

CASE STUDY OF GEPREK BENSU FRANCHISING DISPUTES FROM INTELLECTUAL PROPERTY LEGAL PERSPECTIVE

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ABSTRACT

Abstract: A trademark dispute between Benny Sujono and Ruben Onsu regarding the use of the name "Bensu" in their brand led to a dispute over trademark ownership rights. Benny Sujono, the original owner of the "I Am Geprek Bensu" brand, sued Ruben Onsu at the Central Jakarta Commercial Court regarding the use of the "Bensu" frill in the "Geprek Bensu" brand owned by Ruben Onsu. This dispute reflects the importance of protecting intellectual property rights, including trademarks, in the business world. This case involves a court and a legal process that will determine the ownership rights of the "I Am Geprek Bensu" and "Geprek Bensu" trademarks, as well as whether Ruben Onsu's use of the trademark violates Benny Sujono's ownership rights. The results of this study explain that the settlement of intellectual property rights disputes over the culinary business brand Geprek Bensu with I Am Geprek Bensu based on the Commercial District Court has been decided by decision Number 57/Pdt. Sus. Brand/2019/PN Niaga Jkt Pst.) This trial will play an important role in resolving disputes and determining the ownership rights to the trademarks concerned

Keywords: Franchise; Geprek Bensu; Trademark; Intellectual Property Right

Introduction

The Geprek Bensu Chicken product that is currently known to the public is a franchise owned by artist Ruben Onsu. This franchise uses the name Bensu which is an acronym for the owner's name ([Wicaksana et al., 2022](#)). Ruben Onsu's success in managing the culinary business is proven by the establishment of 139 branches of his franchise spread almost throughout Indonesia. The use of the name Bensu as a trademark has been used by PT Ayam Geprek owned by Benny Sujono. Bensu is an abbreviation of the name of the owner, Benny Sujono who founded a geprek chicken business under the name "I Am Geprek Bensu". ([Perdana, 2022](#))

Yancent Kurniawan and Stefani Livinus previously agreed to establish the "I Am Geprek Bensu" business in March 2017. They considered the advice of their father, Benny Sujono, and registered the business in the form of a legal entity based on the Limited Liability Company Deed of PT. Ayam Geprek Benny Sujono Number 130 dated March 15, 2017, before notary Netty Maria Machdar, S.H. ([Gaumi & Hartono, 2022](#))

This business is growing rapidly and favored by consumers and the wider community, in a relatively short time, namely in May 2017 this food business has several branches. At that time the branch business had established more than 40 branches spread widely throughout Indonesia. Yancent Kurniawan and Stefani Livings finally found "I am geprek bonus" on April 17, 2017, then they asked Jordi Onsu who also offered to be the operations manager. (Pinem & Gunadi, 2021)

It is known that Jordi Onsu was a playmate of Stefani livinus, then Jordi Onsu was accepted and officially became the operational manager. This collaboration is in the context of managing the joint food business and is only limited to management but not business ownership, especially about the ownership of the brand "I am Geprek Benu". Jordi also offered his older brother, Ruben Onsu, a promotional ambassador which was eventually approved by the owner. (Al Manda, 2022)

Benny Sujono's party agreed to make Ruben Onsu a promotional ambassador by posting a photo of Ruben Onsu. This photo of Ruben Onsu is displayed in several branches of the business venture "I am geprek bonus" which later developed into "I am geprek bonus step veneer". As compensation for the cooperation, Ruben Onsu received payment of business revenue sharing money from Benny Sujono. During the cooperation agreement between Benny Sujono's party with Jordi Onsu and Ruben Onsu until the compensation was paid, Ruben Onsu never disputed the use of the name "Benu" in the business brand "I am geprek bonus step beneerr". (Simangungsong & Nababan, 2019)

In the first month after the establishment of Benny Sujono's "I am geprek bonus step beneerr", ruben onsu, who at that time was still a promotional ambassador, asked one of the employees "I am geprek bonus step veneer" to work with him. This was then suspected by Benny Sujono because he was worried about the possibility of providing recipes or formulas for how to cook food menus in this business. Finally, in August 2017, ruben onsu opened a food business with the same brand, namely "geprek benu" where the arrangement and decoration of the room resemble benny sujono's "I am geprek benu sedep Beneerr". (Mariana & Djaja, 2023)

Since opening the same type of food business, Ruben Onsu began to promote his business by using the name "benu" as his own. Benny Sujono believes this is done to attract interest and attention as well as branding to consumers and the wider community if Ruben Onsu's "geprek benu" business is the same as Benny Sujono's "I am geprek benu" business so that consumers will switch to consumers of ruben onsu's geprek chicken business. Then, Ruben Onsu as the owner of the business venture "Geprek Bonus" tried to control and seize ownership of the name "I am Geprek Bonus" in bad faith. (Muharman & Arifina, 2022)

