

Implications of Perhutani's CANOPY Brand Use for Nature Tourism After Trademark Registration Rejection by DGIP

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Abstract

Perum Perhutani has experienced an increase in tourism, necessitating standardization through the "Canopy" certification as a management guideline. This is regulated under the Decree of the President Director of Perhutani Number 2026/KPTS/DIR/2017 concerning the Standardization of Nature Tourism Management for Perum Perhutani, aimed at improving product and service quality, preserving forest sustainability, and benefiting the

community. However, the "Canopy" service mark proposed by Perhutani was rejected by DJKI. The rejection was based on the similarity in pronunciation and type of goods with the registered mark "The Canopy." In fact, the two marks operate in different fields: "Canopy" for tourism services (class 39) and "The Canopy" for stationery (class 16). Thus, their products do not directly compete. The rejection of the "Canopy" mark is considered inconsistent with Article 21 of Law Number 20 of 2016 on Trademarks and Geographical Indications. The absence of legal action from Perhutani has resulted in the inability to use the mark, as it risks violating Article 100 paragraphs (1) and (2) of the same law. This research employs a juridical-empirical method with a qualitative approach through observation, interviews, documentation, and literature review. The findings indicate that Perhutani has complied with Article 5 paragraph (1) of the Regulation of the Minister of Tourism and Creative Economy Number 27 of 2014 concerning Recreational Park Business Standards through the "Canopy" certification. This has provided ecological, social, and economic benefits, as well as improved facilities and services. The rejection of the "Canopy" mark has caused financial losses at several tourist locations. Rebranding cannot proceed without a replacement name, causing the standardization program for nature tourism management to halt. The researcher recommends that Perhutani promptly create a replacement name for the certification so that the standardization program can continue and be applied to other Perhutani tourist destinations.

Keywords

Implications; Canopy; Perhutani Tourism.

I. Introduction

Perhutani is a State-Owned Enterprise (BUMN) in the form of a Public Corporation (Perum) responsible for managing national forest resources in Java and Madura. Perhutani's strategic role is to support environmental sustainability systems, socio-cultural systems, and the economic systems of forest communities. In managing the company, Perhutani complies with all mandatory and voluntary regulations to achieve its corporate vision and mission.¹

Article 11 of Government Regulation No. 72 of 2010 on the State Forestry Public Corporation (Perum) explains the purpose and objectives of the company, which is to carry out business activities aimed at public benefit by providing goods and/or services related to forest management and quality forest products at affordable prices, based on the principles of sustainable forest management and good corporate governance. It also explains the efforts to achieve these goals by organizing core business activities, one of which is forest utilization, including the use of environmental services such as nature tourism.

Nature tourism (Wana Wisata) is one of the businesses managed by Perhutani and generates significant income. Therefore, it is important to develop tourism to maximize the benefits of environmental services. To run a tourism business, tourism entrepreneurs must first register their business with the government or local government. Perum Perhutani has made efforts to improve the quality of the tourist destinations it manages by creating a product in the form of Nature Tourism Business Management Standardization.

¹ Ega Silvana Almunadia, Tien Fabrianti Kusumasari, and Iqbal Santosa, "Perancangan Enterprise Architecture Untuk Sistem Terintegrasi Design of Enterprise Architecture for Integrated System in Ecotourism and Agroforestry Perum Perhutani Using Togaf Adm," *E-Proceeding of Engineering* 6, no. 2 (2019): 8175–85.

This aligns with the development of the tourism business managed by Perhutani.²

Article 5 paragraph (1) of the Regulation of the Minister of Tourism and Creative Economy of the Republic of Indonesia No. 27 of 2014 on Recreation Park Business Standards states that every recreation park business must have a Recreation Park Business Certificate, based on the applicable requirements and provisions. Therefore, it is necessary to have guidelines and references in managing tourist locations as a business standard to improve product quality and services. In this case, Perhutani's efforts to develop its tourism align with the standardization stipulated in the Regulation of the Minister of Tourism and Creative Economy of the Republic of Indonesia.

Intellectual Property (IP) continues to grow with the advancement of time and technology. Essentially, IP rights arise or are born from human intellectual capabilities.³ Intellectual Property (IP), derived from the term Intellectual Property Rights (IPR), can be defined as rights over wealth that arise due to human intellectual abilities.⁴ One type of Intellectual Property that is highly necessary and crucial is a trademark. A trademark itself is a result of human thought or invention, which means that a trademark can be considered a part of Intellectual Property that transcends national borders. A trademark is part of Intellectual Property that forms the basis and plays an important role in the trade of goods or services, both nationally and

² Azhari and Abdul Holiq, "Kolaborasi Dan Kerja Sama Pengelolaan Obyek Wisata Alam: Kendala Dan Di Era Otonomi Daerah," *Journal of Tourism and Creativity* 1, no. 2 (2017): 1–20.

