

Exception is a term in the field of law and justice that refers to a rejection or objection filed by the defendant, accompanied by reasons indicating that the charges are incorrect and unrelated to the truth or falsity of the criminal act charged (12).

Thus, an exception can be understood as a rebuttal or rejection made by the defendant against the lawsuit filed by the plaintiff (13). Exceptions do not focus on the core of the case but rather on the formal validity of the lawsuit. In other words, an exception is filed by the defendant to demonstrate that the lawsuit directed at him is legally flawed, rendering it unacceptable by the court (14). If the judge accepts the exception, the plaintiff's lawsuit can be rejected without further consideration. Conversely, if the judge rejects the exception, the trial will continue to discuss the main points of the case.

A. Conformity between Exception and Legal Basis in Judge's Consideration in Decision Number 52/Pdt.Sus-Trademark/2020/PN.Niaga.Jkt.Pst., Decision Number 72/Pdt.Sus-

**Trademark/2020/PN.Niaga.Jkt.Pst., and Decision Number 1/Pdt.Sus-
Trademark/2024/PN Niaga Jkt.Pst.**

**1. Judge's consideration in Court Decision Number 52/Pdt.Sus-
Trademark/2020/PN.Niaga.Jkt.Pst.**

In early March 2016, Jefri Yunus started a business selling anti-scratch cellphone products under the trademark name "BODYGUARD," which was equipped with a logo design of a muscular person. Before launching the product, Jefri hired a professional, Mr. Yohanes Salim, to design his trademark on February 1, 2016. After the design was completed, on February 4, 2016, Jefri paid Mr. Soeharta Sanjaya to register the trademark with the Ministry of Law and Human Rights (Kemenkumham). From 2017 until early September 2018, Jefri periodically asked Mr. Soeharta about the status of his trademark registration. However, in early September 2018, Jefri was informed that the "BODYGUARD" trademark had been registered under the name of Luasan Ferdinand (Defendant) since April 27, 2016, without Jefri's knowledge.

After learning that his trademark had been registered under someone else's name, Jefri temporarily stopped selling his goods. On April 9, 2020, the Ministry of Law and Human Rights rejected Jefri's trademark registration application on the grounds that his trademark was essentially similar to the registered trademark owned by the defendant. Feeling aggrieved and believing that the Defendant had never used his trademark for three consecutive years, Jefri filed a lawsuit with the Central Jakarta Commercial Court on September 21, 2020, requesting the removal of the Defendant's unused trademark. The lawsuit was registered with registration number 52/Pdt. Sus-Trademark/2020/PN.Niaga.Jkt.Pst.

However, on January 27, 2021, the panel of judges decided to grant the defendant's exception regarding premature and formal defects, thus declaring that Jefri's lawsuit was inadmissible (Niet Onvankelijke Verklaard). In deciding this case, the judge considered several matters relating to legal and administrative aspects. First, the judge considered that Jefri Yunus' trademark registration application was rejected due to its similarity in principle to the registered trademark owned by the defendant, Luasan

Ferdinand, which had been registered earlier. This shows that the "BODYGUARD" trademark filed by Jefri does not meet the novelty and uniqueness requirements required for trademark registration. Furthermore, the judge also took into account Jefri's lawsuit, which was filed on the grounds that the defendant had not used the trademark for three consecutive years. In his decision, the judge also ordered Jefri to pay court costs of Rp. 1,665,000.

The judge's choice to approve the defendant Luasan Ferdinand's request matches the relevant rules because there is a formal issue with the plaintiff Jefri Yunus's lawsuit. The formal defect arises because the BODYGUARD Trademark Certificate in the name of Luasan Ferdinand (Defendant), Register Number IDM 000656529—which the plaintiff requested to be deleted—was registered on October 18, 2019. Therefore, the requirement that the trademark not be used for 3 (three) consecutive years in the trade of goods and services since the date of registration has not been satisfied. According to Article 74, paragraph (1), of Law of the Republic of Indonesia Number 20 of 2016 concerning Trademarks and Geographical Indications, "The deletion of a registered REC can also be submitted by an important third party in the form of a lawsuit to the Commercial Court on the grounds that the REC has not been used for 3 (three) consecutive years in the trade of goods and services since the date of registration or last use." Consequently, the panel of judges decided to grant the defendant's appeal regarding the claim being premature and formally defective, declaring that the plaintiff's claim was unacceptable (Niet Onvankelijke Verklaard)

