



JURIDICAL REVIEW OF INFRINGEMENT OF TRADEMARK RIGHTS ON SOCCER CLUB MERCHANDISE PLAGIARISM

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Abstract

Sport is an activity to regularly train and move body parts that must be carried out by every human being. It is important to do exercise to maintain health and fitness. One of the sports that is a favorite among the people is football. This is none other than because football is a sport that is easy to play and can unite various groups. It is not only a sporting event of choice to maintain health. Currently, football has also become a quite popular industry among various groups, both artists and local entrepreneurs. In fact, this game can be said to be the most popular. The high public interest in football certainly has an impact on the economic and creative fields. Where various football events have indirectly provided great opportunities for artists and local merchandise entrepreneurs to be able to develop their businesses. However, unfortunately, apart from providing positive opportunities, industrial developments in the sport of football have also had a negative impact on a number of groups. Namely in the form of increasingly high levels of plagiarism on other people's merchandise brands. This research was carried out with the aim of finding out the impacts of plagiarism on artists and local entrepreneurs who create merchandise.

Keywords: Football, Plagiarism, Merchandise.

INTRODUCTION

The game of soccer is considered one of the most popular sports in the world, and Indonesia is no exception. Conversations about soccer have become commonplace and a daily staple in Indonesian society. It is a great passion and a deep feeling when talking about this sport. Football supporters in Indonesia are the largest supporters ranked third in the Asian region. Based on the results of a survey in 2022, 69 percent of people in Indonesia are interested in soccer. Indonesia is ranked third behind Vietnam with 75 percent and the United Arab Emirates (UAE) with 70 percent of its population who like soccer (Pristiandaru, 2022). From these data, the large number of Indonesian soccer supporters certainly raises the enthusiasm of Indonesian youth to become soccer players. This does not only affect the conditions in the soccer field, but will certainly affect conditions outside the field, including in the economic and creative fields.

It is undeniable that soccer is a profitable business opportunity for business people. Through the procurement of football events both at the national and international levels,

various business fields such as hospitality, transportation, culinary, and craft businesses are also affected by the "splash" of these benefits. The economic flow certainly does not only stop at big businessmen but involves local artists and entrepreneurs as well, such as the production of jersey (merchandise). Through the 2022 world cup event held in Qatar, based on a report from aljazeera, the world soccer organization FIFA submitted a report that the Qatar World Cup brought enormous profits, which reached US \$ 7.5 billion or around 117.75 trillion. This profit does not include the Qatar World Cup broadcast agreement received by FIFA and various countries (CNBC Indonesia, 2022).

Today, most soccer clubs that already have many supporters have opened up a new business field related to financial matters. When viewed from a business perspective, soccer itself is a potential industry that offers products that can reach a global audience. There is also a variety of business talk about soccer, whether in the form of player transfer fees, player salaries, or the revenue earned by television broadcasting soccer matches. Big-name soccer clubs can "exploit" their popularity to sell accessories and jerseys (merchandising). Of course, it must be accompanied by licensing or permission to use the name of the football club to obtain economic value. Merchandising activities are important to support the development of an entertainment or sports business, including soccer. In a soccer club, merchandising has a function as a club revenue stream. No less important is that through the sale of accessories and jerseys (merchandising) it becomes a profitable business for football clubs. Not only that, in this case merchandising can also be a branding medium for a soccer club to be increasingly recognized by the general public. Where every football club fan who wears a shirt or accessories from a club indirectly presents the value of the football club itself.

RESEARCH METHODS

The method that will be used in this research is normative juridical research. Normative juridical research itself is a research method that places the law as a system of norms. In this case, the system of norms in question is about the principles and rules of the legislation of court decisions, agreements and legal doctrine. Normative juridical research makes the norm system the object of study. Normative juridical research examines systematics based on the observance of hierarchical legal structures to provide an opinion in the form of justification (prescriptive) of a legal event.

RESULTS AND DISCUSSION

Brand Protection on Football Club Merchandise Merchandise or better known as sports trinkets, is a work or product produced by every football club which is generally used as a promotional tool of a club or to be sold for profit (Kasim, 2017). According to Sujana (cited by ikhwanuddin, mediantono) merchandise itself is defined as products that retailers sell to consumers in their outlets to consumers (Muslim, 2018). Merchandise sales from each soccer club itself vary in types such as jackets, scarves, player jerseys, etc. One of the biggest revenues of football clubs is from merchandise sales specifically for jersey sales from each club. Quoting from transfermarkt.co.id a list of 20 clubs

with the biggest income from the sale of costumes in 2023 where in the first position is filled by the Spanish club, Barcelona, whose own costume or jersey is supplied by Nike where the sale benefits 179 million euros. Furthermore, the second position is filled by rivals Real Madrid whose jersey is supplied by Adidas and recorded an income of 155 million euros. (Rimohardi, 2024). The high value of revenue from each club should be even greater, considering that many of the merchandise products of foreign football clubs that are sold and marketed, especially in developing countries such as Indonesia, are counterfeit or imitation products. The high selling price of the original jersey compared to its counterfeit goods and the income inequality of developed countries and developing countries that cause the rampant sale of imitation jerseys. Jersey (Merchandise) license or licensing of a football team itself has actually been protected by law, as stipulated in Article 2 Paragraph (3) of Law Number 20 of 2016 concerning Trademarks and Geographical Indications which states:

