EISSN: 2622-9668|PISSN: 2622-982X
Volume 9 Nomor 2 Agustus 2026: 636-663
DOI: 10.30996/jhbbc.v9i2.133602
Jurnal Hukum Bisnis Bonum Commune

Legal Protection of Well-Known Trademarks in Indonesia: An Analysis of Priority Rights and Liability under Unfair Competition Law

Rachmawati Novaria[1], Reyhan Hari Kharismawan[2], Andria Marchelia[3*]
[1,3] Universitas 17 Agustus 1945, Surabaya, Indonesia
[2] Universitas Airlangga, Surabaya, Indonesia
*Corresponding Author: andriamarchelia03@untag-sby.ac.id

Article History:
Submitted:
28-05-2026
Received:
12-07-2026
Accepted:
19-08-2026

Keywords:
trademarks; infringement of well-known trademarks; unfair competition

Abstract

In developed industrial jurisdictions, trademarks are regarded as the "soul" of goods and/or services. Trademark rights constitute exclusive rights, meaning that such rights are vested solely in the registered trademark proprietor; consequently, no other party may exploit such rights without the authorization of the registered owner. In Indonesia, trademark infringements occur with notable frequency, particularly against well-known marks. One prominent example is the dispute involving the Pierre Cardin trademark. Business ethics serve as a fundamental benchmark for the conduct of fair and sound commercial practices, including ethical compliance in the use of trademarks within Indonesia. This research aims to examine the application of Priority Rights under Law No. 20/2016 and to assess liability for damages suffered by proprietors of well-known marks based on the doctrine of unfair competition under Indonesian law. The research adopts a normative juridical method, statute approach, case approach, and conceptual approaches. The findings indicate, first, that the implementation of priority rights in the registration of well-known trademarks in Indonesia has not been effectively calibrated in accordance with the intended objectives of legal protection for proprietors of such marks. Second, the study demonstrates that infringers of well-known trademarks may be held liable for damages under the doctrine of unlawful acts (*onrechtmatige daad*), based on unfair competition arising from trademark infringement, particularly in cases involving substantial similarity.

1. Introduction

The influence of globalization in all areas of public life drives the pace of community economic development.[1] In addition, the continuous advancement of information technology and transportation facilities has led to rapid growth in the trade sector, both in goods and services. The increasing flow of trade in goods and services will continue progressively in line with growing national economic growth. In view of this, similar to copyrights and patents, trademarks as a form of human intellectual creation closely related to economic and trade activities play a crucial role in trade flows.[2] Emerging markets often face developmental gaps as they strive to catch up with advanced economies, resulting in a heightened reliance on

[1] Rachida Aïssaoui and Frances Fabian, "Globalization, Economic Development, and Corruption: A Cross-Lagged Contingency Perspective," *Journal of International Business Policy* 5, no. 1 (2022): 1–28, https://doi.org/10.1057/s42214-020-00091-5.
[2] Stein Masunda and Gabriel Mhonyera, "The Role of Intellectual Property Rights Protection on Intra-COMESA Trade with a Specific Focus on Trademarks," *International Journal of Economics and Financial Issues* 15, no. 1 (2024): 369–377, https://doi.org/10.32479/ijefi.17304.

international investment to accelerate local economic growth and technological advancement.[3] OK. Saidin argues that: 'Indonesia, as a part of the international community that has ratified the WTO agreement, is inherently bound by the trade rules contained within the agreement."[4] As it is well established, the protection of Intellectual Property Rights (IPR), specifically trademarks, does not merely rely on domestic regulations, but has instead become an international commitment.[5] The provisions for international trademark registration are governed by the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks. On October 2, 2017, Indonesia submitted its notification to the World Intellectual Property Organization (WIPO), becoming the 100th member state of the international trademark registration system regulated under the Madrid Protocol.[6] While trademark regulations in Indonesia have been amended multiple times, the current legal framework governing trademarks in Indonesia is stipulated in Law Number 20 of 2016 concerning Trademarks and Geographical Indications (Law No. 20/2016).[7]

Law No. 20/2016 not only regulates conventional trademarks but also provides provisions regarding well-known trademarks. In developed industrial nations, trademarks are considered the 'soul' of goods or services.[8] A trademark serves as a distinguishing tool between one product and another, as well as an indicator of a product's quality, in addition to being an identifier that facilitates consumers in making their choices.[9] Trademark rights are exclusive rights, meaning that they are solely reserved for the registered trademark owner; thus, no other party may utilize those rights without the explicit permission of the registered trademark owner.[10] Research by the Ministry of Law, as indicated by Indonesian Chamber of Commerce data, shows that the average annual increase across all those years is approximately 9.64%. The data indicates that in 2024, domestic trademark applications from general business actors surpassed 100,000. The majority of these applications, around 70%, came from the non-MSME

[3] C. H. Tse, Klaus E. Meyer, Yigang Pan, and Tailan Chi, "Evolution of MNE Strategies amid China's Changing Institutions: A Thematic Review," *Journal of International Business Studies* 55, no. 6 (2024): 657–675, https://doi.org/10.1057/s41267-024-00715-5.

[4] OK. Saidin, *Aspek Hukum Hak Kekayaan Intelektual (Intellectual Property Rights)* (Jakarta: RajaGrafindo Persada, 2009).

[5] Pratyush Nath Upreti, "The Role of National and International Intellectual Property Law and Policy in Reconceptualising the Definition of Investment," *International Review of Intellectual Property and Competition Law* 52, no. 3 (2021): 301–330, https://doi.org/10.1007/s40319-020-01009-7.

[6] Cokorde Istri Dian Laksmi Dewi, "Regulasi Pendaftaran Merek Internasional dalam Undang-Undang Republik Indonesia Nomor 20 Tahun 2016 tentang Merek dan Indikasi Geografis," *Aktual Justice: Jurnal Ilmiah Magister Hukum Pascasarjana Universitas Ngurah Rai* 3, no. 1 (2018) https://doi.org/10.47329/aktualjustice.v3i1.455.

[7] Dwi Seno Wijanarko and Slamet Pribadi, "Preventive Legal Protection of Trademarks in Indonesia Based on Law Number 20 of 2016 Concerning Marks and Geographical Indications," *Journal of Law, Politic and Humanities* 3, no. 1 (2023): 227–235, https://doi.org/10.38035/jlph.v3i1.161.

