

**CASE NO. 8
TRADEMARK CASE
“AEON”**

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

Case Title	AEON
Summary Of Verdict	At the Commercial Court Level 1. Declared Plaintiff’s lawsuit unacceptable; 2. Punished the Plaintiff to pay for legal proceeding fees as much as Rp 516.000,- (five hundred sixteen thousand Rupiah).
Case Number	Commercial Court: 35/Pdt.Sus-Merek/2016/PN.Niaga.Jkt.Pst. Supreme Court Level (Cassation): -
Regulation References	Trademark Law No. 15/2001
Keyword	Well-known marks; bad faith;

A. CASE FACTS

The Plaintiff is the owner of several products from Japan who had registered his Trademark “AEON” in Indonesia from Class 1 to Class 45 by using various name, such as “AEON”, “AEON TOWN”, “AEON BIKE”, “AEON MALL”, “AEON CREDIT SERVICE”, “AEON FINANCIAL SERVICE”, “The more you know! AEON TOPVALU”, “your voice. your inspiration. AEON TOPVALU”.

Prior trademark registration in Indonesia, the Plaintiff also registered his various products in Japan since July 7, 1989 and in different countries in the world, such as South Korea, Philippine, Indonesia, China, Vietnam, Cambodia, Laos, Myanmar, India, Thailand, Australia, Brunei, Canada, New Zealand, Malaysia, and OHIM. On this basis, the Plaintiff claimed that Plaintiff’s trademark has complied well-known marks elements.

While the Defendant registered his trademark namely “AEON Rubber” with registration ID number: IDM000382097 dated 21 January 2013, which classified under Class 17, such as: rubber hose; plastic hose; rubber seals. The Plaintiff also registered his trademark “AEON” dated 4 March 2014 with registration ID number: D00.2014.009392 under same class as the Defendant.

The Plaintiff claimed that the registration of the trademark “AEON Rubber” by the Defendant was filed with a bad faith intending to imitate the well-known trademark belonging to the Plaintiff and also the Defendant violate Article 4 Law No. 15/2001 because the Defendant’s mark has similarity in its essential with the Plaintiff mark and the Defendant had a bad faith in registering his mark.

B. JUDGES CONSIDERATION

At The Commercial Court Level

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

1. Whether the Plaintiff's mark is categorized as well-known marks pursuant to Elucidation Article 6 Paragraph (1) b of Law No15/2001 and complying well-known marks elements. The Plaintiff has registered "AEON" mark from Class 1 to Class 45 by using various name, such as "AEON", "AEON TOWN", "AEON BIKE", "AEON MALL", "AEON CREDIT SERVICE", "AEON FINANCIAL SERVICE", "The more you know! AEON TOPVALU", "your voice. your inspiration. AEON TOPVALU".
2. Whether the Plaintiff had filed P-4, P-7, P-8, and P-9 as documentary evidence to support the Plaintiff's claimant in well-known marks. Plaintiff's evidence documents are only print out from website and photocopy, which were filed in court.
3. According to Article 1888 Civil Code, the validity of written evidence exists in the original deed. If the original deed exists, copies and summaries is only be recognized to the extent that they correspond to the original document, the display of which can be demanded at any time.
4. Pursuant to Supreme Court's decision No. 3609/K/Pdt/1985, photocopy letter that has never been filed or never present the original deed shall be dismissed as documentary evidence.
5. Pursuant to Supreme Court's decision No. 112/K/Pdt/1996 dated 17 September 1998, photocopy letter without attached by original document/letter and without affirmed by original document/letter
6. Of all legal basis above, the Judges determined the Plaintiff's documentary evidence couldn't be considered and accepted as legal evidence because the Plaintiff had never filed the original evidence or original deed in court.

In accordance to the consideration above, the Judges concluded that the lawsuit unacceptable and punished the Plaintiff to pay for legal proceeding fees.

D. THE VERDICT

At The Commercial Court Level

1. Declared Plaintiff's lawsuit unacceptable;
2. Punished the Plaintiff to pay for legal proceeding fees as much as Rp 516.000,- (five hundred sixteen thousand Rupiah).