"A protected trademark consists of a mark in the form of an image, logo, name, word, letter, number, color arrangement, in the form of 2 (two) dimensions and/or 3 (three) dimensions, sound, hologram, or a combination of 2 (two) or more elements that distinguish goods and/or services produced by a person or legal entity in the course of trading goods and/or services."

Through the article, it is known that the rights to a trademark can be obtained for the trademark that has been registered as stipulated in the Act. Registration of the trademark itself needs to be done in order to create a legal protection for the owner of the trademark, because it is not impossible in the future a trademark made and used by individuals, groups or a legal entity is used and claimed also by other parties as belonging. After registration of the trademark in the Directorate General of IPR, the use of logos and trademarks of a football team cannot be used carelessly and must

obtain permission from the team concerned where generally registered trademark owners grant licenses to other parties to be able to use the trademark by paying royalties to the team. Seeing the rampant sale of imitation merchandise, especially soccer team jerseys (merchandise), in the Indonesian market is a serious violation.

against the Act where the act may be subject to criminal provisions as stipulated in Article 100 paragraph (1) of Law No. 20 Year 2016 on Trademarks and Geographical Indications:

"any person who intentionally and without right uses the same mark in its entirety or is substantially similar to a registered mark owned by another person for similar goods and/or services, shall be liable to a maximum imprisonment of 5 (five) years and/or a maximum fine of Rp2,000,000,000.00 (two billion rupiah)."

This act of counterfeiting or plagiarism of football club merchandise not only harms the legitimate brand holders, but also consumers who may not realize that they are buying counterfeit products. For this reason, it is important for consumers to ensure that they purchase merchandise from the official stores available at the respective base camps of their favorite clubs. Aside from supporting their favorite teams, they are indirectly helping to eliminate illegal businesses circulating in the community at large.

Factors Causing Plagiarism in Football Club Merchandise

In this era of the sports industry, jersey sales (merchandise) have become one of the revenue streams for soccer clubs. This is none other than because a jersey or match uniform is one of the items that are often sought after by soccer supporters. In every new season in the soccer league, it is usually accompanied by the launch of new models of soccer club uniforms. This results in the emergence of interest in soccer supporters to find and own the soccer club jersey. With the spread of the sportswear industry, of course, it also presents a hope for Indonesian soccer supporters to be able to have jersey products at pocket-friendly prices. Seeing the demographics of Indonesian soccer supporters who are mostly middle class and also the millennial generation, it will certainly be difficult if the jersey offered costs around 1 million rupiah which is usually produced by foreign apparel manufacturers, such as Adidas and Nike. The social perception to always look fashionable following the latest fashion encourages supporters to look for alternative jerseys at a more affordable price than the original. Based on this phenomenon, counterfeit manufacturers take advantage of the opportunity to make imitation jerseys and sell them at a lower price to supporters who are unable or unwilling to pay for the official jersey (merchandise) offered by the

soccer club (Khomsiyah & Sanaji, 2021). That is one of the driving factors for the act of jersey plagiarism in circulation today.

Some other factors that cause the rampant sale of plagiarized jerseys are the lack of accessibility for the public to buy original jerseys managed by the club directly. So that counterfeit jersey products are often easier to find in traditional markets and through e-commerce compared to jerseys managed directly by soccer clubs. Through e-commerce media that has grown rapidly also makes consumers less aware of the goods purchased is the original jersey or not.

Categories of Brand Counterfeiting in Football Club Merchandise

With the development of technology, more and more people are easily trading unlicensed goods in the wider community, either directly through the market or online through e-commerce applications at a price that is much more affordable than the original product. The goods mentioned above can be categorized as plagiarism, where they meet various criteria, including deliberately using the same brand as someone else's with the aim of competing and setting a lower price to attract buyers. However, the seller uses lower quality materials than the original product. Indirectly in addition to competing in the market with the original brand owner, this act of plagiarism can also reduce the reputation of the original owner's product due to inappropriate materials that make consumers feel less satisfied with the quality of the product used by the brand counterfeiter. This can cause losses if supporters as consumers cannot distinguish between original products and those that are not (Bulqis, 2019).

