

**CASE NO. 28  
MARKS CASE  
“KRONOSPAN”**

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

|                              |  |
|------------------------------|--|
| <b>Case Title</b>            | <b>KRONOSPAN</b>   |
| <b>Summary Of Verdict</b>    | <p><b>At the Commercial Court Level</b></p> <ol style="list-style-type: none"> <li>1. Refused the lawsuit from the Plaintiff entirely;</li> <li>2. Punished the Plaintiff to pay the case cost as much as Rp.1.716.000, - (One Million Seven Hundred and Sixteen Thousand Rupiah)</li> </ol> <p><b>At the Supreme Court Level (Cassation)</b></p> <ol style="list-style-type: none"> <li>1. Refused the application of Cassation from the Cassation Applicant</li> <li>2. Punished the Cassation Applicant to pay the case cost as much as Rp 5.000.000 (Five Million Rupiah)</li> </ol> |
| <b>Case Number</b>           | <p><b>Commercial Court:</b><br/>50/Pdt-Sus/Merek/2014/PN.Niaga.Jkt.Pst.</p> <p><b>Supreme Court Level (Cassation) :</b><br/>330 K/Pdt. Sus-HKI/2015</p>  |
| <b>Regulation References</b> | Law No. 15 of 2001 concerning Marks  |
| <b>Keyword</b>               | Well-known marks, Bad faith, Expired, Renew  |

**A. CASE FACTS**

Kronoplus Technical AG as a company based on Law of Swiss against PT. Decorindo Mandiri as Defendant I and Government of Republic of Indonesia as Defendant II. Plaintiff is an owner and Right holder of KRONOSPAN trademark in Indonesia and in the world. Kronospan which owned by the plaintiff, has been registered for the first time in Indonesia in Directorate of Marks, Department of Justice Republic of Indonesia dated 30 may 2012 agenda no. D00 2012 023060. The trademark of Plaintiff which named “KRONOSPAN” has been registered on Madrid Protocol agreement no. 759927 dated 30<sup>th</sup> January 2001, with country which including on it, was Austria, Belarus, Benelux, Bulgaria, China, Croatia, France, Hungary, Italy, Kyrgyzstan, Latvia, Slovakia, Slovenia, Swiss, Macedonia and Ukraine.

Plaintiff found that there was a trademark with same name as Plaintiff’s named Kronospan which registered on behalf the defendant on Trademark Register, with register no. IDM00400656 dated 18 October 2013. Plaintiff worried that their well-known trademark will be loss

But, based on data in Directorate Marks, Marks namely Kronospan which owned by Kronospan limited has not protection of law because of expired since 30<sup>th</sup> October 2003 and there was no applicant of extension on that trademark. Court refused 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. Law protection of “Kronospan” Trademarks has expired on 30<sup>th</sup> October 2003
2. Based on Evidence P-1, Plaintiff has registered “Krosnopan” trademark in Department of Justice Republic of Indonesia, Directorate General of Copyrights, Patent and Marks dated 30 October 1993 no. 327438 for class goods/services 19.
3. Defendant I on registering of Trademark class 19 has not a bad faith, because Plaintiff has not yet to renew their Trademark named “Kronospan”
4. Based on Article 69 paragraph 1 Law no. 15 of 2001 concerning of Marks, stated that Cancellation could be submitted started 5 years since registration of marks.
5. Plaintiff has submitted the lawsuit in 2014, it was on expiry date as regulated on Article 69 paragraph (1) Law No. 15 of 2001 concerning on marks.
6. Based on Article 4, Article 69 paragraph (1) and others article in Law No. 15 of 2001 concerning marks.

### **At the Supreme Court Level (Cassation)**

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

1. Renewing of Trademarks by the Plaintiff did not comply with the Article 69 paragraph (1) law no. 15 of 2001 concerning marks.
2. Considering by the Commercial court was right.
3. Misinterpreted of law cannot be found
4. The Commercial court decision is not against the law and/or rules.

## **C. THE VERDICT**

### **At the Commercial Court Level**

1. Refused the lawsuit from the Plaintiff entirely;
2. Punished the Plaintiff to pay the case cost as much as Rp.1.716.000, - (One Million Seven Hundred and Sixteen Thousand Rupiah)

### **At the Supreme Court Level (Cassation)**

1. Refused the application of Cassation from the Cassation Applicant

2. Punished the Cassation Applicant to pay the case cost as much as Rp 5.000.000 (Five Million Rupiah)