

Konsep Imitasi (*Counterfeit*, *Knockoff*, dan *Dupe*) pada Industri Kosmetik dalam Perspektif Hukum Merek Indonesia

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INTISARI

Penulisan hukum ini bertujuan untuk mengetahui dan menganalisis pelanggaran hak merek di industri kosmetik berdasar hukum merek Indonesia, serta mengkaji batasan suatu produk dapat digolongkan menjadi produk *counterfeit*, produk *knockoff*, maupun produk *dupe* berdasarkan hukum merek Indonesia.

Penelitian dalam penulisan hukum bersifat deskriptif dan merupakan penelitian normatif yang didukung oleh wawancara narasumber. Jenis data yang digunakan adalah data primer yang didapatkan melalui wawancara dengan narasumber dan data sekunder yang didapatkan melalui studi kepustakaan. Data dianalisis secara kualitatif.

Hasil yang diperoleh dalam penelitian penulisan hukum ini adalah bentuk pelanggaran merek dalam industri kosmetik dapat berupa persamaan pada pokoknya, persamaan secara keseluruhan, maupun dilusi merek dengan bentuk pengaburan merek (*blurring*) dan/atau pengerusakan merek (*tarnishment*). Perihal penggolongan produk imitasi menjadi *counterfeit*, *knockoff*, dan *dupe*, dapat dilakukan dengan melihat pada aspek intensi produk dibuat, tingkat kesamaan, kualitas, dan legalitasnya – hukum merek Indonesia belum diatur secara eksplisit mengenai penggolongannya.

Kata Kunci: Imitasi, Merek, Kosmetik

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***The Concept of Imitation (Counterfeit, Knockoff, and Dupe) on Cosmetic Industries
in the Perspective of Indonesian Trademark Law***

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ABSTRACT

This legal writing aims to examine and analyze the trademark infringements on cosmetics industries based on Indonesian trademark law, as well as to identify whether a product can be classified into counterfeit products, knockoff products, or dupe products based on Indonesian trademark law.

The research is written with descriptive and normative supported by source interviews method. The types of data used are primary data obtained through interviews, and secondary data obtained through literature studies. Data were analyzed qualitatively and presented descriptively.

The results obtained in this legal writing research are the form of trademark infringement in the cosmetics industries can be varied such by similarities on certain factors, overall similarities, and dilution of the brand which can be in the form of blurring the brand (blurring) and / or damaging to the brand (tarnishment). Regarding the classification of imitation products into counterfeit, knockoff, and dupe, it can be done by looking at the aspects of the intention of the product were made, the extent of similarities, qualities, and its legality – in which all of those parameters has not been explicitly regulated in terms of the classification in the Indonesian trademark law.

Keywords: Imitation, Trademark, Cosmetics

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