[8] Sujana Donandi S. and Pandu Adi Cakranegara, "The Implementation of Well-Known Trademarks Doctrine in Indonesian Commercial and Supreme Court," *Fiat Justisia* 15, no. 2 (2021): 159–182, https://doi.org/10.25041/fiatjustisia.v15no2.2016.

[9] Dima Basma, "Dilution Versus Unfair Advantage: Myths and Realities," *International Review of Intellectual Property and Competition Law* 52, no. 10 (2021): 1217–1257, https://doi.org/10.1007/s40319-021-01116-z.

[10] Edbert Seligshan Horman, "The Exclusive Rights of Licensees in Parallel Import Practices," *Yuridika* 36, no. 1 (2021): 57–74, https://doi.org/10.20473/ydk.v36i1.19378.

sector. On the other hand, although trademark applications filed by MSME applicants have risen consistently, the number remains low compared to the total number of MSMEs, which reaches 65.5 million units across Indonesia, or about 99% of all business units.[11]

However, specific graphs or data regarding well-known trademark registrations remain unknown in Indonesia. As set forth in the elucidation of Article 21, paragraph (1), letter b of Law No. 20/2016, a well-known trademark owned by another party is determined by considering the general public's knowledge of the trademark within the relevant field of business. In addition, the reputation of the trademark gained through intensive and large-scale promotions, as well as investments made by its owner in several countries worldwide, is taken into account, accompanied by evidence of its registration in those countries.[12] If these measures are still deemed insufficient, the Commercial Court may order an independent institution to conduct a survey to determine whether or not the trademark is well-known.[13]

In practice, it is undeniable that well-known trademarks can become objects of trademark disputes, particularly in Indonesia, whether due to actions involving substantial similarity, trademark free-riding, or trademark fraud. Such actions inherently disrupt the domestic market, which consequently inflicts losses on the owners of well-known trademarks in Indonesia. In fact, as a form of IPR, a trademark should receive tangible legal protection to ensure secure business operations. The universal protection of well-known trademarks is based on the rationale that the trademark has been extensively promoted by its owner to the point of becoming renowned within both the business sector and the public consumer base. [14] Such trademarks are well-known as marks for high-quality goods and/or services that are favored by consumers in various countries. For this reason, these well-known trademarks cannot be registered by other individuals or legal entities in countries where the trademark has not yet been registered, whether for similar or dissimilar goods or services.[15] The absence of a specific and clear definition and regulation regarding well-known trademarks has created numerous polemics in trademark disputes. In fact, many well-known trademark disputes occur between foreign trademark owners and trademark owners in Indonesia. This clearly triggers a business climate with unfair competition among business actors in the commercial world. A purely profit-oriented mindset causes entrepreneurs to justify any means to achieve their goals, thereby creating a climate or condition of unfair business competition. While

---

[11] Badan Pembinaan Hukum Nasional, *Pemantauan dan Peninjauan Undang-Undang Nomor 20 Tahun 2016 Tentang Merek dan Indikasi Geografis* (Jakarta: Badan Pembinaan Hukum Nasional, 2025).

[12] Bambang Sugeng Ariadi Subagyono, Irawati, and Pujiyono, "Legal Threats against the Existence of Famous Brands: A Study on the Dispute of the Brand Pierre Cardin in Indonesia," *International Journal of Law and Management* 63, no. 4 (2021): 387–395, https://doi.org/10.1108/IJLMA-01-2018-0006.

[13] I Gede Mahatma Yogiswara Winatha, A. A. Gede Agung Indra Prathama, and Putu Chandra Kinandana Kayuan, "Comparative Analysis of Legal Protection and Criteria of Well-Known Marks (Indonesia, United States, India, China, and Germany)," *Audito Comparative Law Journal* 4, no. 1 (2023): 45, https://doi.org/10.22219/aclj.v4i1.23768.

[14] Agung Sujatmiko, Mochamad Kevin Romadhona, Patrick Keizer, and Christoph Antons, "The Legal Reform of Trademark Protection and Dispute Mitigation: Lessons From Licensing Well-Established Brands in Indonesia," *Journal of Law and Legal Reform* 5, no. 2 (2024), https://doi.org/10.15294/jllr.vol5i2.3467.

[15] Huang Wenting, "Protection of Well-Known Foreign Marks in the USA and China," *Journal of Intellectual Property Law & Practice* 16, no. 7 (2021): 666–676, https://doi.org/10.1093/jiplp/jpab037

unethical and deceptive practices may offer immediate financial gains, such strategies are inherently unsustainable. Fraud may produce short-term benefits, but it can ultimately undermine the company's stability and jeopardize its long-term survival.

Intellectual property infringement in the form of imitating well-known trademarks (substantial similarity for similar goods) often triggers unfair business competition in Indonesia. One prominent example that drew significant attention is the prolonged dispute over the Pierre Cardin trademark. In 2015, the French fashion designer, Pierre Cardin, accused Alexander Satryo Wibowo, a Jakarta-based entrepreneur, of illegally free-riding on his global trademark reputation for commercial interests.

In fact, the registration history of the local Pierre Cardin trademark dates back to July 1977 under the name Widjojo Suryono. It underwent a series of civil rights transfers before culminating in Alexander's ownership in 1987. Legal efforts by the French party to reclaim the trademark rights consistently met a dead end in court. The Commercial Court, Cassation, up to the Judicial Review at the Supreme Court consistently ruled in favor of the local party, arguing that in 1977, the foreign trademark had not been proven popular in Indonesia. Furthermore, the local version was deemed to possess a distinguishing feature as it included a production label from PT Gudang Rejeki.