³ Inaugural Lecture, Adebambo Adewopo, and Intellectual Property Law, *According To Intellectual Property: A Pro-Development Vision of the Law and the Nigerian Intellectual Property Law and Policy Reform in The*, 2012.

⁴ Taufik H. Simatupang, "Sistem Hukum Perlindungan Kekayaan Intelektual Dalam Rangka Meningkatkan Kesejahteraan Masyarakat," *Jurnal Penelitian Hukum De Jure* 17, no. 2 (2017): 195, <https://doi.org/10.30641/dejure.2017.v17.195-208>.

internationally. In addition to serving as a distinguishing feature for goods or services, a trademark also guarantees the quality of a product or service.

Perhutani, as a State-Owned Enterprise (BUMN), created a product used as a guideline for the Standardization of Nature Tourism Business Management under Perum Perhutani, named "Canopy" in 2017. Canopy is a brand operating in the tourism service sector, providing certification to nature tourism destinations managed by Perum Perhutani, which oversees a variety of natural tourism sites, guaranteeing professional and quality standards for products, services, and management. Several nature tourism destinations that received Canopy certification under Perhutani's management in 2018 include Cikole Jayagiri Resort (West Java), Kawah Putih (West Java), Curug Cilember (West Java), Puncak Bintang (West Java), Guci (Central Java), Srambang Park (East Java), and Papuma (East Java). The establishment of "Canopy" as a new brand of Perum Perhutani's product was marked by the issuance of the Director's Decree of Perum Perhutani No. 2026/kpts/Dir/2017 on the Standardization of Nature Tourism Business Management by Perum Perhutani.

Canopy is a brand used for a standardization name created by Perum Perhutani, which according to Law No. 20 of 2016 on Trademarks and Geographical Indications, falls under the category of service trademarks, namely a mark used in services traded by Perum Perhutani to distinguish it from similar services. However, in this case, the identity or status of "Canopy" is not yet registered or does not have a service trademark license as required by Law No. 20 of 2016.

Article 3 of Law No. 20 of 2016 on Trademarks and Geographical Indications states that trademark rights are obtained after the trademark is registered. Therefore, trademark registration is essential because registering a trademark provides legal protection. Trademark rights are exclusive rights granted by the state to the trademark owner for a certain period. With these exclusive rights

comes the guarantee of protection for registered trademarks, and others are prohibited from using the trademark on similar services. Thus, in cases of piracy or unauthorized use of a trademark, the trademark owner can file a lawsuit, either criminal or civil.⁵

Trademark registration is not automatically accepted by the Directorate General of Intellectual Property. The reasons for non-registration and rejection of a trademark are outlined in Chapter IV, Articles 20 and 21 of Law No. 20 of 2016 on Trademarks and Geographical Indications. If a trademark application is rejected, the minister notifies the applicant or their representative in writing, along with the reasons for the rejection. If the applicant objects to this statement, they may submit a response within 30 days of the rejection announcement, including the reasons. The rejection of the "Canopy" trademark owned by Perum Perhutani by the Directorate General of Intellectual Property was based on the existence of a similar registered trademark, "The Canopy," owned by Landmarks Berhad, which operates in the goods sector but has a similar or identical pronunciation, while the "Canopy" trademark owned by Perum Perhutani operates in the service sector, proving that the two trademarks operate in different fields and classifications.

Registering a trademark is crucial to ensuring legal protection. Djumhana proposed the concept of intellectual property rights protection according to the Roman system, which states that a creation or work using intellectual ability grants the creator scientific ownership rights. Based on this view, scientific ownership rights are already attached when the creation is born, allowing the creator the freedom to do anything with their creation. However, with the development of time, this freedom has been limited, meaning that a creation must not

⁵ Selvi Nurma Fitriani, Dyah Ochtorina Susanti, and A'an Efendi, "Perlindungan Hukum Pemegang Hak Merek Yang Sesuai Dengan Karakteristik Hak Merek," *Jurnal Rechts* 11, no. 2 (2022): 239–56, <https://doi.org/10.56013/rechts.v11i2.1783>.

conflict with the law, morality, or public order. To obtain rights in accordance with applicable regulations, a creation in the form of a trademark must be registered with the Directorate General of Intellectual Property to have legal strength. Given the increasing competition in the business world, if a brand is not registered and lacks legal protection, it may lead to conflicts related to the trademark in the future.⁶

Given the importance of a service trademark license as a guarantee of legal protection, the applicant must fully understand the steps or process of trademark registration to ensure their trademark is registered, thereby minimizing the risk of rejection by the Directorate General of Intellectual Property, which would impact the object attached to the trademark. Therefore, this research aims to understand the benefits of the "Canopy" certified nature tourism standardization and explore the implications of using Perum Perhutani's Canopy brand for certified nature tourism after the rejection of the Canopy trademark application by the Directorate General of Intellectual Property.

