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Political Law of Presidential Regulation Number 63 of 2019 on Trademarks

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Abstract

This article discusses trademarks in a legal political perspective. The existence of Presidential Regulation No. 63 of 2019 concerning the Use of Indonesian which regulates the use of Indonesian that must be used on trademarks owned by Indonesian citizens or Indonesian legal entities has conflicts with the Law Number 20 of 2016 On Trademarks and Geographical Indications, regarding the function and purpose of the Trademarks, so it is interesting to conduct discussions through normative juridical methods. The results of this study show that the principle of Lex Superior Derogat Lex Inferiori law, which is a principle that interprets higher legal norms, can be used as one of the tools in solving problems. Thus, the position of Presidential Regulation Number 63 of 2019, is no more binding than the position and binding power of Law Number 20 of 2016 on Trademarks and Geographical Indications.

Keywords: Trademarks; Presidential Regulation; Law.

Abstrak

Artikel ini membahas merek dagang dalam perspektif politik hukum. Keberadaan Peraturan Presiden Nomor 63 Tahun 2019 tentang Penggunaan Bahasa Indonesia yang mengatur penggunaan bahasa Indonesia yang harus digunakan pada merek dagang milik warga negara Indonesia atau badan hukum Indonesia bertentangan dengan Undang-Undang Nomor 20 Tahun 2016 tentang Merek Dagang dan Indikasi Geografis, mengenai fungsi dan tujuan Merek Dagang, sehingga menarik untuk melakukan diskusi melalui metode yuridis normatif. Hasil penelitian ini menunjukkan bahwa prinsip hukum Lex Superior Derogat Lex Inferiori, yang merupakan prinsip yang menafsirkan norma hukum yang lebih tinggi, dapat digunakan sebagai salah satu alat dalam memecahkan masalah. Hal ini berimplikasi kedudukan Peraturan Presiden Nomor 63 Tahun 2019, tidak lebih mengikat dengan kedudukan dan daya mengikat Undang-Undang Nomor 20 Tahun 2016 Tentang Merek Dagang dan Indikasi Geografis.

Kata kunci: Merek Dagang; Peraturan Presiden; Hukum.



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A. INTRODUCTION

On July 9, 2009, Law No. 24 of 2009 concerning Flag, Language, and National Emblem, as well as the National Anthem, by promulgated in Statute Book of the Republic

of Indonesia Number 109 and Supplement to Statute Book of the Republic of Indonesia Number 5035 in article 40 stipulated that further provisions regarding the use of Indonesian as intended in Article 26 to Article 39 are regulated in the Presidential Regulation of this matter which is the basis (input) made. Presidential Regulation number 63 of 2019 concerning the Use of Indonesian the Statute Book of the Republic of Indonesia no. 180 of 2019¹, then entered at the stage of the process where the value to be realized is included through the manufacturing process which refers to article 55 of Law no. 12 of 2011 concerning the establishment of laws and regulations of the Statute Book of the Republic of Indonesia in 2011 number 82 Supplemental Statute Book of the Republic of Indonesia number 5234. It is also used as a basis for habits in society and problems that arise that cause this regulation is important to exist based on the will of its shapers, so that presidential regulation number 63 of 2019 concerning the Use of Indonesian the Statute Book of the Republic of Indonesia of 2019 number 180 as its output where in article 35 there is a provision that basically requires the use of Indonesian on trademarks. Meanwhile, there is already Law No. 20 of 2016 concerning Trademarks and Geographical Indications governing about Trademarks.²

Problems that arise later, legal norms in the Presidential Regulation cause confusion in the use of Indonesian, especially in the context of Trademarks. This can cause legal uncertainty. From the legal conflicts described in the above problems arise the question: 1). What is the substance of the regulation of Article 35 of Presidential Regulation No. 63 of 2019 concerning the Use of Indonesian?; 2). How does the Nomor Act 20 Tahun 2016 On Merek govern the use of language on Trademarks registration? ; and 3). What is the solution to the legal conflict of Trademarks registration provisions?; so that based on the formulation of the maslaah, it is expected to benefit from the writing of this article in the field of trade law, especially in the sub-discussion about Trademarks.

