

Unauthorized use of photos of the Marshwillow Cosmetics brand ambassador after her contract expired

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Abstract

Introduction: The use of portraits in commercial promotional activities is protected by law under Article 12(1) of Law No. 28 of 2014 on Copyright. A problem arose when PT Indah Mitra Anugerah, the owner of the Marshwillow cosmetics brand, continued to use Natasha Wilona's likeness as a brand ambassador after the end of their partnership contract without obtaining new consent from the holder of the rights to that likeness. This situation raises questions regarding the legal consequences of unauthorized use of a likeness and the form of liability that the business entity bears for such actions.

Research Objectives: This study aims to examine the legal status of the Marshwillow brand ambassador agreement, violations of economic and moral rights regarding the use of likenesses, the legal consequences for business entities, and the forms of legal liability that arise

Research Methodology: This study employs a normative legal research methodology using both a statutory and a conceptual approach. The legal sources used consist of primary, secondary, and tertiary legal materials, which were then analyzed using qualitative methods.

Results and Discussion: The research findings indicate that the use of a former brand ambassador's likeness after the expiration of the contract lacks a valid legal basis, stemming from a breach of contract that escalates into a tort as provided for in Article 1365 of the Civil Code in conjunction with the Consumer Protection Act. As a legal consequence, the business operator is required to cease using the likeness, withdraw all promotional materials, and may face administrative sanctions. Liability may be pursued through a breach of contract claim under Article 1239 of the Civil Code or as a tort under Article 1365 of the Civil Code in conjunction with the Consumer Protection Act, in the form of compensation for material and immaterial damages, which may be resolved through either non-litigation or litigation.

Keywords: Portrait, brand ambassador, contract

Introduction

Intellectual Property Rights (IPR) are rights to assets arising from human intellectual capacity, which are generally divided into Industrial Property Rights and non-Industrial Property Rights in the form of copyrights. Indonesia provides legal protection for copyrights through laws that have undergone several amendments, starting with Law No. 6 of 1982 up to Law No. 28 of 2014 on Copyright (hereinafter referred to as the Copyright Law).

As an intangible property right, copyright receives legal protection that serves as a form of reward or expression of personality, as well as an incentive for creators for their efforts in producing intellectual works of financial value. Article 1, Paragraph (1) of the Copyright Act states that copyright is the exclusive right of the creator that arises automatically based on the declaratory principle once a work is embodied in a tangible form, without prejudice to the limitations set forth by applicable laws and regulations.^[1]

Copyright consists of economic rights and moral rights. Economic rights are the rights to derive economic benefits from a work, while moral rights are inherent to the creator and cannot be waived even if the copyright has been transferred.^[2] A portrait is a photographic work protected by copyright as provided for in Article 12, paragraphs (1) and (2) of the Copyright Law; therefore, its use for commercial purposes requires permission from the owner of the portrait or the individual depicted in the portrait.^[3] In Indonesia, copyright protection for photographs is still often taken lightly compared to other creative works such as songs or

written works, so businesses frequently use photos of celebrities without permission whether for promotional purposes or to transform them into other products for profit.^[4]

The rise of social media as a promotional platform has made the use of images and photos a common marketing strategy, but this practice has also raised various legal issues related to copyright and privacy rights.^[5] The use of a photograph without the copyright owner's consent constitutes a violation of the owner's exclusive rights to use, reproduce, and distribute their work, and may also infringe on the privacy rights of the individuals depicted in the photograph.^[6] Although the law clearly provides for copyright protection of photographs of public figures, in practice, many brands or commercial entities continue to use such photographs without permission or after the contract has expired, highlighting gaps in legal compliance on the ground.^[7]

This issue is clearly illustrated in the case of the cooperation agreement between Natasha Wilona and PT Indah Mitra Anugerah, the owner of the Marshwillow cosmetics brand, which began with a cooperation agreement for her to serve as a brand ambassador in 2019. Under that agreement, Natasha Wilona granted the company permission to use her likeness in various promotional materials. The agreement expired in October 2020 as per the agreed-upon term, without a contract extension or new agreement, thereby legally terminating all of PT Indah Mitra Anugerah's rights to use Natasha Wilona's likeness.