II. Method

The approach method used in this research is a qualitative method. Qualitative research has its own characteristics, focusing more on data collection from the field or research location, where the researcher collects data through observation, interviews, or documentation and then processes all the gathered data. Qualitative research is a form of

⁶ Maya Jannah, "Perlindungan Hukum Hak Kekayaan Intelektual (Haki) Dalam Hak Cipta Di Indonesia," *Jurnal Ilmiah Advokasi* 6, no. 2 (2018): 55–72, <https://doi.org/10.36987/jiad.v6i2.250>.

research in which the researcher seeks to create a complex or holistic view of the issue being studied⁷.

This study employs an empirical juridical legal research type. Empirical juridical research refers to legal research that obtains data from primary sources. The empirical juridical approach is conducted by combining the results of primary data or field research. The empirical juridical or sociological approach involves examining legal realities within society.⁸

The research focus is meant to limit the scope of the qualitative study conducted by the researcher and to select which data are relevant and which are not. According to Moleong, the research focus is the core issue derived from the researcher or from knowledge obtained through scientific literature or other sources.⁹ Based on the problem formulation and research focus, the focus of this research will be as follows:

1. What are the benefits of the Standardization of Nature Tourism Business Management by Perum Perhutani with certified "Canopy" nature tourism?
2. What are the implications of using the "Canopy" trademark owned by Perum Perhutani for nature tourism certified with "Canopy" after the rejection of the "Canopy" trademark application by the Directorate General of Intellectual Property?

⁷ Adrijana Biba Starman, "Starman, A. B. (2013). The Case Study as a Type of Qualitative Research," *Journal of Contemporary Education Studies* 1, no. September 2014 (2013): 28–43, <https://www.researchgate.net/publication/265682891.STA>

⁸ Richard P. Rozek, "Protection of Intellectual Property Rights," *Intellectual Property Rights in Science, Technology, and Economic Performance: International Comparisons*, 2019, 31–46, <https://doi.org/10.4324/9780429044502-3>.

⁹ Muhammad Haeruddin Syam et al., "Optimization of E-Learning Learning at Vocational School in Selatan Minahasa (Case Study at North Sulawesi Shipping Polytechnic)," *International Journal on Integrated Education* 5, no. 6 (2022): 72–77.S

In empirical/sociological juridical research, the data used is primary data. To obtain reliable data and information, it is necessary to visit the location or site where the research is conducted. The research will take place at the Perum Perhutani Headquarters at Jalan TB Simatupang Number 22, Jati Padang, Pasar Minggu, South Jakarta, and at the Perum Perhutani Central Java Regional Division Office, as the branch office is located near the researcher, as well as at the Central Java Regional Office of the Ministry of Law and Human Rights at Jalan Dr. Cipto Number 64, Semarang.

Triangulation is a technique for verifying the validity of data by utilizing something other than the data itself, for checking purposes or as a comparison. Data triangulation refers to the best way to eliminate differences in the construction of reality within the context of a study while collecting data about various events and relationships from different viewpoints. In other words, through triangulation, researchers can recheck their findings by comparing them with various sources, methods, or theories.

Data analysis aims to simplify the processed data so that it is easy to read and understand. The data analyzed is based on the nature of the data collected by the researcher. The data analysis method used in this research is qualitative data analysis. After all the necessary data is fully collected, the next step is to analyze the data to answer the research problems. Peter Mahmud Marzuki states that in qualitative data analysis, the goal is to understand the meaning behind actions or actual findings in the field. Qualitative data analysis is a research method that produces descriptive analytical data, namely what is stated by respondents or sources or informants, both in writing and verbally, as well as the actual behavior that is studied and examined comprehensively.¹⁰

¹⁰ I G P Astawa et al., *Metodelogi Penelitian Bidang Hukum*, 2023.

III. The Benefits of Standardizing Perum Perhutani's Nature Tourism Management Business Certified with Canopy

Perum Perhutani is a state-owned enterprise (SOE) tasked with planning, managing, exploiting, and protecting forests in its designated work areas across Indonesia. Its objectives are outlined in Article 11 paragraphs 1-3 of Government Regulation of the Republic of Indonesia Number 72 of 2010 regarding the General Company (Perum) of State Forestry. According to this regulation, specifically Article 1 letter b, Perhutani conducts its primary business activities, one of which is utilizing and managing forests by transforming or developing forest areas into tourist destinations to enhance the forest's value/quality without diminishing its natural essence.¹¹

The utilization of environmental services for nature tourism, as mentioned in Article 1 of the Regulation of the Minister of Forestry of the Republic of Indonesia Number P.22/Menhut-II/2012 concerning Guidelines for Business Activities in Utilizing Environmental Services, encompasses all activities aimed at providing the necessary facilities and services for tourists/visitors engaged in nature tourism activities. This includes object and attraction business, service provision, facility business, and other activities related to nature tourism.