B. METHOD

This research will be prepared using normative research types, namely by taking a statutory approach and a fact approach. Approaches to legislation related to the issues raised in this writing. And approach facts by looking for realities or facts related to problems in this writing. Normative research is an approach that uses *positivist legislative conceptions*. This concept views the law as identical to written norms created and promulgated by authorized institutions or officials. This concept views law as a normative system that is independent, closed and detached from real life.³

The first stage for normative legal research is research that is shown to obtain objective law (legal norms), namely by conducting research on legal issues. The second stage of

¹ Andry Setyawan, Dewi Sulistianingsih, and Ivan Bhakti Yudistira, "Non-Traditional Trademarks in Indonesia: Protection under the Laws and Regulations (An Intellectual Property Law)," *Journal of Indonesian Legal Studies* 2, no. 2 (2017): 123–30, <https://doi.org/10.15294/jils.v2i02.19443>.

² Helen Yu, "The European Open Science Cloud and Commercialization," *Nature Biotechnology* 36, no. 1 (2018): 1133–34, <https://doi.org/10.1038/nbt.4304>.

³ Paul Dargue et al., "Editorial to the Inaugural Edition of the Journal of Legal Research Methodology on 'Virtual Research Methodology,'" *Journal of Legal Research Methodology* 1, no. 1 (2021): 1–2, <https://doi.org/10.19164/jlrm.v1i1.1168>.

normative legal research is research aimed at obtaining subjective laws (rights and obligations). For the method of approach used is a conceptual approach that is an approach derived from views and doctrines that develop in the science of law. By studying these things, researchers will find ideas that give birth to legal understanding, legal concepts and legal principles relevant to the issue at hand. Understanding these views and doctrines is the basis for researchers in building a legal argument in solving the problem at hand.⁴

In this preparation process, the author uses 3 (three) types of legal materials, namely: Primary legal material is legal material derived from legislation. Where the laws and regulations that will be used in this research are laws and regulations that have something to do with the research carried out. The primary legal material used in this study is Law No. 20 of 2016 concerning Trademarks and Geographical Indications, Presidential Regulation No. 63 of 2019 concerning the Use of Indonesian.

Secondary legal materials can be legal opinions, toeri-theories or doctrines obtained from legal literature, research results, scientific articles, or websites related to discussions in this research. Secondary legal materials are basically used to provide an explanation of the primary legal materials. With the existence of secondary legal materials, it will facilitate and help authors to understand or analyze primary legal materials. Tertiary law material is a legal material that provides explanations and instructions to primary legal materials and secondary legal materials. Usually, tertiary legal materials are obtained from legal dictionaries, Indonesian dictionaries, English dictionaries, and so on.⁵

The technique of collecting legal materials carried out is a model of literature study (*library research*). Namely the assessment of written information about the law that comes from various sources and is widely published and needed in normative legal research⁶, namely writing based on data that is used as a writing object which is then studied and compiled comprehensively. To analyze the data obtained, normative analysis methods will be used, namely how to interpret and discuss research materials based on legal understanding, legal norms, legal theories and doctrines related to the subject matter and also analyze the data obtained by research methods on legal systematics, namely this research can be done on certain laws or recorded laws. The main purpose is to identify the understanding of the basic understanding in law, namely the legal community, legal subjects, rights and obligations, legal events, legal relations and legal objects. This research is very important because each basic understanding has a certain meaning in⁷ the life of the law.⁸

⁴ Depri Liber Sonata, "Metode Penelitian Hukum Normatif Dan Empiris: Karakteristik Khas Dari Metode Meneliti Hukum," *FIAT JUSTISIA: Jurnal Ilmu Hukum* 8, no. 1 (November 5, 2015): 15–35, <https://doi.org/10.25041/flatjustisia.v8no1.283>.