However, PT Indah Mitra Anugerah is alleged to have continued using Natasha Wilona's likeness until 2024 on product packaging, its official website, and promotional content across various digital platforms thereby continuing its use for approximately four years after the contract's expiration. These actions resulted in material damages in the form of a lack of compensation for the commercial use of the photograph, as well as immaterial damages in the form of harm to her reputation and personal image. In an effort to reach an out-of-court settlement, between 2022 and 2024, Natasha Wilona, through her legal counsel, sent two cease-and-desist letters that did not receive an adequate response from the company. Since a non-litigation settlement could not be reached, on December 19, 2024, Natasha Wilona officially filed a report with the Metro Jaya Regional Police regarding an alleged copyright infringement involving the unauthorized use of her likeness for commercial purposes.

A number of previous studies have addressed legal protection for portraits and copyright in photographic works in general.^[8] The legal framework and forms of liability for businesses regarding the use of a former brand ambassador's likeness after the termination of a collaboration contract in the cosmetics industry. This gap is important to examine because the contractual relationship between a brand and an influential individual is often unbalanced, making it prone to conflict when the contract ends without clarity regarding the limits on the use of the likeness after the contract expires.

Based on this description, this study aims to identify and explain the legal consequences of the unauthorized use of likeness by the cosmetics brand Marshwillow following the expiration of its contract with Natasha Wilona, as well as to determine the form of liability that businesses bear for the unauthorized use of a former brand ambassador's likeness. Theoretically, this study is expected to enrich the legal understanding of portrait rights and ambassador contracts in the cosmetics industry particularly in the post-contract period to support the development of stricter regulations. Practically, this study is expected to provide guidance for cosmetics companies and former ambassadors on how to avoid infringing on portrait rights, thereby preventing legal disputes and protecting individual privacy.

Research Methodology

This study is a normative legal study, that is, a legal study conducted by examining legal materials in the form of legislation, legal doctrine, and literature relevant to the issue under investigation. This approach was chosen because the issue under examination relates to applicable positive law, specifically the UUHC, as well as its connection to the Civil Code (KUHPerdata) regarding unlawful acts and the contractual relationship between a brand and a brand ambassador. The study employs the statutory approach and the conceptual approach to examine all applicable laws and legal concepts related to the issue under study.^[9]

The legal materials used are classified into three types. Primary legal materials consist of binding laws and regulations, namely Law No. 28 of 2014 on Copyright, the Civil Code, and other relevant laws and regulations. Secondary legal materials consist of literature, textbooks, scientific journals, academic articles, and research findings relevant to copyright and commercial contracts. Tertiary legal materials consist of materials that provide guidance and explanations regarding primary and secondary legal materials. All of these legal materials were identified

through regular literature reviews and then analyzed using qualitative methods, as the collected materials are normative in nature and the analysis is oriented toward testing data based on theoretical frameworks and normative principles, which are subsequently formulated into a discussion, conclusions, and recommendations.

Results and Discussion

Legal Consequences of the Unauthorized Use of a Former Brand Ambassador's Likeness

a. Legal Status of the Marshwillow Brand Ambassador Agreement

Agreements between brands and influential individuals serving as brand ambassadors have become commonplace in marketing strategies, as brand ambassadors play a significant role in increasing product visibility and strengthening brand image. However, these contractual relationships are often unbalanced, potentially leading to conflicts. A brand ambassador agreement is a form of commercial cooperation contract governed by the Civil Code as the general law of contracts, as Article 1313 of the Civil Code defines an agreement as an act by which one or more persons bind themselves to one or more other persons.

The requirements for the validity of a contract are set forth in Article 1320 of the Civil Code, namely: the existence of an agreement, the legal capacity of the parties, a specific subject matter, and a lawful purpose; furthermore, the contract must not conflict with applicable laws, public order, customs, or public morality. Mutual consent requires a harmonious expression of intent free from negligence, duress, or fraud, as stipulated in Article 1321 of the Civil Code, while legal capacity requires that each party possess the capacity to enter into a contract, as provided in Articles 1329 and 1330 of the Civil Code. The cooperation agreement between the brand ambassador and Marshwillow cumulatively fulfills all four of these validity requirements, and its implementation also adheres to the legal principles of contracts, including the principle of consensualism, the principle of freedom of contract, the principle of the binding force of contracts (*pacta sunt servanda*), the principle of good faith, the principle of trust, the principle of personality, the principle of legal equality, the principle of balance, the principle of legal certainty, the principle of morality, the principle of propriety, the principle of custom, and the principle of protection.

