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BRAND REGISTRATION PROCEDURE AND PROCESS TS DESSERT CASTLE AS A LEGAL PROTECTION OF INTELLECTUAL PROPERTY

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Abstract

The article entitled TS Dessert Castle Mark Registration Procedure and Process as an Effort to Protect Intellectual Property Law is motivated by the presence of increasingly creative and mushrooming businesses in Indonesia. These businesses are growing rapidly, one of which is the cafe business. A cafe is a place that is usually used to enjoy food and drinks, but each comes with its own uniqueness. This uniqueness can be an identity that distinguishes one cafe from another. This identity is also expressed in a brand. Trademarks should have legal protection. Therefore, the author would like to reveal the procedures and process of trademark registration for cafe business actors in Batam City, which in this case is together with one of the business actors named TS Dessert Castle. Where Batam City is a potential area so that currently there are many cafe businesses that stand in the city. This study aims to produce an understanding or education about the importance of registering a trademark for Batam City cafe business actors. Based on the results of the study, it can be concluded that Indonesia itself actually already has regulations regarding trademark protection, namely the Trademark Law No. 20 of 2016. Further studies are needed on trademark registration research in the form of case studies so that it can be used as a reference for other business actors, regarding the importance of registering brand.

Keywords: Brand, Cafe, Registration

Introduction

Currently, the human mindset to run a creative business is one form that is being loved by beginners, especially the younger generation. A creative business is a business that does not only rely on a product, but must contain an element of creativity as innovation in selling a product. Creativity itself is the ability to find solutions to innovative problem solving. Creative business itself is synonymous with originality, so to emerge as a "winner" in the competition between business actors, one must find something that has not been discovered or developed by other business actors. As time goes by, creative businesses are increasingly successful in attracting the interest of business activists to transform and start their business. One type of business that is mushrooming in a place called a cafe. Cafes are synonymous

with places to eat or drink and at the same time offer different attractions to each visitor. This is manifested by mainstay menus, snacks that appeal to the eye and tongue, interior layout, service, entertainment, cafe themes, to other unique features that make visitors feel at home visiting the cafe. The majority of cafe fans are young people who need a communal space or gathering space to discuss or simply enjoy the menu offerings offered in each cafe. At the beginning of its appearance, the cafe was intended as a place to eat and drink only. However, now the cafe has changed its function to fulfill the needs of young people as part of a modern lifestyle. So do not be surprised, if in an area there are various kinds of cafes that line the streets. Or it can be said that the cafe business competition will be getting tougher.

Therefore, most of the cafes decided to take promotional steps that were tailored to the characteristics of cafe visitors, namely through promotions on social media. Each cafe usually has a business account that is linked to several social media with the aim of being accessible to anyone. In fact, it is not uncommon for some cafes to be willing to spend on advertising on social media to get attention and build brand awareness by social media users. As a business actor in running his business, sometimes he does not pay attention to the importance of protecting the brand, namely the name of the cafe. A brand is a name, term, sign, symbol, or design, or a combination thereof, which is designed to identify the goods or services of one seller or group of sellers and to differentiate them from those of competitors. Brand as an asset that forms value for consumers that can be built by increasing satisfaction and respecting quality. The existence of a brand allows business actors to maintain the quality of their products (a guarantee of quality) and anticipate brand claims that may be made by other parties. The use of brands can also be used to develop marketing plans so that business actors can convey product information to potential consumers. Because the brand is one of the most important things in marketing a business product. The difference between a product and a brand. Products are things that are mass produced or in the manufacturing process made in the same place on a certain scale. While a brand is something that is bought by consumers, has certain values and characteristics, where its existence is protected by law. Therefore, the brand as a cafe identity can affect the perception of cafe visitors to the products they buy. The government also sees this as an important element in business continuity. This is regulated in the Trademark Law No. 20 of 2016 which was previously in the form of Law No. 15 of 2001 concerning the procedure for registering trademarks and services. Given the importance of the brand for the sustainability of the cafe business, it is fitting for every cafe brand to receive legal protection. As is the case with the cafe business that takes place in Batam City. Batam City is the largest city in the Riau Islands Province with a variety of potential contained in it. The city, which is located adjacent to Singapore, has become the center for the development of the domestic electronics industry. In addition, Batam City also has a number of tourist destinations that invite travelers to stop in this city. This is seen as an opportunity by business people to set up a cafe business. It is certain that every cafe business in Batam City will carry out marketing activities and publish their trademarks. However, it is known that not all cafes that operate have registered their brands with the relevant legal agencies. This has the potential to bring about disputes, disputes, or cases that can be withdrawn

