

AUTHORIZED TRANSLATION

DECISION

Number: 736 K/Pdt.Sus/2009

FOR JUSTICE BASED ON THE BELIEF IN THE ONE AND ONLY GOD

THE SUPREME COURT

who investigates and administers justices to the Intellectual Property (Mark)-related cases at the cassation (appeal to Supreme Court) instance, has passed the following decision in the case between:

YOHANES WENDY TJIOE, of Jl. Pluit Timur Blok T Sel/52 Rt. 002/009, Jakarta Utara, hereinafter is referred to as the Appellant-in-Cassation formerly the Defendant;

Versus

DOCTOR'S ASSOCIATES INC., of 300 South Pine Island Road, Suite 306, Plantation, Florida, 33306 U.S.A, in this case has authorized **DAMAR SWARNO DWIPO SH. MH. & Co.**, the Advocates and Legal Consultants at Office Law DWIPO, LUBIS & PARTNERS, of Gedung Anakida, Lantai 6, Jalan Prof. Dr. Soepomo, S.H., No. 27, Tebet - Jakarta, based on the Special Power of Attorney dated September 02, 2008, hereinafter is referred to as the Appellee-in-Cassation formerly the Plaintiff.

The said Supreme Court;

After examining the related documents;

Considering, that from the said documents it is evident that the present Appellee-in-Cassation formerly the Plaintiff had filed a legal motion to the



AUTHORIZED TRANSLATION

Commercial Court at the Central Jakarta District Court substantially based on the following arguments:

“The Plaintiff is a well-known company from Florida, United States of America and also the sole owner and the first user of the trademark and service mark “SUBWAY” that has been internationally well-known;

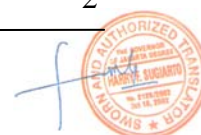
The Plaintiff’s well-known mark “SUBWAY” has been protected by the laws and regulations applicable in Indonesia, particularly the Law No. 15 of 2001 regarding Mark as well as by the international conventions, particularly *TRIPs Agreement* and *Paris Convention* that have already been ratified by Indonesia, therefore the Plaintiff obviously possesses the sole right to use the trademark & service mark “SUBWAY” in Indonesia, that functions to distinguish the products or services of the Plaintiff from the products or services of other parties;

The word “SUBWAY” was invented by Plaintiff and is deliberately made a trademark & service mark by the Plaintiff, in order to enable the consumers or the public to distinguish the products or services of the Plaintiff from Florida, United States of America from the products or services of the other parties;

The Plaintiff has registered its trademark & service mark “SUBWAY” in some countries, among others in the countries listed in the motion;

The Plaintiff’s trademark & service mark “SUBWAY” may be classified as an internationally well-known mark, since in addition to their registrations in the countries listed in the motion, the Plaintiff’s trademark & service mark “SUBWAY” have also been registered in the other countries listed also in the motion;

In addition to the registration of the trademark & service mark “SUBWAY” in the countries specified in the motion, our client has also filed an application for registration of the mark “SUBWAY” to the Directorate General of Intellectual



AUTHORIZED TRANSLATION

Property, Law and Human Rights Department of the Republic of Indonesia on January 22, 2009 under Agenda No. J00.2009.002022 to protect the services in Class 43, services in providing foods and beverages; temporary accommodation;

It has come to the attention of the Plaintiff, that the Defendant without consent of the Plaintiff has registered the mark “SUBWAY” to the Directorate General of Intellectual Property, Law and Human Rights Department of the Republic of Indonesia registered under No. 457365, on December 12, 2000 to protect the services included in Class 42 (currently included in Class 43) namely restaurants (provisions of food and beverages), buffets, food stall, food kiosks, cafes, canteen, hotel, motel, villa, bungalow, inns;

