

**CASE NO. 15  
COPYRIGHT CASE  
“FIFA BROADCASTING RIGHTS”**

**THE RULING OF JAKARTA COMMERCIAL COURT  
AND**

**THE RULING OF THE SUPREME COURT OF THE REPUBLIC OF INDONESIA**

<b>Case Title</b>	<b>FIFA BROADCASTING RIGHTS</b>
<b>Summary Of Verdict</b>	<p><b>At the Commercial Court Level</b></p> <ol style="list-style-type: none"> <li>1. Granted the lawsuit partly;</li> <li>2. Declared The Licensing Agreement between the Plaintiff and the Federation International De Football Association (FIFA) dated 05 May 2011 is valid;</li> <li>3. Declared the Plaintiff is the only one licensee from the Federation International De Football Association (FIFA) for Media Rights in broadcasting 2014 FIFA World Cup Brazil in the whole area of Indonesia;</li> <li>4. Declared the Defendants (1st Defendant and 2nd Defendant) fell foul into copyrights by broadcasting 2014 FIFA World Cup Brazil in commercial area, Alila Villa Soori hotel room without having permit granted from the Plaintiff;</li> <li>5. Punished the Defendants to pay the loss jointly and personally liable as much as Rp2.500.000.000 (two billion five hundred million Rupiah);</li> <li>6. Punished the Defendants to pay fine jointly and personally liable to the Plaintiff as much as Rp500.000 (five hundred thousand Rupiah) everyday by a decision having permanent legal force until the implementation of this decision;</li> <li>7. Punished the Defendants (1st Defendant and 2nd Defendant) jointly and personally liable to the Plaintiff as much as Rp6.625.000 (six million six hundred twenty-five thousand Rupiah);</li> <li>8. Rejected the lawsuit for the rest.</li> </ol> <p><b>At the Supreme Court Level (Cassation)</b></p> <ol style="list-style-type: none"> <li>1. Granted the lawsuit partly;</li> <li>2. Declared The Licensing Agreement between the Plaintiff and the Federation International De Football Association (FIFA) dated 05 May 2011 is valid;</li> <li>3. Declared the Plaintiff is the only one licensee from the Federation International De Football Association (FIFA) for Media Rights in broadcasting 2014 FIFA World Cup Brazil in the whole area of Indonesia;</li> <li>4. Declared the Defendants (1st Defendant and 2nd</li> </ol>

	<p>Defendant) fell foul into copyrights by broadcasting 2014 FIFA World Cup Brazil in commercial area, Alila Villa Soori hotel room without having permit granted from the Plaintiff;</p> <p>5. Punished the Defendants to pay the loss jointly and personally liable as much as Rp100.000.000 (one hundred million Rupiah);</p> <p>6. Rejected the lawsuit for the rest.</p>
<b>Case Number</b>	<p>Commercial Court:</p> <p>09/HKI.HAK CIPTA/2014/PN. Niaga Sby.</p> <p>Supreme Court Level (Cassation):</p> <p>80 K/Pdt.Sus-HKI/2016</p>
<b>Regulation References</b>	Article 83 jo Article 99 of Law Number 28 of 2014 Concerning Copyrights
<b>Keyword</b>	FIFA; broadcasting; unlawful act; copyright; licensing agreement.

## A. CASE FACTS

This case involving PT. Inter Sport Marketing as the Plaintiff against PT. Bhavana Andalan Klating and Alila Villa Soori as 1st and 2nd Defendant. Plaintiff is the company established under the law of the Republic of Indonesia and already run its business since 2010. The Plaintiff had used the name (PT. Inter Sport Marketing) to run a sport activity in the Republic of Indonesia and also to make cooperation between international sport organizations. Whereas, in relation to World Cup in Brazil 2014, the Plaintiff hold a license from Federation International De Football Association (FIFA) to broadcast in the whole area of Indonesia.

Whereas, pursuant to the above FIFA and PT. Inter Sport Marketing signed a license agreement dated 5 May 2011 and the Plaintiff have filed registration dated 23 May 2014 to Director of Copyrights, Directorate General of Intellectual Property Rights (“**DGIPR**”). Whereas, in the licensing agreement FIFA granted several rights to the Plaintiff. Whereas upon those rights, the Plaintiff appointed PT. Nonbar as a sole coordinator and has rights in conducting a socialization, marketing and supervising the used of rights to broadcast World Cup Brazil 2014 commercially in (including but not limited to) commercial place (hotel, mall, exhibition, restaurant, cafe and/or other places used for gathering activity) where the owner of the places takes the profit commercially by broadcasting World Cup Brazil 2014.

