

Law Enforcement on Infringement of Trademark Rights in Clothing Products for Consumer Protection and Healthy Market Competition

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ABSTRACT

Law enforcement against infringement of well-known trademark rights in clothing products in Indonesia is an important aspect in creating consumer protection and ensuring fair market competition. Well-known brands are often targeted for imitation by parties who wish to capitalize on the brand's image without authorization, to the detriment of consumers and brand owners. Regulations governing infringement of famous mark rights, such as the Trademark and Geographical Indication Law, provide a legal basis to tackle this through clear and firm legal action. Good enforcement can create a safe, fair and sustainable market by reducing the circulation of counterfeit products and encouraging innovation. To achieve this, strict supervision, cooperation between the government and businesses, and education to the public on the importance of protecting intellectual property rights are required. Effective law enforcement will support the creation of a more transparent market and increase consumer confidence in products on the market.

INTRODUCTION

The protection of well-known trademarks is one of the important aspects in intellectual property law that aims to maintain the exclusive rights of trademark owners to the products or services they offer. In Indonesia, the regulation of trademark rights is regulated in Law Number 20 Year 2016 on Trademarks and Geographical Indications. Under this law, well-known brands have stronger protection than ordinary brands, given the influence and reputation they have in the market. However, despite the clear regulation, the practice of infringement of famous mark rights, especially in clothing products, is still common. This infringement is not only detrimental to the brand owner, but can also mislead consumers who are switched to counterfeit products that do not meet quality standards.

Infringement of famous mark rights in Indonesia is increasingly rampant, especially in the clothing industry sector. Products that use well-known marks without permission or in an unauthorized manner can be found easily in the market. The categorization of trademark rights infringement is when a counterfeit or low-quality product is affixed with a registered or well-known brand (Bulqis, Marilang, & Erlina, 2019). This not only harms the owner of a well-known brand, but also undermines consumer confidence in

legitimate and genuine brands. The recognition of legitimate brands in the market is often masked by counterfeit products that circulate freely, even though they do not meet the standards set by law. Therefore, it is important to assess the extent to which law enforcement against infringement of famous mark rights is effective to provide maximum protection for brand owners and consumers.

In practice, although the law has provided fairly clear provisions on the protection of well-known trademarks, law enforcement against trademark infringement in Indonesia often faces obstacles. The protracted legal process, lack of supervision on the distribution of counterfeit products, as well as the low level of public awareness on legitimate trademark rights, are the main factors that cause law enforcement to be less effective. In addition, many parties still do not understand the difference between genuine and counterfeit products, and how counterfeit products can harm consumers in the long run. As a result, counterfeit products that harm brand owners and consumers continue to proliferate, adding a huge challenge to the apparel industry in Indonesia.

In this case, more assertive and efficient law enforcement is needed to deal with the problem of infringement of well-known trademark rights. One aspect that must be considered is stricter supervision

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of the circulation of counterfeit goods, as well as wider education and socialization to the public regarding the importance of using products with legitimate and registered brands. Authorities such as the Directorate General of Intellectual Property (DJKI) and the Food and Drug Administration (BPOM) also need to work together to monitor the market thoroughly to reduce the number of counterfeit goods in circulation. Strict law enforcement can provide a deterrent effect for violators, as well as provide more confidence to consumers to choose genuine products (Murjiyanto, 2018).

Law enforcement against infringement of famous mark rights in clothing products in Indonesia faces a number of problems that need more attention. While there are regulations governing trademark rights, enforcement on the ground is often hampered by the lack of thorough supervision of the distribution of counterfeit goods. Many counterfeit products are sold freely in the market, both through physical stores and e-commerce platforms. Not infrequently, these products offer cheaper prices, which lure consumers who do not know the difference between genuine and counterfeit products (Risandi & Disemadi, 2022).

The lack of public awareness regarding intellectual property rights is one of the major problems in the enforcement of famous mark rights. Many consumers do not realize that buying counterfeit products can harm not only the manufacturer, but also themselves as buyers. Counterfeit products are not only risky in terms of quality, but can also be harmful to health if they do not meet applicable standards. Therefore, law enforcement that not only leads to business actors who produce counterfeit goods, but also to consumers who buy these products, is very important.

Another challenge faced is the slow pace of legal proceedings to crack down on infringement of famous mark rights. Despite efforts by the authorities to address this issue, the protracted process and lack of strong evidence often means that infringers are not penalized accordingly. This worsens the condition of the apparel industry, which has to contend with the constant emergence of counterfeit products. Thus, to create a healthy competitive climate and protect consumer rights, law enforcement must be faster, more efficient, and targeted.