The utilization of environmental services by Perum Perhutani occurs in protected forests, representing the use of environmental service potential without damaging or reducing the forest's primary function. Through the current trend of converting environmental

¹¹ Dyah Norma Damayanty and Ikhsan Budi Riharjo, "Mekanisme Pertanggungjawaban Pengelolaan Keuangan Objek Wana Wisata Coban Parang Tejo Malang," *Jurnal Ilmu Dan Riset Akuntansi* 9, no. 10 (2020): 1–15, <http://jurnalmahasiswa.stiesia.ac.id/index.php/jira/article/view/3677>.

services into tourism, Perhutani's tourism business has developed significantly, as evidenced by the growing number of tourist locations. Consequently, standardization in the form of certification for tourism management businesses is needed as a guideline or reference to improve the quality of products and services. This management approach helps Perhutani preserve forest sustainability while benefiting society at large.

Article 5 paragraph (1) of the Regulation of the Minister of Tourism and Creative Economy of the Republic of Indonesia Number 27 of 2014 concerning Standards for Recreational Park Businesses serves as the foundation for Perhutani in developing its tourism by creating standards in line with the Regulation of the Minister of Tourism and Creative Economy as a reference for managing tourism activities. This is stipulated in the Director General's Decree Number 2026/KPTS/DIR/2017 concerning Perum Perhutani's Nature Tourism Business Standardization, branded as Canopy. The Canopy standard consists of 172 (one hundred and seventy-two) indicators and covers three (3) aspects: (1) product, which includes space and visitor facilities, (2) service, focusing on service procedures, and (3) management, which encompasses organization, management, human resources (HR), and infrastructure.

The Canopy recreation park business certification is the process of granting a certificate to Perum Perhutani's recreational park business to support the improvement of product quality, services, and business management through auditing the compliance with recreation park business standards. The creation of this certification proves that Perhutani has fulfilled its tourism business obligations by implementing the Minister of Tourism and Creative Economy Regulation Number 27 of 2014 regarding Recreation Park Business Standards in the management of nature tourism.

The classification or criteria for a Perum Perhutani-managed tourism site certified with Canopy include having a clear legal permit

for the tourist site, with defined boundaries and no disputes, supported by valid documents. The minimum area for a nature tourism site is 30,000 square meters. The facilities and infrastructure must meet the applicable standards as stipulated in the decree, such as having a clear entrance gate with separate entry and exit routes, accompanied by a readable nameplate placed in a strategic location, and providing a ticket booth staffed by ticketing officers. The available facilities, such as equipment or recreational attractions, should be supported by a resting area. Toilets must be separated for men and women, with the number matching the ratio of visitors. Since Perhutani's tourism emphasizes natural beauty, certified Canopy sites are required to have trash bins to maintain cleanliness and comfort. Other facilities around the tourism site, such as restaurants, places of worship, and parking areas, must be well-maintained, and directional signs should be provided to guide visitors.

The service provided to visitors at Canopy-certified sites is also regulated, with good service procedures in place, including the availability of information about products, ticket prices, important phone numbers (police, fire department, ambulance, and nearby hospitals or clinics), facility locations (guide maps), and operational schedules. This helps visitors easily access relevant information before visiting. In addition, equipment and attractions supporting visitor safety must be provided, following Standard Operating Procedures (SOP) or Work Procedures for safety equipment, such as safety and health equipment (K3) for first aid in case of an incident. Visitor safety is further ensured by the presence of security personnel with Identification Cards (KTA) issued by the Indonesian National Police.¹²

¹² Agus Razian Setiadi and Nanang Indardi, "Analisis Potensi Pariwisata Olahraga Rekreasi Via Ferrata Di Taman Rancuh Kabupaten Pematang," *Nutrition Research and Development Journal* 02, no. November (2022): 21–33, <https://journal.unnes.ac.id/sju/index.php/nutrizione/>.

Management of Wana Wisata (forest tourism) according to the Director General's Decree Number 2026/KPTS/DIR/2017 concerning Perum Perhutani's Nature Tourism Business Standardization, branded as Canopy, should also be properly implemented. This includes better-organized company profiles, such as having documented vision and mission statements, a complete organizational structure, and clear documentation of duties and functions for each position. Additionally, any Joint Work Agreements (PKB) or Company Regulations must comply with legislation, and management performance evaluations must be documented. Furthermore, management must collaborate with doctors, hospitals, or clinics as part of their responsibility in case of incidents involving visitors or staff at the tourism site. The maintenance of the site's facilities is crucial to ensuring comfort and safety in operating the tourism area.

Meeting these classifications differentiates Canopy-certified tourism sites under Perum Perhutani from those that are not certified. Certified sites are more organized/standardized, with better services and management. After a nature tourism site under Perum Perhutani meets the primary standards required for Canopy certification, based on an assessment by a team of at least four Perum Perhutani evaluators, the necessary improvements or additions to facilities will be made in line with the indicators specified in the Director General's Decree.