as legal issues. Based on the background above, the authors set a research entitled "Procedures and Process of Registering the TS Dessert Castle Mark as an Effort to Protect Intellectual Property Law". In this case, the author also participates in assisting TS Dessert Castle to register his trademark, as a business actor who has a cafe located in Perum. Legend of Malaca Blok A6 No.01, RT/RW 001/003, Baloi Permai, Batam City District, Batam, Indonesia. This study aims to provide solutions to cafe business actors in Batam City on brands and provide education to creative business people about the importance of registering brands as an effort to get legal protection. Based on the description of the background above, there are two formulations of the problems that will be discussed in this paper. The formulations of these problems are: 1) Policy towards the public regarding provisions on trademark registration and rights acquired; 2) Procedure and process of trademark registration for TS Dessert Castle.

Methods

A Research requires a research method as a way of observing or researching a research phenomenon. The research method is a method used to collect data in accordance with the research objectives initiated by the researcher.⁴ So that the keywords that need to be considered in conducting research are scientific methods, data, objectives and benefits. In short, the research method is a technique of collecting data that will be used to answer research questions or provide research solutions. This research uses methods commonly used in activities that have problems concerning the interests of the community. In this study, these problems can be solved through synergism with universities. In this study, the researcher wants to be able to contribute to the community, in this case the cafe businessman, namely TS Dessert Castle, in providing consultation on the methods and procedures for registering cafe trademarks in Batam City and assisting in registering his trademark.

Result and Discussion

1.1 Policy towards the public regarding the provisions on trademark registration and the rights obtained.

Trademark registration has successfully become a highlight which is discussed in several scientific reference works. It is stated that trademarks and services are part of the Intellectual Property Rights. Intellectual Property Rights are classified as individual property rights, namely intangible rights. In connection with the term IPR is "Intellectual Property (IP)". In Indonesia, the abbreviation HKI is no longer used, but rather refers to "KI" because it follows the legal terms applied in other countries. The mark itself is used in IP as a marker or differentiator regarding the origin of a good or service from that produced by another company. Quoting from Law Number 20 of 2016 marks themselves are grouped into two types which include: (1) Trademarks, are marks used on goods traded by a person or group of people together or by legal entities to distinguish them from other similar goods. . (2) Service Mark, is a mark used for services traded by a person or several persons jointly or by a legal entity to distinguish them from other similar services. In addition to what is