The principle of *pacta sunt servanda*, as stipulated in Article 1338(1) of the Civil Code, binds the parties to fully implement and comply with the terms of the agreement, including provisions regarding the use of portraits. Brand ambassador agreements are also subject to the Copyright Law, which protects portraits as photographic works; and if the use of portraits is carried out through electronic media, these provisions are further governed by Law No. 11 of 2008 on Electronic Information and Transactions, as amended by Law No. 19 of 2016. Article 1381 of the Civil Code sets forth ten grounds for the termination of a contract, and in the context of the Marshwillow brand ambassador commercial contract, the most relevant grounds for termination are the expiration of the term (the expiration of the agreed-upon period) and the fulfillment of all obligations by both parties.

The termination of the agreement pursuant to Article 1381 of the Civil Code gives rise to an absolute legal consequence in the form of the termination of the contractual relationship, thereby also eliminating the legal

basis for the business entity to take any legal action arising from said agreement, including the right of publicity for marketing materials. While the contract was in effect, the principle of *pacta sunt servanda* granted Marshwillow full legal authority to display, disseminate, and use the brand ambassador's likeness in promotional media; however, the moment the contractual relationship is terminated due to the expiration of the term that legal authority ceases immediately. The resulting legal consequences include the full restoration of subjective rights to the former brand ambassador, the obligation to cease exploitation by removing and withdrawing all promotional materials from public spaces and digital media, and the absence of any retention rights for the business regarding photographic or video materials even if produced at the company's expense since copyright in commercial photographic works remains subject to the limitations of portrait rights, which require the active written consent of the subject in question.^[10]

Thus, the expiration of a contract is not merely a sign that the cooperative relationship has ended, but rather constitutes a clear legal boundary. If a business entity violates this boundary by continuing to seek commercial gain from the public image of an individual who is no longer bound by the agreement, then national copyright and civil laws provide sanctions and remedies to restore the infringed rights.

b. Violations of Economic and Moral Rights Regarding the Use of Portraits

Economic rights are the rights to derive financial benefit from a work, whereas moral rights are inherent to the creator and cannot be waived even if copyright has been transferred. Article 1, point 10, in conjunction with the explanatory notes to Article 40, Paragraph (1), letter k of the Copyright Law, states that photographic works include all portraits produced using a camera; however, protection under the Copyright Law is granted only to the creator of a portrait whose subject is a human being. The prohibition on the commercial use of works is affirmed in Article 12(1) of the Copyright Law, which prohibits any person from commercially using, reproducing, publishing, distributing, and/or communicating a portrait for the purposes of commercial advertising or promotion without the written consent of the person portrayed or their heirs.

Although a photograph is created by the photographer as the creator, the subject of the photograph still has inherent rights, particularly in the context of commercial exploitation.^[11] Consequently, the unauthorized use of a portrait for advertising purposes may constitute a copyright infringement, particularly with regard to economic rights, and, to a certain extent, may also affect moral rights. The unauthorized use of a portrait in a commercial context may also be classified as a tort (*onrechtmatige daad*) as provided for in Article 1365 of the Civil Code, since it involves the elements of a tortious act, fault, damages, and a causal relationship between the act and the resulting damages whether material, such as the loss of potential profits, or immaterial, such as damage to the reputation or image of the person portrayed.

While the contract remains in effect, a business's use of the portrait is lawful as long as it falls within the agreed-upon scope. However, upon the expiration of the contract, all rights pertaining to the license or permission to use the portrait, in principle, also expire, unless otherwise specified in the agreement. Thus, if Marshwillow continues to use the portrait of its former brand ambassador for promotional or

advertising purposes after the contract expires without obtaining new consent, such action constitutes unauthorized use that no longer has a contractual legal basis, thereby potentially violating the provisions of the Copyright Law, particularly those regarding economic rights over the use of works and the rights of the subject of the portrait.

c. Legal Consequences for the Existence of Products and Business Actors

Every business activity in Indonesia must be conducted in accordance with the principle of legal compliance and with respect for individual rights, including the right to one's likeness. The use of likenesses in a commercial context is a lawful practice as long as it is based on explicit permission; however, if done without authorization, it will result in legal consequences that affect both legal aspects and the sustainability of the business and the product's presence in the market. Normatively, the Copyright Law provides protection for portraits as photographic works that may not be used for commercial purposes without the consent of the person portrayed; thus, unauthorized use loses its legal legitimacy and may be considered both a copyright infringement and a tort under civil law.

