



Legal Protection of *Ayam Geprek Benu* Trademark Rights Holders

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ABSTRACT: UU no. 20 of 2016 has provided legal protection for trademark rights that have been registered for the first time. In the case of a trademark dispute over *ayam geprek benu*, there have been irregularities in trademark registration by the government. The problem examined in this study is whether the decisions of the Jakarta Commercial Court and the Supreme Court provide efforts to legally protect the trademark rights for *ayam geprek benu*. The research method used is normative research, namely a system of norms that will provide a justified perspective on an event or symptom. The results of this research explain that the Jakarta Commercial Court and the Supreme Court have decided that the trademark "*Geprek Benu*" belonging to Ruben Samuel Onsu is not justified because the trademark has similarities with "I am Geprek Benny Sujono. Therefore, both the Jakarta Commercial Court and the Supreme Court decisions have provided legal protection for trademarks according to Law no. 20 of 2016.

KEYWORDS: Trademark; Legal Protection; Registration.

I. INTRODUCTION

Trademarks in the business world are the most important thing because they can provide a competitive advantage when starting a business in the market targeted by the owner. Trademarks can also be a trigger for various new innovations for companies which can ultimately benefit the public as well as the company itself (Sudargo Gautama, 1993). In simple terms, trademark rights are rights to brands that can be used on goods traded by a person or several people together or as a legal entity to differentiate them from other types of goods. According to law, trademark rights are part of civil law, namely regarding objects. Objects in civil law are divided into two, namely, firstly, objects according to Article 499 of the Civil Code include material objects (goods) and immaterial

objects (rights). Second, objects according to Article 503 of the Civil Code include tangible objects (goods) and intangible objects (rights). We further know these rights as intellectual property rights (Egia Nuansa Pinem & Suryachyani Gunadi, 2021).

The existence of legal protection for legal brand owners is intended to provide exclusive (special) rights for the brand owner (exclusive rights) so that other parties cannot use the same or similar mark as the one they own for the same goods or services. These special rights tend to be monopolistic, meaning that only the brand owner can use them (Sujatmiko, 2008). Trademark rights holders can use their trademark without violating existing rules regarding trademark use, while at the same time prohibiting other parties from using their trademark or giving permission to other parties. Therefore, starting a business and running it without considering brand protection is a mistake. In the early days of starting a business, they should provide protection for their trademark.

In Indonesia, intellectual property with logos and trademarks as intellectual property is given legal rights in the form of a guarantee of protection. Brands penetrate all spheres of commercial life, although brands are private rights, they have entered the economic realm, because brands serve and contribute to the business world. Brands in the business world are more often understood as company brands, and as company assets that qualify as intangible assets. In economic and business activities, brands play an important role, and this important role can be seen from the inclusion of brands, which are intangible and movable assets, as one of the drivers for business activities in addition to human resources, financial resources, tangible assets (Ambadar et al., 2007).

The definition of a Trademark according to Law No. 20 of 2016 is a sign that is displayed graphically in the form of an image, logo, name, word, letter, number, color arrangement, in 2 (two) dimensions and/or 3 (three) dimensions, sound, hologram or a combination of 2 (two) or more of



these elements to differentiate goods and/services produced by individuals or legal entities in goods and/services trading activities. Thus, the main function of a brand is to differentiate goods or services produced by other similar companies, so that the brand is an identification mark of the origin of the goods or services in question with the producer (Wahyuni, 2011). The right to a trademark is a special (exclusive) right granted by the state to the owner to use the trademark himself or to give permission to others to use it. The granting of special rights by the state has the consequence that to obtain them one must go through a registration mechanism, so that the nature of registration is mandatory (compulsory). In order for trademark rights to receive protection and recognition from the state, the trademark owner must register it with the state. If a brand is not registered, it will not be protected by the state. As a consequence, the brand can be used by everyone.