⁵ Terry Hutchinson and Nigel James Duncan, "Defining and Describing What We Do: Doctrinal Legal Research," *Deakin Law Review* 17, no. 1 (2012): 83–119, <https://doi.org/10.21153/dlr2012vol17no1art70>.

⁶ Moh Faizin and Surya Anoraga, "The Development of Legal Politics in Micro Business Policy of Jombang Regency Government," *Audito Comparative Law Journal (ACLJ)* 3, no. 1 (2022): 18–24, <https://doi.org/10.22219/aclj.v3i1.19894>.

⁷ Hutchinson and Duncan, "Defining and Describing What We Do: Doctrinal Legal Research."

⁸ Ayup Suran Ningsih, "Legal Review of Financial Technology Peer To Peer Lending Based on Indonesian Collateral Law Perspective," *Substantive Justice International Journal of Law* 3, no. 2 (2020): 109–24, <https://doi.org/10.33096/substantivejustice.v3i2.73>.

C. RESULTS AND DISCUSSION

In the future we will explain in advance about what is Intellectual Property Rights and what is a trademark, the Intellectual Property Rights system is based on the principle of (a) the Principle of Justice (the principle of natural justice) That the creator of a work that is the result of his intellectual ability, it is reasonable to get rewards.⁹ The rewards can be either material or not material. The law provides such protection in the interests of the creator in the form of a power to act in the framework of his interests, which is called a right. The inherent right of a person requires the other party to perform (Comision) or not to do (Omision) an act; (b) Economic principles (the economic argument) The right of wealth is a form of wealth for the owner. From his ownership a person will benefit, for example in the form of royalty payments and technical fees; (c) Cultural principles (the culture argument) Recognition of creations, works, human copyrights standardized in the intellectual property rights system is an effort that cannot be released as an embodiment of an atmosphere that is expected to arouse enthusiasm and interest to encourage the birth of new creation; (d) The social principle (the social argument) Granting rights to individuals, fellowships or unions is given and recognized by law, because by giving them to individuals, alliances or legal unions, the interests of the whole society will be fulfilled.¹⁰

The Intellectual Property System is a private right and this is stipulated in *the Agreement on Trade Related Aspects of Intellectual Property Rights* or the TRIPs Agreement which states "*recognizing that intellectual property rights are private rights*".

John Locke in his theory of property rights says that the property rights of a human being to the resulting object have existed since man was born. John Locke argued that intellectual property law gives exclusive property rights to a person's work. Then Locke stated that the right to private property begins with human labor and it is with this work that man improves the world for a decent life, both for himself and others. This assumption led Locke to the thought that individual work also belongs to the individual. While goods are material objects (tangible) and rights are immaterial (intangible) objects.¹¹

In IPR the basic idea is that intellectual property belongs to the creator because of his brain ability.¹² Josef Kohler with his theory known as "Immaterialguterrecht" explained, that there is a very special relationship between people with intangible objects (gut immateriales). According to Kohler, IPR is a material right that is the right to something derived from the work of the brain and the result of the work ratio or the result of the work of the human ratio that spreads. The result of his work is in the form of immaterial objects (intangible objects).

⁹ Chandra Nath Saha and Sanjib Bhattacharya, "Intellectual Property Rights: An Overview and Implications in Pharmaceutical Industry," *National Library of Medicine* 2, no. 2 (2011): 88–93, <https://doi.org/10.4103/2231-4040.82952>.

¹⁰ Sofyan Arief, Agus Zainudin, and Achmad Fauzan HS, "Pelatihan Searching Dan Drafting Paten Di Perguruan Tinggi Muhammadiyah Mataram," *Jurnal Dedikasi Hukum* 1, no. 2 (2021): 190–201, <https://doi.org/10.2229/jdh.v1i2.17236>.

