

## This edition newsletter contains:

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1. **TRUMP declared as a “famous name”, Donald J. Trump won his trademark cancellation case even though he did not have a prior registration in the same class or for similar goods**

the said trademark arguing that his status as a famous person should benefit and protect him over his name in Indonesia. Mr. Trump also provided several evidences namely: his registered trademark “TRUMP” in classes 20, 36, 37, 43 and 44 in Indonesia and various countries around the world.

## TRUMP

On February 25, 2014 the panel of judges announced their decision concerning the trademark cancellation “TRUMPS”. They declared that TRUMPS found to be too similar to Mr. Trump’s name who is one of the richest men in the United States of America.

This case started when Mr. Wibowo registered his trademark “TRUMPS” in class 25 for ties and gloves. Knowing the fact that Mr. Trump filed cancellation for

Defending his trademark registration, Mr. Wibowo argued that his mark TRUMPS is different from Mr. Donald J Trump’s trademarks. Beside that, he also provided several registered trademarks which consists of the word “TRUMP”, such as: TRUMPH, TRUMPF, and POLO TRUMP therefore he stated that the word TRUMPH should not be monopolized by one party. This statement is strengthened by The Directorate General of Intellectual Property (DJHKI) who also brought to this case as co-defendant. DJHKI stated trademark “TRUMPS” has met the formal and substantive requirement and

Mr. TRUMP's cancellation act is unnecessary since he could not monopolize the word.

However, the court stated that even though Mr. Donald J. Trump did not have a registered mark in class 25 based on Article 6 (3) (a) of Law No 15 of 2001 concerning Trademark, a trademark should be refused registration by the DJHKI if it constitutes or resembles the

name of a famous person, except with written consent of the entitled party. And since his reputation as one of the well-known businessmen and also one of the richest men in the United States of America, the word "TRUMP" should be declared as a famous word and protected by the law. (Source: detik.com)

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## **2. Defective Power of Attorney dismissed Phillip Morris' cancellation case against Japan Tobacco**

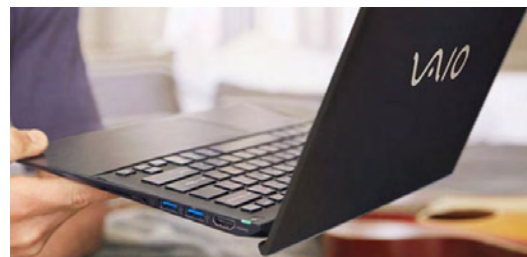


Phillip Morris filed the trademark cancellation case against trademark "CLEAR" owned by Japan Tobacco Inc. The basis of the dismissed decision was based on the legal procedure. The Panel of Judges stated that Philip Morris' Power of Attorney appointing their Indonesian counsel was defective. The Court ruled that there was not enough evidence submitted to demonstrate that the signatory of the POA had the authority to appoint the Indonesian attorney to file the lawsuit on behalf of

Philip Morris. Therefore, the Court dismissed the case based on this finding

It is not a surprising decision even it is rarely occurred in the practice since the legality of the Power of Attorney is the first step to deciding whether or not the case should be legally bring into the next procedure. From the above case, we could reflect that the Parties must always properly prepared and proven that they have acquired a proper legal authority to act for and on behalf of the client before the court. (Source: detik.com)

## **3. Another Trademark Cancellation Case, Sony Vs local spare part manufacturer for the mark "VAIO"**



Sony Corporation filed a lawsuit against a local spare part manufacturer for using the same trademark "VAIO" in the same class. Sony Corporation has filed their trademark "VAIO" in Class 9 under

Registration Number IDM000289104 on September 25, 2006 and under Registration number IDM000256517 on August 14, 2008. Meanwhile Susanti who is a local spare part manufacturer, also registered the trademark “VAIO” under Registration Number IDM000296200 on October 16, 2006.

Sony Corporation argued that their trademark was a well-known mark, which has been registered and marketed in Indonesia and various countries and if there are 2 (two) similar marks in the market it might causes misleading to the consumers.