The benefits Perum Perhutani aims to achieve by introducing this certification, according to Mr. Heri Sumaryono, an Expert on Law & Compliance at Perum Perhutani Central Java (April 9, 2020), are:

“This Canopy certification provides direct benefits to visitors, starting with clean, safe, and comfortable tourist locations. It enhances the value of tourist destinations and improves services for visitors, attracting more people to these tourism sites. It also serves as a guideline for Perum Perhutani in managing tourism locations, helping

to boost Indonesia's tourism sector, particularly nature tourism under Perum Perhutani."

The Canopy certification given to nature tourism sites under Perhutani serves as a standardization guide for nature tourism management, upholding several principles. These principles and criteria are essential indicators in managing nature tourism in forest areas and/or other managed areas.

IV. Implications of the Use of the Canopy Brand Owned by Perum Perhutani for Canopy-Certified Natural Tourism After the Rejection of the Canopy Trademark Application by the Director General of Intellectual Property

Perum Perhutani has established certification for standardizing its natural tourism management practices in accordance with Minister of Tourism and Creative Economy Regulation Number 27 of 2014 concerning Recreation Park Standards, marked by the issuance of Decree of Perhutani's President Director Number 2026/KPTS/DIR/2017 concerning the Standardization of Perum Perhutani's Natural Tourism Business, known as Canopy. Canopy is a brand or identity that encompasses various characteristics of Perhutani's natural tourism and provides a guarantee of product standards, service, and professional and quality management.

Canopy, which is the brand of Perum Perhutani for its natural tourism certification, is a Trademark that, according to Article 3 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, states that rights to a Trademark are obtained after the

Trademark is registered. Therefore, trademark registration is necessary to obtain exclusive ownership rights and legal protection guarantees. With trademark rights, one has the freedom to use the trademark for commercial purposes and has the right to prohibit others from using the trademark for the same class and type of goods/services.

There is no difference in the procedure for trademark registration between government agencies and individuals. This can be seen from Article 1 number (19) which states that "person" refers to individuals or legal entities, and Article 1653 of the Civil Code states that an agency itself can be categorized as a legal entity. Therefore, the trademark registration process for individuals or government agencies follows the same procedures, but according to practices at the Directorate General of Intellectual Property (DJKI), for agency registrations, all documents must be signed by the head of the agency in question. Additionally, for agency trademark applications, a Decree (SK) of the appointment of the agency head must also be attached.¹³

According to Mr. Heri Sumaryono, Expert Madya of Law & Compliance at Perum Perhutani Central Java, as a source from Perum Perhutani, he mentioned that the company registered the trademark application for Canopy in October 2017 with Application Number J002017053146 at DJKI, Ministry of Law and Human Rights, with class code 39 for tourism excursions. This was also confirmed by Mr. Moh Hawary Dahlan from the Regional Office of the Ministry of Law and Human Rights of Central Java (January 8, 2021), who said:

"Perum Perhutani has made a trademark application which can also be seen on the official website at Sk.m.dgip.go.id, but the registration was rejected. The reasons for the rejection are stated in a letter from DJKI sent to Perum Perhutani headquarters. This letter

¹³ Cecep Tedi Siswanto, *Pelaksanaan Hukum Hak Kekayaan Intelektual (Haki) Terhadap Desain Industri Pada Industri Kerajinan Bambu Di Wilayah Kabupaten Sleman*, *Cakrawala Hukum*: 35–73.

contains explanations or reasons for the rejection of the Canopy trademark based on Law Number 20 of 2016 concerning Trademarks and Geographical Indications, and this is private information, so it would be better to inquire directly with Perum Perhutani for details."

Based on the notification letter from Perum Perhutani Headquarters Number 3440/043.7/DIVREJATENG/2020 to Perum Perhutani Regional Division of Central Java, which is a follow-up to the letter from the Director of Trademarks and Geographical Indications of the Directorate General of Intellectual Property, Ministry of Law and Human Rights of the Republic of Indonesia, the reason for the rejection of the trademark application for Perhutani's tourism platform Canopy Fresh Fun Adventure + Illustration is based on Article 21 paragraph (1) letter (a) of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, which is due to the similarity in sound and type of goods with the registered trademark The Canopy owned by Landmarks Berhad, located at Jalan Sultan Ismail, 50250 Kuala Lumpur, Malaysia, which has been registered since August 18, 2016, and its protection is valid until August 18, 2026.

According to the author's analysis, the Canopy trademark owned by Perhutani and The Canopy owned by Landmarks Berhad operate in different fields. Perhutani's Canopy is involved in tourism services with class code 39, used for the standardization of natural tourism management, while The Canopy is involved in trade, specifically class 16, which involves producing various stationery supplies. The two trademarks, therefore, have non-competing products.