According to (Sastroasmoro, 2007), written in his book entitled "Some notes on plagiarism", in the book there are categories of brand counterfeiting which are divided into several aspects, including:

A. Counterfeiting based on aspects stolen

- a. Plagiarism of ideas
- b. Content plagiarism
- c. Plagiarism of words, sentences, paragraphs
- d. Total plagiarism

B. Forgery based on the element of intent

- a. Intentional plagiarism
- b. Unintentional plagiarism

C. Forgery based on similarity of words, sentences, or paragraphs with

the original

1. Mild plagiarism (<30%)
2. Moderate plagiarism (30%-70%)
3. Severe plagiarism (>70%)

This act of plagiarism is rampant in Indonesia, especially in jersey products belonging to soccer clubs from within the country and foreign soccer clubs. This phenomenon is certainly familiar to some Indonesian people, millions of plagiarized products that are rampantly sold and spread in almost all markets in Indonesia, with a variety of variations and sold at relatively affordable prices make Indonesian supporters prefer to buy counterfeit goods even with materials whose quality is far below the original product. Most acts of brand plagiarism on fake jerseys sold and circulating in the market are in the category of total plagiarism. Where starting from the writing logo and the pattern contained in the jersey is almost exactly the same, only the material used is different.

In the world of Indonesian football, jersey plagiarism has long been an unavoidable phenomenon. Based on data taken from jawapos.com, The management of the Persipura Jayapura club made a movement to eradicate traders who sold imitation jerseys because the turnover of selling imitation jerseys would be taken by the seller himself, the seller also did not have permission from PT Persipura Papua (Agus Dwi W, 2024). Then, another example in 2021 from Tribunnews.com, Football fans criticized the jersey manufacturer Warrix because the Thai national team jersey designed by him had the same pattern motif as the Indonesian national team jersey during 2020, the pattern used was still the same, namely the Indonesian archipelago pattern. This certainly caused various reactions from Indonesian football fans, ranging from those who were angry due to the placement of the Indonesian archipelago pattern on the Thailand jersey to those who felt ridiculous about the decision of Warrix itself (Hasiolan Eko P Gultom, 2021).

The Impact of Plagiarism on the Owner of Brand Rights in Football Club Merchandise

Plagiarism in the context of brand rights on soccer club merchandise is a serious act that violates intellectual property law. Football clubs, as brand rights owners, have the exclusive right to use logos, names, and symbols associated with their identity. When other parties unauthorizedly use these elements on products sold, such as

jerseys, scarves, or other items, it can be considered a violation of brand rights. This act not only hurts the football club financially due to lost potential revenue. But it can also damage their reputation if the plagiarized merchandise is of low quality. Moreover, consumers who purchase such products may not realize that they are supporting illegal practices and not providing financial support to the actual club. Furthermore, brand rights plagiarism can also have a negative impact on the merchandise industry as a whole. Plagiarized products on the market can lower quality standards and disrupt fair competition between manufacturers. This ultimately harms consumers, who may end up with products that are not of the quality they paid for.

To combat plagiarism themselves, football clubs often take legal steps to protect their brands. This can include filing a lawsuit against the manufacturer or seller of counterfeit goods, as well as working with the authorities to stop the distribution of such goods. Educating supporters or fans about the importance of buying official merchandise is also an important part of the fight against the sale of counterfeit merchandise. Overall, brand plagiarism on football club merchandise is a serious problem that requires decisive action and cooperation between brand rights owners, consumers, and law enforcement to tackle. Thus, the integrity and value of football club brands can be maintained, thereby supporting a healthy and fair football ecosystem.

CONCLUSION

Based on the discussion above, in this case the author concludes that basically this research reveals the impact of plagiarism on soccer club merchandise, which is one of the important aspects in the sports industry and creative economy. Football as a popular sport has created significant business opportunities, including merchandise sales. However, high levels of plagiarism, especially in products such as jerseys, present serious challenges for brand owners and the industry as a whole. Plagiarism of soccer club merchandise not only hurts brand owners, but also consumers and the industry quite significantly, both in terms of finances and the image or reputation of the Soccer Club itself. In addition, consumers who purchase plagiarized jerseys (merchandise) may not realize that they are supporting illegal practices and receiving low-quality products.

SUGGEST

Therefore, strict measures are needed in brand protection, such as providing legal action and education to consumers regarding the importance of buying original merchandise to support the existence of the soccer club itself. As a form of effort to tackle the act of plagiarism, it certainly requires cooperation from various parties, both from brand owners, consumers, and law enforcement. In addition, as a party that acts as a "key" to the ownership of brand rights on a jersey (merchandise). In this case the football club is also obliged to provide a license to the Official Store that cooperates with it as a form of official sign that the seller has pocketed a production permit from him. This is important to do as a form of protection for both the Official Store and the Football Club itself for acts of plagiarism. As well as an identification mark so that fans or consumers of Football Club merchandise do not suffer losses due to buying fake Merchandise Products resulting from plagiarism.

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