2. Decision Number 72/Pdt.Sus-Trademark/2020/PN.Niaga.Jkt.Pst

In 1979, the defendant founded the Kommandite Company, which operates in the field of coffee production with the trading trademark "NEFO." Since then, the defendant has begun producing and processing genuine coffee beans from Indonesia, as well as employing local workers in Jambi Province. In an effort to protect the product and promote its reputation, the defendant registered the mark "NEFO" in the Law and Human Rights Ministry of the Republic of Indonesia. As time went by, the defendant continued to use the "NEFO" mark and developed his business. In 1987, the defendant

registered several "NEFO" marks in various classes, including Classes 30 and 32, thus establishing legal rights and protection for these trademarks. The defendants believe that this registration strengthens their legal position as their legal owner and guarantees the continuity of their business in the market.

However, at one point, the plaintiff appeared and filed a lawsuit against the defendant on the grounds that the mark "NEFO" had not been used for three consecutive years. The plaintiff feels it is important to remove the registration of the mark "NEFO" from the General Register of Trade, thereby triggering a legal dispute between the two parties. The plaintiff claims that based on Law No. 20 of 2016, they have the right to file this lawsuit, while the defendant asserts that they have complied with all the terms of use and their registration is in accordance with applicable provisions.

In Case Decision Number 72/Pdt.Sus-Trademark/2020/PN.Niaga.Jkt.Pst, the panel of judges took into account several significant factors when making their decision. Firstly, the judge granted the defendant's exception regarding the power of attorney submitted by the plaintiff, which was declared invalid. This indicates that the plaintiff does not have the legitimacy to file a lawsuit. The panel of judges also referred to the provisions in Law Number 20 of 2016 concerning Trademarks and Geographical Indications, as well as other relevant regulations, to ensure that all legal aspects have been complied with. In addition, the judge noted that the defendant had registered the mark "NEFO" earlier and used it continuously since 1979, thus fulfilling the applicable registration and use requirements. Based on these considerations, the judge decided that the plaintiff's lawsuit could not be accepted, which made the defendant the winning party in this case. The judge also decided that the plaintiff should be sentenced to pay court costs, which include various components of administrative costs and legal proceedings amounting to Rp. 1,415,000.00.-

The judge's decision to grant the defendant's e-execution aligns with the applicable regulations and legal basis, as it addresses a formal defect in the plaintiff's special power of attorney. As stated in Article 123, paragraph (1), HIR: "If desired, the parties can be ACCOMPANIED or appoint a power of attorney as their representative; for this, a

special power of attorney must be given unless the power of attorney is present." Meanwhile, based on the legal facts from the translation of the Special Power of Attorney dated 14 November 2019, the power of attorney granted by Robert Dawson was intended for the purpose of canceling the Defendant's Trademark. But the plaintiff's lawyer's lawsuit was to delete the defendant's trademark "NEFO," not cancel it. Therefore, the special power of attorney dated 14 November 2019 does not qualify as a valid special power of attorney. Thus, the panel of judges decided to grant the defendant's exception due to the formal defects in the special power of attorney and declared that the plaintiff's claim could not be accepted (Niet Onvankelijke Verklaard).

3. Decision Number 1/Pdt.Sus-Trademark/2024/PN Niaga Jkt.Pst

In 2015, Sumarno (the Defendant) registered NORISK for helmet and glass film products. In 2016, the Defendant entered into an agreement with Verawati (Plaintiff) and proposed marriage according to customary law, along with the transfer of the NORISK trademark and the UD NEW ACC business he owned. The Plaintiff agreed, on the condition that she would pay off the Defendant's personal debts, including a debt of Rp. 3.5 billion to Bank Rakyat Indonesia (BRI). Following their customary marriage, the Defendant handed over the original certificate of the NORISK trademark to the Plaintiff, who then commenced the development of the business. However, despite the Plaintiff having settled these debts, the Defendant refuses to transfer ownership of the company and the business as promised.

