

**CASE NO. 29
MARKS CASE
“CRC”**

**THE RULING OF JAKARTA COMMERCIAL COURT
AND
THE RULING OF THE SUPREME COURT OF THE REPUBLIC OF INDONESIA**

Case Title	CRC
Summary Of Verdict	<p>At the Commercial Court Level</p> <ol style="list-style-type: none"> 1. Granted the lawsuit from the Plaintiff entirely; 2. Declared that the Plaintiff is the exclusive rights holder to use a trademark namely “CRC” and variants for any kind of goods among others in Class 1 in Territory of Republic of Indonesia. 3. Declared that Plaintiff’s trademark namely “CRC” is a well-known trademark. 4. Declared that Defendant’s trademark named “C&C Logo” no. IDM000365553 and IDM 000276717 in general has a similar thing with well-known trademark of Plaintiff “CRC” 5. Declared about cancelation trademark of C&C logo by Defendant 6. Instructed Directorate of Marks noted about cancelation Marks of Defendant Named C&C Logo. 7. Punished Defendant to pay the case cost as much as Rp. 7.516.000, - (Seven Million and five hundred and sixteen thousand Rupiah) <p>At the Supreme Court Level (Cassation)</p> <ol style="list-style-type: none"> 1. Rejected the application Judicial Review from the Cassation Applicant/The Defendant; 2. Punished the Cassation Applicant/the Defendant I to pay the case cost as much as Rp 5.000.000 (Five Million Rupiah)
Case Number	<p>Commercial Court: 36/Pdt-Sus-Merek/2014/PN.Niaga.Jkt.Pst.</p> <p>Supreme Court Level (Cassation): 73 K/Pdt. Sus-HKI/2015</p>
Regulation References	Law No. 15 of 2001 concerning Marks
Keyword	Well-known marks, Bad faith

A. CASE FACTS

CRC Industries, Inc. as The Plaintiff against Febriyanto as the Defendant. Plaintiff is a producer and distributor of chemical industry of maintenance and reparation of Maritime Industry, electrical Equipment, Industry, automotive and aviation that established in 1958 by Charles J. Webb II and Norman Larsen. CRC industries has main offices located in Warminster, Pennsylvania, USA and trading their products by their affiliate office in USA, Australia, Germany, Belgium and New Zealand.

Aside of used as trademark, CRC also name of the plaintiff's legal entity called CRC Industries, Inc. Plaintiff is the only right holder of well-known trademark "CRC" and all variants which has been registered in Trademark Public Register on Ministry of Law and Human Rights cq Directorate General of Intellectual property cq. Directorate of Marks includes Register of CRC Trademarks and CRC+paint owned by Plaintiff.

CRC Trademarks and CRC+paint owned by Plaintiff has been registered for the first time in Indonesia on 9 June 1990 or It means, since 24 years ago and also has been registered in many countries around the world. CRC has been produced, traded, and promoted via any kind of media since 1985.

Unbeknown by the plaintiff, Defendant registered Trademark Namely C&C Logo in Indonesia which has been registered in Trademark Public Register with No. IDM000365553 dated 9 August 2012 and No. IDM000276717 dated 21 October 2010 has similar things for kind of goods with Plaintiff's which has been registered since 1990.

Court granted the lawsuit from the Plaintiff entirely.

B. JUDGES CONSIDERATION

At The Commercial Court Level

In order to determine such problems, the judges considered the following factors:

1. Trademark of Plaintiff has been registered in many countries in the world.
2. Based on Evidences of Plaintiff, proved that Plaintiff has registered their Trademark CRC and Logo on Directorate Marks on Directorate General of Intellectual and Property for class of goods/services 1,2,3,4
3. Plaintiff has registered their own trademark and logo in many country, among others: Canada, USA, New Zealand, Thailand, Norway, Europe Union and UEA and also have done massive promotion about theirs by media brochure, catalog, magazine, for an example as evidence P-27.
4. Based on Article 68 paragraph 1 Law no. 15 of 2001 concerning on Marks, Cancelation can be submitted by parties whom has an interested as intended on article 4, 5, and 6.
5. Based on Article 4 and 6 paragraph 1 b, Lawsuit of plaintiff is not against law.
6. Based on Article 6 paragraph 1 Law no 15 of 2001.

At the Supreme Court Level (Cassation)

In order to determine such problems, the judges considered the following factors:

1. Misinterpreted of law cannot be found
2. The Commercial court decision is not against the law and/or rules.

C. THE VERDICT

At the Commercial Court Level

1. Granted the lawsuit from the Plaintiff entirely;
2. Declared that the Plaintiff is the exclusive rights holder to use a trademark namely "CRC" and variants for any kind of goods among others in Class 1 in Territory of Republic of Indonesia.
3. Declared that Plaintiff's trademark namely "CRC" is a well-known trademark.
4. Declared that Defendant's trademark named "C&C Logo" no. IDM000365553 and IDM 000276717 in general has similar things with well-known trademark of Plaintiff "CRC"
5. Declared about cancelation trademark of C&C logo by Defendant
6. Instructed Directorate of Marks to note about cancelation Marks of Defendant Named C&C Logo.
7. Punished Defendant to pay the case cost as much as Rp 7.516.000, - (Seven Million and five hundred and sixteen thousand Rupiah)

At the Supreme Court Level (Cassation)

1. Rejected the application Judicial Review from the Cassation Applicant/The Defendant;
2. Punished the Cassation Applicant/the Defendant I to pay the case cost as much as Rp 5.000.000 (Five Million Rupiah).