

The Legal Protection and Responsibility of the Directorate General of Intellectual Property in the Biostime Hong Kong Trademark Dispute

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Abstract

This study aims to analyze the legal protection of the famous Biostime trademark registered by Biostime Indonesia under Law Number 20 of 2016 on Trademarks and Geographical Indications, as well as to examine the responsibility of the Directorate General of Intellectual Property in handling the trademark dispute. The methodology of this research is categorized as normative legal research with legislative, conceptual, and historical approaches. This article uses an analysis of applicable regulations, trademark protection theories, and legal practices in resolving trademark disputes in Indonesia. The findings of this study show that legal protection for famous trademarks in Indonesia needs to be improved to provide better legal certainty for trademark owners, especially in dealing with the registration of similar or identical trademarks. The Directorate General of Intellectual Property, as the responsible institution, must be more careful and thorough in conducting substantive examinations to ensure that no violations occur against famous trademarks that could harm their owners.

Keywords: Legal Protection, Directorate General, Biostime Hong Kong.

Abstrak

Penelitian ini bertujuan untuk menganalisis perlindungan hukum terhadap merek terkenal Biostime yang didaftarkan oleh Biostime Indonesia

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berdasarkan Undang-Undang Nomor 20 Tahun 2016 tentang Merek dan Indikasi Geografis, serta untuk mengkaji tanggung jawab Direktorat Jenderal Kekayaan Intelektual dalam menangani sengketa merek tersebut. Metodologi penelitian ini tergolong dalam penelitian hukum normatif dengan pendekatan perundang-undangan, konseptual, dan historis. Artikel ini menggunakan analisis terhadap peraturan yang berlaku, teori perlindungan merek, serta praktik hukum dalam penyelesaian sengketa merek di Indonesia. Hasil penelitian ini menunjukkan bahwa perlindungan hukum terhadap merek terkenal di Indonesia perlu ditingkatkan agar dapat memberikan kepastian hukum yang lebih baik bagi pemilik merek terkenal, terutama dalam menghadapi pendaftaran merek yang serupa atau identik. Direktorat Jenderal Kekayaan Intelektual sebagai lembaga yang bertanggung jawab dalam hal ini harus lebih cermat dan teliti dalam melakukan pemeriksaan substantif untuk memastikan tidak ada pelanggaran terhadap merek terkenal yang dapat merugikan pemiliknya.

Kata Kunci: Perlindungan Hukum, Direktorat Jendral, Biostime Hongkong

Introduction

Intellectual property (IP) plays a crucial role in modern economies, fostering innovation and providing legal protection for the creators and owners of intangible assets. Among the various forms of intellectual property, trademarks are fundamental in ensuring that businesses can distinguish their goods and services in the market, thus safeguarding brand identity and consumer trust. Trademarks not only protect the economic interests of companies but also ensure that consumers can make informed choices in the marketplace. Given the globalized nature of commerce today, strong legal frameworks are essential to protect these valuable assets. As such, the protection of trademarks has become a focal point in international trade law and business practice (Tushnet, 2017).

In Indonesia, the Directorate General of Intellectual Property (DJKI) is the key agency responsible for overseeing the registration, management, and enforcement of intellectual property rights, including trademarks. Indonesia's legal framework, particularly Law No. 20 of 2016 on Marks and Geographical Indications, aims to provide a robust system for trademark registration and protection (Sutrisno, 2020). However, despite these efforts, trademark disputes are still prevalent. One such dispute is the Biostime Hong Kong trademark case, which highlights the complexities that arise when foreign companies seek trademark protection in Indonesia. The case has brought into question not only the effectiveness of Indonesia's legal system in protecting trademarks but also the responsibilities of DJKI in handling such disputes.

The Biostime case is a significant example of how intellectual property disputes can escalate due to misunderstandings of trademark rights and issues surrounding registration. The Hong Kong-based Biostime company, which markets its products under the Biostime trademark, found itself in a legal battle over its brand's registration in Indonesia (Tushnet, 2017). This conflict stemmed from the registration of a similar mark by a local entity, which resulted in a legal dispute over the validity and ownership of the Biostime trademark in the Indonesian

market. This case, therefore, underscores the importance of a clear and transparent trademark system, especially for international companies seeking to protect their brands in foreign markets.