The most obvious legal consequence is the obligation to cease using the image in all promotional activities. When it is proven that advertising content uses an image without authorization, the business operator is legally required to withdraw and cease distribution of that content whether it appears in print, electronic, or digital media which may be done voluntarily in good faith following a cease-and-desist letter or through judicial proceedings if the dispute continues.^[12] In addition to the cessation of distribution, the unauthorized use of a photograph constitutes a tort under Article 1365 of the Civil Code; therefore, the aggrieved party is entitled to file a lawsuit for damages, including economic losses in the form of lost potential profits and non-economic losses in the form of damage to reputation, good name, and personal image.^[13] In the digital age, the unauthorized use of images may also result in administrative consequences, ranging from warnings and orders to remove content to the blocking of access to infringing advertising material, as part of government oversight aimed at ensuring the orderly conduct of business operations.^[14]

To be classified as a tort, an act must satisfy four cumulative elements. First, there must be a tortious act (*onrechtmatige daad*), which includes an act that infringes upon another person's subjective rights, violates the perpetrator's legal obligations, and contravenes the standards of propriety, diligence, and prudence in social conduct. Marshwillow's continued use of the former brand ambassador's likeness after the agreement's expiration violates the individual's exclusive right to their likeness as recognized by the Civil Code, and deviates from standards of propriety that require renewal of consent before continuing to use a person's identity for commercial purposes.

Second, the existence of fault (*schuld*), which includes both intent (*opzet*) and negligence (*culpa*). As a professional business entity, Marshwillow should have known that the right to use the portrait terminates upon the expiration of the contract; therefore, both intentional acts and negligence in managing promotional assets still satisfy the element of fault. Third, there is dual damage (*schade*): material damage in the form of lost potential economic compensation and opportunities for collaboration with other parties, as well as immaterial damage in the form of harm to reputation, good

name, and the right to privacy and control over one's public image (right of publicity). Fourth, there is a causal relationship between the act and the damages, whereby the damages suffered by the former brand ambassador arose directly and solely as a result of Marshwillow's continued unauthorized use of the likeness.

Based on the foregoing, all four elements of a tort as set forth in Article 1365 of the Civil Code are fully satisfied by Marshwillow's actions, thereby giving rise not only to an obligation to cease using the photograph and withdraw all promotional materials currently in circulation, but also to an obligation to compensate the aggrieved party, as well as the potential for administrative sanctions to be imposed by the competent authorities.

Liability of Business Operators for the Unauthorized Use of a Former Brand Ambassador's Likeness

a. Forms of Liability for Business Entities

According to Hans Kelsen, a person is considered legally liable for an act if that person commits an act that violates the law; traditionally, there are two types of liability: liability based on fault and absolute liability. In civil law, the basis for liability is divided into fault and risk, while business liability generally recognizes four principles: the principle of liability based on fault, the presumption of liability principle, the presumption of non-liability, and the principle of strict liability. Article 1365 of the Civil Code regarding unlawful acts requires the fulfillment of four elements: the existence of an act, the element of fault, the loss suffered, and a causal relationship between the fault and the loss.^[16]

Civil liability is a legal consequence arising from a violation of a person's civil rights that results in damages, with the aim of restoring the rights of the aggrieved party through performance or the award of damages; it may arise from a contract or from the law.^[17] In the context of the unauthorized use of a former brand ambassador's likeness, if such use is still related to a prior cooperation agreement, the business entity may be deemed to have breached the contract by using the likeness beyond the agreed-upon timeframe or without the agreed-upon consent; whereas if the contractual relationship has ended, the unauthorized use of the likeness constitutes a tort under Article 1365 of the Civil Code. Thus, the business entity's civil liability may be based on breach of contract if the violation occurs within the scope of the agreement, or on a tort if the violation occurs outside the scope of the agreement or after its termination.

Liability Based on Breach of Contract. Liability based on breach of contract may be asserted if a contractual relationship exists between the business entity and the brand ambassador that specifically governs the limits of the use of the likeness. Kartini Muljadi and Gunawan Widjaja explain that a breach of contract is a situation in which the debtor fails to fulfill their promise or fails to fulfill it properly, and the debtor is fully liable for such failure.^[18] Article 1239 of the Civil Code stipulates that any obligation to do or refrain from doing something, if the debtor fails to fulfill their obligation, results in the obligation to provide compensation for costs, losses, and interest.