The Plaintiff highly objects the registration of the mark “SUBWAY” registered under No. 457365 by the Defendant, since the mark “SUBWAY” of the Defendant clearly has substantial and entire similarity to the similar services protected under the mark “SUBWAY” of the Plaintiff, both from the shape, positioning, writing, combination of elements and pronunciation aspects. This has clearly proven the bad faith of the Defendant to take-over the Plaintiff’s mark “SUBWAY” and or share the fame, imitate, and counterfeit the Plaintiff’s mark “SUBWAY” that has been internationally well known and registered in some countries, therefore the registration of the mark “SUBWAY” by the Defendant should be classified as a registration with bad faith, and therefore does not deserve any legal protection, specified in Article 4 (as elaborated) connected with Article 6 clause (1) points a and b (as elaborated) of the Law No. 15 of 2001 regarding Mark;

Since the mark “SUBWAY” of the Defendant is substantially similar to the mark “SUBWAY” of the Plaintiff, if both marks are used in coexistence in the businesses, they will surely create unfair competition condition, deceiving and misleading the public as the consumers will consider that the services from the



AUTHORIZED TRANSLATION

Defendant that use the mark "SUBWAY" are services from the Plaintiff and this will bring damage to the Plaintiff;

It is hard to imagine any other intention of the Defendant by registering the mark "SUBWAY" that clearly is substantially and entirely similar to the Plaintiff's mark "SUBWAY", but only to share the fame, imitating, counterfeiting, and taking advantage from the fame of the Plaintiff's mark "SUBWAY" which has been painstakingly developed by the Plaintiff for years with huge amount of money, including the expenses to secure legal protections to the mark "SUBWAY" in various countries and the promotional / advertisement costs in order to introduce the products to the world;

Since the Plaintiff is the sole proprietor and the first user of the internationally well-known mark "SUBWAY" and since the Plaintiff has also filed an application for registration of the mark "SUBWAY" to the Directorate General of Intellectual Property, Law and Human Rights Department of the Republic of Indonesia on January 22, 2009 under Agenda No. J00.2009.002022 to protect the services included in Class 43 namely the services in providing food and beverages; temporary accommodation, the Plaintiff has a strong legal ground to file this Motion for Cancellation of Registered Mark "SUBWAY" registered under No. 457365 in the name of the Defendant, as specified in the Article 68 clause (1) and clause (2) connected with Article 4 and Article 6 clause (1) points a and b of the Law No. 15 of 2001 regarding Mark;

In view of the fame of the Plaintiff's mark "SUBWAY" and since the Defendant's mark "SUBWAY" is substantially similar to the Plaintiff's mark "SUBWAY", one should be convinced that both marks when used in coexistence in the businesses, will surely create unfair competition condition, deceiving and misleading the public as the consumers will consider that the services from the



AUTHORIZED TRANSLATION

Defendant that use the mark "SUBWAY" are services from the Plaintiff and this will bring damage to the Plaintiff;

Grounded on the matters above, the Plaintiff has also strong legal reasons to request the cancellation of the registration of the mark "SUBWAY" registered under No. 457365 in the name of the Defendant;

The Plaintiff hereby request the Panel of Judges of the Commercial Court in Central Jakarta to order the Directorate General of Intellectual Property, Law and Human Rights Department of the Republic of Indonesia, to cancel the registration of the mark "SUBWAY" registered under No. 457365 in the name of the Defendant from the General Register of Marks, and further to announce the cancellation of the mark registration in the Mark Gazette, as provided for in Article 70 clause 3 jo. Article 71 of the Law No. 15 of 2001 regarding Mark;

Grounded on the arguments above, the Plaintiff hereby request the Panel of Judges of the Commercial Court in Central Jakarta, to decide as follows:

1. To grant the Plaintiff's motion entirely;
2. To pronounce the Plaintiff is the sole proprietor and the first user of the internationally well-known mark "SUBWAY", so that the Plaintiff has the exclusive right to use the mark "SUBWAY";
3. To pronounce the mark "SUBWAY" registered under No. 457365 in the name of the Defendant is substantially and entirely similar to the Plaintiff's mark "SUBWAY";
4. To pronounce the cancellation of the registration of the mark "SUBWAY" registered under No. 457365 in the name of the Defendant including the legal consequences thereof;



5. To order the Directorate General of Intellectual Property, Law and Human Rights Department of the Republic of Indonesia, to cancel the registration of the mark “SUBWAY” registered under No. 457365 in the name of the Defendant from the General Register of Marks, and further to announce the cancellation of the mark registration in the Mark Gazette.
6. To tax the Defendant the costs of examination.

