

Legal Implications of Trademark License Revocation on the Trademark Licensee

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Abstract: The purpose of this research article is to identify and analyze the legal consequences arising from the cancellation of registered trademark rights, as well as to examine the legal protection available to trademark licensees when the original trademark rights have been removed from the General Register of Trademarks. This study employs a normative legal research method, focusing on statutory regulations and judicial decisions. The findings indicate that the cancellation of a registered trademark results in the removal of the trademark from the General Register, the loss of legal protection, legal implications for the licensee, and potential losses for the trademark holder. Legal protection for trademark rights includes sanctions against trademark infringements, which may consist of deletion and cancellation sanctions, compensation, injunctions against further use of the trademark, and additional sanctions, including possible criminal penalties. Liability sanctions are often imposed on trademark registration applicants who have acted in bad faith.

Keywords: Legal Consequences, Trademark Cancellation, Trademark License Holders

1. Introduction

The impact of globalization on all aspects of community life—including social, economic, and cultural dimensions—has significantly accelerated the pace of community economic development. In addition, advancements in information technology and transportation infrastructure have further boosted activities in the trade of goods and services. The principle of good faith is a principle that underlies the law of contracts including in licensing agreements. The role of good faith in the context of licensing can maintain the balance of rights and obligations between the parties in terms of honesty, fairness, and fulfilling the performance of the agreement. Another role of good faith is to prevent misuse of the License Clause, meaning minimizing violations that can harm one of the parties and can be used as a way to interpret ambiguous clauses, in addition to being used to fill legal gaps in a dispute resolution that still has a legal gap. Basically, the principle of good faith plays a vital role in protecting the contractual justice of the licensing system, but the absence of a clear legal definition reduces its certainty. Harmonization efforts are needed between regulations, jurisprudence, and contract practices to minimize this uncertainty.

Companies that produce goods or services often adopt various strategies to expand their businesses, one of which is branding. According to Article 1 Number 1 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, a brand is defined as "a sign that can be presented graphically in the form of images, logos, names, words, letters, numbers, color compositions, in two-dimensional and/or three-

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dimensional forms, sounds, holograms, or a combination of two or more of these elements, to distinguish goods and/or services produced by a person or legal entity in trade."

A sign can only be considered a brand if it meets the essential condition of having sufficient distinctiveness. This means the sign must be capable of distinguishing a company's goods or services from those of other entities. In order to possess such distinctiveness, a brand must provide specificity or "individualization" for the relevant goods or services (Marwiyah, 2010).

A brand is a form of intellectual property that plays a crucial role in supporting business activities in the commercial sector. Products and services require branding to be marketed effectively and efficiently. A brand helps distinguish similar products or services in the market and serves as a tool for gaining market share from competitors. Furthermore, a well-known brand can become a valuable company asset and a source of goodwill. According to Article 35 Paragraph (1) of the Law on Trademarks and Geographical Indications, "Registered trademarks are granted legal protection for a period of ten (10) years from the filing date." Trademark protection is granted only through registration. Therefore, a registered trademark entitles the owner to exclusive rights for ten years, renewable upon expiration. The registered trademark owner may use the trademark directly or grant permission to another party through a licensing arrangement. A license is a contractual agreement between the trademark owner (licensor) and the party using the trademark rights (licensee). Typically, the licensee provides compensation in the form of a licensing fee or royalty. However, the licensee's obligations go beyond merely paying royalties. The licensee is also expected to actively use the licensed rights and maintain the quality associated with the brand. This includes refraining from actions that could cause moral or material harm to the licensor (Widjaja, 2004).