Ideally, the Indonesian legal system should provide clear, effective, and timely protection for trademark holders, both foreign and domestic. It should facilitate the swift resolution of conflicts and ensure that trademarks are registered and maintained without obstruction. A functioning trademark system would also include mechanisms for enforcing trademark rights, preventing unauthorized use, and resolving disputes efficiently. The Directorate General of Intellectual Property (DJKI) should play a key role in maintaining this system by acting swiftly in adjudicating disputes, preventing the misuse of trademarks, and upholding the principles of fairness and justice (Harsono, 2019).

However, in practice, the situation is more complicated. While Indonesia's legal framework has been strengthened through reforms like Law No. 20 of 2016, challenges persist in the areas of enforcement and dispute resolution. One of the key issues is the 'first to file' principle, which governs trademark registration in Indonesia. This principle gives priority to the first party to file for a trademark, regardless of prior use, which can lead to conflicts when two parties lay claim to the same mark (Sutrisno, 2020). Furthermore, the process of resolving disputes can be lengthy and burdensome, often resulting in uncertainty and financial losses for businesses. In the case of Biostime, the complexity of the dispute and the time taken to resolve it illustrates the shortcomings of the current trademark protection system in Indonesia.

The Biostime trademark dispute also highlights the challenges faced by foreign businesses operating in Indonesia. Companies like Biostime, which seek to expand their presence in the Indonesian market, often face difficulties due to the complexities of local trademark laws and regulations (Harsono, 2018). These challenges can be exacerbated by delays in the registration process, unclear procedures, and a lack of transparency in the enforcement of trademark rights. In this regard, the case serves as a reminder that there is room for improvement in how Indonesia's trademark laws are implemented, particularly with respect to foreign companies and their ability to protect their intellectual property rights.

This study seeks to investigate the legal protection available to Biostime in the context of Indonesian trademark law, particularly examining the role and responsibilities of the Directorate General of Intellectual Property (DJKI) in handling trademark disputes. By analyzing the Biostime case, this research will identify the strengths and weaknesses of Indonesia's trademark system and explore potential reforms that could improve its functioning. The study will also address the legal and institutional challenges faced by foreign companies in Indonesia, offering insights into how the trademark system could be made more accessible and effective for international businesses.

In addition to analyzing the legal aspects of the case, this research will evaluate the effectiveness of DJKI's role in preventing and resolving trademark disputes. The DJKI, as the regulatory body responsible for overseeing the intellectual property system, plays a crucial role in ensuring that trademarks are properly registered, enforced, and protected. The study will also assess DJKI's transparency in dispute resolution and its responsibility in preventing conflicts

such as the one faced by Biostime. It will explore the adequacy of DJKI's mechanisms for addressing trademark disputes and propose recommendations for improving the efficiency and fairness of these processes.

The contributions of this research are twofold: first, it aims to provide a critical examination of the current state of trademark protection in Indonesia, focusing on the challenges and weaknesses revealed by the Biostime dispute. Second, it offers practical recommendations for enhancing the trademark system, ensuring that both local and international companies can effectively protect their intellectual property rights in Indonesia. By providing a comprehensive analysis of the case and the broader issues at play, this research will contribute to the ongoing development of intellectual property law in Indonesia, supporting the growth of a more equitable and efficient system for all stakeholders.

Tinjauan Pustaka

This research is not the first to explore issues related to the legal protection of trademarks and the responsibilities of the Directorate General of Intellectual Property (DJKI) in resolving trademark disputes in Indonesia. Several scholars have already contributed to this field, each providing insights into the complexities surrounding trademark protection and the role of DJKI. However, none of the previous works has specifically focused on the Biostime Hong Kong trademark dispute in the context of the DJKI's responsibilities, the legal framework, and its enforcement mechanisms.

