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Legal Landscape | Trademark Disputes

Indonesia - Trademark Disputes

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Indonesia - Trademark Disputes

1. What is the current legal landscape for your practice area in your jurisdiction?

Currently, Indonesia's IP regime is evolving beyond the traditional function of protecting ideas, innovations, and product identities. It is increasingly positioned as a strategic tool to generate added value for national innovation and economic development. Nevertheless, the emergence of Artificial Intelligence (AI) and other digital technologies presents new challenges, adding complexity to the legal landscape. Despite these challenges, Indonesia has established one of the more progressive Intellectual Property (IP) regimes, both in terms of regulatory development and the utilisation of IP assets. Indonesia ranks 55th in the Global Innovation Index and is recognised as one of the fastest-growing middle-income countries in innovation. It is also the 15th country to implement IP financing. This progress has been supported by the government through the enactment of various new regulations, whether in the form of amendments to primary legislation, implementing regulations (government regulations), or landmark court decisions. These developments aim to adapt IP protection to modern business needs and international standards.

Most recently, the Ministry of Law enacted Government Regulation No. 47 of 2025 on Guidance on Reports of Intellectual Property Infringement through Electronic Systems. This regulation establishes a formal mechanism for reporting alleged IP infringements on e-commerce platforms and social media through the Directorate General of Intellectual Property ("DGIP") Office. It represents a commendable step toward combating counterfeit products in digital marketplaces and strengthening online enforcement.

Besides, our office was invited multiple times by the Government and the House of Representatives to provide views and recommendations during the drafting process of several IP-related laws and regulations, particularly concerning IP rights. Previously, our Managing Partner was also invited to present his views on the Patent Bill and the Industrial Design Bill before the House of Representatives. Accordingly, our close involvement in the legislative process enables us to provide swift and up-to-date insights on amendments to IP laws and emerging issues, which has become one of our firm's key advantages in assisting colleagues and clients both domestic and international.

In parallel, the implementation of the electronic court (e-court) system since the COVID-19 outbreak in 2020 has significantly modernised judicial proceedings. The Supreme Court has enabled lawyers to file lawsuits online at any time and from anywhere. This digital transformation has brought greater efficiency and reduced procedural burdens in handling various case types, including IP disputes. Through the e-court system, parties are required to attend fewer in-person hearings—such as legal standing examinations, evidence verification hearings, and witness or expert examinations—while the remaining proceedings can be conducted electronically without appearing in person before the court.

Trademark disputes are resolved through Commercial Courts, and there are only 5 (five) Commercial Courts available in Indonesia, namely: the Jakarta Commercial Court, the Surabaya Commercial Court, the Semarang Commercial Court, the Medan Commercial Court, and the Makassar Commercial Court. Regardless of the inception of the commercial court, any trademark disputes between a foreign company and an Indonesian company/person shall be settled within the Jakarta Commercial Court.

2. What three essential pieces of advice would you give to clients involved in your practice area matters?

Three essentials of advice for clients and colleagues in prosecuting trademarks and managing potential trademark disputes in Indonesia are as follows:

a. Monitoring Trademarks and Filing Defensive Applications

Although a trademark has been successfully registered with the DGIP, clients are advised to conduct regular trademark monitoring. This is crucial to detect any similar trademark applications filed by third parties in bad faith that may cause consumer confusion or dilute the value of the registered mark.

Based on our experience, bad-faith applicants often submit trademark applications with similar specimens while slightly altering the spelling or wording during the filing process, thereby complicating conventional monitoring efforts. To address this challenge, our firm has invested in dedicated professionals and systematic monitoring of each trademark gazette issued by the DGIP. We carefully review visual elements, phonetic similarities, type of goods/services similarities, and wording variations to ensure accurate detection of potentially conflicting applications. These proactive monitoring services enhance our clients' and colleagues' awareness of any applications that may jeopardise their registered trademarks.

Upon identifying a potentially conflicting or bad-faith application, we promptly notify the client and provide strategic recommendations, including preparing legal arguments for opposition. Where appropriate, we may also recommend sending a warning letter to request withdrawal of a trademark application that appears to have been filed in bad faith.

In addition, we advise clients to adopt a defensive filing strategy by registering their trademarks not only in their primary class of goods or services but also in related classes. Multi-class registrations provide broader protection and may strengthen the argument that the mark qualifies as a well-known trademark, thereby enhancing enforceability before the court.

b. Strategic Risk Assessment and Dispute Roadmap

Before initiating any enforcement action, a comprehensive pre-analysis is essential. This includes assessing the similarities between the client's trademark (whether pending or registered) and the opposing mark, identifying the scale of infringing or counterfeit products in the market, evaluating the opposing party's intentions, and reviewing the involvement of distributors or business partners in Indonesia. These elements form the foundation for determining the most appropriate legal strategy.