Licensing agreements are a common legal issue in commercial practice and require careful legal consideration. Article 42 Paragraph (3) of Law Number 20 of 2016 stipulates that "A license agreement must be submitted for registration to the Minister by paying a fee." The contents of a registered trademark license agreement must meet the requirements set forth in Article 7 Paragraph (2) of Government Regulation Number 36 of 2018 concerning the Recording of Intellectual Property License Agreements. This provision mandates that the license agreement include, at a minimum: the date, month, year, and place of signing, the names and addresses of the licensor and licensee, the object of the license, the duration of the agreement, the territorial scope, the party responsible for paying the annual fees and

the nature of the license (exclusive or non-exclusive), including any sublicensing provisions. It is important to distinguish between the deletion and cancellation of trademark registrations, even though both result in removal from the General Register of Trademarks. These two legal mechanisms differ in terms of procedure, grounds, process, and timing. Trademark deletion may occur through three mechanisms: on the initiative of the Directorate General of Intellectual Property, at the request of the trademark owner, or at the request of a third party filed with the Commercial Court. Trademark cancellation, on the other hand, may be initiated by an interested party or the owner of an unregistered trademark, provided that an application is first submitted to the Directorate General (OK, 2003).

In terms of grounds, trademark law clearly defines the specific reasons for both deletion and cancellation. Article 20 of Law Number 20 of 2016 prohibits the registration of trademarks under several circumstances, including, if the trademark merely describes the goods and/or services being registered, if it contains elements that may mislead the public regarding the origin, quality, type, size, or intended use of the goods and/or services, if it uses the name of a protected plant variety for similar goods and/or services or if it includes false claims about the benefits, quality, or characteristics of the products or services. Thus, the cancellation of a trademark registration serves as a legal

mechanism to ensure effective trademark protection, prevent unfair competition, and safeguard the rights of business actors who register trademarks in good faith.

2. Materials and Methods

This study employs a normative legal research method. This approach is chosen because the issues discussed focus primarily on written legal sources, which are then compared and analyzed in relation to relevant legal theories and concepts. The research methodology includes both a Statutory Approach, which involves examining laws and regulations, and an Analytical Approach, which entails analyzing legal terminology to uncover the conceptual meaning embedded within legislative language (Ibrahim, 2006). The data collection used includes Document Studies, namely collecting and analyzing primary, secondary and tertiary legal materials, and Legal Literature Searches such as books, articles and academic works related to research topics as well as Library Research that relies on sources from physical/digital libraries.

Primary legal materials include statutory laws, regulations, official records, court decisions, and trial transcripts. Secondary legal materials consist of legal journals, articles, and academic writings relevant to the research topic. Tertiary legal materials involve reference works such as the Kamus Besar Bahasa Indonesia (KBBI), legal dictionaries, and other supporting literature. The Legal Material Search Technique used in this research is based on a literature study, which involves systematically identifying theories, reviewing existing literature, and analyzing documents to extract information pertinent to the research issues. To analyze the legal materials, the study applies two main interpretation techniques: Grammatical Interpretation – This method aims to explain or simplify the meaning of legal provisions based on linguistic analysis, providing a clear understanding of the language used in the articles (Mertokusumo, 2007). It is particularly useful for reviewing statutory language relevant to the research theme. Systematic Interpretation – This technique interprets a specific legal provision in the context of the legal system as a whole, ensuring that the interpretation aligns with the structure and purpose of the entire body of law.

3. RESULTS AND DISCUSSION

3.1 *Legal Implications of the Cancellation of Registered Trademarks*

a. Legal Consequences of Trademark Cancellation

A trademark that has been duly registered in the General Register of Trademarks and meets the legal requirements will receive a certificate of registration, granting the owner exclusive rights (Sujatmiko, 2008), the legal implications of trademark registration include: Creating a single right means that the brand owner is granted separate rights under the law or statute. establishing monopoly rights, which forbid anybody from copying, utilizing, or trading goods and services without the brand owner's consent. Creating the most superior right The doctrine of the most superior rights grants the first registrant the most superior rights. As a result, the owner of exclusive rights to a brand gains precedence over those of other people in terms of protection.

Trademark cancellation refers to the process by which a party requests the removal of a registered trademark from the General Register of Trademarks. Grounds for

cancellation may include claims of invalid registration, nullity, or a revocation lawsuit, a trademark can still be canceled if there is sufficient evidence that the registration failed to fulfill absolute or relative grounds (Jened, 2015).