A trade mark is "a sign of differentiation" of goods or services for one company from another. As a distinguishing mark, trademarks in one classification of goods/services must not be similar to one another, either in whole or in substance. The definition of similarity is basically if it has similarities in terms of origin, properties, method of manufacture and purpose of use (Wahyuni, 2011). It can also be said that the right to a trademark is a special right granted by the state to the "Registered Trademark Owner" in the General Register of Trademarks for a certain period of time to use the mark himself or to give permission to a person or several people together, or a legal entity to use it. A true trademark will create trademark loyalty. Loyalty exists if customers have positive feelings towards a trademark and use the products and services regularly (Tjiptono, 2005). Therefore, trademarks require legal protection which is obtained by having the trademark registered at the Ministry of Law and Human Rights Office. The problem is in the violation case committed by *Ruben Samuel Onsu* as the plaintiff against *PT Ayam Geprek Benny Sujono* as the defendant.

The problem is that the trademark rights owned by *PT Ayam Geprek Benny Sujono* and *Ayam Geprek Benu* owned by *Ruben Samuel Onsu* are completely similar in terms of name, logo, word letters and color arrangement. In this case it can be said that *Ayam Geprek Benu* imitates *PT Ayam Geprek Benny Sujono*. If only similarities are used, this will cause problems, considering that business environments imitate each other but with different characteristics. Knowing this, *PT Ayam Geprek Benny Sujono* never rented out or even gave the

brand to *Ruben Samuel Onsu* to use his brand, but *Ruben Samuel Onsu* argued that he did not use his brand. According to *Ruben Samuel Onsu*, he used his own brand, namely *Geprek Benu*, considering that the brand rights used were different, because *Ayam Geprek Benu* bought the brand rights from *Jessy Handalim*. *Jessy Handalim* has used the trademark "BENSU" as the "SUSU" trademark which he trades at a "BENGKEL" located on Jalan Emong No. 3, Burangrang, Bandung. Therefore, the problem is whether the decisions of the Jakarta Commercial Court and the Supreme Court provide efforts for legal protection of trademark rights.

II. RESEARCH METHODS

This research uses normative research methods, namely legal research as a building system of norms, which is ideal on the *dassolen* side. The norm system in question is principles, norms, rules from statutory regulations, and court decisions. The object of normative legal study is a system of norms that will provide a justified perspective on an event or phenomenon. The specifications of this research are descriptive analysis by describing laws and regulations and court decisions (the Jakarta Commercial Court and the Supreme Court decisions). Data sources for this research include primary legal data and secondary legal data. Primary legal data includes Law no. 20 of 2016 concerning Trademarks and court decisions. Secondary legal materials used include literature, journals and articles obtained from literature studies from reliable sources. Data analysis in this research uses analysis using qualitative data analysis methods.

III. RESULTS AND DISCUSSION

Legal Protection of Trademark Rights in Indonesia

In the world of business and commerce, the name of a business has an influence on the progress of a business, because the entrepreneur's name is a brand, it can be used as a trademark or service mark. In fact, for entrepreneurs, a trademark is not just a name without meaning, but a trademark is a product of high value. Therefore, a brand can generate different profits compared to other brands. This is even though in practice this method is often used to build a trademark that sticks with consumers even though it is unhealthy, namely by "hitching" a name on a brand that is already registered or well-known in the market. This



method actually violates the procedures for acquiring a brand for trade and service purposes. Legal protection for trademarks in Indonesia is actually regulated in Law No. 20 of 2016 concerning Trademarks and Geographical Indications. This form of protection involves trademark registration through the office of the Ministry of Law and Human Rights of the Republic of Indonesia. UU no. 20 of 2016 provides changes to the registration process to simplify and strengthen legal protection. Changes to the flow of the trademark registration process in this Law are intended to speed up the completion of the trademark registration process. The announcement of the application before the substantive examination is carried out is intended so that the substantive examination can be carried out simultaneously if there are objections and/or objections so that it does not require a re-examination.

Legal protection is an illustration of the working of legal functions to realize legal objectives, namely justice, benefit and legal certainty. Legal protection is a protection given to legal subjects in accordance with legal regulations, whether preventive or repressive; both written and unwritten in order to enforce legal regulations. Legal protection provides protection for human rights that are harmed by other people and this protection is given to the community so that they can enjoy all the rights provided by law. Law can be used to create protection that is not only adaptive and flexible, but also predictive and anticipatory. Law is needed for those who are weak and not yet strong socially, economically and politically to obtain social justice (Rahardjo, 2000).