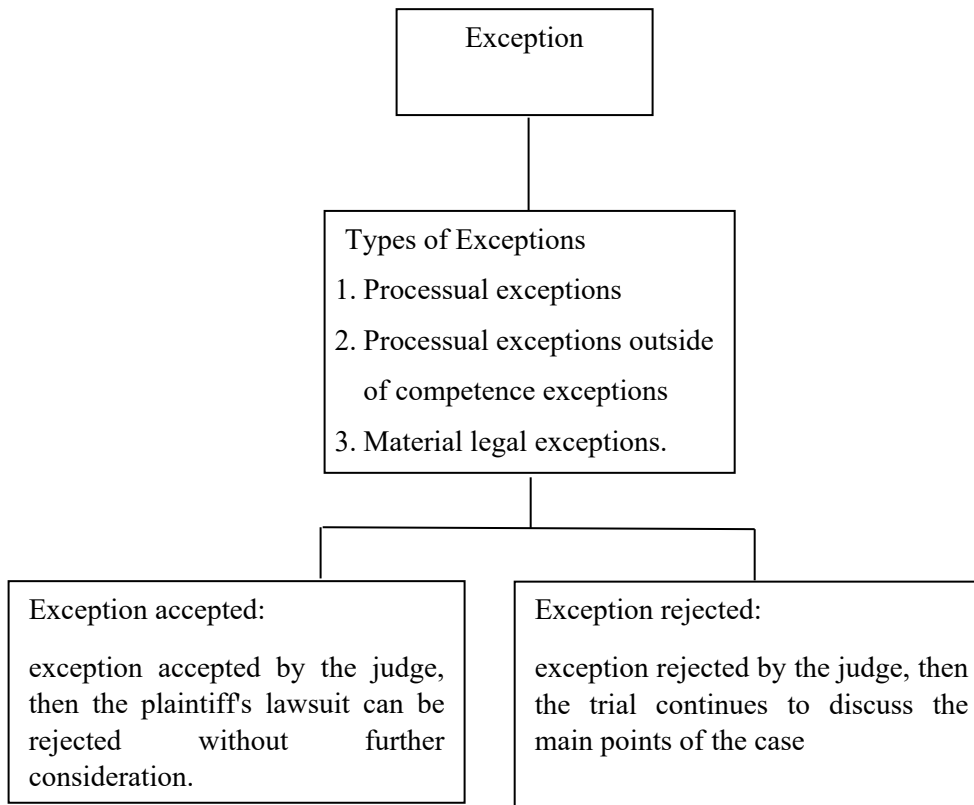
In 2019, a fire broke out at the UD NEW ACC factory, resulting in significant losses. After the fire, the Defendant requested the Plaintiff to address the compensation issues raised by the residents. They subsequently agreed to establish PT Sumber Jaya Plastik in 2022, with the understanding that the Defendant would transfer NORISK's assets to that company. Nevertheless, although the Defendant extended his protection, he continued to register it in his personal name, contrary to the initial agreement. In August 2022, the Defendant issued a summons prohibiting PT Sumber Jaya Plastik and the Plaintiff from using the NORISK trademark. The dispute culminated in the Plaintiff

filing a lawsuit at the Commercial Court in Central Jakarta in 2024, seeking the right to exchange NORISK.

Based on Decision Number 1/Pdt.Sus-Trademark/2024/PN Niaga Jkt.Pst, it is noted that the Judges' Legal Considerations analysed the Plaintiff's lawsuit, which demanded the transfer of rights to the NORISK trademark and the payment of the Defendant's personal debt amounting to IDR 4,528,445,256. The Defendant denied this claim, asserting that there was no agreement to transfer rights and that the debt payment was derived from the proceeds of the sale of UD NEW ACC. Furthermore, the co-defendants, who were established alongside the Plaintiff and the Defendant, should have filed a trademark transfer lawsuit. The panel of judges determined that the Plaintiff's lawsuit conflated different areas of law, namely personal debts and transfers, rendering the lawsuit vague (*obscuur libel*) and declared it unacceptable (*niet ontvankelijke verklaard*). Consequently, the demand for provisions was also rejected, and the Plaintiff was ordered to pay court costs amounting to Rp. 1,340,000. This dispute ultimately ended with the court declaring the Plaintiff's lawsuit unacceptable.