Or, should the Panel of Judges of the Commercial Court in Central Jakarta have any other opinion, we request for the fairest judgment (*ex aequo et bono*).”

Considering, that against the Plaintiff’s motion, the Defendant submitted its Demurrer and Counterclaim substantially based on the following arguments:

“IN DEMURRER:

1. The Plaintiff in its motion dated May 11, 2009 has failed to describe the identity and legal standing of the Plaintiff in the authorization contemplated in the Special Power of Attorney dated September 2, 2008 to file the motion in this case;

The identity and legal capacity or authority of the Plaintiff in filing the motion must be made clear and this is a formal requirement in a motion bearing a legal consequence that if the identity and/or legal standing of the Plaintiff is obscure the Plaintiff’s motion should be pronounced unacceptable;
2. The MARK CERTIFICATE “SUBWAY” registered under Reg. No. 457365 dated December 12, 2000 was issued in accordance with and under the legal provisions and procedures applicable in the Legal State of the Republic of Indonesia, namely the Law No. 19 of 1992 regarding Mark as amended by the Laws No. 14 of 1997 based on the Plaintiff’s application;



AUTHORIZED TRANSLATION

Since the MARK CERTIFICATE “SUBWAY” registered under Reg. No. 457365 dated December 12, 2000 is a legal product produced by the Justice and Human Rights Department of the Republic of Indonesia cq. the Directorate General of Intellectual Property cq. the Directorate of Mark (now the Laws and Human Rights Department of the Republic of Indonesia cq. the Directorate General of Intellectual Property) pursuant to the rights and authorities conferred to it by the laws - therefore pursuant to the objectives and purposes of the Plaintiff’s motion, the Plaintiff should have named the Directorate General of Intellectual Property as a Defendant in this case;

Since the Plaintiff fails to name the Government of the Republic of Indonesia c.q. the Laws and Human Rights Department of the Republic of Indonesia cq., the Directorate General of Intellectual Property as a Defendant in the Plaintiff’s motion, the Plaintiff’s motion should be considered lack of party and must at least be pronounced unacceptable;

3. According to and based on the Plaintiff’s description in the motion, it is clearly and expressly evident that the PLAINTIFF is not the Owner, User or Registrant of the Mark “SUBWAY” in class 42 (currently Class 43) in the Legal State of the Republic of Indonesia for the first time, therefore the application for registration by the Plaintiff dated January 22, 2009 under Agenda No. J00.2009.002022 for class 43 (previously class 42) cannot be used as the evidence of Plaintiff’s legal ownership of the mark “SUBWAY”;

It is clearly and expressly evident that the registration of the Mark “SUBWAY” filed by the Plaintiff in the Legal State of the Republic of Indonesia only for the goods in classes 30 and 32 whose legal substances are not similar to the services classified in class 42 (currently class 43), therefore the provisions of Article 4 and



AUTHORIZED TRANSLATION

Article 6 of the Laws of the Republic of Indonesia No. 15 of 2001 regarding Mark should not apply in this case;

That in addition, it is clearly and expressly evident that the application for registration of the mark "SUBWAY" filed by the Plaintiff fails to satisfy the provisions of Article 11 and 12 of the Laws No. 15 of 2001 regarding Mark, therefore the registrations of the Mark "SUBWAY" by the Plaintiff overseas cannot be used as a basis for the registration of the same in the Legal State of the Republic of Indonesia with Priority right since it has elapsed the time limit specified by the Laws of the Republic of Indonesia;

Since the Plaintiff is not the Owner, User and Registrant of the Mark "SUBWAY" for Class 42 (currently Class 43) in the Legal State of the Republic of Indonesia for the first time, the Plaintiff should have been pronounced incompetent to file a motion in this case, and consequently the Plaintiff's motion should be rejected or at least pronounced unacceptable;