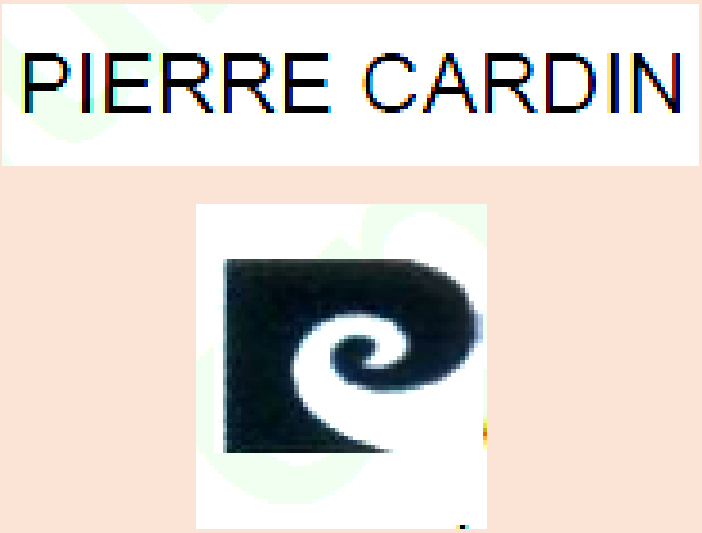

Figure 1: French 'Pierre Cardin' Trademark Specimen and Logo Owned by Designer Pierre Cardin

Figure 2: Indonesian 'Pierre Cardin' Trademark Specimen and Logo Owned by Alexander Satryo Wibowo

Although legitimate under national trademark law, the coexistence of these two identical trademarks causes confusion among consumers. Therefore, the resolution of such disputes must not be confined solely to the perspective of trademark law, but must also be dissected using unfair competition law to evaluate the element of bad faith among business actors and how the right of priority is applied in the practice of well-known trademark registration in Indonesia.

2. Methods

This study applies a normative legal research method, which is a legal analysis that focuses on the examination of secondary legal materials and library research. The primary focus of this research refers to both domestic and international regulations, including Law No. 20/2016, Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition (Law No. 5/1999), as well as global instruments such as the *Paris Convention*, the *Madrid Protocol*, and the *TRIPs Agreement*. Through this approach, written law is dissected from various dimensions, encompassing theoretical, historical, philosophical, comparative, and structural aspects, down to the elucidation of article by article.[16]

To analyze the research subject, two main approaches are utilized. First, the statute approach, which is implemented by identifying and analyzing positive regulations applicable in Indonesia that are relevant to the legal issues under study. Second, the conceptual approach, which is applied by exploring doctrines, scientific literature, and the views of legal scholars to serve as a theoretical foundation for addressing the problems discussed.

3. Results and Discussion

3.1. Legal Certainty in Trademark Law: Reconciling the First-to-File Doctrine with Well-Known Mark Reputations

The function of a trademark extends beyond merely distinguishing one product from another. From the producer's perspective, a trademark represents the value and quality of the goods or services and may function as an instrument for maintaining market identity. For traders, it serves as a promotional instrument to develop and expand the market, whereas for consumers, it facilitates the identification and selection of goods or services. Accordingly, the commercial value of a trademark is closely connected to the reputation and recognition developed through its continuous use in trade.

A trademark constitutes an important intellectual property asset in commercial activities because it functions as a distinctive identifier of goods or services. From a property-law

[16] Peter Mahmud Marzuki, *Penelitian Hukum*, ed. rev., cet. 15 (Jakarta: Kencana, 2021).

perspective, a trademark right may be categorized as an intangible property right. Article 499 of the *Burgerlijk Wetboek* (BW) recognizes property as including goods and rights that may be subject to ownership, while Article 570 BW establishes the scope of ownership rights. Under Article 1 point 1 of Law No. 20/2016, a trademark is defined as a sign capable of distinguishing goods and/or services produced or traded by a person or legal entity from those of other parties. Saidin further explains that a trademark serves as a distinctive sign for similar goods or services and possesses a distinctive character associated with the quality of the goods or services.[17]

From the perspective of Hans Kelsen's legal positivism, legal certainty is closely connected with the validity and hierarchical structure of legal norms within a legal system. A legal rule must derive its validity from a higher legal norm and be applied consistently within the normative hierarchy, thereby enabling legal subjects to identify the legal consequences of their conduct.[18] Another, perspective from Lon Fuller provides a complementary perspective by emphasizing the "inner morality of law," particularly through principles of legality that require rules to be general, publicly promulgated, prospective, intelligible, consistent, capable of compliance, relatively stable, and congruent between the rules as declared and their actual application.[19]

The definition of a trademark as regulated under Article 1, point 1 of Law No. 20/2016 is defined as: A Trademark is a sign capable of being displayed graphically in the form of drawings, logos, names, words, letters, numerals, color arrangements, in 2 (two)-dimensional and/or 3 (three)-dimensional forms, sounds, holograms, or a combination of 2 (two) or more of these elements to distinguish goods and/or services produced by a person or a legal entity in trading activities of goods and/or services. Saidin argues that the definition of a trademark is as follows: A trademark is a sign used to distinguish similar goods or services produced or traded by an individual, a group of people, or a legal entity from similar goods or services produced by others, which possesses a distinctive character as well as a guarantee of quality, and is utilized in trading activities of goods or services.[20]

A trademark, according to Article 1, point 2 of Law No. 20/2016, is defined as: 'A trademark used on goods traded by a person or several persons jointly, or a legal entity, to distinguish them from other similar goods.' In the business world, there is a known classification regarding the reputation or prominence of a trademark. One of these classifications is the well-known mark. A trademark can obtain legal protection only if its owner first registers the trademark with the Trademark Office of the Directorate General of Intellectual Property, as the trademark registration system in Indonesia adopts a Constitutive System (*First-to-File*). This is regulated under Article 3 of Law No. 20/2016, which stipulates

[17] Rachmadi Usman, *Hukum Hak Atas Kekayaan Intelektual: Perlindungan dan Dimensi Hukumnya di Indonesia* (Bandung: Alumni, 2003).
[18] Itok Dwi Kurniawan and Souad Ezzerouali, "Revisiting the Principle of Legal Certainty: A Contemporary Analysis through the Lens of Legal Positivism," *Nusantara: Journal of Law Studies* 3, no. 2 (2024): 137–146, https://doi.org/10.5281/zenodo.17385496
[19] Kristen Rundle, "Fuller's Internal Morality of Law," *Philosophy Compass* 11, no. 9 (2016): 499–506, https://doi.org/10.1111/phc3.12338
[20] OK. Saidin, *Aspek Hukum Hak Kekayaan Intelektual (Intellectual Property Rights)*, hal. 345.

that: 'The right to a trademark is acquired after the trademark is registered. Therefore, a trademark must be registered to secure legal protection in the form of trademark rights.[21]

As an additional note, based on the reputation and renown of a trademark, marks can be classified into three types, namely normal marks, well-known marks, and famous marks.[22] Previously, there was a regulation under the Decree of the Minister of Justice of the Republic of Indonesia No. M.03-HC.02.01 of 1991 concerning the Refusal of Applications for the Registration of Well-Known Trademarks or Trademarks Simulating Well-Known Trademarks Owned by Other Persons or Other Entities. This Decree defined well-known trademarks; Article 1 of the 1991 Ministerial Decree defined a well-known trademark as: 'a trademark that is generally known and used on goods traded by a person or an entity, both within the territory of Indonesia and abroad.' Based on this definition, two key elements can be derived to qualify a trademark as well-known: the trademark must be generally known and commercialized by a person or an entity, and it must be utilized both in Indonesia and internationally. Subsequently, after being in force for 1 (one) year, following the enactment of Law Number 19 of 1992 concerning Trademarks, the 1991 Ministerial Decree was revoked and declared null and void.