stated in the law, the mark is used by entrepreneurs to ensure that their products are worthy of respect, are worthy of consumption, and are the face of the company. Because directly the brand is a representation of the company built by business actors, including the cafe's creative business. By having a brand, a cafe can freely develop its business products without worrying about legal threats that may befall the business in the future. It is important for business owners to register their trademarks before this happens. If cafe business actors do not register their trademarks, it will open up potential losses in the midst of increasingly fierce business competition. Although the cafe is classified as a creative business, it is not impossible that there are new business actors who imitate or copy the identity that has been built by a cafe. In relation to such as the identity of the logo, the name of the cafe, the colors listed in the logo of the cafe, to the slogan carried by the cafe as an identity. Trademark protection in Indonesia is based on a trademark registration system called the first to file principle or constitutive or in other words, the registration stage is the earliest stage in the trademark registration process. Every business actor is required to register as an obligation to obtain trademark rights. Registration is treated as a sign that business actors want to get legal protection from the state so that if they don't do this, then the mark they own will not get protection. The registration of the mark through the Directorate General of Intellectual Property Rights is part of the Ministry of Law and Human Rights of the Republic of Indonesia. The registration procedure itself is regulated in Articles 4 to 8 according to Law Number 20 of 2016 concerning marks. In paragraph 1, business actors are required to state the date, month and year of the application; the full name, nationality and address of the applicant; full name and address of the proxy if the application is submitted through a proxy; color if the trademark for which registration is being applied uses color elements; the name of the country, and the date of the first request for the mark in the case of an application with priority rights for the class of goods or class of services, along with a description of the types of goods and or types of services. After completing the registration requirements, you can proceed to the substantive stage. At this stage, a number of tests are carried out on marks that have been registered in the previous stage so that, if the mark has passed during the inspection, it will receive approval from the Director General of Intellectual Property Rights. Then the results of the selection will be announced in the brand's official news. In the substantive examination stage, the submitting party can file a statement of objection. However, if there is no objection from the applicant, it will proceed to the next stage, namely the certification stage. In this stage, business people get a trademark certificate which is used as proof of trademark ownership, which is a special or exclusive right granted from the state to business owners for the marks that have been built so far. The mark is regulated for a certain period of time which is used for its own business purposes or can be used by others with the permission of the brand owner. If this certificate is not taken within 18 months of the certificate being issued, the DJKN has the right to delete the registered mark or the certificate is withdrawn. By going through these stages, business people have absolute rights to their

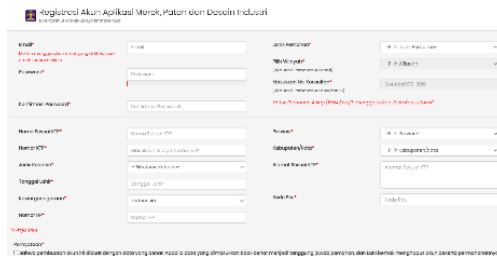
brands. Because in the discussion of civil law, a mark has a material nature so that it can provide benefits in the form of royalties, including economic rights and moral rights owned by business actors over the marks they own.

1.2 Procedure and process of trademark registration against TS Dessert Castle.

Currently, the era has entered the era of digitalization where all things related to administration can be done only through mobile devices. Included in the online trademark registration organized by the DJKI Kemenkumham. In this case, together with one of the business partners known as TS Dessert Castle, they are willing to be assisted in registering the mark. A business owner named Yanni Elviani Sumbani who has been running his business for about 3 years online and also a cafe located in Legenda Batam.

The stages that must be passed are:

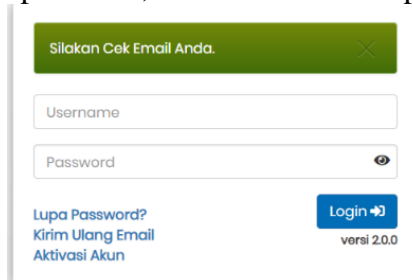
- (1) Register an account at the brand.dgip.go.id link. If you don't have an account on the website, then the business actor can start creating an account first.



- (2) Then wait for account activation.



- (3) Enter username and password, then select online application.



(4) Click add to create a new registration application.



(5) Order the billing code by filling in the type, type, and class selection.



Konfirmasi

Apakah data yang Anda isi sudah benar? Tipe permohonan akan mempengaruhi pencarian uraian barang/jasa.

Tidak

Ya

(6) Make payments according to the bills listed on the SIMPAKI application.

