

**ANALISA YURIDIS KEPASTIAN HUKUM
DALAM PUTUSAN HAKIM TERHADAP PENGGUNAAN
MEREK DAGANG ANTARA PS GLOW DAN MS GLOW
(Studi Putusan Nomor 2/Pdt.Sus.HKI/Merek/2022/PN.Niaga Sby dan
Putusan Nomor 2/Pdt.Sus.HKI/Merek/2022/PN Niaga Mdn)**

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Abstrak

Sengketa merek biasanya sering dipicu oleh peniruan atas suatu merek. Kepastian merupakan perlindungan *yustitiabeln*. Pelanggaran merek terkenal terdaftar sudah seringkali terjadi di Indonesia sehingga perlindungan hukum terhadap pemilik merek terkenal sering terabaikan. Tujuan penelitian ini untuk mengetahui bagaimana analisa yuridis kepastian hukum dalam putusan hakim medan Nomor 2/Pdt.Sus.HKI/Merek/2022/PN.Niaga Mdn dan Putusan hakim Sby Nomor 2/Pdt.Sus.HKI/Merek//2022PN Niaga Sby. Metode penelitian normatif. Jenis penelitian normatif dengan pendekatan perundang-undangan dan studi putusan. Objek penelitian studi kasus. Fokus penelitian Analisa putusan hakim. Sumber bahan hukum adalah primer dan skunder. Hasil penelitian MS. Glow For Cantik Skincare kelas 3 (Kelas Kosmetik) milik Shandy Purnamasari terdaftar sejak tahun 2016 dan berakhir tahun 2026. Putra Siregar pemilik produk PS. Glow baru mengajukan pendaftaran tahun 2021 dengan setatus (dalam proses). Di pengadilan medan Hakim menyatakan MS. Glow adalah satu-satunya merek produk pertama yang terdaftar ditjen KI dan PS. Glow mempunyai persamaan pada pokoknya dengan MS.Glow. Dipengadilan surabaya Hakim menolak pernyataan itu karena produk yang didaftarkan berbeda dengan merek produk yang di pasarkan putra siregar menyatakan produk MS.Glow mempunyai persamaan pada pokoknya dengan PS.Glow yang digunakan berdasarkan Undang-Undang Nomor 20 Tahun 2016 tentang Merek Indikasi Geografis. Kesimpulan hakim pengadilan Negeri Medan dalam putusan Nomor 2/Pdt.Sus.HKI/Merek/2022/PN.Niaga Mdn mengabulkan gugatan Shandy Purnamasari dengan pertimbangan sebagai beriku : Penggugat adalah pemilik satu-satunya terdaftar pengguna pertama merek dagang “MS. Glow/For Cantik Skincare+Logo” dan merek “MS. Glow For Men”. Sedangkan pengadilan Negeri Surabaya dengan Putusan Nomor 2/Pdt.Sus.HKI/Merek/2022/PN.Niaga Sby mengabulkan gugatan Putra Siregar dengan pertimbangan menyatakan tergugat tergugat tanpa hak dan melawan hukum menggunakan merek dagang MS. Glow serta menyatakan PT. PS STORE GLOW BERSINAR INDONESIA memiliki hak eksklusif atas penggunaan merek dagang “PS. Glow “ dan “ PS. Store Glow “ yang telah terdaftar pada Ditjen KI.

Kata kunci : Kepastian Hukum, Merek Dagang.

**JURIDICAL ANALYSIS OF LEGAL SECURITY
IN THE JUDGE'S DECISION ON THE USE
TRADEMARKS BETWEEN PS GLOW AND MS GLOW
(Study of Decision Number 2/Pdt.Sus.HKI/Merek/2022/PN.Niaga Sby and
Decision Number 2/Pdt.Sus.HKI/Merek/2022/PN Niaga Mdn)**

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Abstract

Brand disputes are often triggered by imitation of a brand. Certainty is the protection of justice. Violations of well-known registered marks have often occurred in Indonesia so that legal protection for well-known mark owners is often neglected. The purpose of this study is to find out how the juridical analysis of legal certainty in the Medan judge's decision Number 2/Pdt.Sus.HKI/Merek/2022/PN.Niaga Mdn and Judge Sby's Decision Number 2/Pdt.Sus.HKI/Merek/2022/PN Niaga Sby . Normative research methods. Types of normative research with a statutory approach and decision studies. Case study research object. Research focus Analysis of judge's decision. Sources of legal materials are primary and secondary. MS research results. Glow For Cantik Skincare class 3 (Cosmetic Class) owned by Shandy Purnamasari was registered in 2016 and ends in 2026. Putra Siregar owns PS products. Glow just applied for 2021 registration with status (in progress). At the Medan Court, the Judge stated that MS. Glow is the only first product brand to be registered with the Directorate General of IP and PS. Glow has similarities in essence with MS.Glow. At the Surabaya Court, the judge rejected the statement because the product registered was different from the product brand marketed by Putra Siregar, stating that the MS.Glow product had similarities in principle to PS.Glow which was used based on Law Number 20 of 2016 concerning Geographical Indication Marks. The conclusion of the Medan District Court judge in decision Number 2/Pdt.Sus.HKI/Merek/2022/PN.Niaga Mdn granted Shandy Purnamasari's lawsuit with the following considerations: The plaintiff is the sole registered owner of the first user of the trademark "MS. Glow/For Cantik Skincare+Logo" and the brand "MS. Glow For Men". Meanwhile, the Surabaya District Court with Decision Number 2/Pdt.Sus.HKI/Merek/2022/PN.Niaga Sby granted Putra Siregar's lawsuit with the consideration that the defendant was without rights and against the law using the MS trademark. Glow and stated that PT. PS STORE GLOW BERSINAR INDONESIA has the exclusive right to use the trademark " PS. Glow" and "PS. Store Glow " which has been registered with the Directorate General of Information and Communication Technology.

Keywords: Legal Certainty, Trademarks.