According to the current trademark regulations, the concept of a well-known mark is embedded in Article 21 paragraph (1) subparagraphs b and c of Law No. 20/2016. Although the Act lacks an explicit definition of what constitutes a well-known mark, the Elucidation of Article 21 paragraph (1) subparagraph b clarifies that: "The rejection of a trademark application that shares essential similarities or is identical to another party's well-known mark for identical or similar goods and/or services must consider the general public's knowledge of the mark in the respective business sector. Furthermore, the mark's reputation gained through aggressive and massive promotional campaigns, worldwide investments by its proprietor, and supporting proof of registration in multiple countries must be evaluated. Should these factors be considered inadequate, the Commercial Court is authorized to mandate an independent body to conduct a market survey to determine the well-known status of the trademark forming the ground for refusal." In addition, the Elucidation of Article 21 paragraph (1) subparagraph b of Law No. 20/2016 outlines several parameters to determine the well-known status of a mark, as follows:

1. General knowledge of the public regarding the mark in the respective sector of business.
2. The mark's reputation established through aggressive and massive promotional campaigns.
3. Global investments undertaken by the trademark proprietor in various countries.
4. Supporting proof of the trademark registration in several nations.

---

[21] Rendy Alexander, "Penerapan Prinsip 'First to File' pada Konsep Pendaftaran Merek di Indonesia," *Kertha Semaya: Journal Ilmu Hukum* 10, no. 9 (2022): 2110–2121, https://doi.org/10.24843/KS.2022.v10.i09.p12.

[22] Lobo P. Lobo and Ingrid Wauran, "Kedudukan Istimewa Merek Terkenal (Asing) dalam Hukum Merek Indonesia," *Masalah-Masalah Hukum* 50, no. 1 (2021): 70–83, https://doi.org/10.14710/mmh.50.1.2021.70-83.

5. Should these criteria remain inadequate, the Commercial Court is authorized to mandate an independent research body to conduct a survey to verify the well-known status of the mark.

Rahmi Jened provides an interpretation of the Elucidation of Article 21 paragraph (1) subparagraph b of Law No. 20/2016: Here, 'general public knowledge' does not dictate that all citizens of Indonesia must know and recognize a particular mark to qualify it as well-known. The public, in this sense, constitutes 'the relevant sector of the public'—that is, persons involved with the products connected to said mark. For example, to ascertain if Wendy's is a well-known brand, one must survey consumers who patronize fast-food establishments. Advertising remains the most potent tool to foster a reputation (image). This reputation does not solely rely on formal registration but can be gained through actual use in placing goods or services into the market.[23]

The criteria used to determine whether a trademark qualifies as a well-known mark provide a formal basis for legal certainty, although they do not yet fully ensure substantive legal certainty. Article 21 of Law No. 20/2016, along with its implementing regulations, sets out several indicators for assessing the status of a well-known mark, including the degree of public recognition, reputation, promotional activities, market share, geographical reach, duration of use, and registration in foreign jurisdictions. These indicators serve as normative guidance for trademark owners, applicants, and competent authorities in evaluating the status of a trademark. Nevertheless, many of these criteria remain qualitative in nature and are not accompanied by clear and measurable benchmarks, particularly with respect to the level of public awareness, market share, promotional investment, and the extent of a trademark's reputation. As a result, differing interpretations may arise in both administrative and judicial practice. Therefore, although Law No. 20/2016 has established a normative framework for the protection and recognition of well-known marks, the absence of objective and quantifiable standards continues to pose challenges to the achievement of consistent legal certainty.

Article 21 of Law No. 20/2016 demonstrates that the *first-to-file* principle under Indonesian trademark law does not operate absolutely. Although trademark rights are generally acquired through registration, the law imposes substantive limitations by requiring the rejection of applications that have similarities with registered or well-known marks, particularly where the registration is contrary to the statutory requirements. Thus, registration does not constitute an unconditional basis for obtaining trademark protection. In relation to well-known marks, Article 21 functions as a statutory safeguard against the rigid application of the *first-to-file* principle by recognizing the legal significance of a mark's pre-existing reputation and public recognition.

Accordingly, the Indonesian trademark regime should be understood as a modified constitutive system, rather than a purely formal *first-to-file* system. The registration principle remains fundamental to the acquisition of trademark rights, but its application is subject to substantive limitations intended to prevent bad-faith registration, consumer confusion, and the unauthorized exploitation of the reputation of well-known marks. This framework reflects an attempt to reconcile legal certainty arising from the registration system with substantive

[23] Rahmi Jened Nasution Parinduri, *Interface Hukum Kekayaan Intelektual dan Hukum Persaingan (Penyalahgunaan HKI)* (Depok: RajaGrafindo Persada, 2017).

justice for owners of well-known marks whose reputation may have been established before registration in Indonesia. Nevertheless, the effectiveness of this modified system depends on the clarity and consistency with which the relevant criteria are applied by the Directorate General of Intellectual Property and the courts.

Apart from Law No. 20/2016, the definition of the term 'well-known trademark' is also found in the Jurisprudence of the Supreme Court of the Republic of Indonesia Number 1486 K/Pdt/1991 dated November 18, 1995, which states that: "A trademark falls under the definition of a well-known mark on the principle that the mark has circulated beyond regional boundaries, and even across transnational borders; therefore, if it is proven that a trademark has been registered in many countries worldwide, it is qualified as a well-known trademark since it has circulated beyond the external boundaries of its country of origin."