In the work of Herlina and Kansil (2020), titled *"The Responsibility of the Directorate General of Intellectual Property in Resolving the Trademark Dispute Over 'Tempo Gelato'"*, the authors analyze DJKI's role in resolving trademark disputes involving well-known brands. Their research shares similarities with this study in terms of examining DJKI's responsibility and the procedures involved in dispute resolution. However, their study is centered on the 'Tempo Gelato' case, which is distinct in terms of both the involved parties and the nature of the trademark conflict. While the authors discuss DJKI's role, their focus is more on the procedural aspects of the dispute rather than the broader implications for foreign companies, such as Biostime, which is the focal point of this study. This research, therefore, aims to fill the gap by emphasizing the challenges faced by international companies in navigating Indonesia's trademark system, specifically with respect to Biostime's case.

Similarly, in her work *"Perlindungan Hukum Merek 'Biostime' Berdasarkan Undang-Undang No. 20 Tahun 2016 tentang Merek dan Indikasi Geografis Berdasarkan Putusan Nomor 48/PDT.SUS-MEREK/2021/PN NIAGA.JKT. PST,"* Hidayati (2024) provides an analysis of the legal protection of the Biostime trademark based on Indonesian law, focusing on the case ruling involving the brand. Her study shares common ground with this research by exploring the legal framework governing trademarks, especially Law No. 20 of 2016. However, Hidayati's work centers specifically on the legal aspects of Biostime's case, while this study takes a more comprehensive approach by analyzing DJKI's institutional responsibility in ensuring the resolution of disputes and preventing future conflicts. Moreover, Hidayati's analysis does not delve deeply into the practical

challenges faced by international companies in obtaining trademark protection in Indonesia, which is a key component of this research.

Destiana Salsabiela (2022), in her study *"Perlindungan Hukum Merek Terkenal yang Tidak Terdaftar di Indonesia Menurut Pasal 21 Undang-Undang Nomor 20 Tahun 2016 tentang Merek dan Indikasi Geografis,"* discusses the protection of unregistered famous trademarks under Indonesian law, particularly in cases where a trademark is not officially registered but still deserves protection due to its recognition. Her work shares similarities with this study by examining the protection of well-known brands. However, Salsabiela's focus on unregistered trademarks differs from this research, which specifically addresses a registered trademark dispute involving Biostime. Furthermore, this study differs by focusing on the responsibility of DJKI in trademark protection and its role in resolving disputes effectively, which is less emphasized in Salsabiela's research.

After reviewing these existing works, it becomes clear that while there is significant research on the legal protection of trademarks and DJKI's role in trademark disputes, none of the studies comprehensively addresses the specific issues raised by the Biostime Hong Kong trademark dispute. This gap is particularly important as it highlights the unique challenges faced by international companies operating in Indonesia and the potential weaknesses within the trademark registration and dispute resolution processes. The novelty of this research lies in its focus on the institutional responsibility of DJKI in the Biostime case and its implications for foreign entities seeking trademark protection in Indonesia, an area not sufficiently covered by prior studies.

This research occupies a critical position within the broader body of work on intellectual property law in Indonesia, as it addresses the gap in the existing literature regarding the challenges faced by international companies in navigating the Indonesian trademark system. By focusing on the Biostime case and the DJKI's role, this study provides a fresh perspective on the effectiveness of Indonesia's trademark protection system. The research offers a valuable contribution to both the academic field and practical policymaking, especially in terms of improving transparency, fairness, and efficiency in trademark dispute resolution.

Research Methodology

The methodology used in this research is normative legal research, which focuses on examining legal norms and regulations. This method, often referred to as doctrinal or library research, views law as a system of principles, rules, statutes, court decisions, agreements, and legal doctrines. The primary objective of this research is to analyze the legal framework surrounding trademark protection and the role of the Directorate General of Intellectual Property (DJKI) in resolving trademark disputes. The research follows a descriptive-analytic approach, which involves identifying and describing the legal issues at hand, processing relevant data, analyzing the problems, and drawing conclusions from the analysis.

This study employs several approaches to enrich the research process. A statutory approach is used to examine the applicable laws and regulations, focusing on the legal standards for trademark protection. A historical approach is also applied to trace the development of intellectual property law in Indonesia

over time. Furthermore, a comparative approach is employed by comparing Indonesia's trademark protection system with other countries to gain insights into the similarities and differences. To gather relevant information, the research draws on primary legal sources such as laws, regulations, and official court rulings, as well as secondary sources from academic literature and case studies. Key sources include legal documents such as Government Regulation No. 10 of 1997 on Nuclear Energy, Law No. 32 of 2009 on Environmental Protection, and the Omnibus Law on Job Creation (Law No. 2 of 2022), among others.