Trademark rejection is governed by Article 21 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, which states:

- 1) Applications are rejected if the Trademark:
 - a. Is similar in its entirety or in principal aspects to:

- i. A registered trademark of another party or an earlier filed trademark for similar goods and/or services;
 - ii. A well-known trademark of another party for similar goods and/or services;
 - iii. A well-known trademark of another party for dissimilar goods and/or services under certain conditions; or
 - iv. A registered Geographical Indication.
- 2) Applications are rejected if the Trademark:
 - a. Is identical or resembles the name or abbreviation of a famous person, photo, or name of a legal entity owned by another party, unless with written consent from the rights holder;
 - b. Resembles or imitates the name, abbreviation, flag, emblem, or symbol of a country, or national or international institutions, unless with written consent from the competent authority; or
 - c. Resembles or imitates an official seal or stamp used by the state or government institution, unless with written consent from the competent authority.
- 3) Applications are rejected if filed in bad faith.
- 4) Further provisions on the rejection of trademark applications as described in paragraph (1) letters a to c are regulated by Ministerial Regulation.

Based on Article 21 paragraph (1) letter a of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, which states that applications are rejected if the Trademark is similar in its principal aspects to a registered trademark of another party or an earlier filed trademark for similar goods and/or services. The term "similar in its principal aspects" refers to similarity caused by dominant elements between one trademark and another, creating an impression of similarity, whether in form, placement, writing style, combination of elements, or phonetic similarity. According to Janed, "similar in its principal aspects" refers to similarity caused by prominent elements

between trademarks that can create an impression of similarity in form, placement, writing style, or combination of elements, or phonetic similarity, or similarity in meaning.¹⁴

The author believes that although there is a phonetic similarity between Perhutani's Canopy and The Canopy of Landmarks Berhad, Perhutani's trademark application could still be pursued because the two trademarks are not of the same type. The criteria for determining whether goods and/or services are similar or not are also mentioned in Ministerial Regulation as the implementation of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, in Article 17 paragraph (2) of Minister of Law and Human Rights Regulation Number 67 of 2016 concerning Trademark Registration as amended by Minister of Law and Human Rights Regulation Number 12 of 2021 concerning Changes to Minister of Law and Human Rights Regulation Number 67 of 2016 concerning Trademark Registration. The criteria for determining similar goods and/or services are based on:

1. The nature of the goods and/or services: Goods are defined as physical products that can be seen, felt, touched, handled, and otherwise physically interacted with. Services are activities that provide benefits, offered by one party (seller) to another party (buyer) without a physical form and do not result in ownership. The production process of service products may involve physical products or not.
2. The purpose and method of use of the goods: This means that the producer makes goods with similar functions and the production methods are not significantly different between the goods of one

¹⁴ Sendy Anugrah, "Unsur Persamaan Pada Pokoknya Dalam Pendaftaran Merek Menurut Undang-Undang Nomor 20 Tahun 2016 Tentang Merek Dan Indikasi Geografis Dan Penerapannya Dalam Praktik Dihubungkan Dengan Pelanggaran Terhadap Merek Terkenal," *Aktualita (Jurnal Hukum)* 2, no. 1 (2019): 18–37, <https://doi.org/10.29313/aktualita.v2i1.4663>.

party and another.

3. Complementarity of goods and/or services: This means there is a complementary relationship between one set of goods and/or services and another.
4. Competition of goods and/or services: This refers to products that compete in the market.
5. Distribution channels of goods and/or services: Distribution channels are generally the marketing routes determined by the company to distribute or provide services related to the goods to customers. The purpose of these distribution channels is to facilitate the company in delivering the goods.
6. Relevant consumers: A product will be marketed to consumers, where relevant consumers are those who are targeted by the goods and/or services being traded, relating to the same or related consumer base.
7. The origin of production of goods and/or services: The production location of goods and/or services occurs in the same area, such as a district or city.

The criteria for similar goods and/or services outlined above do not apply to Perhutani's Canopy and The Canopy. Considering the criteria for similar goods and/or services, the two trademarks are of different types and classes; Perhutani's Canopy operates in the field of services with class 39 for standardizing its tourism sites, while The Canopy is involved in trade with class 16 in stationery products. Therefore, these two trademarks should not be a problem. Perhutani should still be able to pursue their trademark application by submitting a written response containing their reasons within 30 working days from the date of the rejection notice. During the review of the response, there is a possibility that the trademark application for Canopy could be accepted. Another step Perum Perhutani can take if their trademark application is rejected after submitting a response is to

file an appeal, as regulated in Article 28 number (1) of the Trademark and Geographical Indications Law, which states that an appeal can be filed against the rejection of the application based on reasons as referred to in Article 20 and/or Article 21.