The judge's decision regarding the granting of the defendant's exception aligns with the existing regulations (legal basis) because the plaintiff's lawsuit, a quo, has conflated claims for personal debts between the plaintiff and the defendant, which fall within the civil domain, with claims for the transfer of assets, which belong to the commercial domain. Consequently, the panel of judges opted to grant the defendant's exception due to the presence of a formal *obscuur libel* defect (the claim was unclear and vague) and declared that the plaintiff's claim could not be accepted (*Niet Ontvankelijke Verklaard*).

B. Analysis of legal efforts regarding exceptions in Indonesia.



In Indonesian law, exceptions are a key way for defendants to object to a plaintiff's lawsuit (15). In general, an exception is a rebuttal or argument that responds to certain relevant issues in the lawsuit, with the aim of stating that the lawsuit cannot be accepted or rejected without discussing the substance of the case in depth (16). There are various types of exceptions, including substantive exceptions concerning the legal basis of the lawsuit, as well as processual exceptions relating to the procedures followed by the plaintiff, such as the invalidity of a power of attorney or the court's authority to decide the case (17).

In practice, exceptions are usually filed together with the defendant's response, and the court will examine and decide whether the exception is acceptable or not. If the court grants the exception, the plaintiff's lawsuit can be declared unacceptable, which means

that the litigation process will end without further discussion of the main case. Conversely, if the exception is rejected, the legal process will continue to examine the substance of the lawsuit (18).

The process of filing exceptions is very important in ensuring fairness and efficiency in the justice system, where each party is entitled to express opinions and defend his position. Therefore, a deep understanding of law enforcement is essential for legal practitioners, both lawyers and judges, to ensure that judicial processes run in accordance with applicable principles of justice and fairness. In this way, exceptions become a strategic tool in litigation that allows defendants to filter out cases that are worthy of being decided by the court while at the same time avoiding unnecessary discussion of lawsuits that are legally flawed (19).

The implications of the decision regarding exceptions are huge. A decision that grants an exception can function as a barrier for the plaintiff to pursue legal action, while a decision that rejects the exception provides an opportunity for the plaintiff to continue his case (20).

Parties who object to the decision regarding the lawsuit for annulment have the legal remedies of cassation and judicial review at their disposal. Decision Number 52/Pdt.Sus-Trademark/2020/PN Niaga Jkt.Pst., Decision Number 72/Pdt.Sus-Trademark/2020/PN.Niaga.Jkt.Pst., and Decision Number 1/Pdt.Sus-Trademark/2024/PN Niaga Jkt.Pst. involve the legal remedy of cassation. This is because the cases in the three decisions are trademark disputes that were examined and decided by the Commercial Court at the first and last levels. In accordance with the provisions of Article 86 of Law No. 20 of 2016 concerning Trademarks and Geographical Indications, the commercial court has the authority to decide on trademark disputes at the first and final levels, so that there is no appeal against the decision. If there is a party who is dissatisfied with the decision, then the available legal remedy is cassation to the Supreme Court. The legal basis for this cassation is regulated in Article 45A paragraph (2) of Law No. 5 of 2004 concerning Amendments to Law No. 14 of 1985 concerning the Supreme Court, which states that decisions in certain cases,

including trademark cases in the commercial court, can be appealed. Cassation in this context is not to re-examine the facts that have been considered in the commercial court but rather to assess whether there are any errors in the application of the law or misunderstandings in the legal consideration.