Trademark Law Regulations in Indonesia

Intellectual property rights, particularly trademark law, play a critical role in protecting the identity of products and services in an increasingly competitive global market. In Indonesia, the regulation of trademarks has undergone significant developments to align with international standards. The legal framework provides a foundation for safeguarding brand reputation and ensuring fair business practices. The case of Biostime Hongkong highlights the relevance and application of these regulations in resolving trademark disputes.

Indonesia's trademark protection is governed by Law No. 20 of 2016 concerning Trademarks and Geographical Indications. This law serves as the primary legal basis for trademark registration, use, and dispute resolution in the country. It aims to protect the intellectual property of individuals and companies by establishing clear guidelines for trademark management. The law also incorporates elements of international conventions, such as the Paris Convention for the Protection of Industrial Property, to harmonize Indonesia's legal framework with global practices (Rahayu, 2020).

One of the central principles of Indonesia's trademark regulation is the 'first to file' system. Under this system, legal ownership of a trademark is granted to the first entity that successfully files a trademark application. This approach emphasizes the importance of proactive registration for securing exclusive rights to a trademark. The "first to file" system, while straightforward, has been criticized for potentially disadvantaging prior users of a trademark who fail to register it promptly (Suryono, 2019). The application of the 'first to file' principle often results in disputes when multiple parties claim rights to the same or similar trademarks. In the case of Biostime Hongkong, this principle became a pivotal factor. Biostime Hongkong had to contend with competing claims for the trademark in Indonesia, raising questions about the adequacy of the registration process and the enforcement of intellectual property rights. This scenario underscores the challenges of balancing fairness and efficiency in a "first to file" system (Wibowo, 2021).

Under the provisions of Law No. 20 of 2016, trademark disputes such as that of Biostime Hongkong can be addressed through administrative processes, mediation, or judicial review. The Directorate General of Intellectual Property (DJKI) is tasked with overseeing these processes and ensuring that trademark regulations are enforced effectively. However, the effectiveness of DJKI's role in managing disputes depends on the clarity of the legal framework and the capacity of the institution to handle complex cases (Putri, 2022). Biostime Hongkong's legal

position in the trademark dispute reflects the intricacies of Indonesia's trademark law. The company argued its right to the trademark based on prior use and international recognition. However, under the "first to file" principle, these factors were not sufficient to guarantee ownership unless supported by proper registration. This case illustrates the need for businesses to understand and comply with Indonesia's registration requirements to safeguard their intellectual property.

The legal framework also provides mechanisms for opposing trademark registrations deemed to infringe on existing rights. Biostime Hongkong utilized this provision to challenge the registration of a competing trademark. The opposition process involves presenting evidence of prior use, reputation, and the likelihood of consumer confusion. This process highlights the law's capacity to address disputes, though its effectiveness relies on thorough documentation and representation (Wulandari, 2020). Despite its comprehensive legal provisions, Indonesia's trademark regulation faces criticism for certain ambiguities. In the Biostime Hongkong case, the interpretation of "bad faith" in trademark registration became a contentious issue. The law prohibits the registration of trademarks filed in bad faith, but proving this intent requires substantial evidence. This evidentiary burden can disadvantage claimants who lack access to necessary resources.

The Biostime Hongkong case also underscores the importance of aligning domestic trademark regulations with international standards. As a member of the World Trade Organization, Indonesia is bound by the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement. This agreement emphasizes transparency and fairness in the administration of intellectual property laws, including trademarks. Compliance with TRIPS strengthens the credibility of Indonesia's legal framework in the global market (Rahmawati, 2020). While the "first to file" principle promotes administrative efficiency, it can lead to disputes involving international trademarks. Biostime Hongkong's case highlights the potential for conflict when international brands encounter local competitors leveraging the same system. This scenario points to the need for additional measures, such as requiring proof of use during the registration process, to prevent opportunistic registrations.