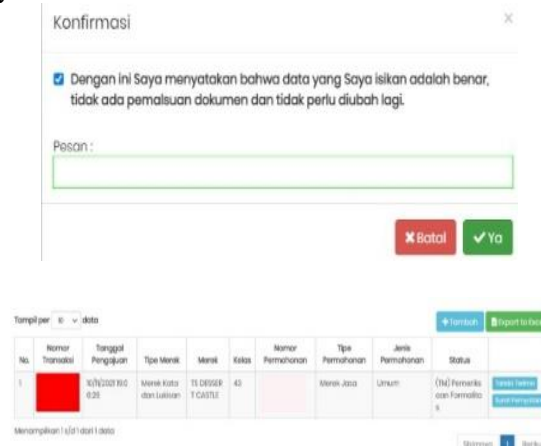
DIREKTORAT JENDERAL KEKAYAAN INTELEKTUAL SURAT PERINTAH PEMBAYARAN MEREK DAN INDIKASI GEOGRAFIS	
Permohonan Pendaftaran Merek yang diajukan oleh: Umum Secara Elektronik (online)	
NOMOR PEMBAYARAN	:
NAMA PEMOHON	: YANNI ELVIANI SUMBANI
ALAMAT PEMOHON	:
PROVINSI	: KEPULAUAN RIAU
KABUPATEN/KOTA	: KOTA BATAM
KECAMATAN	: BATAM KOTA
EMAIL PEMOHON	: Ts.dessertcastle@gmail.com
NOMOR HP	:
TANGGAL TRANSAKSI	: 01-11-2021 12:38:52
TANGGAL EXPIRED (PEMBAYARAN TERAKHIR)	: 08-11-2021 12:38:52
TAGIHAN	: Rp.1.800.000,00
STATUS	: Belum Bayar

(7) Fill out the form and be careful.

(8) Complete all necessary data to fulfill registration requirements in the form of: brand label, applicant's signature, certificate of UMK (if the cafe business actor is still in the micro or small business stage).



- (9) If all the requirements have been completed and the form has been filled in then click finish. The application has been successfully made and will be accepted by DJKI.



The image shows a confirmation dialog box titled 'Konfirmasi' with a close button (X). It contains a checked checkbox and the text: 'Dengan ini Saya menyatakan bahwa data yang Saya isikan adalah benar, tidak ada pemalsuan dokumen dan tidak perlu diubah lagi.' Below this is a text input field labeled 'Pesan:'. At the bottom are two buttons: 'Batal' (Cancel) and 'Ya' (Yes).

Below the dialog box is a table with the following data:

No.	Nomor Trademark	Tanggal Pengajuan	Tipe Merek	Merek	Kelas	Nomor Pendaftaran	Tipe Pendaftaran	Jenis Pendaftaran	Status
1	[REDACTED]	10/12/2021 10:42:29	Merek Kata dan Lukisan	TS DESSERT CASTLE	43	[REDACTED]	Merek Jasa	Utama	(TM) Permarka aan Farmasika

Given the geographical distance of Batam City with the center of government and cafes in Batam City, the majority are in tourist destination areas, so that it will make it easier for cafe business people. Besides being practical, registering online also tends to be systematic because the website created by DJKI is designed with a simple interface so that trademark registration can be reached by all levels of society. Both small, medium and large businesses. All have equal rights in the eyes of the law. In this study, researchers can act as parties who are consulted by local businesses regarding the requirements that must be completed when filling out the online registration form. Researchers also provide education in the form of legal views about the importance of trademark registration for the convenience of doing business. So it can be concluded that researchers can help one of the cafe business actors, namely TS Dessert Castle and provide education about the importance of registering their trademark. It is hoped that other business actors will also take the same steps. In order to achieve security in conducting business activities.



Conclusions

Trademark registration is an activity that must be carried out in an effort to do business with fair competition. Trademark registration is also used as protection of a brand in creative business competitions. With a guide on how and procedures for registering a trademark, it can help cafe business people in Batam City. Business

actors feel facilitated by the explanations presented in this study. Business people who initially did not understand the importance of trademark registration became aware that trademarks were likened to an asset of a business. Where an asset can express economic value that supports business continuity for a certain period of time. This study reveals the procedures, methods, and urgency of trademark registration for cafe businesses in Batam City, especially TS Dessert Castle. Further studies are needed regarding research on trademark registration in the form of case studies so that they can be used as references for other business actors regarding the importance of registering trademarks. The researcher also thanks those who have played a role in this research activity and do not forget the cafe business people in Batam City.

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