LEGAL VIEW OF A RESEMBLANCE OF MARKS IN FOOD AND BEVERAGE PRODUCTS IN RELATION TO UNDANG-UNDANG NUMBER 15 OF 2001 ON MARK

ABSTRACT

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Manufacturers that produce goods (foods, beverages, etc.) or services generally use a certain mark. Mark has long been used as a mean of distinguishing one good or service a company produces from another produced by other company of the same kind, or used to make the mark of the produced product. The problems that currently often arise related to mark are the practices of imitation and forgery of trademarks. The practices of imitation and forgery particularly in food and beverage products of course harm not only the businesses that hold a right of the mark, but also the consumers as the users of food and beverage products. Related to that, marks should receive legal protection, therefore, the problem the writer raised in writing this scientific work is, How is the implementation of legal protection on the mark of certain food and beverage products and what is legal action imposed against those who imitate a mark of food and beverage products.

This research was conducted by a descriptive analytical way and juridicial, that is, by providing a description as thoroughly as possible on the existing fact, both in form of secondary data and primary legal material such as Undang-Undang Number 15 of 2001 on Mark, juridicial normative that is secondary data of secondary legal material in form of doctrines, experts, legal opinions, and the findings on works of lawyers and tertiary legal materials in form of data obtained from periodicals and Internet related to this research. The approach method used was juridical-normative, that is, a method where law is conceived as norms, creeds, principles, or dogmas.

Based on the analysis of the data obtained it could be concluded that Article 28 of Undang-Undang Number 15 of 2001 has provided for protection on mark, but in fact resemblances or similarities of marks are often occurring up to now. This is due to the existence of fraudulent competition among those companies that want to take advantage by imitating or pirating marks, particularly well known marks of food and beverage products. Based on the provisions of Article 76 paragraph (1) letter a of Undang-Undang Number 15 of 2001 on Mark, the owner of a registered mark may file a civil lawsuit against those who illegally uses a mark that resembles substantively or wholly with a a product or service of the same kind in form of lawsuit for a compensation.