Thus, these three decisions are included in the cassation decision because they were decided at the first and final level by the Commercial Court and have complied with the applicable legal requirements. Therefore, it is important for the parties to understand not only the mechanism of the exception itself but also the legal consequences that may arise from the decision made by the judge. Overall, the analysis of legal efforts related to exceptions in Indonesia shows the importance of this mechanism in ensuring efficiency and fairness in the judicial process. Exceptions not only function as a tool for self-defense but also as a filter to ensure that only worthy and relevant cases can be processed in court, thereby helping to maintain the integrity of the legal system (21). The results of this study are expected to provide in-depth insights for academics and legal practitioners as well as recommendations for policymakers in improving the effectiveness of the judicial system in handling intellectual property disputes. By understanding the importance of exceptions in the legal process, it is hoped that a more efficient, fair judicial system can be created and provide legal certainty for all interested parties.

CONCLUSSION AND SUGGESTION

1. CONCLUSION

Based on the analysis carried out in this research, it can be concluded that the judge's consideration in granting the case's edicts focuses primarily on legal and procedural aspects. In the three decisions—Decision Number 52/Pdt.Sus-Trademark/2020/PN Niaga Jkt.Pst, Decision Number 72/Pdt.Sus-Trademark/2020/PN.Niaga.Jkt.Pst, and Decision Number 1/Pdt.Sus-Trademark/2024/PN Niaga Jkt.Pst—the judge examined legal and fairness issues by assessing the validity of the plaintiff's lawsuit. The decision to grant the exception indicates that the lawsuit filed fails to meet the applicable legal requirements, such as the

invalidity of the power of attorney, prematurity, and ambiguity in the lawsuit. Furthermore, judges also consider the history of trademark use and legal registration, thereby prioritizing the protection of the rights of trademark owners who have been legally registered. This decision underscores the commitment of the legal system to uphold the integrity and efficiency of the judicial process by providing legal certainty to the parties involved in the dispute.

The granting of exceptions is not only a means of protection for the defendant but also serves to prevent abuse of the legal process and to avoid waste of resources. Parties who are dissatisfied with the decision to grant exceptions in trademark cases can pursue legal remedies such as cassation and judicial review. Given that the commercial court adjudicates trademark disputes at both the first and final levels, cassation serves as a mechanism to assess whether there has been an error in the application of the law or an ambiguity in legal considerations. The use of exceptions in the judicial system functions as a filter to identify cases that are worthy of processing, to prevent abuse of the law, and to ensure that the lawsuits filed possess a strong legal basis. This case highlights the importance of a thorough understanding of the exception mechanism for legal practitioners in ensuring justice and efficiency within the judicial system in Indonesia.

2. SUGGESTION

Based on the results of research regarding judges' considerations in granting exceptions to their cases, there are several suggestions that can be considered. Firstly, the parties involved in the dispute need to increase their understanding of the applicable legal provisions, so training or a seminar on actual intellectual property rights is highly recommended. Secondly, we must evaluate and strengthen regulations related to registration and lawsuit procedures to guarantee equitable access to justice. In addition, socialization regarding exception mechanisms must be increased so that parties understand their legal rights. The development of alternative dispute resolution mechanisms, such as mediation or arbitration, can also be a solution to avoid lengthy litigation processes. Finally, we need to conduct further research into the impact of exceptions in trademark disputes in Indonesia to

enhance our understanding of law enforcement. We hope that these suggestions will enhance the effectiveness and fairness of intellectual property rights protection in Indonesia.