Ahmad Miru and Prof. Subekti identify four forms of breach of contract: failing to perform what was agreed upon; performing what was promised but not properly; performing what was promised but late; and performing an act that is prohibited by the agreement.^[19] In the context of using the likeness of a former brand ambassador, the most relevant

scenario is the fourth one that is, continuing to use a person's likeness after the endorsement contract has ended because the duration clause and the exclusivity and usage rights clause are essential provisions in a brand ambassador contract; therefore, once the contract's expiration date has passed, businesses are prohibited from continuing to use, distribute, display, or disseminate those images.

When the contract term has expired, all exploitation rights held by the business operator over the photograph are automatically extinguished by law and revert entirely to the holder of the subjective rights; therefore, the business operator's failure to remove the promotional material constitutes a clear violation of its negative obligations.^[20] In civil law, the theoretical line between breach of contract and tort is often thin and overlapping, and the continued unauthorized use of a former brand ambassador's likeness after the contract has ended is an example of concurrent causes of action, where the same breach of contract also constitutes a tort under general law, since such actions not only violate the agreement regarding the contract's term but also contravene the provisions protecting Economic Rights to Portraits as stipulated in Articles 12 and 115 of the Indonesian Civil Code.

Liability Based on Unlawful Acts. Unlawful acts (*onrechtmatige daad*) are governed by Article 1365 of the Civil Code, which states that any act that violates the law and causes harm to another person requires the party whose fault caused such harm to compensate for it. To claim damages on this basis, five conditions must be met: the existence of an act, the act's unlawfulness, the existence of damage, the existence of a causal relationship, and the existence of fault (*schuld*).^[21] Munir Fuady explained that the concept of unlawful acts underwent significant development through the ruling of the Dutch Hoge Raad on January 31, 1919, in the case of *Lindenbaum v. Cohen*, which provided a broad interpretation encompassing acts that contravene the perpetrator's legal obligations, violate the subjective rights of others, violate moral principles, and contravening the principles of propriety, diligence, and prudence in social interactions.^[22]

A business entity that continues to use a person's likeness after the expiration of a brand ambassador agreement has violated that person's subjective right namely, the right to one's likeness and thus the party whose likeness was used without authorization is entitled to claim damages under Article 1365 of the Civil Code in conjunction with the relevant provisions of the Consumer Protection Law. Although the aggrieved party in this case is the former brand ambassador as an individual not a consumer as defined by the Consumer Protection Act the principles of liability under consumer protection law remain relevant as a framework for analysis, since the right to one's likeness is part of the human rights protected by law.^[23] Article 1, point 14 of the Copyright Law defines a portrait as a photographic work featuring a human subject; however, in the context of using portraits for commercial purposes, the primary issue is not merely the copyright in the photographic work, but rather the personality rights inherent to the subject portrayed. Article 12 of the Copyright Law stipulates that any person who takes and/or uses a photograph for commercial advertising or promotional purposes without written permission from the person portrayed or their heirs is subject to penalties; thus, the use of a photograph of a former brand ambassador for promotional purposes without

valid permission constitutes a legal violation that may result in both civil and criminal liability.

Compensation for damages is a form of legal protection for a party that has suffered losses as a result of another party's actions, as provided for in Articles 1243 through 1252 of the Civil Code. Article 1243 of the Civil Code states that compensation for costs, losses, and interest resulting from the failure to fulfill a contractual obligation is required if the debtor, after being declared in default, continues to neglect their obligations. A claim for damages includes costs, losses resulting from the debtor's negligence, and interest in the form of profits that the creditor would have earned had the agreement been fulfilled.^[24]

Compensation for material damages is tangible and economically measurable. Article 1246 of the Civil Code stipulates that the costs, losses, and interest that a creditor may claim consist of losses already incurred and profits that could have been earned. Wirjono Prodjodikoro distinguishes material damages into *damnum emergens* that is, actual losses already incurred, such as the costs of handling legal matters and *lucrum cessans* that is, profits that should have been earned but were lost due to the actions of the party causing the harm, such as the loss of an opportunity to secure a brand ambassador contract with another company.^[25] Claims for material damages arising from the commercial use of a brand ambassador's likeness may be based on the commercial value of such use, as determined by market rates for endorsement services, unpaid royalties or compensation for periods of use exceeding the term of the agreement, losses resulting from a decline in commercial value or employment opportunities due to an unintended association, as well as losses resulting from the loss of opportunities to use the likeness in advertising campaigns with competitors, with the amount to be determined by the judge on a proportional basis based on verifiable evidence.^[26] Articles 1247 and 1248 of the Civil Code limit damages to losses that were foreseeable at the time the contract was entered into and that are a direct result of the breach of contract, except in cases of fraud or intentional tort, in which case such limitations do not apply.