4. According to and under the provisions of Article 69 clause (1) of the Laws of the Republic of Indonesia No. 15 of 2001 regarding Mark, the Mark "SUBWAY" according to and by virtue of the MARK CERTIFICATE "SUBWAY" registered under Reg. No. 457365 dated December 12, 2000 for Class of Goods: 42 (currently 43) could not be cancelled;

Any COMPLAINT and OBJECTION should have been filed by the PLAINTIFF when the application for the registration of the MARK "SUBWAY" filed by the DEFENDANT was being processed by the Directorate of Mark, the Justice and Human Rights Minister of the Republic of Indonesia cq. Directorate General of Intellectual Property (currently the Laws and Human Rights Department of the Republic of Indonesia cq. the Directorate General of Intellectual Property),



AUTHORIZED TRANSLATION

pursuant to the provisions of Article 24 and Article 25 of the Laws of the Republic of Indonesia No. 15 of 2001 regarding MARK;

The legal protection and certainty on Intellectual Property of a citizen of the Republic of Indonesia regulated by the Laws of the Republic of Indonesia should have been respected by a FOREIGNER who intends to invest in Indonesia, so the DEFENDANT's interest over the mark "SUBWAY" for Class 42 (Currently Class 43) that has firstly been registered in the Legal State of the Republic of Indonesia deserves a legal protection pursuant to and under the provisions of Article 69 clause (1) of the laws of the Republic of Indonesia No. 15 of 2001 regarding Mark;

According to and based on the description above, the "Motion for cancellation of a MARK registration filed elapsing the time limit of five (5) years from the MARK registration date" should be dismissed or at least be pronounced unacceptable;

IN COUNTERCLAIM:

In the merit of the case:

1. The arguments of the Plaintiff-in-Counterclaim / Defendant-in-Motion in the Claim (Demurrer and Merit of the Case) should be considered included and important and integral part of this Counterclaim
2. Since the motion of the Defendant-in-Counterclaim / Plaintiff-in-Motion is not reasonable and not legally grounded, allow us, the Plaintiff-in-Counterclaim / Defendant-in-Motion to file a counterclaim in the present case;
3. Since the Mark "SUBWAY" registered by the Defendant-in-Counterclaim / Plaintiff-in-Motion on January 22, 2009 under Agenda No. J00.2009.002022 for class 43 (previously 42) is substantially or totally similar to the MARK of another



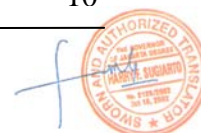
AUTHORIZED TRANSLATION

party that has been registered in advance for similar goods and/or services, according to the provisions of Article 6 clause (1) point a of the Laws of the Republic of Indonesia No. 15 of 2001 regarding MARK, the Laws and Human Rights Department of the Republic of Indonesia cq. the Directorate General of Intellectual Property should reject the motion of the Defendant-in-Counterclaim / Plaintiff-in-Motion;

4. Since such application for registration has been used by the Defendant-in-Counterclaim / Plaintiff-in-Motion to file a motion for cancellation of the Mark Certificate "SUBWAY" Registered under No. 457365 dated December 12, 2000, such action has, materially and immaterially, damaged the Plaintiff-in-Counterclaim / Defendant-in-Motion as a Registrant of such Mark;
5. In addition, the Defendant-in-Counterclaim / Plaintiff-in-Motion has no right to use the Mark "SUBWAY" for class 43 (previously class 42) in the Legal State of the Republic of Indonesia, therefore the use and/or registration of the MARK "SUBWAY" filed by the Plaintiff-in-Counterclaim / Defendant-in-Motion on January 22, 2009 under Agenda No. J00.2009.002022 are against the provisions of Article 4 and Article 6 clause (1) point a of the Laws of the Republic of Indonesia No. 15 of 2001 regarding MARK;
6. In such connection, according to and based on the provisions of Article 4 and Article 76 of the Laws of the Republic of Indonesia No. 15 of 2001 regarding MARK, the Plaintiff-in-Counterclaim / Defendant-in-Motion may demand the Defendant-in-Counterclaim / Plaintiff-in-Motion who illegally uses the MARK "SUBWAY" that is substantially or totally similar to and for the similar services of the Plaintiff-in-Counterclaim / Defendant-in-Motion