The dispute further reflects the broader issue of public awareness regarding trademark regulations. Many businesses, particularly smaller enterprises, remain unaware of the importance of timely trademark registration. As demonstrated in the Biostime case, failure to prioritize registration can result in costly legal disputes and loss of brand identity. Efforts to educate businesses about trademark laws are essential to prevent similar conflicts (Ayu, 2019). Ultimately, the Biostime Hongkong trademark dispute serves as a valuable case study in understanding the dynamics of Indonesia's intellectual property law. It reveals both the strengths and limitations of the current legal framework, particularly in applying the "first to file" principle. By addressing the identified challenges, Indonesia can enhance its trademark protection system and foster a more equitable environment for businesses operating within its jurisdiction.

The Role of the Directorate General of Intellectual Property (DJKI)

The protection of intellectual property, particularly trademarks, is crucial for businesses operating in Indonesia. Trademarks, as a symbol of brand identity, help distinguish goods and services in the marketplace. The Directorate General of Intellectual Property (DJKI), under the Ministry of Law and Human Rights, plays a significant role in the enforcement and regulation of trademark rights. As the body responsible for handling intellectual property disputes, DJKI ensures that trademarks are protected in accordance with Indonesian law, providing a legal framework for businesses to safeguard their brands. This framework becomes especially important when disputes arise over trademark ownership, as evidenced in the Biostime Hong Kong case.

The primary legal basis governing trademark protection in Indonesia is the Law No. 20 of 2016 concerning Trademarks and Geographical Indications. This law provides comprehensive rules on trademark registration, infringement, and dispute resolution. It also outlines the rights and obligations of trademark owners, ensuring that the intellectual property of businesses is protected from misuse. In terms of trademark registration, Indonesia follows the "first to file" principle, which means that the first party to file a trademark application has the exclusive right to that mark, regardless of prior use. This principle encourages early registration and provides clear ownership rights, which is crucial in the event of disputes (Sihombing, 2020).

In the context of the Biostime Hong Kong trademark dispute, this principle played a pivotal role. The dispute centered around conflicting claims over the Biostime trademark, a well-known brand in the health and wellness industry. Biostime Hong Kong, the original trademark holder, faced challenges in protecting its mark when another entity in Indonesia registered a similar name. The first-to-file principle in Indonesia gave precedence to the party that had registered the mark, leading to a complex legal situation for both parties involved. This case underscores the importance of adhering to the trademark registration process to avoid legal complications.

The DJKI is tasked with overseeing and enforcing intellectual property laws in Indonesia, including the management and resolution of trademark disputes. The Directorate has the authority to examine trademark applications, register trademarks, and investigate potential infringements. In cases of disputes, DJKI is responsible for mediating and administering the process to resolve conflicts. The role of DJKI is particularly vital in providing a transparent mechanism for addressing these disputes, as seen in the Biostime case, where the DJKI's intervention helped clarify the ownership of the trademark and ensured that both parties adhered to the legal process.

In resolving trademark disputes, DJKI provides two primary mechanisms: mediation and administrative dispute resolution. Mediation offers an alternative means of resolving conflicts by encouraging the parties to come to a mutual agreement without resorting to formal litigation. Administrative dispute resolution involves DJKI's review and adjudication of trademark disputes, where decisions are based on the legal framework set forth in the trademark law. Both mechanisms serve as tools for resolving conflicts in an efficient manner, reducing the need for

lengthy court proceedings and fostering a fair and just resolution process (Budianto, 2019).

Mediation, in particular, offers a faster and more flexible alternative to traditional legal proceedings. In the Biostime Hong Kong case, the parties were encouraged to participate in mediation to find an amicable resolution. This process allowed both parties to present their arguments and negotiate a settlement without resorting to more adversarial measures. However, mediation is not always successful, and in cases where a resolution cannot be reached, the dispute is escalated to administrative dispute resolution by the DJKI.

Administrative dispute resolution involves the formal review of the dispute by DJKI officials, who consider the arguments presented by both parties, examine relevant documents, and issue a decision based on the law. In the Biostime case, DJKI's role in administering the dispute was crucial in determining the rightful owner of the trademark. The decision was based on the first-to-file principle and the examination of the registration process to ensure that the law was applied fairly and consistently. The performance of DJKI in handling the Biostime Hong Kong trademark dispute highlights both the strengths and challenges of the institution. On the one hand, DJKI effectively facilitated the resolution of the dispute, providing a legal framework for the parties involved. On the other hand, the case exposed some challenges in the enforcement of trademark rights, particularly in relation to international disputes and the protection of well-established brands (Budianto, 2019).