¹¹ Lu Sudirman and Hari Sutra Disemadi, "Comparing Patent Protection in Indonesia with That in Singapore and Hong Kong," *Legality: Jurnal Ilmiah Hukum* 29, no. 2 (2021): 200–222, <https://doi.org/10.22219/ljih.v29i2.15680>.

¹² Sholahuddin Al-Fatih, "Analisis Keterhubungan Konsep Merek Dengan Nama Domain : Kajian Kekayaan Intelektual Di Indonesia," *Journal of Judicial Review* 23, no. 2 (2021): 257–64, <https://doi.org/http://dx.doi.org/10.37253/jjr.v23i2.4396>.

30 The work of the brain is then formulated as intellectuality. The person who optimally acts the work of his brain is referred to as a learned person, able to use ratios, able to think rationally using logic (method of thinking, branch of philosophy), therefore the result of his thinking is called rational or logical. People who belong to this group are called intellectuals.¹³

Intellectual work produced by humans is further recognized as wealth, this means that there is a concept of ownership and materiality contained in it. Locke says that man has the right to property thanks to his physical labor and thanks to his handiwork or labor. Thus it is clear that according to Locke the intellectual work is the result of human labor, therefore the human producing intellectual work has the right to the work.

Associated with Locke's opinion above, it is asserted that the right to the results of human labor, including the results of intellectual labor is the property of the producer of intellectual works. Using different sentences, it can be said that wealth is a recognition of one's property. In line with this, Locke says that man has exclusive natural rights over his body, as well as humans have exclusive rights over what his body produces. Based on this, it can be said that what his body produces, including what is produced by his mind as an intellectual work. Therefore, it can logically be stated that based on the law of nature, intellectual works that are the result of work produced by the body of a human being contain exclusivity possessed by the producing man. Recognition of ownership logically also contains the meaning of the recognition that intellectual property is an object. Therefore, intellectual property is attached to a right called property rights. If categorized by its nature, intellectual property rights are intangible objects, because intellectual property is a right. In accordance with the teachings of natural law, the owner of IPR has the freedom and freedom to act freely on his property, in this case the intellectual work he produces.¹⁴

Discussing the right of private property will not be separated from book II Code Civil Law law on objects, referring to article 499 of the Civil Code that objects are everything that can be the object of property rights be it tangible objects or intangible objects, then private property rights will be related to the right of matter (*Zakelijkrecht*) which is an absolute right to objects where this right gives direct power over an object and can be maintained to anyone.

The principle in article 570 BW is the basis for the protection of IPR.¹⁵ As explained in the previous section that IPR is an object that has material rights and by itself can be controlled by property rights. So logically the owner of IPR can use his intellectual property rights freely.

Since being born in this world man has begun to realize that he is part of the greater and broader unity of man and that the unity of man has a culture.¹⁶ In addition, humans have actually known that their lives in society are basically governed by various rules or

¹³ Al-Fatih.

¹⁴ Indirani Wauran-Wicaksono, "Hak Kekayaan Intelektual Sebagai Benda: Penelusuran HKI Di Indonesia," *Refleksi Hukum* 9, no. 2 (2015): 133–42, <https://doi.org/10.24246/jrh.2015.v9.i2.p133-142>.

¹⁵ Regent et al., "Pelanggaran Hak Cipta Sinematografi Di Indonesia: Kajian Hukum Perspektif Bern Convention Dan Undang-Undang Hak Cipta," *Indonesian Law Reform Journal (ILREJ)* 1, no. 1 (2021): 111–21, <https://doi.org/10.22219/ilrej.v1i1.16129>.