Clients are then presented with structured comprehensive legal strategy, as follows:

- Pre-Litigation analysis: Evaluating the possibility of resolving the dispute amicably, including a Cease-and-Desist Letter or a Warning Letter to enable both parties to negotiate to reach a settlement agreement.
- Litigation analysis: Assessing the likelihood of success based on available evidence and the opponent's position, as well as preparing claims for material damages (such as loss of sales, lost profits, and advertising expenditures) and immaterial damage (including harm to consumer trust and trademark reputation).

This structured approach enables clients to objectively evaluate potential opportunities, risks, timelines, and legal costs that potentially incurred in resolving the dispute, thus allowing them to make well-informed strategic decisions.

c. Protection and Business Value of the Trademark

In certain cases, clients may face budgetary constraints or prefer not to escalate a potential dispute. In such situations, our firm focuses on recommending practical legal measures to protect the trademark's value while ensuring business continuity in Indonesia, such as requesting a takedown from the e-commerce platform.

Whether the client chooses negotiation, a coexistence agreement, a settlement arrangement, limited rebranding, or litigation, we carefully assess and advise on the potential impact on the client's reputation, operations, and market positioning. Our objective is not merely to resolve disputes, but to safeguard the long-term commercial value and trademark/brand identity of the client's business.

Through this comprehensive approach, clients recognise that our legal services extend beyond traditional legal representation, encompassing strategic trademark protection and sustainable business value management in Indonesia while maintaining the trademark's reputation.

3. What are the greatest threats and opportunities in your practice area law in the next 12 months?

Greatest Threats

In connection with our current case where the competitor or bad-faith applicant files multiple lawsuits against our client, the biggest threats to the trademark dispute landscape in Indonesia will define on whether the client is willing to invest in multi-class trademark filings to prevent any bad-faith applicant and monitor other parties' trademark applications that may appear similar to the client's trademark.

The preliminary step of counterfeiting is not because the product is being infringed and sold at a low price, but because the right holder did not file the trademark earlier, and such oversight is utilised by the bad-faith applicant.

The "VARIVAS" trademark dispute in Indonesia illustrates precisely where the greatest risks lie. A third party secured local registration of the "VARIVAS" mark under Indonesia's first-to-file system. Our firm represent the original holder, Morris Co., Ltd., on filing a cancellation lawsuit against the Indonesian trademark holder (defendant) under Commercial Court Decision Number No. 5/Pdt.Sus-Merek/2019/PN.Niaga.Jkt.Pst and Supreme Court Decision No. 880 K/Pdt.Sus-HKI/2019. In this case, the Court found that the defendant's registration was made in bad faith and possess substantial similarity to the plaintiff's well-known mark, which had been widely used and registered in multiple jurisdictions. As a result, the Commercial Court granted the cancellation claim, and the Supreme Court upheld the decision by rejecting the defendant's cassation, reinforcing the principle that well-known trademarks are entitled to protection in Indonesia even against prior local registrations made in bad faith.

In the other similar cases, where our firm handled a well-known chainsaw company from Germany, the Commercial Court at Central Jakarta ruled in favor of STIHL, in its dispute against the mark "7HILS." Under

Court Decision No. 35/Merek/2006/PN.Niaga/JKT.PST, the Panel of Judges rendered decision that the registration of "7HILS" was confusingly similar to "STIHL" registered mark. The Court found that STIHL qualified as a well-known trademark and that "7HILS" possess obvious similarity in overall appearance and pronunciation that potentially cause consumer confusion when put in reverse as shown below:



Accordingly, the Court ordered the cancellation of the "7HILS" trademark from the register, reinforcing the principle that well-known marks are entitled to broader protection under Indonesian trademark law.

Both cases shows that proactive filing, continuous monitoring, cross-class defensive protection, and carefully structured litigation strategies are essential components of brand entry and expansion in Indonesia.

Opportunities

As a firm that combines regulatory insight, digital monitoring capabilities, and an integrated IP and litigation strategy, we see a structural shift in how trademark disputes should be approached. Trademark disputes are also an instrument for protecting market share, securing trademark valuation, and enabling business expansion through franchising and licensing. Enforcement action in a trademark dispute can shape commercial positioning as much as marketing and/or distribution strategies in the competitive Indonesian market.

Given that Indonesia adopted IP financing, trademarks are increasingly treated as commercial assets with measurable economic value. As such, disputes now directly affect valuation, investment confidence, franchising/licensing potential, and even access to financing. A poorly managed trademark dispute can weaken negotiating power with distributors, investors, licensees and/or franchisees. A well-executed trademark enforcement strategy can strengthen exclusivity, brand perception, and leverage in commercial negotiations.