The problem of infringement of famous brand rights in the clothing industry not only affects the brand owner, but also affects the quality of the market and consumers. The existence of counterfeit products on behalf of well-known brands can disrupt the market, damage the reputation of the original brand, and reduce consumer confidence in quality products. Therefore, strengthening more effective law enforcement against infringement of famous brand rights is a must, not only to protect the rights of brand

owners, but also to create a more transparent and fair business ecosystem.

This study aims to examine how law enforcement against infringement of well-known trademark rights in clothing products in Indonesia can create effective protection for consumers while ensuring the realization of fair competition in the clothing industry. The main focus of this study is to understand the legal mechanism applied in handling such infringement and evaluate the extent of its effectiveness in providing a sense of security to consumers from the practice of counterfeiting and misuse of trademarks. In addition, this study also aims to examine the impact of law enforcement on business actors in creating a fair and competitive climate in the domestic market.

RESEARCH METHOD

The research method used in this research is a literature study approach that aims to review and analyze various legal sources and relevant literature related to law enforcement against infringement of well-known trademark rights on clothing products in Indonesia. This approach is very suitable because it allows researchers to explore information that has been published in various references related to the topic under study. As a first step, this research will focus on collecting secondary data, such as books, journal articles, and relevant laws and regulations, to analyze how the law in Indonesia regulates the protection of well-known trademark rights and the extent of its implementation in the field. In addition, the literature study approach also allows the researcher to compare different perspectives in law enforcement of famous mark rights, both from the point of view of national law and international practice.

The literature review approach can provide a comprehensive understanding of existing regulations, such as Law Number 20 of 2016 concerning Trademarks and Geographical Indications, as well as Government Regulation Number 51 of 2007 on the Administration of the Intellectual Property System. In this literature study, the researcher will explore various scientific publications addressing trademark issues, including relevant legal journals and books related to the topic of famous trademark infringement, in order to gain insights into the extent to which existing regulations can provide protection for famous trademarks within the clothing industry. Accordingly, the data collected from these references will be analyzed to depict the effectiveness of law enforcement in Indonesia in addressing famous trademark infringements in clothing products. This research will also involve an examination of various legal cases that have been adjudicated by Indonesian courts.

To strengthen this research, the references utilized will include books on legal research methodology and journals that enhance understanding of the application of law in Indonesia. One such reference is the book "Legal Research Methodology" by Soerjono Soekanto (2018), which provides a detailed explanation of research methodology in the field of law, including the importance of literature reviews in uncovering relevant legal information. Journals discussing topics such as famous trademarks, law enforcement, and case studies of trademark infringements will also serve as sources for further analysis. The choice of this method is expected to contribute more broadly to understanding the challenges faced by the Indonesian legal system in protecting the rights of famous trademark owners, particularly in the increasingly developing sector of clothing products.

RESULT AND DISCUSSION

The enforcement of law against the infringement of famous trademarks on clothing products in Indonesia is of paramount urgency, particularly as the clothing industry continues to grow in both domestic and international markets. Famous trademarks, as symbols of quality and reputation, serve as assurances for consumers in selecting products that meet their expectations. When a famous trademark is counterfeited or used without authorization, not only are the trademark owners harmed, but consumers also suffer when purchasing products that do not meet the quality standards they anticipate. Protecting the rights of famous trademarks is essential for maintaining market stability and consumer trust.

Legal protection for famous trademarks is not merely about safeguarding the intellectual property rights of their owners; it also represents an effort to create a healthy business climate. Violations of trademark rights allow dishonest and irresponsible business actors to create injustices that harm compliant enterprises. In this context, effective law enforcement plays a crucial role in preventing trademark imitation practices that can disrupt fair competition (Indarto et al., 2023). Existing regulations, such as the Trademark and Geographical Indications Law, provide a strong legal foundation for addressing these violations.

With robust law enforcement, competition in the clothing industry can occur more equitably, allowing original brands to grow and develop while reducing the risk of loss for consumers. Conversely, without proper oversight and enforcement, the market becomes inundated with counterfeit products that

not only harm the economy but also negatively impact the credibility of the clothing industry sector itself. Therefore, the role of law enforcement officials, relevant institutions, and society is vital to ensuring that infringements on famous trademark rights can be minimized and effectively prosecuted.

One approach to ensure this protection is through the implementation of clear and strict regulations regarding violations of famous trademark rights. In Indonesia, the regulations concerning trademarks and their infringements are outlined in Law Number 20 of 2016 regarding Trademarks and Geographical Indications. This law not only addresses trademark registration but also includes protections for famous trademarks. Law enforcement against violations of famous trademarks is conducted through legal processes involving relevant institutions, such as the Directorate General of Intellectual Property (DJKI) and the courts.