To pay indemnification and/or

To cease any action related to the use of the MARK;



7. Since there is evidence of any action or infringement against the Mark by the Defendant-in-Counterclaim / Plaintiff-in-Motion, it is reasonable that the Defendant-in-Counterclaim / Plaintiff-in-Motion should be liable to pay the losses suffered by the Plaintiff-in-Counterclaim / Defendant-in-Motion with the details specified in the Counterclaim;

Grounded on the reasons above, the Defendant requests the Panel of Judges of Central Jakarta Commercial Court to pass the following decisions:

In the Merit of the Case:

1. To totally accept the COUNTERCLAIM of the Plaintiff-in-Counterclaim / Defendant-in-Motion;
2. To pronounce the Defendant-in-Counterclaim / Plaintiff-in-Motion a Registrant of the Mark "SUBWAY" for Class 43 with bad faith;
3. To pronounce the registration of the Mark "SUBWAY" for class 43, filed by the Defendant-in-Counterclaim / Plaintiff-in-Motion on January 22, 2009 under Agenda No. J00.2009.002022 is against the provisions of Article 4 and Article 6 clause (1) point a of the Laws of the Republic of Indonesia No. 15 of 2001 regarding MARK;
4. To pronounce the Defendant-in-Counterclaim / Plaintiff-in-Motion convicted of Mark Infringement as provided for in the provisions of Article 76 of the Laws of the Republic of Indonesia No. 15 of 2001 regarding MARK;
5. To sentence the Defendant-in-Counterclaim / Plaintiff-in-Motion to pay the losses the Plaintiff-in-Counterclaim / Defendant-in-Motion has suffered with the following details:
 - a. MATERIAL losses of one hundred thousand United States of American Dollars (USD 100,000-);



AUTHORIZED TRANSLATION

- b. IMMATERIAL losses of one million United States of American Dollars (USD 1,000,000.-);
6. To order all parties interested to the MARK "SUBWAY" particularly those related to the Class 43 registered in the name of Yohanes Wendy Tjioe with the Laws and Human Rights Department of the Republic of Indonesia cq. the Directorate General of Intellectual Property, to abide by the Decision of the present case.
7. To tax the cost of the hearing

Or

Should the Panel of Judges of Central Jakarta Commercial Court investigating and administering justices to the present case is of other opinion, the Plaintiff-in-Counterclaim / Defendant-in-Motion asks for a fairest decision;"

That in favor of the motion, the Commercial Court at the Central Jakarta District Court passed a judgment, namely the Decision No. 28/MEREK/2009/PN. NIAGA.JKT.PST dated August 13, 2009 whose injunctions are as follows:

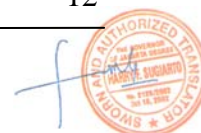
IN CLAIM / MOTION

IN DEMURRER

- To reject the demurrers of the Defendant;

IN THE MERIT OF THE CASE

1. To totally grant the motion of the Plaintiff;
2. To pronounce the Plaintiff the sole owner and the first registrant of the internationally well-known mark "SUBWAY" so that the Plaintiff has the sole right to use the mark "SUBWAY";



AUTHORIZED TRANSLATION

3. To pronounce the mark “SUBWAY” registered under No. 457365 in the name of the Defendant is totally similar to the mark “SUBWAY” of the Plaintiff;
4. To pronounce the cancellation of the mark “SUBWAY” registered under No. 457365 in the name of the Defendant including the legal consequences thereof;
5. To order the Directorate General of Intellectual Property, Laws and Human Rights Department, to record the cancellation of the mark “SUBWAY” registered under No. 457365 in the name of the Defendant from the mark register and further to announce the cancellation in the Mark Gazette;

IN COUNTERCLAIM:

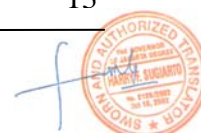
- To totally reject the counterclaim of the Plaintiff-in-Counterclaim;