The fact that Biostime Hong Kong faced challenges in protecting its trademark in Indonesia points to potential gaps in the application of the law, particularly when dealing with foreign trademarks. DJKI's effectiveness in resolving trademark disputes also depends on the capacity and expertise of its officials. The ability of DJKI to handle complex cases, such as Biostime Hong Kong's, requires well-trained personnel who understand the intricacies of trademark law and international intellectual property standards. This highlights the need for continuous professional development and capacity-building within the Directorate to improve its handling of disputes and ensure fair outcomes for all parties involved.

The Biostime Hong Kong case serves as a reminder of the importance of timely trademark registration and adherence to local legal procedures when operating in international markets. For businesses seeking to protect their brands, understanding the regulatory framework in Indonesia, including the first-to-file principle and DJKI's dispute resolution mechanisms, is essential (Budiman, 2019). It is equally important for trademark holders to be proactive in defending their rights and to seek legal assistance when necessary to navigate the complexities of trademark law.

In conclusion, the regulation of trademarks in Indonesia is governed by a comprehensive legal framework that aims to protect businesses and consumers alike. The role of the DJKI is crucial in ensuring that trademark disputes are resolved efficiently and in accordance with the law. As the Biostime Hong Kong case demonstrates, businesses must be vigilant in protecting their intellectual property rights and be aware of the mechanisms available to them to resolve disputes effectively and fairly.

Analysis of Legal Protection in the Biostime Case

The protection of intellectual property, particularly trademark rights, plays a critical role in ensuring fair competition and safeguarding the interests of businesses in any given jurisdiction. In the case of Biostime Hong Kong, a prominent brand in the health and wellness sector, the company faced significant challenges to its trademark rights in Indonesia. This case underscores the complexities surrounding trademark disputes and the effectiveness of legal systems in protecting these rights. The process of addressing such disputes is governed by various regulations, and it is crucial to evaluate the measures taken and the system's ability to provide effective protection (Sutrisno, 2021).

Biostime Hong Kong sought legal protection for its trademark in Indonesia, primarily focusing on enforcing its exclusive rights over the brand name. The company, having established its brand in international markets, faced challenges in the Indonesian market when another entity filed a trademark application for the same name. Biostime's efforts to safeguard its intellectual property included initiating legal action through the Indonesian trademark office and seeking legal redress through various means, including administrative procedures and mediation. These actions reflect the proactive stance taken by Biostime to assert its rights under Indonesian law.

One of the primary legal instruments governing trademark disputes in Indonesia is the Trademark Law No. 20 of 2016, which aims to protect the rights of trademark owners and ensure a fair legal framework for resolving disputes. This law includes a system of protection based on the "first to file" principle, meaning that the first party to file a trademark application enjoys exclusive rights over the mark, regardless of actual prior use. Biostime Hong Kong's position was particularly challenged due to the registration of a similar trademark by another party before Biostime could officially register its mark in Indonesia. This situation highlights the importance of understanding the nuances of the "first to file" principle in trademark disputes (Wulandari et al., 2020).

The role of the Directorate General of Intellectual Property (DJKI) becomes essential in addressing such disputes. DJKI is responsible for managing the registration and protection of intellectual property rights in Indonesia, and its role extends to resolving conflicts arising from trademark infringements. In the case of Biostime Hong Kong, DJKI had to carefully assess the legal aspects of the conflicting trademarks, consider the merits of the dispute, and ensure that the principles of justice and fairness were upheld during the legal proceedings (Mukti et al., 2022). The DJKI's approach to resolving the dispute will also determine the overall effectiveness of the legal framework in safeguarding trademark rights.

The weaknesses of the legal protection system for trademarks in Indonesia, as demonstrated by this case, lie in the gaps between legal theory and practice. While the law provides a clear framework for protecting trademark rights, the administrative process can sometimes be slow and subject to discrepancies in interpretation. The lack of immediate legal relief mechanisms for trademark owners, such as expedited procedures for resolving disputes, can lead to extended

periods of uncertainty for businesses. In Biostime's case, the delays in resolving the conflict potentially undermined the effectiveness of the legal protection system.