In addition to the Supreme Court Jurisprudence and the Trademark Law, well-known trademarks are also regulated under Article 6bis, paragraph (1) of the Paris Convention for the Protection of Industrial Property, which stipulates that:'The countries of the Union undertake, ex officio if their legislation so permits, or at the request of an interested party, to refuse or to cancel the registration, and to prohibit the use, of a trademark which constitutes a reproduction, an imitation, or a translation, liable to create confusion, of a mark considered by the competent authority of the country of registration or use to be well known in that country as being already the mark of a person entitled to the benefits of this Convention and used for identical or similar goods. These provisions shall also apply when the essential part of the mark constitutes a reproduction of any such well–known mark or an imitation liable to create confusion therewith.

The provision of Article 6bis of the Paris Convention was subsequently adopted under Article 16, paragraph (2) of the Agreement on Trade-Related Aspects of Intellectual Property Rights, which stipulates that:'Article 6bis of the Paris Convention (1967) shall apply, mutatis mutandis, to services. In determining whether a trademark is well-known, Members shall take account of the knowledge of the trademark in the relevant sector of the public, including knowledge in the Member concerned which has been obtained as a result of the promotion of the trademark.'Article 16, paragraph (2) of the TRIPS Agreement emphasizes that in determining whether a trademark is well-known, consideration must be given to the knowledge of the trademark within the public, as well as the knowledge of Member States regarding the promotion of the mark concerned. This article has been adopted into the Elucidation of Article 21, paragraph (1), letter b of Law No. 20/2016.

In the context of well-known trademarks, this perspective requires the criteria and procedures for determining whether a trademark qualifies as a well-known mark to be grounded in clear and valid legal norms. Consequently, the authority of the competent institution to determine the status of a well-known trademark must be exercised within the limits established by Law No. 20/2016 and its implementing regulations. Applied to the protection of well-known trademarks in Indonesia, Fuller's theory indicates that legal certainty cannot be assessed solely from the existence of statutory provisions. It must also be examined from the extent to which the criteria for determining a well-known mark are sufficiently clear and predictable for trademark owners, applicants, and other market participants. Where concepts such as public recognition, reputation, extensive promotion, and

market knowledge are applied without sufficiently objective parameters, different interpretations may arise among administrative authorities and courts. Such circumstances may reduce predictability regarding whether a trademark will be recognized as well-known and, consequently, whether a subsequent registration will be rejected or challenged. Therefore, the Indonesian legal framework for well-known trademarks may provide formal legal certainty through statutory regulation, while still presenting substantive challenges to legal certainty when the application of its criteria remains dependent upon subjective assessment.

Article 21(1) of Law No. 20/2016 embodies Indonesia's preventive legal protection mechanism for well-known trademarks against *passing off*. Such preventive protection begins at the initial stage of the trademark registration process through the substantive examination of every trademark application. The examination plays a pivotal role in ensuring that the proposed trademark does not bear an identical or substantially similar resemblance to a registered trademark or a well-known trademark owned by another party. Consequently, this examination serves to prevent acts of *passing off* as well as trademark applications filed in bad faith. Through this substantive assessment, the Directorate General of Intellectual Property evaluates each application to determine whether it satisfies the statutory requirements for registration or should be refused. Accordingly, the substantive examination functions not only as an administrative procedure but also as a preventive legal instrument to safeguard legal certainty, protect the rights and commercial reputation of well-known trademark owners, and promote fair competition within Indonesia's trademark system. Substantive examination of the Mark as an effort to protect the Well-known Mark is conducted by DJKI by taking into account the terms of Article 21 paragraph (1), where the Mark registration application will be rejected if it has similarities in essence or in its entirety with Well-known Marks owned by other parties for similar or dissimilar products and/or services.[24]

Looking at the international provisions on well-known trademarks, it is explicitly clear that the concept of protection for well-known trademarks is recognized under international law; hence, every country in the world is legally obligated to enforce legal protection for well-known trademarks, particularly those nations that have ratified international agreements and conventions.[25]

Rahmi Jened provides several factors for the Court in determining and deciding whether a trademark qualifies as a well-known trademark under the 'famous marks' category, as follows:

1. The degree of inherent distinctiveness or acquired distinctiveness.
2. The duration and extent of use.
3. The amount of advertising and publicity.
4. The geographic extent of the market.
5. The channels of trade.

[24] Dinda Aprilia Batubara, OK. Saidin, and Edy Ikhsan, "Legal Protection of Well-Known Marks Against Passing Off: A Comparative Perspective," *Jurist-Diction* 8, no. 3 (2025): 301–324, https://doi.org/10.20473/jd.v8i3.6877.

[25] Wathsala Ravihari Samaranayake, "Well-Known Marks: Jettisoning the 'Domestic Registration Requirement' Vis-à-Vis Dissimilar Goods and Services," *GRUR International* 74, no. 6 (2025): 507–524, https://doi.org/10.1093/grurint/ikaf054.

6. The degree of recognition in trading areas.
7. Any use of substantially similar marks by third parties.
8. Whether the mark is registered.[26]

Reflecting on the factual difficulty of establishing a trademark's well-known status due to its reliance on the discretion of individual member states, WIPO (World Intellectual Property Organization) pioneered a set of guidelines to assess whether a mark is well-known, comprising:

1. Clarification on the parameters of the 'relevant sector of the public,' through determining elements, which are limited to:
   a. Potential consumers; and
   b. Distribution networks and the business community typically familiar with well-known marks in general.
2. Factors to evaluate the well-known status of a mark, encompassing:
   c. The duration, scope, and geographical territory of the mark's utilization.
   d. The market sector.
   e. The degree of inherent or acquired distinctiveness.
   f. The reputation of good quality (brand image).
   g. The global extent of trademark registrations and the exclusivity of those filings.
   h. The worldwide scale of its commercial use.
   i. The exclusive nature of its global use.
   j. The market value of the trademark on an international level.
   k. The successful track record of legal protection.
   l. The outcomes of litigation regarding the recognition of the mark's well-known status.
   m. The frequency or intensity of third-party registrations of similar marks.[27]

Based on the Regulation of the Minister of Law and Human Rights Number 67 of 2016 concerning Trademark Registration, as amended by the Regulation of the Minister of Law and Human Rights Number 12 of 2021, criteria for well-known trademarks are provided, as regulated under Article 18, which stipulates as follows:

(1) The criteria for determining a well-known Trademark as referred to in Article 16 paragraph (2) letters b and c shall be carried out by taking into account the general knowledge of the public regarding the trademark in the relevant field of business.
(2) The public as referred to in paragraph (1) means the consumer public or the public in general who have a good relationship at the level of production, promotion, distribution, as well as sales of goods and/or services protected by the well-known Trademark in question.
(3) In determining the criteria for a Trademark to be considered a well-known Trademark as referred to in paragraph (1), consideration shall be given to:
   a. The level of public knowledge or awareness regarding the Trademark in the relevant field of business as a well-known Trademark;