In reality, there are still Indonesian people, especially business actors, who do not care about trademark rights. Trademark infringement cases committed by business actors are due to the reputation of the related brand. Considering the function of a trademark as the identity of a product or service that has a reputation and is also related to the function of a brand as a guarantee of the quality of goods (Karina & Njatrijani, 2019). This is because economic benefits are inherent in brands, especially well-known brands. Famous brands are often the object of infringement because they are related to the reputation of the famous brand.

Trademark rights are exclusive rights granted by the state to the owner of a registered trademark for a certain period of time by using the trademark himself or giving permission to another party to use it (Sulastri, Satino, 2018). Imitation of brand rights carried out by business actors is

because they do not care about the brand rights. Business actors can very easily gain popularity in the business they run without needing to waste large promotional capital. In Indonesia, incidents of copying trademark rights and copyright often occur, because there are no clear boundaries regarding this issue. In the business environment, there is often copying from business actors so that business actors are affected by losses, because in producing designs, creating flavors and so on, research and funds are not limited to creating new flavors or new designs.

Business actors who create new designs or create new flavors will ultimately experience losses if many competitors copy them. Competitors don't need to spend research just by imitating them, so they can make a profit, and business actors who spend research to come up with a new design lose out. Trademark rights in Indonesia are still a complicated matter for business actors considering that not all companies understand the legal issues regarding brand rights, and for small and medium businesses it is very difficult because they have to provide legal advisors to register the brand rights.

A trademark as an Intellectual Property Right is basically a sign to identify the origin of goods and services (an indication of origin) of a company with the goods and/or services of another company (Jened, 2007). As a basis for protection, the definition of a brand as explained in Law no. 20 of 2016 is a sign in the form of an image, name, word, letters, numbers, color arrangement, or a combination of these elements which has distinguishing power and is used in goods or services trading activities. As another form of protection, there is an absolute requirement that every person or legal entity must fulfill when they want to own a trademark, namely by registering the trademark. The brand must have differentiating power from others. If an item or product produced by a company does not have differentiating power, it is considered as not having enough differentiating power and therefore is not a brand (Saidin, 2009). So, a brand will be accepted and used as a brand or trademark if it meets the absolute requirements, namely having sufficient distinguishing power. In other words, the brand used must be such that it has sufficient strength to differentiate goods produced by a company or services produced by one person from goods and services produced by another person (Sudargo Gautama, 1993). In addition, not everything that has distinctive power can be registered as a trademark.

Trademark registration according to Law no. 20 of 2016 concerning Marks and Geographical



Indications, known as the constitutive registration system, because the constitutive system guarantees legal certainty. By registering the mark with the Directorate General of Intellectual Property Rights, other people can no longer sue the registered mark. Law no. 20 of 2016 also provides protection to brand owners who have good intentions. The purpose of registration is to prove that the trademark registration is the first user of the trademark in question. Registration does not issue rights, but only provides a legal presumption or presumption iuris, namely that the party whose mark is registered is the party who has the rights to the mark and is the first user of the registered mark (Usman, 2003).

The urgency of trademark registration in Indonesia is given to the trademark owner who registers the trademark, meaning that the right to the trademark is born from the date of receipt of the trademark application (filing date), confirmation of the trademark registration has the function of being evidence for the trademark owner, as a basis for rejection of the same trademark in its entirety or is essentially the same and is requested for registration by another person for similar goods and/or services, and as a basis for preventing other people from using the same mark in its entirety or substantially the same in circulation for similar goods and/or services.

According to Article 35 of Law No. 20 of 2016, the legal protection period for a registered mark is 10 (ten) years from the date of receipt of the registration of the mark in question. The 10 (ten) year period can be extended at the request of the trademark owner at any time for the same period. An application for an extension of the protection period for a registered mark is accepted and approved if the mark in question is still used on goods and/or services as stated in the mark certificate, and the goods or services as stated in the mark certificate are still being produced and traded.