Additionally, the "first to file" principle, while providing a clear guideline, may not always reflect the true intentions or practices of trademark owners. This principle can create situations where parties that have used a mark in commerce for a long time find themselves losing their rights to the mark simply because another party filed it first, despite the latter having no substantial use of the trademark. In Biostime's case, this flaw in the system raised concerns about fairness, especially for internationally recognized brands (Wulandari et al., 2020).

On the other hand, the strength of the trademark protection system in Indonesia lies in its robust framework, which allows for multiple avenues of resolution for trademark disputes. Through administrative actions and mediation, trademark owners can seek redress, and the legal system provides a platform for businesses like Biostime to voice their grievances and seek protection. The mediation process, in particular, allows for less adversarial resolutions, potentially leading to mutually beneficial agreements between the disputing parties.

In Biostime's case, the company's legal strategy also included leveraging alternative dispute resolution methods such as mediation. This reflects the strength of Indonesia's legal framework, which incorporates mediation as a viable option for resolving intellectual property disputes (Dian, 2018). Mediation allows both parties to negotiate a resolution without resorting to lengthy and costly litigation, thus providing a more efficient means of resolving trademark disputes. Biostime's willingness to explore mediation demonstrates the flexibility of the legal system and its potential for fostering amicable settlements.

The case also sheds light on the responsibility of DJKI in the effective management of trademark disputes. The Directorate's ability to facilitate both administrative resolution and mediation is crucial in ensuring that legal protection is provided in an efficient manner. In the Biostime case, DJKI's actions to mediate between the parties and provide a platform for resolving the issue reflect the organization's important role in safeguarding intellectual property rights in Indonesia. However, it also highlights the need for further reforms to improve the speed and transparency of decision-making processes within DJKI (Setiawan, 2020).

Another strength of the system is the existence of appeals processes. Trademark owners dissatisfied with the DJKI's decisions can appeal to the Commercial Court, ensuring that there are checks and balances in place for dispute resolution. This appeals process provides an additional layer of protection for trademark owners, ensuring that decisions can be reviewed and corrected if necessary. For Biostime Hong Kong, the possibility of appealing DJKI's decision ensures that the case will be subjected to thorough scrutiny, allowing for a more fair and balanced resolution (Mukti et al., 2022).

Despite the effectiveness of Indonesia's trademark protection system, the Biostime case reveals the challenges of applying these laws to international trademark disputes. Biostime, being a Hong Kong-based company, had to navigate not only Indonesian law but also the complexities of international intellectual property norms. This situation raises questions about the adequacy of the legal framework in dealing with cross-border disputes and the potential need for

stronger international collaboration to address trademark infringements that transcend national borders.

Legal Implications and Responsibilities of the Directorate General of Intellectual Property (DJKI)

Intellectual property (IP) is a critical component of the global economy, and its protection through laws and regulations ensures innovation and fair competition. However, intellectual property disputes, especially trademark conflicts, are inevitable in a globalized market. The case of Biostime Hong Kong in Indonesia highlights significant issues within the framework of Indonesia's intellectual property laws, raising questions about the role of the Directorate General of Intellectual Property (DJKI) in resolving disputes and preventing similar occurrences. The implications of such disputes extend beyond the immediate case and affect the broader IP protection system in Indonesia (Wulandari, 2020).

The ongoing trademark dispute between Biostime Hong Kong and a local entity underscores the potential shortcomings of Indonesia's intellectual property protection system. The legal framework for IP protection in Indonesia, as outlined in Law No. 20 of 2016 on Marks and Geographical Indications, aims to protect the rights of trademark owners. However, the Biostime case reveals the gaps in the enforcement of these laws and raises concerns regarding their implementation. The dispute illustrates the challenges in safeguarding trademark rights, particularly when conflicting registrations occur under the 'first to file' principle.

The impact of such a dispute extends to the broader intellectual property system in Indonesia. One of the most notable consequences is the erosion of confidence in the effectiveness of IP protection mechanisms. If trademark disputes like Biostime's are not resolved promptly and fairly, it may undermine the trust of both local and international businesses in the Indonesian system. Companies might hesitate to invest in Indonesia if they feel their IP rights are at risk, which could harm the country's reputation as a destination for innovation and business (Mukti, 2022).