[26] Rahmi Jened, *Hukum Merek (Trademark Law) Dalam Era Global dan Integrasi Ekonomi* (Jakarta: Prenadamedia Group, 2015).
[27] Rahmi Jened Nasution Parinduri, *Interface Hukum Kekayaan Intelektual dan Hukum Persaingan (Penyalahgunaan HKI)* (Depok: Raja Grafindo Persada, 2017).

b. The sales volume of goods and/or services and the profits derived from the use of the trademark by its owner;
c. The market share controlled by the Trademark in relation to the circulation of goods and/or services in society;
d. The geographical scope of the Trademark's use;
e. The duration of the Trademark's use;
f. The intensity of the Trademark's promotion, including the investment value utilized for such promotion;
g. Trademark registration or applications for trademark registration in other countries;
h. The success rate of law enforcement in the field of Trademarks, particularly regarding the recognition of the Trademark as a well-known Trademark by competent authorities; or
i. The inherent value attached to the Trademark obtained due to its reputation and quality assurance of the goods and/or services protected by the Trademark.

Discussing well-known trademarks is inseparable from the Right of Priority. The regulation of the Right of Priority in Indonesia is governed under Law No. 20/2016. Article 1, point 17 of Law No. 20/2016 defines the right of priority as the applicant's right to file an Application originating from a country that is a party to the Paris Convention for the Protection of Industrial Property or the Agreement Establishing the World Trade Organization, to obtain recognition that the Date of Filing in the country of origin constitutes the priority date in the destination country, which is also a member of either of the two agreements, provided that such filing is made within the time period specified under the said international agreement. Pursuant to these regulations, it implies that the entities eligible to hold and utilize the Right of Priority are restricted to those nations that have ratified both the Paris Convention and the TRIPS Agreement. The Right of Priority should not merely be understood as a procedural privilege that allows applicants to preserve the filing date of their trademark application across multiple jurisdictions.[28] Rather, it constitutes an international legal mechanism designed to facilitate cross-border trademark protection while preventing opportunistic registrations by third parties during the interval between the first filing and subsequent foreign applications. In the context of well-known trademarks, the Right of Priority reinforces the objectives of the Paris Convention by ensuring that trademark owners who have acted diligently in seeking international protection are not disadvantaged by bad-faith registrations in other jurisdictions. Consequently, the Right of Priority functions not only as an instrument of procedural harmonization but also as a substantive safeguard against unfair competition and the misappropriation of commercial goodwill in international trade. This broader interpretation aligns with the economic rationale of Law No. 20/2016, which seeks to protect market integrity, consumer confidence, and investments in brand reputation.

The implementation of the Right of Priority within trademark registration is further reaffirmed by Article 9 of Law No. 20/2016, which prescribes that: Any application invoking

[28] Upreti, "The Role of National and International Intellectual Property Law and Policy in Reconceptualising the Definition of Investment," International Review of Intellectual Property and Competition Law 52 (2021): 103-136, https://doi.org/10.1007/s40319-020-01009-7.

the Right of Priority shall be submitted no later than 6 (six) months from the initial Filing Date of the trademark registration application in another member state of the Paris Convention for the Protection of Industrial Property or the Agreement Establishing the World Trade Organization. The regulatory framework of the Paris Convention and its complementary agreements further detail the 6-month period, which is incorporated into the Elucidation of Article 9 of the Trademark Act as follows:

a. The prescribed period to submit a trademark registration application invoking the Right of Priority shall be 6 (six) months;
b. The 6 (six) month duration commences from the initial filing date in the country of origin;
c. The initial filing date of the application shall not be included in the calculation of the 6 (six) month period; and
d. Should the last day of the period coincide with a public holiday where the protection of the trademark is sought, the deadline is extended until the beginning of the subsequent business day.

As a member state of the Paris Convention, Indonesia also implements the principle of national treatment or the principle of assimilation as regulated under Article 2, paragraph (1) of the Paris Convention. Djumhana defines the national treatment principle as follows: 'A national of a member state of the Union shall obtain the same recognition and rights as a national of the country where their trademark is registered. This principle of equal treatment applies not only to all individual nationals but also to legal entities. A foreigner is protected equally to a national of the country where their trademark is registered; thus, their rights and obligations are identical. There shall be no discrimination here.[29]

The framework governing trademark registration must comply with the provisions outlined in Articles 6 and 7 of Law No. 20/2016. Nevertheless, applications filed under the right of priority must explicitly be accompanied by supporting evidence of such priority, pursuant to Article 10 paragraph (1) of Law No. 20/2016. The Elucidation of Article 10 of the Trademark Act clarifies that 'proof of the Right of Priority' constitutes a certified copy of the first trademark application lodged in a member country of the Paris Convention or the World Trade Organization. This indicates that the key to trademark registration utilizing the right of priority lies in the proof of the right of priority. Therefore, even if the trademark to be registered is a foreign or international mark classified as a well-known trademark but lacks proof of the right of priority, the registration of said trademark cannot utilize the registration mechanism under the right of priority; rather, it must proceed through the ordinary trademark registration mechanism. In addition, should the trademark be eligible for the right of priority but the applicant is unable to attach the required proof within 3 months, then in accordance with Article 10 paragraph (3) of Law No. 20/2016, the application shall nonetheless be processed through standard trademark registration channels, without the benefit of the Right of Priority.

[29] Muhammad Djumhana dan R. Djubaedillah, *Hak Milik Intelektual: Sejarah, Teori dan Praktiknya di Indonesia* (Bandung: Citra Aditya Bakti, 2014).

3.2. Trademark Infringement as a Form of Unfair Business Competition under Law No. 5/1999 and the *Burgerlijk Wetboek*

Trademark infringement is motivated by the desire to secure easy personal profit through the emulation or counterfeiting of well-known brands, utterly disregarding the pre-existing and legally protected rights of others. Fundamentally, trademark infringement arises when similarities exist between a trademark under application and a pre-existing mark. With respect to registration, Article 21 paragraphs (1) to (3) of Law No. 20/2016 prescribe that:

(1) An application is rejected if the Mark is substantially or entirely identical to:

a. Another party's registered mark or a prior-filed application for similar goods and/or services;

b. Another party's well-known mark for similar goods and/or services;

c. Another party's well-known mark for dissimilar goods and/or services that satisfy specific criteria; or

d. A registered Geographical Indication.