Ayam Geprek Bensu Brand Infringement Case

This case concerns violations committed by Ruben Samuel Onsu as the plaintiff against PT Ayam Geprek Benny Sujono as the defendant. The problem is a limited company that has trademark rights with the name PT Ayam Geprek Benny Sujono. PT Ayam Geprek Benny Sujono obtained the brand and logo rights for food and beverage trade. The brand and logo should only be used by PT Ayam Geprek Benny Sujono, but was used by Ruben Samuel Onsu at his company known as *Ayam Geprek Bensu*. According to Ruben Samuel

Onsu, he bought the brand rights from Jessy Handalim, and Jessy Handalim used the "*Bensu*" brand as the milk brand he traded at a workshop located in Bandung. The "*Bensu*" brand is taken from the abbreviation of the name "*Bengkel Susu*".

Ruben Samuel Onsu's purchase of brand rights was not without reason, but Ruben Samuel Onsu acted in bad faith, namely by taking the name *Ayam Geprek Bensu* so that it would show that he was the original owner and not an impersonator of PT Ayam Geprek Benny Sujono. Ruben Samuel Onsu did this to be able to control and seize the food business brand "*I am Geprek Bensu*" which has developed into the brand "*I am Geprek Bensu Sedap Beneerr*" or also called "*I am Geprek Bensu*" or "*Ayam Geprek Bensu*" owned by the company Ayam Geprek Benny has been operating continuously and has never stopped since April 17 2017 until now.

The food business business "*I am Geprek Bensu*" began to develop with the opening of several new branches/outlets, then Evan Jordi Onsu (Ruben's younger brother) offered that Roben Onsu, who is an artist, could be used as a promotional ambassador for the food business brand "*I am Geprek Bensu*". The food business brand "*I am Geprek Bensu*" which later developed into the brand "*I am Geprek Bensu Sedep Beneerr*" or also called "*I am Geprek Bensu*" or "*Ayam Geprek Bensu*" and/or "*Geprek Bensu Sedep Bener*". "*I am Geprek Bensu Sedep Bener*" belongs to the *Ayam Geprek Benny* company which was interested in the offer. Ruben Samuel Onsu and Ruben Samuel Onsu agreed to make themselves ambassadors, namely by placing photos of Ruben Samuel Onsu in all branches/outlets of the food business brand "*I am Geprek Bensu*". This company eventually developed into the brand "*I am Geprek Bensu Sedep Beneerr*" or also called "*I am Geprek Bensu*" or "*Ayam Geprek Bensu*" and/or "*Geprek Bensu Sedep Bener*" and "*I am Geprek Bensu Sedep Bener*" owned by PT Ayam Benny Sujono was there at that time, and as compensation, Ruben Samuel Onsu had received payment of business profit sharing (Golden Share) from PT Ayam Benny Sujono.

PT Ayam Geprek Benny Sujono is growing day by day and has more than 40 branches spread widely throughout the Indonesian jurisdiction. Seeing the development of PT Ayam Geprek Benny Sujono, Ruben Samuel Onsu asked his employees to work as quality control at PT Ayam Geprek Benny Sujono. PT Ayam Geprek Benny Sujono accepted the employee considering that Ruben Samuel Onsu was the ambassador. Ruben Samuel



Onsu's employees worked until July 2019 and then resigned from the company, and they worked at Ruben Samuel Onsu's place, known as *geprek bensu*. It is very clear that there is bad faith, deliberately imitating or even stealing the rights of PT Ayam Geprek Benny Sujono regarding cooking methods and tastes. Ruben Samuel Onsu not only stole the taste, but the decoration, logo, interior design, work system, work arrangement and wording were the same and even copied so that they were exactly the same as PT Ayam Geprek Benny Sujono.

If you analyze further the problem of PT Ayam Geprek Benny Sujono in Article 1 number 1 of Law No. 20 of 2016, "Trademarks are signs that can be displayed graphically in the form of images, logos, names, words, letters, numbers, color arrangements, in the form of 2 (two) dimensions of figures or 3 (three) dimensions, sound, hologram, or a combination of 2 (two) or more of these elements to differentiate goods and/or services produced by individuals or legal entities in goods and/or trade activities and/or services". Bearing this in mind, the trademarks between PT Ayam Geprek Benny Sujono and Ayam Geprek Bensu owned by Ruben Samuel Onsu are completely similar in terms of name, logo, word letters and color arrangement. In this case it can be said that Ayam Geprek Bensu imitates PT Ayam Geprek Benny Sujono. If only similarities are used, this will cause problems, considering that business environments imitate each other but with different characteristics. For the restaurant business, perhaps there are similarities, which is normal. Like Padang restaurant, which are similar to each other but with different tastes.