The examination of this case is conducted at the Central Jakarta District Court. (Source: many)

#### **4. Indonesia’s Supreme Court decision for Trademark IKEA**



Indonesia Supreme Court has issued the landmark decision for trademark cancellation case, IKEA Vs IKEMA. This case started when Ikea Systems BV, owner of a well-known mark for furniture from Sweden filed a lawsuit against PT Angsa Daya, owner of

trademark IKEMA who is a local ceramic and tile manufacturer.

Ikea Systems BV has registered its trademark IKEA in Indonesia in classes 11, 16, 20, 24, 35 and 42. On the other hand, the trademark IKEMA has also been registered in class 19. Even both of trademarks are not in the same class; Ikea Systems BV argued that PT Angsa Daya have bad faith in registering the trademark IKEMA.

The Commercial Court at the Central Jakarta District Court has made their decision in favor of the Trademark IKEA. The panel of judges at the Commercial Court stated that there were visual similarities and important features in the essential elements between IKEMA and IKEA marks. The composition of the letters I, K, E and A are dominant and there are striking visual similarities between the two sets of letters. PT. Angsa Daya was not satisfied with the said Commercial Court decision and filed Cassation to the Supreme Court. Further, at the Cassation stage, the Supreme Court has once again made their decision in favor of Ikea Systems BV for their trademark IKEA.

The case was eventually brought to Judicial Review stage at the Supreme Court, and surprisingly, the Supreme Court has made their Judicial Review decision in favor of PT. Angsa Daya for the trademark IKEMA. PT. Angsa Daya in the Judicial Review stage has successfully defended their registered trademark IKEMA and use it in trade. The Supreme Court considered that IKEA is used for furniture products, meanwhile IKEMA is used for tiles and ceramic products, therefore it will not mislead nor confuse the consumers. This Judicial Review decision might be considered as



a landmark decision of the Supreme Court in 2013. (Source: detik.com)

**5. Seminar of Recent Court Cases Regarding Trademark, Patent, Industrial Design and Copyright in Indonesia as one of the JICA, JPO and Indonesia Directorate General Intellectual Property of Rights' (DGIP) Project**



Directorate General of Intellectual Property Rights of the Republic of Indonesia and Japan Patent Office have cooperated and hosted a project called The Project for Intellectual Property Rights Protection. This project aimed to strengthen the enforcement function in government institution, enhanced the expertise of the government officials especially in the examination stage and raised the IPR knowledge among the institution.

One of the implementation of the above mentioned project is the Seminar on Recent Court Cases Regarding Trademark, Patent, Industrial Design and Copyright. This seminar was held on March 4, 2014 and attended by the DGIP officer, legal practitioners including judges and police officials.

The seminar was presented by IPR experts from various backgrounds ranging from academic to IPR practitioner. Each session of the seminar have interactive discussion for sharing knowledge & experience in handling IPR cases. Several trademark cases were discussed in this seminar, such as: Kopi Tiam, Cap Kaki Tiga and Baby Dior. In this discussion, several practitioners shared their experiences in handling the case and the academic gave their opinion on the cases. They also discussed the judge's oddity in analyzing and deciding cases in few cases. This sharing session gave additional knowledge to the practitioners in handling an IPR case. (Source: detik.com)

**6. Workshop "Keep It Real" held by FISIP UI & Microsoft Indonesia**



University of Indonesia and Microsoft Indonesia were collaborated to hold a workshop titled "Keep It Real". The workshop took place in the Auditorium of Faculty of Social & Politics Science of University of Indonesia on March 06, 2014. The Director General of Intellectual Property of Indonesia led the opening ceremony of the workshop.

Microsoft Indonesia delegates Mr. David Finn as one of the speaker of the workshop. The workshop mainly discuss about cybercrime, which consists of hacking and cracking.

The workshop aimed to give better understanding on the Intellectual Property

(IP) matters since IP has become the highlight of everyday life and has been an important element of the development of a nation around the globe. IP has also given significant contribution to the development of the world especially the development of Information & Technology (IT). (Source: detik.com)

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