Mr. Moh Hawary Dahlan, an informant from the Central Java Regional Office of the Ministry of Law and Human Rights (January 8, 2021), also confirmed that:

"If Perum Perhutani is dissatisfied with the reasons for the rejection provided by the DJKI (Directorate General of Intellectual Property), they can pursue legal remedies in accordance with Law Number 20 of 2016 concerning Trademarks and Geographical Indications. However, until now, Perum Perhutani has not taken any legal action and is considered to have accepted the rejection."

Perum Perhutani accepted the rejection and did not pursue legal action because they believed it was better to change the name of the Canopy trademark to continue using the certification. As a result, Perhutani is unable to use the Canopy trademark that was rejected by the DJKI. Indonesia follows the principle of First to File (constitutive system) for trademark registration, meaning that the protection is granted to the first registration. Therefore, the rejection of the Canopy trademark application means that Perum Perhutani did not obtain exclusive ownership rights or legal protection, as the ownership of the trademark is recognized based on registration by the first applicant, which in this case is The Canopy registered first by Landmarks Berhad from Malaysia.

According to John Locke, property rights are natural rights allowing individuals to own and use everything provided by nature and, through human labor, to legitimate what is in nature into personal property. Every person has the same rights to transform common property into private ownership, and this equality in rights

means that one party may be precluded from owning a right if it has already been owned by another party.¹⁵

Property rights can also be defined as the rights to own, use, sell, and access welfare. Property can be physical or non-physical. The historical emergence of property rights can be examined through two approaches: the theory of individual ownership and the social theory. In this research, the author uses John Locke's theory of property rights to analyze the issue. This concept implies that common property rights can become private property, so no other party can interfere without consent or agreement. Therefore, if Perum Perhutani wants to use the Canopy trademark privately, it must have legal legitimacy to fully control the rights to the trademark without interference from others. Common property here can be understood as rights not yet owned by anyone, such as a trademark not yet registered with the Directorate General of Intellectual Property, meaning it cannot be legally claimed as private property and thus lacks legal protection.

The Canopy trademark owned by Perhutani has phonetic similarities with the registered trademark The Canopy, previously registered by Landmarks Berhad. Therefore, the use of the trademark that is already registered takes precedence over the ownership of the trademark. The rejection of Perhutani's Canopy trademark application according to Law Number 20 of 2016 means that Perhutani cannot use the trademark rights for their natural tourism standardization.

Based on this theory of property rights, Perhutani's Canopy brand cannot be fully recognized as ownership because it is not registered with the Directorate General of Intellectual Property. Consequently, the rights and protections that should be granted to a registered trademark cannot be utilized. The lack of property rights

¹⁵ Lina Maulina, "DEMOKRASI DALAM PEMIKIRAN JOHN LOCKE DAN AL-FARABI," *Monetary Policy Report*, 1, no. October 2021 (2021): 105–12.

means that Perhutani must withdraw the use of the Canopy trademark from the natural tourism certification that has been used since 2018.

Perhutani cannot use the Canopy trademark for their natural tourism as it could lead to risks as outlined in Article 100 paragraphs (1) and (2) of Law Number 20 of 2016 concerning Trademarks and Geographical Indications. Article 100 paragraph (1) states that anyone who uses a trademark identical to a registered trademark of another party for similar goods and/or services produced and/or traded without authorization, shall be punished with imprisonment for up to 5 (five) years and/or a fine of up to Rp2,000,000,000 (two billion rupiah). Article 100 paragraph (2) states that anyone who uses a trademark that has similarity in principal aspects with a registered trademark of another party for similar goods and/or services produced and/or traded without authorization, shall be punished with imprisonment for up to 4 (four) years and/or a fine of up to Rp2,000,000,000 (two billion rupiah).

As a result, Perum Perhutani's central office has instructed that any natural tourism sites certified under the Canopy name are no longer allowed to use the Canopy Fresh Fun Adventure trademark. According to the Trademark Revocation Letter No. 1080/043.7/OPS/2020 dated December 13, 2020, it is emphasized that all Forest Management Units (KPH) should stop using the Canopy Fresh Fun Adventure trademark and cover or repaint any signage displaying this trademark so that it is no longer visible to visitors.

The statement confirms that Canopy Fresh Fun Adventure + logo is officially revoked and replaced with the Standardization of Natural Tourism Management of Perum Perhutani until a new name is established by the Board of Directors. Meanwhile, for the tourism locations that have passed the assessment for the standardization of natural tourism management and are currently in effect, the standardization program will continue as stipulated in the Director's

Decree of Perum Perhutani No. 2026/Kpts/Dir/2017 dated October 20, 2017, despite the temporary absence of a name. The revocation of the Canopy brand requires KPHs to cease using the Canopy Fresh Fun Adventure trademark on tourism facilities and signage, ensuring it is not visible to visitors.