Another crucial impact is the potential for increased legal costs for businesses involved in IP disputes. In the Biostime case, the company's resources were stretched as it sought to enforce its trademark rights in Indonesia. Legal costs, including fees for administrative procedures, mediation, and litigation, can be significant. The lack of swift resolution mechanisms can also prolong the financial burden on businesses seeking legal protection for their intellectual property (Setiawan, 2020). In response to these challenges, the DJKI holds significant responsibility in ensuring that the IP system functions effectively. The DJKI's role is not only limited to administrative functions but also extends to dispute resolution. One of its primary responsibilities is to ensure that trademark rights are properly registered, protected, and enforced in a manner that is fair and just.

The DJKI is also tasked with preventing conflicts like the one Biostime faced, which includes improving the efficiency of the registration process and ensuring that trademarks do not conflict with existing marks (Wulandari et al., 2020). To prevent future trademark disputes, DJKI must improve its monitoring

and enforcement processes. One potential area for improvement is the creation of a more efficient mechanism for identifying conflicting trademarks during the registration process. By proactively addressing potential conflicts before trademarks are registered, the DJKI can reduce the number of disputes that escalate to legal proceedings. Implementing a more comprehensive trademark search system could significantly alleviate the burden on businesses and reduce the risk of IP conflicts.

DJKI is also responsible for ensuring that trademark owners are educated about their rights and responsibilities. This can be achieved through seminars, workshops, and other outreach efforts aimed at enhancing awareness of IP laws. Biostime's situation highlights the importance of businesses understanding the intricacies of the registration process and their options for protecting their intellectual property in foreign markets. Providing accessible resources for trademark owners can help them navigate the complexities of intellectual property law more effectively (Setiawan, 2020). The responsibility of the DJKI also extends to ensuring transparency in the resolution of disputes. One of the key issues raised in the Biostime case is the perceived lack of transparency in the decision-making process. By increasing transparency in the mediation and administrative procedures, the DJKI can enhance public trust in its ability to handle IP conflicts. A more open process could also deter potential misuse of the system and encourage fairer outcomes.

An essential aspect of DJKI's role in intellectual property protection is the promotion of fairness in dispute resolution. In the Biostime case, the company's claims for trademark infringement were contested by a local business that had registered a similar mark. The DJKI's responsibility is to ensure that all parties involved are treated equitably and that decisions are based on a thorough and impartial evaluation of the facts. Maintaining fairness in the process is crucial for the credibility of the Indonesian IP system (Sutrisno, 2021). Additionally, the DJKI plays a pivotal role in enhancing the legal infrastructure for IP protection in Indonesia. As international IP laws continue to evolve, it is essential for Indonesia to remain aligned with global standards. The DJKI must advocate for reforms in the legal framework to address emerging challenges, such as cross-border trademark conflicts. Strengthening Indonesia's compliance with international standards will improve the country's ability to manage disputes more effectively and encourage foreign investment.

Conclusion

The Biostime Hong Kong trademark dispute highlights significant gaps in Indonesia's legal protection system for intellectual property, particularly in terms of the enforcement of trademark rights. Despite the existence of Law No. 20 of 2016 on Marks and Geographical Indications, challenges remain in effectively addressing conflicts arising from the 'first to file' principle and preventing the registration of conflicting trademarks. The case emphasizes the need for the Directorate General of Intellectual Property (DJKI) to strengthen its regulatory framework, improve the transparency of the dispute resolution process, and

enhance its monitoring and enforcement mechanisms to prevent such conflicts from occurring in the future.

Furthermore, the responsibility of the DJKI extends beyond mere administrative tasks. It must play a proactive role in educating businesses about intellectual property laws, ensuring fairness in dispute resolution, and aligning the Indonesian system with international standards. To restore confidence in Indonesia's IP system, it is crucial for the DJKI to improve the efficiency of trademark registrations and ensure that intellectual property disputes are resolved in a timely and just manner. This will not only protect the interests of trademark holders like Biostime Hong Kong but also contribute to a more robust intellectual property environment in Indonesia.

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