Articles 76 to 79 of the Trademark and Geographical Indications Law outline the procedures and legal basis for such cancellation in Indonesia. Any interested party may file a lawsuit to cancel a registered trademark on the grounds provided in Articles 20 and/or 21. However, such lawsuits must be filed within five years from the date of registration.

The legal ramifications of this include that the trademark certificate is no longer valid, and the state's protection of the trademark holder is deemed to have ceased. The cancellation of a trademark has legal ramifications for both the trademark owners and third parties, specifically the recipient of the trademark license. The cancellation of trademark registration will result in the termination of the license agreement between the licensor (whose trademark was canceled) and the licensee. The termination of trademark registration leads to the **automatic termination** of the license agreement between the trademark owner (licensor) and the licensee. Although the law provides legal protection for licensees acting in good faith, the concept of "good faith" itself is not explicitly defined in the legislation (Mardianto, 2010). In cases where a cancellation lawsuit is filed during the term of a license agreement—particularly when the trademark is deemed similar in concept or appearance to another—both the trademark owner and the licensee are informed. In such circumstances, the position of the licensee may remain unaffected by the court's decision, as long as the licensee has acted in good faith and the court's ruling has attained permanent legal force.

b. Losses for Cancelled Trademark Holders.

Trademark cancellation will result in losses for the holder of the cancelled trademark. The losses referred to are first, material losses, which are losses that can be calculated numerically and are equal to the nominal sum of money. Second, immaterial losses are moral losses resulting from the trademark holder's efforts to build a brand. With a brand that did not have a reputation at first but was built with great effort and patience in order to gain a good image for consumers who were lost when the brand was cancelled.

According to Law Number 20 of 2016 on Trademarks and Geographical Indications, three parties may request the cancellation of a trademark: (a) As per Article 72 paragraph (1), a registered trademark owner may voluntarily request the Minister to delete their trademark. Based on Article 72 paragraph (6), the Minister may delete a registered trademark *ex officio* if the mark is substantially or entirely similar to: a registered geographical indication, state ideology, law, morality, religion, or public order, traditional cultural expressions or intangible cultural heritage, symbols, names, or logos that are part of hereditary customs.

As stipulated in Article 74 paragraph (1), an interested third party may file a lawsuit in the Commercial Court to cancel a trademark if it has not been used in the trade of goods and/or services for three consecutive years from the date of registration or last use. To ensure legal certainty, third parties acting in good faith who wish to register a similar or identical trademark must have the legal right to pursue the cancellation of the pre-

existing registered mark. According to Article 76 of Law No. 20 of 2016, First, an interested party may file a cancellation lawsuit based on the grounds outlined in Articles 20 and/or 21. Second, the owner of an unregistered trademark may also file for cancellation after submitting an application to the Minister. Third, all such lawsuits must be submitted to the Commercial Court, targeting the registered trademark owner. Under trademark law, any action that imitates, misleads, or uses another person's mark without legal rights is considered infringement. This is classified as unfair competition and is seen as an act of unjust enrichment (Yuhassari, 2004). The cancellation of a trademark has the following legal consequences: the applicable trademark certificate is ruled invalid, and the deletion of a trademark registration from the General Register of Trademarks is notified in the Official Trademark Gazette. Cancellation and deletion of a trademark registration result in the loss of legal protection for the applicable trademark.

3.2 Legal Protection for Brand License Holders Against the Removal of Trademark Rights from the General Trademark Register

a. Legal Protection for Intellectual Property Rights.

Law is created by and for human society (Abdulkadir, 2001), legal protection can be categorized into several forms: a) Making regulations (by issuing rules) aims to provide rights and obligations while also ensuring the rights and subjects of the law. b) Enforcing regulations (by law enforcement) through a) State administrative law, which serves to prevent (preventive) infringement of consumer rights through agreements and supervision. b) Criminal law, which works to overcome (repressive) infractions by imposing criminal punishments and penalties; and c) Civil law, which works to restore rights (curative, recovery, remedy) by compensation or loss.

