

The Legality of The Use of The Pertamina Logo in Denpasar in The Perspective of Law Number 20 of 2016 About the Brand and Geographic Indications

Ni Made Puspasutari Ujianti¹, A A Sagung Laksmi Dewi², Luh Putu Suryani³
{puspa.niwapong@gmail.com}

Universitas Warmadewa, Denpasar-Bali, Indonesia¹²³

Abstract. The increasing number of motorcycle users in Indonesia, especially in the city of Denpasar, has also resulted in the use of fuel oil which is better known as "BBM" also continues to increase. The very high demand for fuel is considered a promising business opportunity and can provide huge profits. The desire of business actors to gain greater profits has resulted in business actors doing many things, including supporting the big name of PT. Pertamina in its business activities. Business actors do many things to get more profit by using the logo belonging to PT. Pertamina, to lure consumers to buy their BBM, this is what makes Pertamina business actors commit a violation, for example in Denpasar City there are still many Pertamina business actors who use the PT. Pertamina in its business activities, by using the logo belonging to PT. Pertamina illegally can result in legal consequences, because the logo belonging to PT. Pertamina has been registered and cannot be used by any party without the permission of the brand owner. Pertamina's logo and colors are patents owned by PT. Pertamina, the Pertamina logo has been registered with the Directorate General of Intellectual Property (Ditjen KI) of the Ministry of Law and Human Rights (Kemenkumham) and has been officially registered on December 10, 2005. The cause of the use of the PT logo. Pertamina by retail fuel business actors Pertamina is for profit due to the lack of understanding of the people who think that Pertamina is a subsidiary of PT. Pertamina, not strictly speaking PT. Pertamina in taking action against business actors who use the PT. Pertamina without any cooperation in distributing fuel oil.

Keywords: legitimacy; logo; pertamini

1 Introduction

Denpasar City is the capital city of Bali Province which has an area of 12,778 Ha (2.18% of the island of Bali), with 4 (four) sub-districts, 27 villages and 16 urban villages, with a population of 930,600 people, a population density of 7,282.82. /km². Denpasar is the largest city in the Nusa Tenggara Islands and the second largest city in Eastern Indonesia after

Makassar. The growth of the tourism industry on the island of Bali encourages Denpasar City to become a center of business activity, and places Denpasar City as an area that has per capita income and high growth in the Province of Bali.

This of course has an impact on the number of motorized vehicles, both private vehicles and public vehicles owned by residents of Denpasar City. With the increasing number of motorcycle users in Indonesia, especially in Denpasar City, the use of fuel oil, better known as "BBM" also continues to increase. The very high demand for fuel is considered a promising business opportunity and can provide huge profits. The desire of business actors to gain greater profits has resulted in business actors doing many things, including supporting the big name of PT. Pertamina in its business activities.

Business actors do many things to get more profit by using the logo belonging to PT. Pertamina, to lure consumers to buy their BBM, this is what makes Pertamina business actors commit a violation, for example in Denpasar City there are still many Pertamina business actors who use the PT. Pertamina in its business activities, by using the logo belonging to PT. Pertamina illegally can result in legal consequences, because the logo belonging to PT. Pertamina has been registered and cannot be used by any party without the permission of the brand owner.

Pertamina's logo and colors are patents owned by PT. Pertamina, the Pertamina logo has been registered with the Directorate General of Intellectual Property (Ditjen KI) of the Ministry of Law and Human Rights (Kemenkumham) and was officially registered on December 10, 2005.

Based on the explanation of the background, the writer formulates the problem as:

- a. What is the legitimacy of using the Pertamina logo on retail fuel oil sellers?
- b. What are the factors that cause retail fuel selling business actors to use the Pertamina logo?

2 Research Methods

In accordance with the problems posed, the type of research used in this paper is empirical juridical which in other words is a type of sociological legal research and can also be referred to as field research, namely examining applicable legal provisions and what is happening in reality in society. In this study, the sociological approach of law is used, meaning that in examining the problems raised with facts that are supported by a juridical approach, in other words, in examining the problems studied based on facts in the field and supported by scientific disciplines and regulations that exist in relation to the problem. will be discussed. The approach to law is research on legal products.