The dispute case described is a dispute case between Ruben Samuel Onsu and PT Ayam Geprek Benny Sujono. Ruben Samuel Onsu sued for the rights to the trademark used by PT Ayam Geprek Benny Sujono in running the Ayam Geprek business. PT Ayam Geprek Benny Sujono is considered to have used the *BENSU* trademark which was previously registered by Ruben Samuel Onsu, so that Ruben Samuel Onsu felt disadvantaged by the use of this trademark. Using a brand unilaterally or without permission is a violation of the law which is an illegal act, so it can be categorized as an act of public deception (Aspriola & Chairunisa Israd, 2022). Here the right to a trademark is an exclusive right granted by the state to the owner of a registered trademark for a certain period of time by using the trademark himself or giving permission to another party to use it.

The trademark dispute carried out by Ruben Samuel Onsu is part of a dispute over imitation of product labels or packaging. If you pay attention to the image of the brand, starting from the logo, brand name and products being sold, it is very similar to *I Am Geprek Bensu* owned by PT Ayam Geprek Benny Sudjono. Here Ruben Samuel Onsu is more precisely referred to as a business actor who cheats (Egia Nuansa Pinem & Suryachyani Gunadi, 2021). Observing that the two brand products are actually similar, namely chicken, both of which have similarities. The two logos have many similarities, namely starting from the color, the logo being more dominant being orange and the image of fire being red. Likewise, the images of chickens are similar, the only difference lies in the style of the chicken. The chicken's hand in *Geprek Bensu* is on the waist, while the chicken's right hand in *I am Geprek* is saluting (Angelica et al., 2021). This is proven based on the first to file *Bensu* brand which was first registered by PT Ayam Geprek Benny Sudjono with the brand *I Am Geprek Bensu* on May 3 2017, then followed by Ruben Samuel Onsu registering the same brand on June 7 2018.

On June 7 2018, the *Bensu* brand actually received legal protection until September 3 2025. According to Ruben Samuel Onsu, PT Ayam Geprek Benny Sudjono uses Ruben Samuel Onsu's brand, namely *Bensu*, for its culinary business, namely "*I Am Geprek Bensu Sedep Beneerrr*" is now known as "*I Am Geprek Bensu*" without his permission. Furthermore, on March 15 2017 the Ayam Geprek Benny Sujono culinary business was registered as a legal entity based on the Limited Liability Company Deed of PT Ayam Geprek Benny Sujono Number 130. This validation was based on the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number AHU-0040249.AH.01.01. 2017, September 13 2017. The abbreviation "*Bensu*" gives appreciation to Benny Sujono who is considered to have participated in providing ideas, suggestions and input for the company. This is where the dispute begins and in the end both parties choose to resolve it through court.

Dispute Resolution Efforts as a Form of Legal Protection

The dispute was finally resolved through court, namely on August 22 2019 Ruben Samuel Onsu, owner of the *Geprek Bensu* trademark, filed a lawsuit in Register Number 57/Pdt.Sus-



HKI/Merek/2019/PN Niaga Jkt.Pst. Ruben Samuel Onsu sued PT Ayam Geprek Benny Sujono and the Ministry of Law and Human Rights of the Republic of Indonesia. Ruben Samuel Onsu believes that the *Bensu* brand that has been applied to the Ministry of Law and Human Rights to obtain legal certainty and protection is the *Bensu* brand which is an abbreviation of *Ruben Onsu*.