According to Sudikno Mertokusumo's idea of legal protection, the presence of the law in a society serves as a tool for fostering harmony and order so that people's interests can be upheld in their interactions with one another. Since the law applies to everyone, it has both general and normative content. The former is normative since it establishes what is and is not permitted and how the rules should be followed (Sudikno, 1989). The purpose of legal protection is to obtain real justice, or responsive justice, that accommodates comprehensive legal interests, both criminal and civil, as well as administrative aspects. Therefore, achieving responsive justice requires legal awareness from all levels of society, including government agencies and the community, in order to comply with the law itself. According to Sudikno Mertokusumo, the law seeks to establish order in society in the hope that human interests will be protected in order to achieve its objectives. It is tasked with dividing rights and obligations among individuals in society, dividing authority, and prioritizing the resolution of legal problems and the maintenance of legal certainty. According to Subekti, as described by Sudikno Mertokusumo, the objective of the law is to fulfill the state's purposes, which are to provide wealth and happiness to its people. Maria Theresia Game defines legal

protection as state actions governed by law to ensure certainty regarding individual or group rights (Theresia, 2012).

Protection is an endeavor or type of service that the law offers to legal persons and objects that are protected, according to Salim HS and Erlies Septiana Nurbani. The theory of legal protection examines and evaluates the type, form, and function of protection, as well as the protected legal subjects and objects of protection that the law offers to its subjects (Salim HS; Erlies Septiana Nurbani, 2013), the theory of legal protection comprises the following components: a. the existence of a form, shape, or purpose of protection; b. legal subjects; and c. objects of legal protection (Endang, 2005), a trademark functions as a tool used by producers or owners to protect their products, which can be in the form of goods or services. Trademarks serve several purposes: to distinguish one product from another, to ensure reputation, to establish an emotional connection between producers and consumers, to promote and maintain brand image, and to attract investment—thus supporting industrial growth in both domestic and international markets.

(Gunawati, 2015) offers two justifications for the legal protection of intellectual property rights: First, the non-economic justification emphasizes the need to encourage continuous creativity and innovation. This enhances human self-actualization and contributes to societal development. Second, the economic justification focuses on ensuring creators derive financial benefits from their intellectual works and are shielded from infringement, imitation, piracy, and plagiarism (Phillipus, 1987) legal protection can be categorized as: Preventive legal protection, allowing individuals to submit objections or responses before a government decision becomes final, with the aim of minimizing conflicts. Repressive legal protection, which resolves legal disputes through either the judiciary (general courts) or administrative appeal bodies.

The purpose of repressive legal protection is to settle conflicts. The Court, which falls under the purview of general courts, and government institutions, which are administrative appeal institutions, are the two agencies that currently oversee legal protection for the populace in Indonesia. (Salim HS; Erlies Septiana Nurbani, 2013) If the following conditions are met, protection might be deemed legal: The government provides its citizens with protection, Legal certainty is ensured, and those who abuse citizens' rights face consequences from the law.

This theory of legal protection is central to this study, as it is used to assess how far Indonesian regulations protect the rights of well-known trademarks—brands that are widely recognized by the public. Such protection must consider both the legal framework governing intellectual property and the economic benefits derived by brand owners, ensuring that legal certainty is upheld even in cases of trademark cancellation or revocation.

b. Legal Protection for Registered Trademark Rights

Legal protection for registered trademarks is a key component of the trademark system. It safeguards trademarks from unauthorized and irresponsible parties who may illegally infringe upon them. Trademark violations often occur because infringers believe they can gain instant benefits by exploiting a trademark's reputation. The concept of legal protection for trademark holders is grounded in the principle that trademark rights are exclusive—that is, monopolistic rights that can only be exercised by the rightful owner. No other party may use the trademark without explicit permission. Any unauthorized use constitutes an infringement, which may lead to legal consequences. One of the primary purposes of trademark registration is to secure such protection in the relevant market.