REFERENCES

1. Sinaga Na. Pentingnya Perlindungan Hukum Kekayaan Intelektual Bagi Pembangunan Ekonomi Indonesia. *J Huk Sasana*. 2020;6(2).hlm.7.
2. Hutomo, A. R. P., Kelik Wardiono, S. H., Mh, C. D., & Inayah Sh. Pengrajin Batik Dan Hak Kekayaan Intelektual: Studi Tentang Perlindungan Hukum Terhadap Pembajakan Hak Cipta Batik Di Kampung Laweyan Surakarta. *Dr Diss Univ Muhammadiyah Surakarta*.hlm.6.
3. Rizkiansyah Md. Doktrin Dan Yurisprudensi Tentang Pembuktian Eksepsi Yang Berkaitan Dengan Error In Persona. *Universitas Islam Indonesia*.; 2023.hlm.11-12.
4. Kinanthi Av. Pembatalan Merek Terdaftar Jaguar Akibat Persamaan Pada Pokoknya Dengan Kemasan Produk Jaguar. *Uin Syarif Hidayatullah Jakarta*.hlm.6-7.
5. Setyalaksono Lf. Analisis Yuridis Putusan Arbitrase Internasional Sengketa Bisnis Di Indonesia. *Universitas Islam Sultan Agung Semarang*; 2024.hlm.11.
6. Hastuti H. Pertimbangan Hukum Hakim Dalam Penetapan Ayah Biologis: Studi Putusan No. 109/Pdt. G/2022/Pt. Btn Tentang Pembatalan Putusan No. 746/Pdt. G/2021/Pn. Tgn. 2024;hlm.7.
7. Heniyatun, H., Sulistyaningsih, P., Iswanto, B. T., Asiyah, Y., & Praja Cbe. Kajian Yuridis Perlindungan Merek Terhadap Gugatan Merek Nama Orang Terkenal. *Borobudur Law Rev*. 2020;2(2).
8. Kristiawanto Shi. Memahami Penelitian Hukum Normatif. *Prenada Media*; 2022.hlm.27
9. Hutama, Muhamat Farera Syahbria; Bangsawan Mi. Legal Protection For Trademark Rights Holders According To Indonesian Law. *Proceeding Int Conf Restruct Transform Law*. 2023;hlm.615.9.
10. Wijaya Elf. Perlindungan Hukum Konsumen Atas Kesamaan Bunyi Merek Terhadap Barang Yang Tidak Sejenis. *Jch (Jurnal Cendekia Hukum)*. 2020;5(2):hlm.185.97.
11. Associates Dmh&. *Hukum Online*. 2023 [Cited 2025 Jan 30]. Merek Dipakai Orang Tanpa Izin. Kemana Meminta Ganti Rugi? Available From: <https://www.hukumonline.com/klinik/a/merek-dipakai-orang-tanpa-izin--ke-mana-meminta-ganti-rugi-lt53c90619e8d43/>
12. Erwin Susilo Sh. Surat Dakwaan, Keberatan/Eksepsi, Dan Bentuk Penyelesaian

- Hukumnya. Citra Aditya Bakti; 2020.hlm.31.
13. Riskia Saf. Sengketa Merek Dagang Antara Pendaftar Merek Sah Dengan Calon Pendaftar Perspektif Undang-Undang Merek Dan Fatwa Mui. Uin Syarif Hidayatullah Jakarta.; 2024.hlm.10.
 14. Kurniawan, Ahmad Sarbini; Hermono B. Tinjauan Yuridis Putusan Pengadilan Nomor 0379/Pdt. G/2021/Pa. Krs Mengenai Gugatan Harta Waris Yang Objeknya Masih Menjadi Jaminan Utang. Novum J Huk. 2023;hlm.43–56.
 15. Bunga M. Mekanisme Penyelesaian Sengketa Melalui Gugatan Sederhana. Gorontalo Law Rev. 2022;5(1):hlm.41–51.
 16. Oki Hsa. Upaya Hukum Verzet Dalam Perkara Perceraian Perspektif Masalah Mursalah. Uin Prof. Kh Saifuddin Zuhri.; 2022.hlm.12.
 17. Sari Mi. Analisis Yuridis Putusan 5/Pdt. G/2019/Pn. Pol Tentang Sengketa Kepemilikan Hak Atas Tanah Berdasarkan Kekuatan Pembuktian Para Pihak Yang Bersengketa. Novum J Huk. 2021;8(1):hlm.181.99.
 18. Said Dh. Hukum Acara Perdata Teori Dan Praktik. Merdeka Kreasi Group; 2022.hlm.113–115.
 19. Amri, Shi Mh. Buku Ajar Hukum Acara Pengadilan Agama. Malang, Kecamatan Lowokwaru Kota.: Cv. Literasi Nusantara Abadi; 2021.hlm.87–89.
 20. Pakpahan K. Buku Praktek Peradilan. Publish Buku Unpri Press Isbn; 2024. hlm.35–37.
 21. Munir, M., & Jusmadi R. Buku Ajar: Praktek Peradilan Perdata. 2020.hlm.115.