On August 31, 2017, he advised Benny Sujono to no longer use the "best" appendage in the food business brand "I am geprek bonus". most recently, on april 4, 2022, the dispute

over ownership of franchise trademark rights resurfaced, Benny Sujono as the first owner of the trademark "i am geprek benu" officially sued Ruben Onsu to the Central Jakarta Commercial Court. In addition to Ruben Onsu, Benny Sujono also sued the Director General of Intellectual Property of the Directorate of Brand and Geographical Indications. (Kansil, 2022)

The lawsuit was registered under registration number 32/Pdt.Sus-HKI/TBrand/2022/PN. Commerce Jkt.pst related to the brand i am geprek benu sedep beneerr or i am geprek benu. The value of the lawsuit for compensation alone reached Rp 100 billion whose payment was carried out immediately and all at once, in another petition also asked the court to rule that the plaintiff had the rights to the brand "i am geprek benu sedep beneerrr".

Plaintiff also requested the Ministry of Law and Human Rights of the Republic of Indonesia, Directorate of Brands and Geographical Indications as Defendant II to carry out the cancellation of the brand "Geprek Benu" owned by Ruben Samuel Onsu as Defendant I with number IDM000654532 dated September 6, 2019, and number IDM000643602 dated May 24, 2019. Because the Geprek chicken product brand owned by Benny Sujono has been registered with the Directorate General of Intellectual Property Rights with number IDM000643531 dated May 24, 2019. The trial of this food trademark dispute case will only enter the agenda stage of the first hearing which will be held.

Research Method

This research uses a descriptive method with a qualitative approach supported by literature studies.

Descriptive research through observation: The type of research method used is the case observation methodology which aims to study the background of the "geprek benu" franchise dispute case intensively.

Literature study research: A type of research method used to collect data related to franchise dispute cases through written sources such as news and legal expert opinions.

Result And Discussion

Franchise theory

In principle, franchising is a form of partnership in which there is a mutually beneficial relationship between franchisor (*franchisor*) and franchisee (*Franchisee*) based on the principle of mutualistic symbiosis. The success of a business with a franchise model depends entirely on the ability of the franchisee's business partners to develop and run the business by following the procedures, processes, and rules set by the franchisee. (Idrus, 2017)

In the case of a dispute between Benny Sujono and Ruben Onsu regarding the chicken franchise Geprek, franchise theory becomes relevant in understanding the dynamics and aspects involved in franchise relationships. This includes the role of the brand owner (franchisor) in granting rights to use names and trademarks to other parties (Franchisee), protection of intellectual property rights, as well as agreements and procedures governing the relationship between the two parties. (Yudistia & Romadhona, 2022)

Use of the name "Benu"

The use of the name "Benu" in the context mentioned is related to the trademark of Geprek chicken. This name was originally used by Benny Sujono in the brand "I Am Geprek Benu" which he founded. However, later Ruben Onsu used the appendage "Benu" in his brand "Geprek Benu" which became famous among the public. The use of the name "Benu" by Ruben Onsu in his brand refers to the acronym of the owner's name, namely Benny Sujono.

The use of the name "Benu" by Ruben Onsu in the brand "Geprek Benu" has led to a dispute between Benny Sujono and Ruben Onsu regarding trademark ownership rights. Benny Sujono felt that Ruben Onsu's use of the "Benu" appendage in his brand could confuse consumers and create the impression that Ruben Onsu's business was related to his "I Am Geprek Benu" business. This prompted Benny Sujono to sue Ruben Onsu to court regarding a trademark ownership dispute. (Purba et al., 2023)

This dispute reflects the importance of protecting intellectual property rights, including trademarks, in the business world. The use of similar or similar trademarks can cause confusion among consumers and harm the original owner of the mark. This dispute is part of a legal process that will determine the ownership rights of the trademarks "I Am Geprek Benu" and "Geprek Benu", as well as decide whether the use of the name "Benu" by Ruben Onsu infringes the ownership rights of Benny Sujono's trademark.

Linkage to Intellectual Property Rights

The relationship with IPR (Intellectual Property Rights) in the case of the dispute between Benny Sujono and Ruben Onsu regarding the geprek chicken franchise is very important. IPR covers various aspects, including trademarks that protect business identity and products from unauthorized use by other parties. In this case, both parties mutually claim ownership rights to the trademark containing the "Benu" appendage. IPR also involves the protection of creative works and innovations, such as recipes, procedures, and operational systems that are different. It was developed by Benny Sujono for the brand "I Am Geprek Benu". The use of the name "Benu" by Ruben Onsu in the brand "Geprek Benu" may infringe intellectual property rights owned by Benny Sujono, including copyrights related to recipes and methods that characterize his business. In this dispute, IPR will play a role in determining ownership rights and legal protection of trademarks, as well as providing legal clarity and certainty for both parties

regarding the use of the name "Benu" in the context of the geprek chicken franchise business.