The Jakarta Commercial Court gave a decision on the dispute that occurred between PT Ayam Geprek Benny Sujono and Ruben Samuel Onsu as analyzed below. The Jakarta Commercial Court decided that PT Ayam Geprek Benny Sujono is the owner and manager of the food business brand "*I am Geprek Bensu*." This food business opened on April 17 2017 on Jalan Pedemangan I Gang 5 Number 2A. Trademark registration with the name "*I Am Geprek Bensu Sedep Beneerrr*", and has received a Trademark Certificate from the Ministry of Law and Human Rights. The application date is 03 May 2017, and the protection period is 03 May 2027. This is different from Ruben Samuel Onsu registering the brand "*Geprek Bensu*" on 7 June 2019 and receiving legal protection until 3 September 2025. This is in line with article 1 point 5 Law no. 20 of 2016, that rights to trademarks are granted by the state to trademark owners registered with the Ministry of Law and Human Rights. Furthermore, according to article 21 paragraph 2 letter a of Law no. 20 of 2016 states that a registration application will not be approved if it still has partial or total similarities with another party that has previously registered. Therefore, PT Ayam Geprek Benny Sujono has the authority to use and is the exclusive rights holder for the brand "*I Am Geprek Bensu Sedep Beneerrr*".

Furthermore, the court stated that the comparison of the brand logos of "*Geprek Bensu*" with "*I Am Geprek Bensu*", and if you look closely, the two logos have many similarities, from the color of the logo which is the more dominant color to orange with the same flame being red. If you look closely, the shape of the chicken is very similar, the difference is only in the style of the chicken, you can see "*Geprek Bensu*" with both hands on the chicken's waist, while "*I Am Geprek Bensu*" has one hand saluting as in the picture below.



Picture: 1

According to Article 2 paragraph (3) of Law no. 20 of 2016 that "protected marks consist of signs in the form of images, logos, names, words, letters, numbers, color arrangements, in the form of 2 (two) dimensions and/or 3 (three) dimensions, sound, hologram, or a combination of 2 (two) or more elements of this section are useful for distinguishing goods and/or services produced by individuals or legal entities in goods and/or services trading activities." Thus, the similarities between the two logo elements are of course that some logos must have their rights protected by the government, and other logos are responsible for their similar logos. This can be seen from the brand name, namely "*Geprek Bensu*" with "*I Am Geprek Bensu*".

Elucidation of Article 21 paragraph (1) of Law no. 20 of 2016 provides the understanding that: "what is meant by 'similarity in essence' is the similarity in a brand which is caused by the presence of a dominant element between one brand and another brand, giving the impression of similarities, both in terms of shape, method of placement, method of writing or a combination of elements, or similarities in the sound of speech contained in the mark." The two brands, namely "*Geprek Bensu*" and "*I Am Geprek Bensu*" have similarities, both regarding the shape, way of placement, way of writing or combination of elements, as well as similarities in the sound of the speech contained in the marks. The products produced or traded are also similar, namely food products in the form of chicken.

According to the Commercial Court, Ruben Samuel Onsu tried to take advantage by imitating and similar his products to his competitors' products. Not only that, Ruben Samuel Onsu also used a brand that was so precise that it caused confusion among the public. The type of brand dispute carried out by Ruben Samuel Onsu included the type of dispute regarding violations of imitation of product labels or packaging. This can be seen from the logo, brand name and products being sold which are very similar to *I Am Geprek*



Bensu owned by PT Ayam Geprek Benny Sudjono. Here Ruben Samuel Onsu is more precisely referred to as a business actor who cheats. Finally, the Commercial Court decided in case number 57/Pdt.Sus-HKI/Merek/2019/PN Niaga that Ruben Samuel Onsu could no longer use his "*Geprek Bensu*" brand.