Whereas, FIFA shall be notified if the Plaintiff tried to grant the rights to other parties and they have no rights to transfer or grant the rights to the other party unless the Plaintiff do so. Above all, the Plaintiff announced to several newspapers, email, and brochures. In the other hand, the Defendant which run an accommodation business have shown live match World Cup 2014 in the hotel room without any permit granted from the Plaintiff, as the holder of the rights to broadcasting the match, is characterized as an unlawful act and cause losses to the Plaintiff. Whereas, pursuant to Article 56 Law Number 19 of 2001 concerning Copyrights which has been amended to Article 99 paragraph (1) Law Number 28 of 2014 concerning Copyrights stated that the Copyright Holder reserves the rights to file a claim for

compensation to the Commercial Court for breach of Copyrights or products related rights. It is because the Plaintiff hold a license rights upon the 2014 FIFA World Cup Brazil and the agreement has been registered to the DGIPR and also has been announced through media, therefore the licensing agreement has legal effect against third parties. On this basis, the Plaintiff finally filed an unlawful act lawsuit to the Commercial Court.

## **B. JUDGES CONSIDERATION**

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

The primary issue made as a basis by the Plaintiff to file an unlawful act lawsuit is the use of a license to broadcast FIFA World Cup 2014 without having permit from the Plaintiff. The Plaintiff is the right holder based on the licensing agreement between FIFA and the Plaintiff. The licensing agreement dated 5 May 2011 also satisfied the criteria stipulated in the regulation and should be registered in DGIPR. In order to determine such problems, the judges considered the following factors:

1. Whereas the Defendant stated that they have paid royalties for media right related to broadcasting live match FIFA World Cup 2014 from PT. Digital Media Asia with the trademark namely "VIVA+".
2. It is because the Defendant already paid royalties, it should be considered that 2nd Defendant has a good faith and should be protected by the law.
3. The primary concern in this case is the eligibility of the Defendant to broadcast the live match without having permit from the Plaintiff as the right holder.
4. Considering Article 163 HIR/283 RBg, the Plaintiff shall prove the above mentioned.
5. Considering the licensing agreement which have been registered by the Plaintiff to the DGIPR and satisfy the criteria stipulated in the Law Number 19 of 2002 which has been amended in Law Number 28 of 2014 concerning Copyrights.
6. Therefore, the licensing agreement dated 5 May 2011 which have been registered to the DGIPR legally binding to the third party.
7. Considering the licensing agreement between FIFA and PT. Inter Sport Marketing, Council of Judges submit that between the Plaintiff and FIFA has conducted cooperation.
8. Considering that 2nd Defendant has been performed an installation of a decoder, license fee, and others in the amount of Rp19.100.000 (nineteen million one hundred Rupiah) from CV. K. Satelit, where the company has a statement letter from the Director of PT Digital Media Asia, the right holder in broadcasting FIFA World Cup 2014, based on licensing agreement dated 29 June 2012 with PT. Inter Sport Marketing.
9. Considering that the Plaintiff justify has granted the Media Rights to PT. Digital Media Asia based on the Licensing Agreement dated 29 June 2012.
10. The other issue should be deeply examined by the council of judges is whether the installation of VIVA's satellite and live broadcasting FIFA World Cup 2014 considered as violates of copyrights.
11. Considering the agreement between the Plaintiff and PT. Digital Media Asia (Viva+) in point 10.2.a, which mentioned that the Licensee would not conduct any sub licensee without prior notification to the holder (the Plaintiff) and/or FIFA.

Therefore, it was proven that the used of license without permit granted from the Plaintiff as the right holder is against the law and agreement between the Plaintiff and PT. Digital Media Asia.

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

1. Judex Factie had implemented the law correctly;
2. From the fact, it is proven that the Defendant broadcast a live match in their business location without having permit granted from the Plaintiff as the right holder;
3. In judge opinion, the loss should be modified to satisfy the elements of justice, also the *dwangsom* punished to the Defendant should be removed;
4. Considering the Cassation should be rejected.

Based on the above considerations, it was found out that the decision of Jakarta Commercial Court in this case is not against the law and/or the other regulations, and therefore the application for cassation has to be refused.

**C. THE VERDICT**

**At the Commercial Court Level**

1. Granted the lawsuit partly;
2. Declared The Licensing Agreement between the Plaintiff and the Federation International De Football Association (FIFA) dated 05 May 2011 is valid;
3. Declared the Plaintiff is the only one licensee from the Federation International De Football Association (FIFA) for Media Rights in broadcasting 2014 FIFA World Cup Brazil in the whole area of Indonesia;
4. Declared the Defendants (1st Defendant and 2nd Defendant) fell foul into copyrights by broadcasting 2014 FIFA World Cup Brazil in commercial area, Alila Villa Soori hotel room without having permit granted from the Plaintiff;
5. Punished the Defendants to pay the loss jointly and personally liable as much as Rp2.500.000.000 (two billion five hundred million Rupiah);
6. Punished the Defendants to pay fine jointly and personally liable to the Plaintiff as much as Rp500.000 (five hundred thousand Rupiah) everyday by a decision having permanent legal force until the implementation of this decision;
7. Punished the Defendants (1st Defendant and 2nd Defendant) jointly and personally liable to the Plaintiff as much as Rp6.625.000 (six million six hundred twenty-five thousand Rupiah);
8. Rejected the lawsuit for the rest.

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

1. Granted the lawsuit partly;
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5. Punished the Defendants to pay the loss jointly and personally liable as much as Rp100.000.000 (one hundred million Rupiah);
6. Rejected the lawsuit for the rest.