Conceptual approach, research on legal concepts such as sources of law, legal functions, legal institutions, and so on. Primary data in this study is data generated through direct interviews with informants, primary data in this study obtained through in-depth interviews (dept interview) to PT. Pertamina, the Department of Industry and Trade of Denpasar City, and the Regional Office of the Ministry of Law and Human Rights of Bali Province. Secondary data is data obtained through literature study in the form of written materials such as textbooks, laws and regulations and data from the agency or institution where the research is related to the problems discussed in the research. Data collection techniques with interviews and documentation.

After the required data is collected, then the data is then processed and analyzed using qualitative data processing techniques. Qualitative data processing is meant to process data according to the facts that occur in the field with quality in the form of sentences that are regular,

logical, coherent and not overlapping which will facilitate understanding and interpretation of the data.

3 Results and Discussion

The Legality of Using the Pertamina Logo on Retail Fuel Oil Sellers Regarding the company logo, there are two important things, namely the protection of trademark rights and protection of copyrights.

Based on the definition of a brand in Article 1 number 1 of Law Number 20 of 2016 concerning Marks and Geographical Indications, it can be seen that the logo is one of the brand displays. A mark is a sign that can be displayed graphically in the form of an image, logo, name, word, letter, number, color arrangement, in the form of 2 (two) dimensions and/or 3 (three) dimensions, sound, hologram, or a combination of 2 (two) dimensions.) or more of these elements to distinguish goods and/or services produced by persons or legal entities in the activities of trading goods and/or services.

The trademark rights to the company logo can be registered with the Directorate of Marks and Geographical Indications, the Directorate General of Intellectual Property, the Ministry of Law and Human Rights to obtain the protection of their trademark rights. It can be interpreted that a registered mark can only be used by the trademark owner/registered mark holder or other parties with permission. Not registered in Indonesia or based on a written agreement in accordance with the laws and regulations to use the registered mark or what is commonly referred to as a license. Illegal use of a registered mark without permission from the trademark owner may be subject to criminal sanctions.

According to Sularko, et al, logo or corporate identity is a sign that does not directly sell but gives an identity which in the end is a significant marketing tool, that the logo is able to help distinguish a product or service from its competitors (Sularko, et al, 2008; 6). Logos are usually used by many companies as symbols that are easy to remember by the public and also have meaning for the company itself. The Pertamina logo from time to time has changed many times, the first Pertamina logo established through Government Regulation (PP) No. 27 of 1968 concerning the Establishment of the National Oil and Gas Mining Company (PN. Pertamina) is a symbol of two seahorses facing each other flanking a star, using the dominant colors blue, red and yellow.

Blue color means reliable, trustworthy and responsible. The philosophy or meaning of the symbol contained in each element of the Pertamina logo is that the first is a five-pointed star which means power, energy, or the driving force of enthusiasm in carrying out the task to achieve what is a goal. national ideals, the second is the sea horse which is a symbol of fossils containing oil and has a large source of energy or life force, and the last is the ribbon/banner) which symbolizes the bond that raises unity and determination of company commitment And the colors in the logo have their respective meanings, namely the red color which means tenacity, firmness as well as the courage of the Pertamina company in facing the various difficulties encountered later, the yellow color is a symbol of the noble ideals of the Pertamina company to be achieved through a process of perseverance. and full of confidence, and the blue color is proof of loyalty and respect for the homeland, the state foundation of Pancasila and the basis of the symbol of the 1945 Constitution of the Republic of Indonesia.

Then in 2005 the Pertamina logo underwent a change, precisely on December 10, 2005 at 16:30 WIB, the Pertamina company inaugurated the change of the Pertamina logo to the letter "P" and was officially registered with the Creation Registration Letter No. 028344 .dated

October 10, 2005 at the Directorate of Industrial Design Copyrights, Layout Designs of Integrated Circuits and Trade Secrets, Ministry of Law and Human Rights of the Republic of Indonesia.