Non-pecuniary damages cannot be directly measured in monetary terms, but relate to non-economic interests that are nonetheless protected by law, such as pain, emotional distress, and loss of enjoyment of life resulting from the acts of others. Sutan Remy Sjahdeini explains that although the Civil Code does not explicitly regulate non-pecuniary damages, the case law of the Supreme Court of the Republic of Indonesia has recognized and accepted such claims based on the principle of justice. In the context of the unauthorized use of a former brand ambassador's likeness, the non-economic damages that may be claimed include defamation or damage to reputation resulting from an unwanted association with a brand, interference with personal life and privacy, psychological and emotional distress, and the loss of the right to control the use of one's own image (right of publicity). The right to one's own image is increasingly recognized as both an economic and a personal right; thus, the unauthorized use of a portrait not only infringes upon economic interests but also upon an individual's personal autonomy in determining their public associations.^[27]

b. Dispute Resolution Mechanisms

Disputes regarding the unauthorized use of photographs in the context of brand ambassadors require effective resolution mechanisms, whether through out-of-court (non-

litigation) or court (litigation) channels, each of which has different characteristics, advantages, and mechanisms depending on the parties' needs.^[28] Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution (AAPS Law) provides the legal basis for out-of-court dispute resolution through consultation, negotiation, mediation, conciliation, or expert assessment, while the Copyright Law also regulates mechanisms for resolving copyright disputes both non-litigation and litigation given the complexity of intellectual property disputes.^[29]

Non-litigation resolutions are generally preferred because the process is faster, more affordable, confidential, and better preserves good relations between the parties. Negotiation is the simplest mechanism, involving direct talks without a third party to reach a mutual agreement in this dispute. Natasha Wilona has sent a formal demand letter that received no response from Marshwillow, indicating a lack of good faith on Marshwillow's part to resolve the dispute amicably. Mediation is a resolution process through negotiation with the assistance of an impartial mediator, and in accordance with Article 95(1) of the Copyright Law, copyright disputes may be resolved through alternative dispute resolution, arbitration, or court proceedings, including discussions regarding financial compensation, mechanisms to cease the use of the photograph, public clarification, and a commitment not to repeat the infringement.

Conciliation is an alternative dispute resolution method similar to mediation, but the conciliator plays a more active role in recommending solutions, and it is the right choice if the parties still wish to maintain a business relationship in the future.

Arbitration is the resolution of civil disputes outside the general court system based on a written arbitration agreement, as provided for in Article 1(1) of the AAPS Act, with the advantages of a faster process, a final and binding decision, and confidentiality. Article 95(2) of the Copyright Law stipulates that the resolution of copyright disputes must prioritize out-of-court settlement before bringing the case to court.

Litigation is the process of resolving disputes through the courts, beginning with the filing of a complaint, case examination, trial, and ending with the enforcement of the judgment. Article 2, Paragraph (4) of Law No. 48 of 2009 on Judicial Power stipulates that judicial proceedings must be conducted in a simple, expeditious, and cost-effective manner. In this case, the litigation route was pursued after the formal notice sent by Natasha Wilona's legal counsel received no response from Marshwillow, in accordance with the rules of civil procedure that require the aggrieved party to first pursue voluntary settlement efforts before filing a lawsuit in court..^[30]

Conclusion

PT Indah Mitra Anugerah (Marshwillow)'s use of Natasha Wilona's likeness after the brand ambassador agreement expired in October 2020 lacks a valid legal basis, as the right to use her likeness reverted entirely to its owner upon the agreement's expiration. This action initially constituted a breach of contract regarding the clause limiting the duration of the portrait's use, but it evolved into a tort because the portrait continued to be used for commercial purposes without authorization and without new consent from the owner, as protected by the Copyright Law, thereby fulfilling the elements of Article 1365 of the Civil Code.

Marshwillow's liability can thus be pursued through two complementary legal avenues: breach of contract under Article 1239 of the Civil Code and tort under Article 1365 of the Civil Code in conjunction with the Copyright Law, both of which require Marshwillow to cease using the portrait, withdraw any promotional materials still in circulation, and pay compensatory and non-compensatory damages to the owner of the portrait. Dispute resolution regarding this infringement may be conducted through non-litigation channels such as negotiation, mediation, conciliation, or arbitration as provided for in Article 95 of the Copyright Law and the AAPS Law, or through litigation if amicable settlement efforts prove unsuccessful.

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