IN MOTION / CLAIM AND COUNTERCLAIM

- To tax the Defendant-in-Claim / Plaintiff-in-Counterclaim the costs of investigation of six hundred and forty one thousand Rupiahs (Rp. 641,000.-);

Considering, that the decision of the Commercial Court at the Central Jakarta District Court was pronounced in the presence of the Defendant on August 13, 2009, and against it the Defendant filed a notice of cassation (appeal to Supreme Court) orally on August 31, 2009 as evidenced by the deed of Notice of Appeal No. 34 K/HaKI/2009/PN.Niaga.Jkt.Pst connected with No. 28/Merek/2009/PN.Niaga.Jkt.Pst made by the Clerk of the Commercial Court at the Central Jakarta District Court, which notice were then followed with a cassation memorial offering the arguments received by the Clerk Office of the the Commercial Court at the Central Jakarta District Court on September 07, 2009;

After that, the Appellee-in-Cassation on September 08, 2009, who received a copy of the cassation memorial of the Appellant-in-Cassation, filed a counter



AUTHORIZED TRANSLATION

cassation memorial received by the Clerk Office of the Commercial Court at the Central Jakarta District Court on September 16, 2009;

Considering, that the present notice of cassation including arguments thereof had been duly notified to the opponents, filed within the time limit and procedures specified in the laws, therefore the notice of cassation (appeal to Supreme Court) is formally acceptable;

Considering, that the arguments offered by the Appellant-in-Cassation / Defendant in the cassation memorial are as follows:

“1. It is clear that the Panel of Judges has exceeded its jurisdiction in administering justices to this case, namely deviating from the legal reasons and grounds of the Appellee-in-Cassation’s motion, therefore the consideration and decision of the Panel of Judges are not valid and must be revoked by the operation of the Laws;

In addition, the Panel of Judges has exceeded its jurisdiction in administering justices to this case, namely judging, interpreting and concluding the applicable legal provisions particularly the provisions of Article 4 and Article 6 Clause (1) points a & b of the Law No. 15 of 2001 regarding Mark;

Since the Panel of Judges had exceeded its jurisdiction set out in the Laws in administering justices to this case therefore the consideration and Decision have deviated from the objectives and purposes of the enactment of the Laws, the considerations and decisions of the Panel of Judges in this case are invalid and must be annulled by the operation of the Laws;

Since the legal reasons and grounds of the Appellee-in-Cassation’s motion are not right, as the consequences the Appellee-in-Cassation’s motion should have been rejected or at least the Appellee-in-Cassation’s motion should be pronounced unacceptable. The Panel of Judges should have no right to add, replace and/or



consider the legal reasons or grounds but only and must not depart from the legal grounds of the Appellee-in-Cassation's motion;

Pursuant and according to the description above, it is proven that the Panel of Judges has exceeded its jurisdiction set out by the Laws in administering justices to this case, therefore the consideration and decision are invalid and must be annulled by the operation of the Laws;

2. The Panel of Judges has misapplied or violated the applicable laws namely by arbitrarily judging, interpreting and concluding the legal provisions of the Laws No. 15 of 2001 regarding Mark, particularly the provisions of Article 68 Clause (1) and Clause (2) and Article 69 Clause (1) and Clause (2) connected with the provision of Article 6 Clause (1) rendering its considerations and Decision departing from the objectives and purposes of the enactment of the Laws (namely to provide legal services, protection and certainty to the rights attached to a Mark of a Citizen of the Republic of Indonesia that has been registered with the Directorate General of Intellectual Property to create sound business competition);
The Panel of Judges had interpreted the provisions of Article 68 clause (1) connected with the provisions of Article 69 clause (2);

Since the Appellee-in-Cassation's motion has no clear legal reasons and grounds, the Appellee-in-Cassation's motion should, as a legal consequence, be rejected or at least the Appellee-in-Cassation's motion should be declared unacceptable. The Panel of Judges has no right to interpret others than the provisions specified in Article 68 and Article 69;

Pursuant and according to the description above, it is **PROVEN** that the Panel of Judges had misapplied or violated the applicable laws in administering justice to



this case, therefore the considerations and decisions of the Panel of Judges are invalid and must be annulled by the operation of the Laws;