Law No. 20 of 2016 Concerning Trademarks and Geographical Indications simplifies and streamlines the registration process, including the applicant's trademark registration application. At the very least, the applicant's power of attorney can be given to the minister electronically, or non-electronically in Indonesian. It is required to mention the application's time, start date, month, and year. Some of the benefits of trademark protection, including the trademark can produce cash for the company through licensing, sales, and commercialization of protected trademarks; the trademark can boost value or guarantee in the eyes of investors and financial institutions; The sale or merger of brand assets can greatly raise the company's worth; the trademark improves performance and competitiveness; and trademark registration helps protect and enforce its rights (Tommy, 2018).

Legitimate trademark owner also receive civil legal protection. If a lawsuit is filed, the goal is to gain compensation and the termination of all acts relating to the use of the trademark. The complaint is filed in a business court, with the applicant's full identify disclosed. Similarly, if the applicant is represented by an attorney, provide the name and address of the attorney. If the program contains color elements, include the color as well. Similarly, the name of the country and the date of the trademark application, as well as a description of the type of goods or service, must be accompanied by a brand label and confirmation of payment of fees.

According to Roscou Poun, the law's objective is to safeguard human interests. Human interests are a demand that must be protected and met by humans in the legal system. Human interests protected by law are classified into three types: (Muhammad Sadi Is, 2015) first, public interest (public interest), which prioritizes the interests of the state as a legal entity in maintaining its personality and substance, as well as the interests of the state in maintaining societal interests. Second, social interest prioritizes societal interests (social interests) that are legally protected, which include societal interests for public safety, such as security, health, and welfare, transaction guarantees,

and income. For social institutions, including marriage protection, politics, such as free speech, and economy. Corruption, gambling, blasphemy against God, the invalidity of transactions that violate good morals, or restrictions that limit the conduct of trust members are examples of a morally decaying society. The interests of society in preserving social resources, such as refusing legal protection for violations of rights.

The general public's interest in advancements like industrial freedom, free commerce and monopoly, property rights protection, and new discoveries (including intellectual property rights, in this case trademark rights). Public interest in individual human life, including freedom of speech, choice of office, and the preservation of a decent existence. Personality interests, such as the preservation of one's physical integrity, freedom of will, reputation (good name), assurance of one's personal secrets, freedom to practice one's religion, and freedom to speak one's thoughts, are the three private interests that require legal protection. interests in relationships at home. Substantial interests include property protection, freedom to create testaments, freedom of industry and contract, and legal expectations of advantages received. The aforementioned legal objectives demonstrate the existence of legal protection for registered trademark rights holders after going through several trademark rights registration application processes, beginning with the application, examination, announcement, and receipt of the trademark rights certificate, so that a person's trademark rights are listed in the General Trademark Register, which is part of the legal objectives themselves. As a result, in order to ensure that the desired legal objectives in trademark rights protection are met, the government enacted Law Number 20 of 2016 respecting Trademarks and Geographical Indications, which established laws and regulations. The framework for attaining legal objectives must provide more than just procedural justice; the law must be competent and fair, allowing it to recognize the demands of the community or public while also committing to substantive justice.

Thus, trademark rights are protected under Article 35 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, which states that registered trademarks receive legal protection for ten (ten) years from the date of receipt, and that the protection period referred to in paragraph (1) can be extended for the same period. The application for extension referred to in paragraph (2) is submitted electronically or non-electronically in Indonesian by the trademark owner or his/her attorney within 6 (six) months before to the end of the registered trademark owner's protection period, subject to a fee. The application for extension referred to in paragraph (2) may still be submitted within 6 (six) months of the end of the registered trademark's protection period, subject to a charge and fine equal to the extension fee. The purpose of legal protection for registered trademark holders is to ensure the creation of existing legal objectives in Indonesia, including to protect the interests of the state, society, and

individual holders of registered trademark rights, then to regulate and create orderly trade activities related to trademark rights, so as to achieve justice for the community of trademark holders, and guarantee the rights and obligations of holders of registered trademark rights.

c. Legal Defense for Trademark License Holders

Traditionally, indigenous Indonesian communities did not view intellectual creations as property and often lacked awareness of abstract concepts such as intellectual property rights. However, in the modern era, the protection of intellectual property—particularly trademark rights—has become an essential tool for economic development.