The author conducted field observations to understand the implications of the revocation of the Canopy trademark at Wana Wisata Guci Ashafana located in Tegal City, Central Java, and at Kawah Putih in West Java. The findings indicate that both tourist sites that were previously certified under the Canopy trademark no longer use the Canopy brand for their natural tourism. However, according to the management of Kawah Putih, the removal of Canopy-related infrastructure is not yet complete, though efforts are underway to expedite the process.

Wana Wisata Guci Ashafana, a tourist site in Central Java certified under the Canopy trademark, benefited from the standardization. Mr. Endi, the site manager, stated that Perum Perhutani's efforts to develop tourism through certification have not been fully realized due to the lack of clarity regarding the progress of the standardization. Perum Perhutani's central office has stated that a new name for the tourism management standardization will be introduced, but as of now, no new name has been provided. The standardization formerly known as Canopy is still used for managing natural tourism.

The removal of the Canopy logo and imagery as per central instructions incurs additional renovation costs, even though the application had only been in effect for about two years. Therefore, as of 2021, the removal and renovation at certified natural tourism sites have not yet been completed and are still ongoing. This delay is unfortunate because the certification process has been hindered by the removal of the Canopy brand and the lack of a replacement name, leaving site managers confused about the continuity of the natural

tourism certification and awaiting further instructions from the central office.

The implications of using the rejected Canopy trademark have resulted in financial losses for several tourist sites due to the additional costs for removing Canopy logos and images from various facilities. Additionally, Perum Perhutani's efforts to enhance tourism quality and services have not been fully realized. After obtaining Canopy certification, natural tourism sites now have to remove the Canopy brand, which served as a uniform identity for tourism under Perum Perhutani. Rebranding for tourism standardization is also not feasible at this time due to the absence of a new name for the certification, leading to a temporary gap in the standardization of natural tourism management.

According to the author, the revocation of the Canopy name for the Standardization of Natural Tourism Management by Perum Perhutani has impacted sites that were previously certified under Canopy. Although the standardization of natural tourism management can still be used for sites that received certification since 2018, the certification currently lacks a replacement name and is merely referred to as "Standardization of Natural Tourism Management," despite the Canopy trademark rejection being announced as early as 2017. The rejection of Perhutani's trademark due to phonetic similarity with another registered trademark is unfortunate, considering that access to check registered trademarks is now very easy and available to anyone. However, due to a lack of diligence, Perhutani's representatives did not verify this on the official DJKI website and were unaware of the similar trademark. Additionally, Perum Perhutani's central office's actions to instruct the removal of the Canopy trademark from all natural tourism sites appear to be sluggish, given that the rejection occurred in 2017 and the revocation notice was only announced in 2020. Consequently, the certification program for the standardization of natural tourism is

currently only applicable to sites that were certified under the Canopy brand previously.

V. Conclusion

Perum Perhutani has implemented the provisions of Article 5 paragraph (1) of the Regulation of the Minister of Tourism and Creative Economy of the Republic of Indonesia Number 27 of 2014 concerning Recreation Park Business Standards by creating the Canopy certification as a guide for managing Perhutani's natural tourism. The primary benefit experienced by the natural tourist sites certified under Canopy is economic, as evidenced by increased revenue for Perum Perhutani and local retribution, as well as the creation of new job opportunities for the community. Additionally, the direct benefits observed at the tourist sites include the provision of complete facilities and improvements to infrastructure, making the tourism more organized and standardized, and improving both service and site management. The extent of protected forest allowed for natural tourism development must comply with the Regulation of the Minister of Forestry of the Republic of Indonesia Number P.22/Menhut-II/2012 regarding Guidelines for Environmental Service Utilization Activities.

Perum Perhutani submitted a trademark registration application for Canopy according to Indonesian regulations, but it was rejected based on Article 21 paragraph (1) letter (a) of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, due to the similarity in sound and type of goods with the registered trademark The Canopy owned by Landmarks Berhad. The lack of further legal action by Perhutani resulted in their inability to use the Canopy trademark for their natural tourism sites due to the potential legal risks outlined in Article 100 paragraphs (1) and (2) of Law Number 20 of 2016 concerning Trademarks and Geographical Indications.

Paragraph (1) states that anyone who unlawfully uses a trademark that is identical to a registered trademark owned by another party for similar goods and/or services can be punished with imprisonment for up to 5 (five) years and/or a fine of up to Rp2,000,000,000 (two billion rupiahs). Paragraph (2) states that anyone who unlawfully uses a trademark that is similar in substance to a registered trademark owned by another party for similar goods and/or services can be punished with imprisonment for up to 4 (four) years and/or a fine of up to Rp2,000,000,000 (two billion rupiahs). The implications of using the rejected Canopy brand have resulted in financial losses for several tourist sites, and the rebranding of Canopy cannot proceed until a new name is established. Consequently, the work program for the Standardization of Perhutani's Natural Tourism Management has stalled and cannot be continued at this time.

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Volentí non fit iniúria; nulla
iniúria est, quae in volentem
fiat