(2) An application is rejected if the Mark:

a. Constitutes or mirrors the name, abbreviation, photo, or corporate name of a well-known individual or legal entity, unless authorized by written consent from the proprietor;

b. Imitates or mirrors the name, abbreviation, flag, emblem, coat of arms, or symbol of a state, or a national/international organization, unless authorized by written consent from the authorized body; or

c. Imitates or mirrors official signs, hallmarks, or stamps utilized by a state or government agency, unless authorized by written consent from the authorized body.

(3) An application is rejected if submitted by an Applicant in bad faith

Pursuant to Article 21 paragraphs (1) through (3) of Law No. 20/2016, infringement is legally established when a filed mark exhibits substantial or holistic similarity alongside the presence of bad faith. The Elucidation of Article 21 of Law No. 20/2016defines 'substantial similarity' as: 'The term "substantial similarity" refers to a resemblance arising from a dominant feature shared between one Mark and another, which generates a confusingly similar impression, whether regarding appearance, arrangement, typography, combination of elements, or phonetic pronunciation inherent in the Mark.'

The concept of 'substantial similarity' is likewise acknowledged and governed by Article 15 paragraph (1) of the TRIPS Agreement, which prescribes that:

> 'Any sign, or any combination of signs, capable of distinguishing the goods or services of one undertaking from those of other undertakings, shall be capable of constituting a trademark. Such signs, in particular words including personal names, letters, numerals, figurative elements and combinations of colours as well as any combination of such signs, shall be eligible for registration as trademarks. Where signs are not inherently capable of distinguishing the relevant goods or services, Members may make registrability depend on distinctiveness acquired through use. Members may require, as a condition of registration, that signs be visually perceptible.'

With respect to the safeguarding of marks that share similarities or mirror other trademarks, Article 8 of the Paris Convention provides that: 'A trade name shall be protected in all the countries of the Union without the obligation of filing or registration, whether or not

it forms part of a trademark.' Furthermore, Tomi Suryo offers a perspective on substantial similarity derived from the 1992 World Trademark Symposium in Cannes, outlining the following:

Several criteria may serve as benchmarks to evaluate substantial similarity, encompassing:

1. Similarity of appearance;
2. Phonetic or sound similarity;
3. Conceptual or connotation similarity;
4. Similarity in commercial impression;
5. Similarity of trade channels.[30]

Apart from substantial similarity, trademark infringement may also occur through absolute similarity in its entirety. Similarity in its entirety implies a total and comprehensive resemblance between one mark and another. According to Anne Gunawati, the criteria to evaluate similarity in its entirety encompass: "The presence of a comprehensive similarity is enforced based on the doctrine of 'compared in their entireties.' Every single factor must match, demonstrating similarities to the extent of being 'very similar' or 'nearly resembles,' while the visual presentation and physical manifestation must be overtly identical or reflect an 'actual appearance"[31]

In respect of holistic similarity, Yahya Harahap offers a more straightforward yet meticulous framework to evaluate similarity in its entirety, outlining the following criteria:

a. The presence of an 'identical' or 'very nearly resembles' factor between one mark and another, encompassing:
    1. Holistic resemblance (similar in appearance);
    2. Phonetic identity or similarity (sound);
    3. Conceptual identity or similarity (connotation);
    4. Identity in commercial impression, or termed as 'the same suggestive connotation.'
b. The existence of a 'similarity in the association' or 'visual association,' which impairs the consuming public's ability to distinguish between the marks, consequently causing:
    1. Actual confusion; or
    2. Resemblances that mislead consumers by generating a false impression and belief that the respective goods originate from the same source or manufacturer.
c. The evaluation does not require the fulfillment of factors regarding the similarity of product names or whether they are generic goods.
d. Furthermore, it is independent of whether the goods in question share:
    1. A similar competitive relationship;
    2. The same channel of trade.

[30] Tomi Suryo Utomo, *Hak Kekayaan Intelektual (HKI) di Era Global: Sebuah Kajian Kontemporer* (Yogyakarta: Graha Ilmu, 2010).
[31] Anne Gunawati, *Perlindungan Merek Terkenal Barang Dan Jasa Tidak Sejenis Terhadap Persaingan Usaha Tidak Sehat* (Bandung: Alumni, 2015).

e. The core emphasis must be placed on these key indicators:
    1. The inherent difficulty in differentiating the two products;
    2. The fact that the products are related in manner, market conditions, and commercial activities (rendering them 'sufficiently related' or 'closely related') which ultimately triggers a 'likelihood of confusion' or 'actual confusion' that deceives the consumer market[32]

Trademark infringement involving a well-known mark should not be viewed solely as a violation of the exclusive rights of the trademark owner, but also as conduct capable of distorting fair competition. The unauthorized use of a well-known trademark may enable an infringing business actor to take advantage of the reputation, goodwill, and consumer recognition that have been developed through the legitimate owner's investment and commercial activities. Such conduct can create a likelihood of consumer confusion concerning the origin, affiliation, or authorization of goods or services, thereby providing the infringer with an unfair commercial advantage. Recent scholarship confirms that consumer confusion remains a central concern in trademark infringement because the unauthorized similarity between marks may affect consumers' perceptions of source, affiliation, and permission.[33] In the Indonesian context, infringement of well-known marks has similarly been associated with consumer protection and the maintenance of healthy market competition, particularly where imitation is intended to capitalize on the established image of a well-known brand.

Accordingly, the legal consequences of trademark infringement extend beyond the private relationship between the trademark owner and the infringer. While trademark law protects the exclusive proprietary interests attached to a registered mark, the principle of fair competition seeks to ensure that market participants compete based on legitimate commercial advantages rather than through the appropriation of another undertaking's reputation. The unauthorized exploitation of a well-known trademark may therefore simultaneously prejudice the exclusive rights of its proprietor and distort competitive conditions by allowing the infringer to obtain an advantage that does not arise from its own investment, innovation, or reputation. This intersection is particularly evident in the case of well-known marks because their commercial value depends upon accumulated goodwill and consumer recognition. Recent Indonesian scholarship has likewise identified the imitation of distinctive elements associated with well-known marks as a regulatory concern because such conduct may mislead consumers and undermine fair business competition.