Under Law Number 20 of 2016 concerning Trademarks and Geographical Indications, the Directorate General of Intellectual Property Rights (DGIPR) is authorized to delete registered trademarks either at the request of the trademark owner or on its own initiative. If the trademark owner disagrees with the deletion, they may file an objection with the Commercial Court. Should the court's decision still be unsatisfactory, the owner may pursue a cassation appeal to the Supreme Court. The deletion of a registered trademark is recorded in the General Trademark Register and announced in the Official Trademark Gazette. Subsequently, the trademark owner or their attorney is notified in writing, including the reasons for deletion and a statement that the trademark certificate is no longer valid as of the date of deletion.

However, if the trademark is still under a valid license agreement, deletion may only proceed with the written approval of the licensee. A registered trademark may also be subject to cancellation through a civil lawsuit, which must be filed within five (5) years of the trademark's registration. Such lawsuits are filed with the Commercial Court, particularly when the trademark is believed to violate religious morality, public decency, or public order. Marks that offend public or specific group sentiments, morality, peace, or religious values may be considered contrary to these principles (Simatupang, 2003).

Articles 72 to 75 of Law No. 20 of 2016 regulate trademark deletion, while Articles 76 to 79 address cancellation. Furthermore, sanctions for trademark infringement may include compensation and the cessation of all activities related to the unauthorized use of the trademark. According to Article 83(1), both the registered trademark owner and licensee have the right to file a lawsuit against any party infringing on their rights. Under Article 84, the plaintiff may request the court to order a temporary halt to the production, distribution, and/or sale of infringing goods or services while the case is under investigation to prevent further losses. If found guilty, the defendant must surrender the infringing goods. The court may also order that the goods or their monetary equivalent be handed over once the verdict has permanent legal force.

To further strengthen protection, the law also imposes criminal sanctions for trademark infringement, particularly when such violations pose threats to human health, public safety, or the environment. These criminal penalties include imprisonment and higher fines due to the economic significance of trademark-related

violations. Article 102 states that: "Any person who trades goods and/or services that are known, or reasonably should be known, to originate from a criminal act as referred to in Articles 100 and 101 shall be subject to imprisonment of up to one (1) year or a fine of up to IDR 200,000,000 (two hundred million rupiah)." In essence, various sanctions can be imposed for trademark violations, including compensation, deletion or cancellation of trademark rights, injunctive relief, additional administrative penalties, and criminal prosecution. This legal framework provides comprehensive protection for both trademark owners and licensees. As such, trademark owners may request the Directorate General of Intellectual Property Rights to delete their trademark registrations in whole or in part for specific goods and/or services, in accordance with applicable legal provisions.

4. Conclusions

Based on the explanations presented in the previous chapters, the cancellation of a registered trademark entails several legal consequences: the trademark is removed from the General Register of Trademarks, legal protection is terminated, the licensee of the trademark may face legal repercussions, and the owner of the cancelled trademark incurs losses. Legal protection for trademarks is manifested through sanctions imposed on violators, which include deletion and cancellation sanctions, compensation, cessation of all acts related to the unauthorized use of the trademark, as well as additional sanctions that may involve criminal penalties. The most common sanctions are imposed on applicants who file for trademark registration in bad faith. There are several Policy Recommendations to improve the guarantee of legal certainty for license holders, namely by adding clear implementing regulations for both contract standards and sanctions for violations of good faith, improving the function of DJHKI in the form of an open license database, if viewed from the courts, then there should be a Simplification of the Evidence Process, formulate Standardization of Interpretation of License Clauses and Recognition of License Holder Rights with Supreme Court Decisions.

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