¹⁶ Louise G. Bernier, "Protection and Commercialization of Biotechnology Inventions in Canada and Que'bec," *Industrial Biotechnology* 15, no. 3 (2019): 162–70, <https://doi.org/10.1089/ind.2019.29170.lgb>.

guidelines. Thus, a layman unconsciously and within a certain limit can know what is actually the object or scope of his daily life, one of which is the intellectual property that belongs to a person regulated by law and provides an opportunity for him to demand the exercise of the rights he has and believe there are rules and patterns that govern social interactions that occur in society. Based on social structures, social processes, social and cultural changes.

A Trademarks as an Intellectual Property Right is basically a sign to identify the origin of goods and services (an indication of origin) of a company with other company's goods and/or services.¹⁷ Trademark are the spearhead of the trade in goods and services. Through Trademark, entrepreneurs can maintain and provide assurance of the quality (a guarantee of quality) of goods and / or services produced and prevent dishonest acts of competition from other entrepreneurs who intend to piggyback on their reputation. Trademark as a means of marketing and advertising (a marketing and advertising device) provide a certain level of information to consumers about goods and / or services produced by entrepreneurs.¹⁸

1. Substantiation of the regulation of article 35 of Presidential Regulation 63 of 2019 concerning the Use of Indonesian the Statute Book of the Republic of Indonesia number 2019 number 180

Presidential Regulation No. 63 of 2019 concerning the Use of Indonesian includes regulating the use of Indonesian that must be used on trademarks owned by Indonesian citizens or Indonesian legal entities, as affirmed in article 35 that:

- a. Indonesian must be used on trademark names in the form of words or combinations of words owned by Indonesian citizens or Indonesian legal entities.
- b. The use of Indonesian on the trademark name as intended in paragraph (1) is excluded for trademarks that are foreign licenses
- c. In the event that the trademark as intended in paragraph (1) has historical, cultural, customs, and/or religious value, the trademark name may use a Regional Language or a Foreign Language.
- d. The use of Regional Languages or Foreign Languages as intended in paragraph (3) is written using Latin characters.
- e. The inclusion of Indonesian in the trademark as intended in paragraph (1) shall be carried out in accordance with the provisions of the laws and regulations.

In the Weighing Clause there are two bases for consideration in making this rule, namely:

- a. that Presidential Regulation No. 16 of 2010 concerning the Use of Indonesian in Official Speeches of the President and/or Vice President and Other State Officials only regulates the use of Indonesian in official speeches of the

¹⁷ Sindy Riani Putri Nurhasanah and Ulil Afwa, "Pertanggungjawaban Hukum Direksi Induk Terhadap Risiko Bisnis Anak Perusahaan Pada Holding Company BUMN," *Indonesian Law Reform Journal (ILREJ)* 1, no. 3 (2021): 303–17, <https://doi.org/10.22219/ilrej.v1i3.18335>.

¹⁸ Anis Mashdurohatun, Gunarto Gunarto, and Lathifah Hanim, "The Urgency of Legal Protection to the Trademarks in the Global Era," *Jurnal Pembaharuan Hukum* 5, no. 3 (2018): 259–76, <https://doi.org/10.26532/jph.v5i3.3373>.

25 President and/or Vice President and other state officials and has not regulated the use of other Indonesian as mandated in Article 40 of Law No. 24 of 2009 concerning flags, Language, and National Emblem, as well as the National Anthem;

- 9 b. that based on the considerations as intended in paragraph a and to implement the provisions of Article 40 of Law No. 24 of 2009 concerning The Flag, Language, and Coat of Arms of the State, as well as the National Anthem, it is necessary to establish the Presidential Regulation on the Use of Indonesian;

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4 The recall clause also uses two bases, namely 1. Article 4 paragraph (1) of the Constitution of the Republic of Indonesia of 1945 and 2. Law No. 24 of 2009 concerning The Flag, Language, and Coat of Arms of the State, as well as the National Anthem. In paragraph 1 which reads Indonesian must be used on the trademark name in the form of words or a combination of words owned by Indonesian citizens or Indonesian legal entities,¹⁹ it means that in registering Trademark and or registered Trademark owned by Indonesian citizens or legal entities in Indonesia must use Indonesian, Substantively means that all Trademark owned by Indonesian citizens or legal entities in Indonesia (which is meant to be a legal entity registered as a legal entity in Indonesia) are required to use Indonesian for its Trademarks meaning that those who have been registered in a foreign language must be in Indonesian and the list must use Indonesian.