Claims and Demands

In a trademark dispute between Benny Sujono and Ruben Onsu, Benny Sujono filed a lawsuit at the Central Jakarta Commercial Court to claim the rights to the mark "I Am Geprek Benu very delicious". On August 22, 2019, Ruben Onsu also filed a lawsuit against PT Ayam Geprek Benny Sujono and the government of the Republic of Indonesia regarding the Geprek Benu brand. Ruben Onsu claimed that PT Ayam Geprek Benny Sujono used the brand without permission in the culinary business "I Am Geprek Benu Sedep Beneerrr". Although Ruben Onsu registered the Benu mark on September 3, 2015, PT Ayam Geprek Benny Sujono registered the Geprek Benu brand on June 7, 2018, and has legal protection until September 3, 2025. The court in the trial rejected Ruben Onsu's lawsuit and recognized PT Ayam Geprek Benny Sujono as the legal owner of the brand "I Am Geprek Benu Sedep Beneerrr" based on the Trademark and Geographical Indications law. In his lawsuit, Benny Sujono demanded compensation of Rp 100 billion whose payment was carried out immediately and asked the court to cancel Ruben Onsu's "Geprek Benu" brand.

This lawsuit reflects Benny Sujono's efforts in maintaining his trademark ownership rights and protecting his business interests from the use of similar or similar marks by other parties. The claim for compensation of Rp 100 billion also shows the amount of loss that Benny Sujono considered suffered due to the use of the brand "Geprek Benu" by Ruben Onsu. In his lawsuit, Benny Sujono also requested that the Ministry of Law and Human Rights of the Republic of Indonesia through the Directorate of Brands and Geographical Indications carry out the cancellation of Ruben Onsu's "Geprek Benu" brand.

This trial will play an important role in resolving the trademark dispute between Benny Sujono and Ruben Onsu. The court ruling will determine the ownership rights of the marks "I Am Geprek Benu very delicious" and "Geprek Benu" as well as whether the use of the marks by Ruben Onsu infringes Benny Sujono's ownership rights. In addition, the claim for compensation filed by Benny Sujono will also be considered in the judicial process to determine the potential losses that must be borne by the party found guilty in this case.

Legal Hearings and Stages

The trial and legal process in the trademark dispute case between Benny Sujono and Ruben Onsu related to the brand "Geprek Benu" involved a court at the Central Jakarta Commercial Court. During the trial, it was revealed that the brand "Geprek Benu" was first registered under the name of PT Ayam Geprek Benny Sujono based on the principle of *first to file* (Laksono & Suryadi, 2020). Ruben Onsu then registered the same mark

afterward. The hearing is related to IPR (Intellectual Property Rights) related to trademarks.

During the trial, both sides present evidence, present legal arguments and give testimony in order to strengthen their claims and defenses. The judge considers all evidence and arguments presented before making a final decision. This legal process aims to resolve the dispute between Benny Sujono and Ruben Onsu regarding the ownership of the trademark "Geprek Benu". (Zainullah, 2020)

In Court Judgment 57/Pdt.Sus-TBrand/2019/PN Niaga Central Jakarta, Central Jakarta Commercial Court rejected Ruben Onsu's lawsuit and declared PT Ayam Geprek Benny Sujono as the legal owner of the brand "I Am Geprek Benu" based on Law Number 20 of 2016 concerning Marks and Geographical Indications.(Wijaya, 2020) This court decision is a settlement of Intellectual Property Rights disputes in the field of trademarks.

Conclusion

In the dispute between Benny Sujono and Ruben Onsu regarding the geprek chicken franchise, there is a significant relationship with Intellectual Property Rights (IPR). This case illustrates the importance of IP protection in the business world, especially related to trademarks. These disputes involve claims of ownership rights to trademarks containing the appendage "Benu", as well as the use of similar or similar marks that may cause confusion among consumers. IP protection, including trademarks, plays an important role in determining ownership rights, providing legal clarity, and protecting the interests of the original owner of the brand. Through a legal process involving the court, the ruling will determine whether Ruben Onsu's use of the "Geprek Benu" brand infringes on Benny Sujono's trademark ownership rights. This whole case reflects the importance of IP protection in maintaining trademark integrity and providing protection against innovation and creative work in business.

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