The retail fuel oil (BBM) business activities they run use a registered logo belonging to PT. Pertamina, based on interviews with several Village Heads and Lurah in Denpasar City, Mr. I Komang Adi Widiantara as Head of Tegal Harum Village, West Denpasar District, Mr. I Wayan Ariyanta, SH., as Head of Ubung Village, Mr. I Made Paramita, as Village Head Peguyangan Kaja, Mr. I Made Sudana, as Head of Sanur Kaja Village, Mr. I Made Ada, as Head of Sanur Kauh Village, explained that Pertamina did not get a business permit from the village, but there were some villages that gave recommendations for business permits, but not for Pertamina sales but for the store business.

Based on information from Ms. Nyoman Suryani, SE as a representative of Disperindag, on May 7, 2021, stated that "Disperindag has never carried out inspections on Pertamina business actors even though they are illegal, because that is Pertamina's authority." Please note that the registered logo cannot be used by anyone unless permission is obtained from the brand owner in this case, namely PT. Pertamina. The use of the official logo belonging to PT. Pertamina without permission from the brand owner may be subject to criminal sanctions. Pertamina uses the logo or symbol of Pertamina with reckless capital without a permit and Pertamina is also an illegal business because of the absence of a business license. Legally the Logo belongs to PT.

Pertamina is a logo that has been registered and has been officially ratified on October 10, 2005 at the Directorate of Copyright, Industrial Design, Layout Design of Integrated Circuits and Trade Secrets, Ministry of Law and Human Rights of the Republic of Indonesia. Indirectly, business actors selling Pertamina's Fuel Oil (BBM) have caused losses to Pertamina and consumers. In this case, consumers are harmed because the safety standards provided by Pertamina business actors do not meet SNI (Indonesian National Standards) which can be fatal, namely fires and fuel oil (BBM) sold by Pertamina is not guaranteed for its quality, some even reduce the amount for more profit.

And if viewed from the material side, Pertamina was deprived of its rights by Pertamina because it used the trademark rights owned by PT. Pertamina, while morally, the public will assume that Pertamina has a cooperative relationship with Pertamina because it uses a logo from Pertamina which will tarnish the name of Pertamina's company as a large international company.

Unit Manager Communication and CSR Mor IV Andar Titi Lestari said that: "Pertamina does not have a permit from Pertamina. According to the regulations, downstream oil and gas business activities must obtain approval from the government. Oil and Gas Law Number 22 of 2001 states that business entities can carry out downstream business activities after obtaining permission from the government. The business license includes processing, transportation, deviation, and trading. All business license points have a charge but market fuel oil (BBM), will be fined with a value of Rp 30 billion". (M.AdamSamudra, 2018)

So, in this case Pertamina is prohibited from using the official logo belonging to PT. Pertamina in its business activities. The legality of the use of the company logo of PT. Pertamina (Persero) against the logo of Pertamina's fuel oil seller trading business is not legally valid and is a violation in which Pertamina does not have permission from PT. Pertamina to use the logo and the official logo belonging to PT. Pertamina (Persero) has been registered with the Directorate General of Intellectual Property which can only be used by the brand owner and cannot be used by anyone unless obtaining permission and a written agreement (license) from the brand owner and if anyone uses the official logo belonging to PT. Pertamina may be subject to criminal sanctions.

Factors Causing Retail Fuel Selling Business Actors Using the Pertamina Logo

In carrying out their business, the Pertamina trading business actors use the official logo belonging to PT. Pertamina, based on several factors, namely:

Business Actor's Intentional Use of the official logo belonging to PT. Pertamina by the Pertamina fuel oil (BBM) trading business actors are motivated by various factors, one of which is the intentional factor of business actors. The fact that happened in the community, the use of the logo belonging to PT. Pertamina by business actors is carried out intentionally and consciously by business actors.