2. Law no. 20 of 2016 concerning Trademark in regulating the language in the registration of Trademark

Juridically, the definition of Trademarks²⁰ is stated in article 1 paragraph (1) of Law No. 20 of 2016 concerning Trademark and Geographical Indications that:

"A Trademarks is a sign that can be displayed graphically in the form of images, logos, names, words, letters, numbers, color arrangements, in the form of 2 (two) dimensions and / or 3 {three } dimensions, sounds, holograms, or a combination of 2 (two) or more of these elements to distinguish goods and services produced by people or legal entities in the trading activities of goods darr / or services".

Law No. 20 of 2016 concerning Trademark and Geographical Indications has regulated how the Trademarks criteria that can be registered such provisions can be seen in article 2 paragraph (3) of Law Number 20 of 2016 concerning Trademark and Geographical Indications which formulates that:

"The protected Trademarks consists of a sign in the form of an image, logo, name, letter word, number, color arrangement, in the form of 2 (two) dimensions and/or 3 (three) dimensions, sound, hologram, or a combination of 2 (two) or more of these elements to

¹⁹ Sujana Donandi S. and Pandu Adi Cakranegara, "The Implementation of Well-Known Trademarks Doctrine in Indonesian Commercial and Supreme Court," *Fiat Justisia: Jurnal Ilmu Hukum* 15, no. 2 (2021): 159–82, <https://doi.org/10.25041/fiatjustisia.v15no2.201>.

²⁰ Ayup Suran Ningsih, "Sustainability of Indonesia Trademark Law as Umbrella Law in Resolving Domain Names Dispute in Indonesia," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 32, no. 2 (2020): 194–209, <https://doi.org/10.22146/jmh.49243>.

distinguish goods and or services produced by persons or legal entities in the trading activities of goods and / or services."

Article 15 of Law No. 20 of 2016 concerning Trademark and Geographical Indications formulates that: The announcement was made by including:

- a. The applicant's name and address, including power of attorney if the application is submitted through the power of attorney
- b. Classes and types of goods and/or services
- c. Date of receipt
- d. The name of the country and the date of receipt of the first application in the event that the application is submitted using priority rights
- e. Trademarks labels, including descriptions of colors and if Trademarks labels use foreign languages and/or letters other than Latin letters and/or numbers that are not commonly used in Indonesian, accompanied by translations into Indonesian, Latin letters or numbers commonly used in Indonesian, and how they are pronounced in Latin spelling.

In addition to the article, the determination of the use of language can be indirectly found in article 15 letter (e) which specifies that the Trademarks label listed must include a description of the color, and if the registered Trademarks uses a foreign language it must be accompanied by its translation, using Latin letters or numbers commonly used in Indonesian, and accompanied by the way it is pronounced in Latin spelling. Here is an overview of the announcement of the inclusion of foreign language Trademarks labels accompanied by translations.

In addition, based on article 15 letter (e) of Law No. 20 of 2016 concerning Trademark and Geographical Indications that indirectly explains that a Trademarks requested registration may use a foreign language. It can be seen in article 15 letter (e) that when Trademarks registration is in process and through registration must include a Trademarks label, which if the Trademarks label uses a foreign language it must be accompanied by translation.

So it can be concluded that the use of foreign languages in Trademarks registration in Trademarks law is not prohibited, because the Trademarks as a distinguishing sign is known and valuable when widely promoted so that the more promoted it will be the more its value, Trademark usually use language that is easily remembered by consumers so that the use of language also makes the Trademarks flexible to who the consumer is.