Losing at the Commercial Court, Ruben Samuel Onsu filed an appeal to the Supreme Court (MA) registered with registration number 575 K/Pdt.Sus-HKI/2020. The cassation application to the Supreme Court was rejected on 20 May 2020, with legal considerations, that the Commercial Court's decision in this dispute did not conflict with the law or Law no. 20 of 2016 (Egia Nuansa Pinem & Suryacahyani Gunadi, 2021). Thus, the decision of the Minister of Law and Human Rights no. HKI-KI.06.07-11, because the principle of similarity and/or completeness is ensured by the existence of geographical indications, as specified in Law no. 20 of 2016 requires the deletion of registered marks, because the principles and/or are entirely the same as geographical indexes. Therefore, the abbreviation of the name Ruben Samuel Onsu, is a famous person, which is a human element that restores the reputation, quality and certain characteristics of certain goods and/or products. Legal certainty regarding the *Geprek Bensu* brand dispute, which is supported by Decision No. 196/G/2020/PTUN-Jkt, is that the owner of the rights to the brand "*I am Geprek Sedep Beneer and Lukisan*" is PT Ayam Geprek Benny Sudjono. The judge's decision stated that all applications were accompanied by a Decree from the Directorate General of Intellectual Property, Ministry of Law and Human Rights: HKI-KI.0 6.07-11, dated 6/10/2020, and the Supreme Court suggested that it should be cancelled. Previously it was also known that the owner and first user of the label "*I am Geprek Bensu Sedep Benerrr*" was the artistic name Benny Sudjono. Thus, "*I am Geprek Bensu Sedep Benerrr*" (owned by PT Ayam Geprek Benny Sujono) is a national product that is global in nature and requires legal protection (Gaumi & Hartono, 2022).

The cases of "*Geprek Bensu*" and "*I am Geprek Bensu Sedep Beneerrr*" gave rise to a debate about essential similarities, so it was the court that determined that there was no essential similarity by referring to Law Number 20 of 2016. The legal aspect is key in assessing the similarities or differences in rights marks, and courts consider various legal aspects to determine substantial equivalence. The court's decision emphasizes the essential dissimilarity and the importance of

understanding trademark law in understanding a trademark case. In fact, even though they are similar, the underlying elements of both are not similar enough and even though there are similarities, the court's decision is based on a clear legal basis such as the explanation of Article 21 paragraph (1) of Law Number 20 of 2016 (Kadek et al., 2023).

The basis for legal protection of trademarks through court decisions has determined and ordered the Ministry of Law and Human Rights, especially the Directorate General of Intellectual Property Rights, as well as the Directorate of Trademarks and Geographical Indications to withdraw brands registered in the name of Ruben Samuel Onsu from the Indonesian Trademark Register. Furthermore, Ruben Samuel Onsu was also required to pay court costs of IDR 1,911,000 (one million nine hundred and eleven thousand rupiah) (Syifa, 2024). The Panel of Judges also stated that PT Ayam Geprek Benny Sujono was legally the owner and first user of the business brand "*I Am Geprek Bensu*". This is because Ruben Samuel Onsu's "*Geprek Bensu*" trademark resembles Benny Sujono's PT Ayam Geprek trademark, so the registration of Ruben Samuel Onsu's "*Geprek Bensu*" trademark is legally cancelled. The panel of judges also decided to cancel six certificates with the name "*Geprek Bensu*" belonging to Ruben Samuel Onsu.

IV. CONCLUSION

Law no. 20 of 2016 concerning Trademarks and Geographical Indications has provided adequate legal protection. Every brand registered at the Office of the Ministry of Law and Human Rights that meets the requirements as a brand has legal protection and certainty. The first trademark registrant is legally recognized and legalized so it has legal protection, while the second trademark registrant with images and logos or similarities to the first trademark registrant cannot be registered, so it does not have the power of legal protection. The trademark case "*Geprek Bensu*" belonging to Ruben Samuel Onsu has similarities with "PT Ayam Geprek Benny Sujono" which can be registered with the Office of the Ministry of Law and Human Rights, giving rise to a dispute. The Jakarta Commercial Court and the Supreme Court have decided that the trademark "*Geprek Bensu*" belonging to Ruben Samuel Onsu is not justified because the trademark has similarities with I am Geprek Benny Sujono. Therefore, both the Jakarta Commercial Court and the Supreme Court decisions have provided legal



protection for trademarks according to Law no. 20 of 2016.

The author recommends that the Directorate General of Intellectual Property Rights, as well as the Directorate of Trademarks and Geographical Indications, which are institutions within the Ministry of Law and Human Rights, exercise their authority in accordance with statutory regulations so that there is no plagiarism of trademarks which creates legal uncertainty, thus affecting the legal protection for marks that have been registered for the first time.

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