Government Regulation Number 51 of 2007 concerning the Administration of the Intellectual Property System has been revoked and is no longer in effect. This revocation was carried out through Government Regulation Number 90 of 2019 regarding Application Procedures, Examination, and Resolution of Appeals at the Trademark Appeal Commission. Additionally, the issuance of new implementing regulations, such as the Minister of Law and Human Rights Regulation Number 10 of 2022 concerning Geographical Indications, serves as an implementation of Law Number 20 of 2016 regarding Trademarks and Geographical Indications. This regulation also details the procedures for registration, management, and protection of Geographical Indications in Indonesia, thereby clarifying the regulations applicable to trademark rights holders. With clear regulations in place, decisive legal actions can be taken against violators, which in turn will provide a sense of security for consumers and better protection for trademark owners (Wijanarko, 2023).

Furthermore, the strict and clear enforcement of laws regarding the infringement of famous trademarks can also reduce the prevalence of counterfeiting or pirated goods circulating in the market. Imitation products that utilize famous trademarks often do not meet the same quality standards as the original products, which can harm consumers. These counterfeit products not only diminish consumer trust in specific brands but also pose risks to their safety and health. Therefore, the enforcement of laws against trademark infringement can create a safer and more transparent market for consumers, while also providing protection for the

intellectual property rights held by companies or individuals owning famous trademarks (Fathanudien et al., 2022).

The imposition of sanctions is also necessary to deter business owners from engaging in trademark counterfeiting. The sanctions consist of three provisions: criminal sanctions, civil sanctions, and administrative sanctions. Among these, administrative sanctions are the most effective, as their enforcement prevents the violators from continuing the production process. This is also intended to halt all activities related to the use of the trademark in question (Bulqis, Marilang, & Erlina, 2019).

On the other hand, effective law enforcement is also crucial for ensuring healthy competition within the clothing industry. Without adequate legal protection, companies that have invested significant resources in building their famous brands will feel aggrieved by the actions of others who seek to profit without incurring the same costs or efforts. This can lead to an imbalance in market competition (Hardyansah et al., 2021; Sudiruddin et al., 2023). With protection for famous trademark rights in place, competing companies in the clothing market will be more encouraged to innovate and enhance the quality of their products, rather than becoming mired in detrimental imitation practices.

The regulations implemented to protect the rights of famous trademarks on clothing products in Indonesia also encompass provisions regarding the prohibition of the use of similar trademarks that may confuse consumers. In accordance with Article 21 of the Trademark and Geographical Indications Law, famous trademarks receive enhanced protection, which includes a ban on using trademarks that bear similarity to those on similar products. Furthermore, under the Minister of Law and Human Rights Regulation Number 10 of 2022 concerning the Inclusion of Certificate Numbers on Product Packaging, every product that receives a Geographical Indication certificate is required to display the certificate number on its packaging. This aims to prevent confusion among consumers who may not realize they are purchasing counterfeit products that utilize famous trademarks, thereby ensuring the authenticity of the brand and facilitating consumers in identifying a product (Negara et al., 2021). This regulation also enforces stricter legal measures against products that attempt to deceive consumers by using names or logos similar to famous trademarks without authorization.

Moreover, the law enforcement carried out by the government and law enforcement agencies, such as the police and prosecutors, is also a crucial factor

in fostering public trust in the prevailing legal framework. In this regard, strict oversight of business practices in the clothing market is essential. Firm actions against violators of famous trademark rights are expected to create a strong deterrent effect, reduce future infringements, and enhance public awareness regarding the importance of intellectual property rights. Thus, the protection of famous trademarks on clothing products will become increasingly effective.

It is important to emphasize that, in addition to law enforcement involving state institutions, the role of society and industry players is also significant in creating a conducive environment for the protection of famous trademark rights. Educating the public about how to recognize counterfeit products and the importance of purchasing genuine goods is crucial. Many consumers are unaware that the products they buy are imitations of original products that infringe on famous trademark rights. Therefore, consumer protection is necessary to safeguard the rights and obligations of consumers. All of this is regulated in Law Number 8 of 1999 concerning Consumer Protection, which aims to provide legal guarantees regarding the rights of consumers and the obligations of business actors. Additionally, enhancing consumer literacy regarding intellectual property rights and building collective awareness about the detrimental effects of counterfeit products on the economy and health is essential (Risandi & Disemadi, 2022).

In this regard, existing regulations also provide room for companies to take legal action against violations that occur, such as filing lawsuits in court if there are indications of trademark infringement. The Trademark and Geographical Indications Law provides a legal basis for owners of famous trademarks to file claims if there is similar or identical trademark use on similar products. Furthermore, while the Trademark and Geographical Indications Law offers adequate protection, efforts to provide legal certainty can implement preventive measures to avoid trademark infringements and repressive actions if infringements occur through lawsuits or criminal prosecution (Pang et al., 2021). These legal actions can proceed to investigation and inquiry processes if criminal elements are found, which can then lead to appropriate actions in accordance with applicable laws. Strict law enforcement based on clear procedures will provide legal certainty and a sense of justice for owners of famous trademarks.