3. Solutions to legal conflicts of Trademarks registration provisions

Looking at the provisions regarding the obligation to use Indonesian on trademarks stipulated in article 35 of Presidential Regulation No. 63 of 2019 concerning the Use of Indonesian is not in line with the provisions stipulated in Law No. 20 of 2016 concerning Trademark and Geographical Indications. This can be seen from the description above which explains that there are two legal rules regarding the use of language in different trademarks, where the contents of article 35 of Presidential Regulation No. 63 of 2019 concerning the Use of Indonesian require trademarks to use Indonesian, while the provisions in Law No. 20

of 2016 concerning Trademark and Geographical Indications do not require the use of certain languages on Trademark.

Philosophical foundations are the moral or ethical values of the Indonesian nation. Morals and ethics basically contain good values, is the view and legal mind of the Indonesian nation rooted in Pancasila which is upheld, in which it contains the values of truth, justice and decency and other values that are considered good in organizing the life of the nation and state community. As a actualization of the value of truth, justice contained in Pancasila is the basis in making changes to a law in Indonesia.

The law always contains legal norms that are idealized (*ideal norm*) by a society towards the lofty ideals of community and state life to be directed. Therefore, the law can be described as a mirror of a society's collective ideals of noble values to be realized in everyday life through the implementation of the relevant law in reality. Therefore, the ideals as a philosophical foundation contained in the law should be in line with the philosophical ideals embraced by the people of the Indonesian nation itself. Therefore, in the context of state life, Pancasila as the philosophy of the Indonesian nation must be the philosophical foundation contained in every law made, including Trademarks laws and regulations, and must not be based on the philosophy of life of other nations and countries.

Thus, the author analyzes that with the establishment of Presidential Regulation No. 63 of 2019 concerning the Use of Indonesian in contravention of Law No. 20 of 2016 concerning Trademark and Geographical Indications so as to cause legal conflicts that result in legal uncertainty, then considering the purpose of Trademarks registration and extension of the period of registered Trademarks protection is to obtain a guarantee of legal protection of property rights. Trademarks, so as to find a way out of the problem can apply the principle of Lex Superior Derogat Lex Inferiory law, which is a principle that interprets higher legal norms its position excludes more rigid legal norms. This means that Law No. 20 of 2016 concerning Trademark and Geographical Indications whose position is hierarchically higher legislation excludes Presidential Regulation No. 63 of 2019 concerning the Use of Indonesian whose position is lower.

In addition to being able to apply the principle of Lex Superior Derogat Lex Inferiory law, it can also apply the principle of Lex Specialis Derogat Legi Generali law, which is a principle that interprets the law stated that the law of a special nature overrides the law of a general nature. So that in the application of the legal principle Lex Specialis Derogat Legi Generali in this matter using Law No. 20 of 2016 concerning Trademark and Geographical Indications which is a special provision in the field of Trademark, and overriding Presidential Regulation No. 63 of 2019 concerning the Use of Indonesian as a general provision governing the use of Indonesian. The use of the Lex Specialis Derogat Legi Generali principle is considered appropriate because considering Presidential Regulation No. 63 of 2019 concerning the Use of Indonesian is a mandate from article 40 of Law No. 24 of 2009 concerning Flags, Languages, and National Emblems, as well as the National Anthem which also regulates the obligation to use Indonesian against trademarks. So that Law No. 20 of 2016 concerning Trademark and Geographical Indications as a special provision governing Trademark also excludes Law No. 24 of 2009 concerning Flags, Languages, and National

22 Emblems, as well as the National Anthem as a determination that regulates the flag, language, and national emblem, as well as the national anthem.