Meanwhile, our firm has an advantage in understanding and developing strategies for both trademark litigation and trademark monetisation. Accordingly, the client shall consider the following strategy to resolve a trademark dispute:

- a. Strategy to anticipate bad-faith applicants;
- b. Understand the digital enforcement mechanisms (trademark monitoring) in Indonesia; and
- c. Aligning litigation strategy with commercial objectives when the dispute escalates.

4. How do you ensure high client satisfaction levels are maintained by your practice?

Our firm upholds the principle of "IQRA", which stands for "Integrity", "Quality", "Reputation", and "Accountability". These values anchor our practice and ensure that every dispute is handled not only strategically, but responsibly, professionally, and transparently. Through IQRA, we aim to deliver measurable value while maintaining the highest professional standards.

Integrity

We provide straightforward and objective advice from the outset. We present our client with a realistic assessment of strengths, weaknesses, procedural risks, and potential outcomes while we remain fully compliant with professional ethics and bar association standards.

Our legal strategy ensures that every legal action, whether pre-litigation (negotiation or out-of-court settlement) or litigation, is structured to serve a legitimate commercial objective. We present clear timelines, a defined scope of work, and full-cost transparency. This openness fosters long-term trust and ensures clients feel secure and well-informed throughout the dispute process.

Quality

Any dispute, including a trademark dispute, requires both technical precision and strategic judgment. Our firm combines broad technical and legal expertise in IP, litigation, regulatory frameworks and digital enforcement.

We maintain quality through tailored advice and structured dispute roadmaps, thorough similarity analysis (visual, phonetic, conceptual, and type of goods/services), evidence preparation, witness and expert preparation, and, if necessary, trademark monitoring. Since we do not apply a one-size-fits-all approach. Each strategy is aligned with the client's industry, risk appetite, business structure, and commercial objectives.

Reputation

Our firm values the client's reputation as similar to protecting the trademark itself. We assess the broader implications of every legal enforcement step on distributors, investors, licensees, franchisees, and public perception.

Hence, our legal advice and strategy extend beyond resolving the dispute; they are designed to preserve brand integrity and market positioning, and to protect the client's ongoing business operations in Indonesia. We treat reputation management as an integral part of dispute resolution.

Accountability

We remain accountable not only for procedural steps, but for outcomes and impact. Each client is supported by a dedicated lawyer who serves as a consistent point of contact, ensuring responsive communication and timely updates. Clients are never left uncertain about the status of their cases.

Clients receive clear timelines and regular updates throughout the dispute process. After resolution, we conduct post-dispute evaluations to identify preventive measures and defensive filing strategies, and to monitor improvements. Through shared experience, our client could prevent any similar issue in the future.

5. What technological advancements are reshaping your practice area law and how can clients benefit from them?

Technological advancements in the Indonesian Legal System, particularly in the implementation of the electronic filing system (E-Filing) for all IP registrations and the electronic court system (E-Court) for litigation.

The E-Filing system enables faster submission of trademark and other IP applications, real-time status tracking, streamlined documentation, and improved administrative transparency. It means the prosecution timelines become more efficient and more straightforward, reduce procedural errors, and improve coordination between filing strategy and enforcement planning. Early and strategic filings allow clients to confirm the availability of goods/services and generalise or specialise certain types of goods/services prior to submission, thereby reducing vulnerability under Indonesia's first-to-file system.

Beyond E-Filing, DGIP periodically updates the Trademark Gazette, which allows our firm to monitor newly published trademark applications and gives us time to review and report any potential similar applications filed by other parties to the client for opposition. In addition, the existence of e-commerce platforms and social media enabled our firm to monitor trademarks not only through the DGIP database or by physically monitoring a stall, but also through broader trademark monitoring on digital platforms. Our clients will benefit from proactive risk management, reduced enforcement expenses, and stronger evidentiary positions when challenging infringers from our combination of digital and conventional trademark surveillance.

The implementation of the E-Court system has also modernised trademark litigation. Plaintiff can now file the lawsuit electronically. Aside from verifying legal standing at the first hearing, verifying evidence, and presenting witnesses and experts, most of the hearing is conducted remotely. This reduces fees, shortens waiting time, and accelerates the dispute resolution process to ensure legal certainty.

Our firm believes that technology does not replace legal expertise, but integrating technology (AI, digital enforcement, or other supporting technologies) with our strong legal capability enhances the precision of legal strategy, provides greater protection, reduces risk exposure, and ultimately strengthens commercial advantage in Indonesia's increasingly competitive market.

Contributors

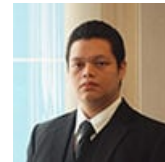
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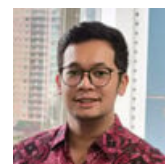
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