

## **ABSTRAK**

### **PENEGAKAN HUKUM TERHADAP TINDAK PIDANA PEMALSUAN MEREK DAGANG**

**(Studi Putusan Nomor: 990/Pid.Sus/2021/PN Tjk)**

**Oleh**  
**DEWI NABILA SYA'BANIA**

Berkembangnya bisnis di era globalisasi membuat semakin banyaknya barang dan jasa dipasarkan. Sehingga merek memiliki peranan penting untuk memberi perlindungan dan jaminan mutu kepada masyarakat. Namun kasus pemalsuan merek masih sering terjadi di Indonesia, salah satunya adalah kasus perkara Nomor: 990/Pid.Sus/2021/PN Tjk dengan terdakwa Wus Paweksi Ayu. Permasalahan dalam penelitian ini adalah bagaimakah penegakan hukum terhadap tindakan pelaku yang melakukan pemalsuan merek sebagaimana dalam putusan Nomor: 990/Pid.Sus/2021/PN Tjk dan bagaimana pertanggungjawaban pidana pelaku pemalsuan merek sebagaimana dalam putusan Nomor: 990/Pid.Sus/2021/PN Tjk sudah sesuai dengan keadilan substantif.

Pendekatan masalah dalam penelitian ini menggunakan yuridis normatif dan yuridis empiris. Sumber dan jenis data terdiri dari data primer dan sekunder, yang masing-masing data diperoleh dari penelitian kepustakaan dan studi lapangan. Analisis data yang digunakan adalah analisis kualitatif.

Hasil penelitian menunjukan bahwa penegakan hukum terhadap tindakan pelaku terhadap pemalsuan merek dagang dalam putusan Nomor: 990/Pid.Sus/2021/PN Tjk nyatanya belum sejalan dengan teori penegakan hukum Barda Nawawi Arief, terutama dalam tataran aplikasi. Kurangnya keterlibatan kementerian perdagangan dan penyidik KI dalam proses mediasi serta kesalahan penerapan hukum oleh aparat penegak hukum menjadikan tahap aplikasi terkendala. Selanjutnya, pertanggungjawaban pidana pelaku pemalsuan merek dagang dalam putusan nomor: 990/Pid.Sus/2021/PN Tjk belum sesuai dengan keadilan substantif dan teori pertanggungjawaban pidana. Terdakwa tidak melakukan tindak pidana pemalsuan merek dagang karena unsur Pasal 102 tidak terpenuhi, karena pidana yang dilakukan tidak berdiri sendiri.

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Saran yang dapat penulis sampaikan ialah agar penyidik KI serta kementerian perdagangan lebih terlibat dan berkordinasi dengan aparat penegak hukum dalam penegakan hukum terhadap merek, serta meningkatkan pemahaman aparat penegak hukum terhadap penerapan undang-undang merek agar tidak terjadi lagi kesalahan dalam penerapan pasal kepada pedagang lainnya.

**Kata Kunci : Penegakan Hukum, Pertanggungjawaban Pidana, Merek**

## **ABSTRACT**

### **LAW ENFORCEMENT AGAINST CRIMINAL ACST OF TRADEMARK COUNTERFEITING**

**(Study Verdict Number: 990/Pid.Sus/2021/PN Tjk)**

**By  
DEWI NABILA SYA'BANIA**

The development of business in the era of globalization has made more and more goods and services marketed. So the brand has an important role to provide protection and quality assurance to the public. However, cases such as brand counterfeiting still occur frequently in Indonesia, one of the cases of this is verdict Number: 990/Pid.Sus/2021/PN Tjk with the defendants Wus Paweksi Ayu. The problem in this research is how the law enforcement against the actions of perpetrators who counterfeit brands as in decision Number: 990/Pid.Sus/2021/PN Tjk and what is the criminal responsibility of perpetrators of brand counterfeiting as stated in decision number: 990/Pid.Sus/2021/ PN Tjk is in accordance with substantive justice.

The problem approach in this study uses normative juridical and empirical juridical. Sources and types of data consist of primary and secondary data, each of which data is obtained from library research and field studies. Data analysis used is qualitative analysis.

The results of the study show that law enforcement against the perpetrators' actions against counterfeiting trademarks in the decision Number: 990/Pid.Sus/2021/PN Tjk is in fact not in line with the theory of law enforcement put forward by Barda Nawawi Arief, especially at the application level. The lack of involvement of the Ministry of Trade in the mediation process and the misapplication of the law by law enforcement officers hindered the application stage. Furthermore, the criminal responsibility of the perpetrators of counterfeiting trademarks in decision number: 990/Pid.Sus/2021/PN Tjk is not in accordance with substantive justice and the theory of criminal responsibility. The defendant did not commit the crime of counterfeiting a trademark because the elements of Article 102 were not fulfilled, because the crime committed did not stand alone.

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The advice the author can convey is that IP investigators and the ministry of trade should be more involved in and coordinate with officials law enforcement in enforcing the law against brands, as well as increasing law enforcement officials' understanding of the application of the trademark law so that mistakes do not occur again in applying the article to other traders.

**Kata Kunci : Law Enforcement, Criminal Liability, Brands**