3. The Panel of Judges had neglected the requirements set out by the applicable laws and regulations, namely violating the principles of AUDI ET ALTERAM, as provided for in the provisions of Article 1, Article 4 and Article 28 Clause (1) of the Law No. 4 of 2004 regarding Justice Jurisdiction and Article 178 of the HIR;”

Considering, that against the arguments, the Supreme Court has the following opinions:

That the objections in the notice of cassation cannot be justified, the Judex Facti had not incorrectly applied the laws, since it is proven that the Mark “SUBWAY” Registered under No. 457365 in the name of the Defendant is totally similar to the internationally well-known mark “SUBWAY” of the Plaintiff;

Considering, that the arguments of the Appellant-in-Cassation cannot be justified since judgment of a result of evidencing which is an appreciation to a fact in nature, should not be considered in the cassation (appeal to Supreme Court) instance, since the examination in the cassation (appeal to Supreme Court) instance deals only with the misapplication of the law, violation against the applicable laws, negligence in satisfying the requirements of the applicable laws and regulations or if the court is incompetent or has exceeded its jurisdiction as may be contemplated in Article 30 of the Law No. 14 of 1985, as amended by the Law No. 5 of 2004, and as amended by the second amendment of the Law No. 3 of 2009, while the Judex Facti had not misapplied the laws, and the decision is considered fair;

Considering, that based on the considerations above, and since it is not proven that the decision of the Commercial Court at the Central Jakarta District Court in this



AUTHORIZED TRANSLATION

case has contravened the laws and/or regulations, therefore the notice of cassation filed by the Appellant-in-Cassation should be rejected;

Considering, since the notice of cassation (appeal to Supreme Court) has been rejected, the Appellant-in-Cassation should be taxed to pay the costs of the case in this cassation instance;

Observing the articles of the Law No. 4 of 2004 and the Law No. 14 of 1985 as amended by the Law No. 5 of 2004, and as amended by the second amendment of the Law No. 3 of 2009 and the other relevant laws and regulations;

HAS ADMINISTERED THE FOLLOWING JUSTICES:

To reject the notice of cassation (appeal to Supreme Court) of the Appellant-in-Cassation: YOHANES WENDY TJIOE above;

To tax the Appellant-in-Cassation to pay the costs of the case in this cassation instance of five million Rupiahs (Rp. 5,000,000.-);

Passed in the assembly of the Panel of Supreme Justices of the Supreme Court on **Tuesday, November 24, 2009** by **Prof. Dr. H. MUCHSIN SH**, Supreme Justice appointed by the Chief Supreme Justice as the Presiding Judge, **H. M. TAUFIK SH., MH.** And **Dr. ABDURRAHMAN, SH., MH.**, Supreme Justices as members, and pronounced to the hearing open for public on **the very day** by the Presiding Judge and the Member Judges and assisted by **RITA ELSY SH., MH.**, the Acting Clerk, in the absence of the Parties in dispute;

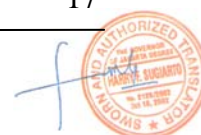
Member Justices,

Presiding Justice,

(signed), **H. M. TAUFIK SH., MH.**

(signed), **Prof. Dr. H. MUCHSIN SH**

(signed), **Dr. ABDURRAHMAN, SH., MH.**



AUTHORIZED TRANSLATION

The Acting Clerk,
(signed), **RITA ELSY SH., MH.**

Costs of the Cassation:

- | | | |
|------------------|------------|--------------------|
| 1. Revenue Stamp | Rp. | 6,000.- |
| 2. Editing | Rp. | 1,000.- |
| 3. Adm. Charge | <u>Rp.</u> | <u>4,993,000.-</u> |
| Total | Rp. | 5,000,000.- |

Issued as a Copy

The Supreme Court of the Republic of Indonesia

On behalf of the Clerk

Junior Clerk for Special Civil Cases

(sealed and signed)

RAHMI MULYATI SH., MH.

NIP. 040 049 629