D. CONCLUSION

5 A Trademarks as an Intellectual Property Right is basically a sign to identify the origin of goods and services (an indication of origin) of a company with other company's goods and/or services. Trademark are the spearhead of the trade in goods and services. Through Trademark, entrepreneurs can maintain and provide assurance of the quality (a guarantee of quality) of goods and / or services produced and prevent dishonest acts of competition from other entrepreneurs who intend to piggyback on their reputation.

Presidential Regulation No. 63 of 2019 concerning the Use of Indonesian includes regulating the use of Indonesian that must be used on trademarks owned by Indonesian citizens or Indonesian legal entities, as affirmed in article 35.

The use of foreign languages in Trademarks registration on Trademarks law is not prohibited, because the Trademarks as a distinguishing sign is known and valuable when widely promoted so that the more it is promoted the more it will be increased in value, ordinary Trademark use language that is easily remembered by consumers so that the use of language also makes the Trademarks flexible to who the consumer is.

So with the establishment of Presidential Regulation No. 63 of 2019 concerning the Use of Indonesian in contravention of Law No. 20 of 2016 concerning Trademark and Geographical Indications so as to cause legal conflicts that result in legal uncertainty, then considering the purpose of Trademarks registration and extension of the period of registered Trademarks protection is to obtain a guarantee of legal protection of property rights over the Trademarks, so that to find a way out of the problem can apply the principle of *lex superior derogat lex inferior* law, which is a principle that interprets the norms of higher law positions to exclude legal norms that are more ambiguous. This means that Law No. 20 of 2016 concerning Trademark and Geographical Indications whose position is hierarchically higher legislation excludes Presidential Regulation No. 63 of 2019 concerning the Use of Indonesian whose position is lower.

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Political Law of Presidential Regulation Number 63 of 2019 on Trademarks


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Abstract
This article discusses trademarks in a legal political perspective. The existence of Presidential Regulation No. 63 of 2019 concerning the Use of Indonesian which regulates the use of Indonesian that must be used on trademarks owned by Indonesian citizens or Indonesian legal entities has conflicts with the Law Number 20 of 2016 On Trademarks and Geographical Indications, regarding the function and purpose of the Trademarks, so it is interesting to conduct discussions through normative juridical methods. The results of this study show that the principle of Lex Superior Derogat Lex Inferiori law, which is a principle that interprets higher legal norms, can be used as one of the tools in solving problems. Thus, the position of Presidential Regulation Number 63 of 2019, is no more binding than the position and binding power of Law Number 20 of 2016 on Trademarks and Geographical Indications.

Keywords: Trademarks; Presidential Regulation; Law.

Abstrak
Artikel ini membahas merek dagang dalam perspektif politik hukum. Keberadaan Peraturan Presiden Nomor 63 Tahun 2019 tentang Penggunaan Bahasa Indonesia yang mengatur penggunaan bahasa Indonesia yang harus digunakan pada merek dagang milik warga negara Indonesia atau badan hukum Indonesia bertentangan dengan Undang-Undang Nomor 20 Tahun 2016 tentang Merek Dagang dan Indikasi Geografis, mengenai fungsi dan tujuan Merek Dagang, sehingga menarik untuk melakukan diskusi melalui metode yuridis normatif. Hasil penelitian ini menunjukkan bahwa prinsip hukum Lex Superior Derogat Lex Inferiori, yang merupakan prinsip yang menafsirkan norma hukum yang lebih tinggi, dapat digunakan sebagai salah satu alat dalam memecahkan masalah. Hal ini berimplikasi kedudukan Peraturan Presiden Nomor 63 Tahun 2019, tidak lebih mengikat dengan kedudukan dan daya mengikat Undang-Undang Nomor 20 Tahun 2016 Tentang Merek Dagang dan Indikasi Geografis.

Kata kunci: Merek Dagang; Peraturan Presiden; Hukum.

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A. INTRODUCTION
On July 9, 2009, Law No. 24 of 2009 concerning Flag, Language, and National Emblem, as well as the National Anthem, by promulgated in Statute Book of the Republic

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