This is illustrated by the results of interviews with several business actors who run their businesses in the Denpasar City area. One of them, the interview the author conducted with Mr. Sujibno on May 5, 2021, regarding the use of the logo in Pertamina's trading business, that Mr. Sujibno knew the logo used in his Pertamina trading business was the official logo of PT. Pertamina. If you look at the facts that occurred based on the results of interviews that have been carried out, then the actions taken by these business actors are carried out intentionally and have their respective goals to be achieved.

The desire of Pertamina's Fuel Oil Trading Business Actor to Get Profit/Profit The business actor's intention to use the logo belonging to PT. Pertamina in its business activities is also driven by various other factors, one of the factors that drives the intentionality of these business actors is the desire of business actors to obtain profits/profits, this is obtained from the results of interviews with several Pertamina business actors, through interviews on 5 May 2021, as one of the shop owners, Mr. Assyarif revealed that this was done in order to increase the profits obtained from the use of the logo belonging to PT. the Pertamina.

Low level of knowledge of Consumers and Business Actors Consumers and Business Actors are the most important parties in conducting a business activity. Everything about business activities involves both parties. The use of the logo belonging to PT. Pertamina by Pertamina Business Actors that occur in the community are strongly influenced by the level of knowledge possessed by Consumers or Business Actors. Knowledge is defined as information that a person has in a specific field.

In this case, which affects the occurrence of the use of the logo belonging to PT. Pertamina by Pertamina Business Actors is public knowledge regarding information related to the use of the Logo or Mark. There are still many people who do not know about the regulations governing logos or brands, this recognition has been found several times in interviews with consumers and business actors, one of which is the confession given by Mr. Jazuli relating to regulations regarding the use of logos. The reason these business actors create a brand or in this case a logo similar to "PERTAMINA" is of course hoping that with this similarity they can earn big profits without spending big on promotions to introduce their production. This is because consumers can be fooled by the similarity of the brand.

4 Conclusion

The legitimacy of the use of the PT. Pertamina (Persero) against the logo of the fuel oil seller trading business is the company logo that has been registered only to be used by the brand owner or other parties based on a written agreement (license) and the use of a registered mark without legal rights, the use of the mark can be subject to criminal sanctions.

In this case, the business actors selling Pertamina's Fuel Oil (BBM) committed a violation and did not have the right to use the logo belonging to PT. Pertamina because there is no permit from Pertamina. Pertamina has the right to prohibit anyone from using the same mark as its

registered mark and can file a lawsuit against Pertamina in accordance with Article 83 of Law Number 20 of 2016 concerning Marks and Geographical Indications.

Factors Causing Retail Fuel Selling Business Actors Using the Pertamina Logo is the intentional factor of business actors to increase profits, because consumers assume that Pertamina is a subsidiary of PT. Pertamina. Besides that, there is also a low level of consumer knowledge and the desire of consumers to avoid queues when buying fuel oil at gas stations. And the absence of firm action from the government in this case PT. Pertamina in taking action against business actors who do not have a cooperative relationship with PT. Pertamina in distributing fuel oil.

References

- [1] Kota Denpasar Dalam Angka 2019, www.denpasar.bps.go.id.BadanPusatStatistik
- [2] Sularko, dkk, 2008, How To They Think.
- [3] <http://www.wordpress.com> : How to Design Trademarks and Logo.html
- [4] Portal informasi hak kekayaan intelektual, <http://www.hki.co.id/merek.html>, diakses pada Tanggal 10 Mei 2021.
- [5] M.AdamSamudra, 2018,AdaPertaminiGunakanLogoPertamina,Ini Jawaban Pihak Pertamina, [https://www.gridoto.com/read/221023691/ada-pertamini-gunakan logo-pertamina-ini-jawaban-pihak-pertamina](https://www.gridoto.com/read/221023691/ada-pertamini-gunakan-logo-pertamina-ini-jawaban-pihak-pertamina)