

**CASE NO. 5  
COPYRIGHT CASE  
“LOGO, NAME, MARCH SONG, AND OBJECTIVES OF SERIKAT BURUH SEJAHTERA  
INDONESIA (SBSI)”**

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

<b>Case Title</b>	<b>LOGO, NAME, MARCH SONG, AND OBJECTIVES OF SERIKAT BURUH SEJAHTERA INDONESIA (SBSI)</b>
<b>Summary Of Verdict</b>	<p><b>At the Commercial Court Level</b></p> <ol style="list-style-type: none"> <li>1. Rejected Plaintiff's lawsuit entirely;</li> <li>2. Punished the Plaintiff to pay for legal proceeding fees as much as Rp 4.716.000,- (four million seven hundred sixteen thousand Rupiah).</li> </ol> <p><b>At the Supreme Court Level (Cassation)</b></p> <ol style="list-style-type: none"> <li>1. Granted the Cassation Application from the Cassation Applicant (The Plaintiff) entirely;</li> <li>2. Revoke the Commercial Court Level Verdict with number 69/Pdt.Sus-Hak Cipta/2014/PN Niaga Jkt. Pst;</li> <li>3. Punished the Defendants to pay for legal proceeding fees as much as Rp 5.000.000,- (five million Rupiah).</li> </ol>
<b>Case Number</b>	Commercial Court: 69/Pdt.Sus-Hak Cipta/2014/PN.Niaga.Jkt.Pst. Supreme Court Level (Cassation) : 378 K/Pdt.Sus-HKI/2015
<b>Regulation References</b>	Copyright Law No. 19/2002, Article 44 point c; Article 45; Article 56; Article 57; Article 72 Paragraph (1); Article 70 Paragraph (3) jo. Article 71
<b>Keyword</b>	Bad faith; license agreement

**A. CASE FACTS**

In this case, Dr. Muchtar Pakpahan, SH., MH as the plaintiff sued National Executive Board of Federasi Kontraktor, Umum dan Informasi- Serikat Buruh Sejahtera Indonesia (DEN KSBSI), Board of Manager of Federasi Kontraktor, Umum dan Informasi-Serikat Buruh Sejahtera Indonesia (FKUI-SBSI), Board of Manager of Federasi Niaga, Keuangan dan Perbankan- SBSI (F NIKEUBA-SBSI), Board of Manager of Federasi Serikat Buruh Hutan, Kayu dan Pertanian- SBSI (FSB HUKATAN-SBSI), Board of Manager of Federasi Garmen, Tekstil, Kulit dan sepatu- SBSI (F GARTEKS-SBSI), Board of Manager of Federasi Serikat Buruh Makanan, Minuman, Pariwisata, Hotel dan Tembakau - SBSI (DPP FSB KAMIPARHO-SBSI), Board of Manager Federasi Pertambangan dan Energi - SBSI (FPE-SBSI), Board of Manager of Federasi Kimia, Industri, Kesehatan dan rumah Sakit-SBSI (F

KIKES-SBSI), Board of Manager Federasi Logam, Mesin dan Elektronik - SBSI (F LOMENIK-SBSI), Board of Federasi Pendidikan, Pengajaran dan Pegawai Negeri - SBSI (FESDIKARI-SBSI), and Member's Cooperative – SBSI (the Defendants) for the usage of logo, name, march song and objectives of SBSI by the Defendants without any license agreement with the Plaintiff.

Plaintiff claimed to be one of the founder and initiator of SBSI, and also the first person to be appointed as the Chairman of SBSI in National Labor Meeting in 1992. Plaintiff also claimed to be the creator and the owner of the copyright for the logo, name, march song, and objectives of SBSI. The Plaintiff emphasized in the lawsuit the registration number from Directorate General of Intellectual Property Rights for the objectives and march song of SBSI. Whilst for the registration of name and the logo of SBSI had previously been disputed by the Plaintiff and Rekson Silaban (as the Defendant from the previous case) and it had been decided by the Court with the decision granted the Plaintiff's claim to revoke the registration number from Directorate General of Intellectual Property Rights of the name and logo of SBSI and to declare that The Plaintiff is the creator of the name and the logo of SBSI.

Different from the previous verdict relating to the name and the logo of SBSI, in this case, the Plaintiff sued the Defendants for the usage of the logo, name, march song, and objectives of SBSI by the Defendants without any license agreement or permission. The Plaintiff claimed that the Defendants had used the logo, name, march song, and objectives in every event held by SBSI without any permission from the Plaintiff as the creator. Contrary to the Plaintiff's claimant, the Defendants stated that the logo, name, march song, and objectives of SBSI was not made by the Plaintiff and that The Defendants didn't use the logo, name, march song, and objectives of SBSI for commercial use, so the Defendants denied the Plaintiff's claimant.

## **B. JUDGES CONSIDERATION**

### **At The Commercial Court Level**

Based on the Plaintiff's lawsuit, the Motion of Dismiss from the defendant, and the evidences submitted in the Court, The Judges considered as follows:

- Concluded that the primary issue in this case is 'who is the real creator of the logo, name, march song, and objectives of SBSI'.
- According to the consideration above, aside from who is the real creator of the logo, name, march song, and objectives of SBSI, The Judges concluded that logo, name, march song, and objectives of SBSI was made for the SBSI organization, and based on provision 8 paragraph 3, Laws No. 19 Year 2002 regarding Copyright, logo, name, march song, and objectives of SBSI belong to SBSI and SBSI is the creator; and
- Relating to the claim for the damages that the Plaintiff's gained, the Judges considered that the Plaintiff claim could not be granted because The Defendants didn't use the logo, name, march song, and objectives of SBSI for commercial use;

In accordance to the consideration above, the Judges concluded that the Plaintiff's lawsuit must be rejected entirely and punished the Defendants to pay for the legal proceeding fees

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

After being rejected by The Commercial Court level, The Plaintiff filed a Cassation to the Supreme Court, and hereby the Plaintiff is called Cassation Applicant "CA". The Judge considerations in the Supreme Court Level are as follows:

- The Judges considered that the CA had proved the CA is the copyright owner in this case, and the ownership has been determined by the Verdict number 01/Pdt.Sus/Hak Cipta/2013/PN Niaga Jkt. Pst. jo. Verdict number 444 K/Pdt.Sus-HKI/2013 (The Plaintiff against Rekson Silaban), and so the usage of the logo, name, march song, and objectives of SBSI by the Defendants could be classified as an act which breaks the law;
- According to the consideration above, the Judges considered to grant CA's Objection entirely.

### **C. THE VERDICT**

#### **At The Commercial Court Level**

1. Rejected Plaintiff's lawsuit entirely
2. Punished the Plaintiff to pay for legal proceeding fees as much as Rp 4.716.000,- (four million seven hundred sixteen thousand Rupiah).

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

1. Granted the Cassation Application from the Cassation Applicant (The Plaintiff) entirely;
2. Revoke the Commercial Court Level Verdict with number 69/Pdt.Sus-Hak Cipta/2014/PN Niaga Jkt. Pst;
3. Punished the Defendants to pay for legal proceeding fees as much as Rp 5.000.000,- (five million Rupiah).