Additionally, there are also private institutions that play a role in monitoring and addressing violations of famous trademark rights, such as the

Association of Famous Trademark Entrepreneurs (APMT). This institution collaborates with government agencies to address cases of famous trademark infringement. As part of the ecosystem, APMT contributes to advocating for the rights of famous trademark owners and educating industry players and the public about the importance of respecting intellectual property rights.

The primary challenge in enforcing laws against infringements of famous trademark rights on clothing products is the difficulty in detecting violations occurring in the market. Counterfeit goods that utilize famous trademarks are often sold online or through distribution channels that are not directly monitored by the relevant authorities. Therefore, there is a need for closer collaboration between the government, the private sector, and society to establish a better surveillance system that relies not only on physical monitoring but also on digital technology to track the circulation of counterfeit goods in the market. Additionally, trademark owners must take an active role in reporting any business actors suspected of infringing their trademark rights (Juwita, 2021).

Effective consumer protection through law enforcement against infringements of famous trademark rights on clothing products also requires the involvement of mass media. The media can serve as a highly effective educational tool to raise public awareness about legitimate and counterfeit products. Through educational campaigns in the media, consumers can more easily understand the differences between original and counterfeit products, as well as the impacts resulting from purchasing goods that infringe on famous trademark rights. Consumers are also encouraged to file complaints in cases of trademark counterfeiting and violations, as the criminal offense of trademark infringement is classified as a complaint offense, meaning it can only be prosecuted if there is a report from the aggrieved party (Bukit et al., 2022).

Effective law enforcement against infringements of famous trademark rights on clothing products not only benefits trademark owners but also creates the essential protection that consumers need. Consumers who have access to legitimate and quality products will have greater confidence in the brands they choose, knowing that these products have undergone strict quality standards. This confidence is a crucial foundation for maintaining a healthy market dynamic, where consumers can feel secure in every purchasing decision they make. Thus, strong law enforcement fosters a mutually beneficial relationship between consumers and producers (Prawirayuda et al., 2020).

In addition to providing protection for consumers, strict law enforcement also strengthens the competitive climate within the clothing industry. Without action against infringements of famous trademark rights, the market will be flooded with counterfeit products that undermine the integrity of the industry. Business actors who comply with regulations and maintain the quality of their brands will face unfair competition from counterfeit products (Noto La Diega, 2018).

Such practices clearly contradict the principles of Law Number 5 of 1999 concerning the Prohibition of Monopoly Practices and Unfair Business Competition. Furthermore, the circulation of counterfeit products can also be regarded as a form of unfair competition that can hinder innovation and industry development. Therefore, strong law enforcement and active involvement from the Business Competition Supervisory Commission (KPPU) are necessary to address such practices to maintain fairness and trust in the market (Karmono et al., 2023). Thus, strict regulations and fair law implementation will help facilitate healthy competition and encourage innovation and quality improvement in the clothing industry.

Finally, a clear and well-structured law enforcement system will significantly contribute to the stability and growth of the clothing sector in Indonesia. It is recommended that the government undertake numerous reforms in the criminal law regarding trademark rights, including specific formulations that are also adapted to technology, which should be a concern for the government (Lumintang, 2020). The reforms provided by the government already encompass all that trademark owners need, and ongoing changes and updates are expected to facilitate ease and security for trademark owners. The government, as the primary regulator and supervisor, has a crucial role in creating a legal framework that supports the sustainability of a healthy market. With appropriate measures and collaboration among all parties, including producers, consumers, and law enforcement agencies, the Indonesian clothing industry can develop fairly and transparently, bringing greater benefits to all parties involved.

CONCLUSION

Enforcement of laws against infringements of famous trademark rights on clothing products in Indonesia plays a crucial role in ensuring protection for consumers and creating a fair market. Based on the applicable regulations, particularly the Trademark and Geographical Indications Law, law enforcement can prevent violations that may harm consumers and trademark owners. This

protection not only safeguards intellectual property rights but also builds consumer trust in the products available in the market, ensures quality, and fosters healthy competition among business actors in the clothing industry. The existence of clear and firm law enforcement efforts, supported by strong oversight and cooperation between the government, relevant institutions, and society, will enhance the protection of famous trademarks and limit the circulation of counterfeit or imitation products.

Effective law enforcement against infringements of famous trademark rights fosters a transparent market, boosting consumer confidence in product quality. This shifts competition toward innovation rather than imitation. To improve enforcement, it's essential to strengthen oversight, train personnel, and educate the public on intellectual property rights. Collaboration among the private sector, government, and society enhances effectiveness, ensuring a safe and equitable market.

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