Article 21 paragraph (3) of Law No. 20/2016 prescribes that: 'An application is rejected if filed by an Applicant in bad faith.' To further clarify the concept of bad faith, the Elucidation of Article 21 paragraph (3) of Law No. 20/2016 elaborates that: "An applicant in bad faith refers to an applicant who can be reasonably presumed, during the registration of their Mark, to harbor the intent to copy, counterfeit, or emulate another party's Mark to serve their

[32] M. Yahya Harahap, *Tinjauan Merek Secara Umum Dan Hukum Merek Di Indonesia Berdasarkan Undang-Undang No. 19 Tahun 1992* (Bandung: Citra Aditya Bakti, 1996).
[33] Robert A. Peterson, Isabella M. Cunningham, and Jeffrey A. Peterson, "Measuring Source, Affiliation, and Permission Likelihood of Consumer Confusion in Trademark Infringement Litigation," *International Journal of Applied Decision Sciences* 17, no. 2 (2024): 182–205, https://doi.org/10.1504/IJADS.2024.137010.

commercial interests, thereby fostering unfair business competition, or deceiving and misleading consumers. For example, a Trademark Application involving text, artwork, logos, or color schemes identical to another party's Mark or a brand long-established in the public eye for years, is closely copied to the extent of generating a substantial or holistic similarity with that well-known Mark. This scenario clearly demonstrates bad faith on the Applicant's part since, at a minimum, the element of deliberate intent to imitate the well-known mark is reasonably evident." Good faith constitutes a paramount cornerstone within both commerce and legal frameworks, with its Jennifer Davis and Łukasz Żelechowsk existence universally accepted across nearly all legal disciplines.[34] The principle of good faith is prominently enshrined in Article 1338 paragraph (3) BW, which mandates that: 'All contracts must be performed in good faith. Although this provision primarily governs contractual relationships, the principle of good faith has evolved into a general principle of private law that also underpins intellectual property protection, including Law No. 20/2016. In the context of well-known trademarks, good faith extends beyond the performance of contractual obligations and serves as a legal standard for assessing the legitimacy of trademark registration and commercial conduct. Accordingly, an application filed with the intention of appropriating the reputation, goodwill, or commercial value of a well-known trademark constitutes an abuse of rights and is incompatible with the principle of good faith. Therefore, the protection of well-known trademarks should not merely depend upon compliance with procedural registration requirements but should also require an objective assessment of the applicant's good faith to prevent unfair competition and safeguard market integrity. This approach reinforces the preventive function of Law No. 20/2016 by ensuring that exclusive rights are granted only to applicants acting honestly and fairly in commercial practices.

Regarding trademark registration in bad faith, Julius Rizaldi explicitly states that: 'A trademark owner who registers their mark based on bad faith is not entitled to legal protection."[35] In addition to the opinions of legal experts regarding bad faith, there are also several principles of jurisprudence concerning the criteria of bad faith. The Jurisprudence of the Supreme Court of the Republic of Indonesia Number 39 K/Pdt/1989 states that: 'it provides the legal criteria for bad faith and unfair competition, establishing that any act and deceit containing elements of unfair competition in the business world can undermine the foundations of harmony, order, and sound protection for the consuming public.'[36]

The Jurisprudence of the Supreme Court of the Republic of Indonesia Number 426 PK/Pdt/1994 dated November 3, 1995, also provides the criteria for bad faith as follows:

> 'Judges must enforce the principles so that a climate of free trade and free competition can be achieved and realized, which is possible if all nations respect anyone's trademark and are prohibited from engaging in unfair competition in any form that could mislead

[34] Jennifer Davis and Łukasz Żelechowski, "Bad Faith, Public Policy and Morality: How Open Concepts Shape Trade Mark Protection," *International Review of Intellectual Property and Competition Law* 54, no. 7 (2023): 859–890, https://doi.org/10.1007/s40319-023-01350-7.

[35] Julius Rizaldi, *Perlindungan Kemasan Produk Merek Terkenal Terhadap Persaingan Curang* (Bandung: Alumni, 2009).

[36] Annisa Wijayanti Winarsoputri, Abdul Rokhim, and Diyan Isnaeni, "Application of the Principle of Good Faith in the Implementation of Trademark Registration in Indonesia Based on the Supreme Court Decision Number 1051 K/PDT.SUS-HKI/2023," *International Journal of Business, Law, and Education* 5, no. 2 (2024): 2109–2124, https://doi.org/10.56442/ijble.v5i2.793.

members of society (misleading the society) in the form of: imitation, reproduction, and translation of another party's trademark.'[37]

Aside from being a ground for refusing a trademark registration application pursuant to the provisions of Article 21, paragraph (3) of Law No. 20/2016, bad faith can also be used as a ground for the cancellation of a registered trademark, as stipulated in Article 77, paragraph (2) of Law No. 20/2016, which states that: 'A lawsuit for cancellation may be filed without any time limit if there is an element of bad faith and/or the Mark concerned is contrary to the state ideology, laws and regulations, morality, religion, decency, and public order.' Article 77, paragraph (2) of Law No. 20/2016 aligns with Article 6bis, paragraph (3) of the Paris Convention, which states that: 'No time limit shall be fixed for requesting the cancellation or the prohibition of the use of marks registered or used in bad faith.

Pursuant to the analysis above, trademark infringement inevitably impacts the market. It fosters an anti-competitive business climate that not only triggers market confusion but also impedes legitimate enterprises from commercializing products under their legally registered brands. Therefore, the widespread infringement of well-known trademarks clearly demonstrates that the market in Indonesia is indicated to be distorted, with unfair practices being deployed among its commercial players. A good reputation in the business world is highly crucial because a business's reputation is viewed as a benchmark for its success or failure. A good reputation in a business does not emerge instantly; rather, it requires a long process accompanied by equally good efforts. Business actors must uphold business ethics, with the value of honesty being one of its forms. The value of honesty is the most fundamental value in supporting successful corporate performance. Business activities will succeed if managed with the principle of honesty, whether toward employees, consumers, suppliers, or other parties involved in the business.[38] In respect of competition between commercial players within a market, Mashur Malaka posits that: 'Competition among business actors in executing activities whether in production, marketing, or the sale of goods and services, which is conducted by ignoring the values of honesty, violating the law, and employing unfair or oppressive pricing mechanisms, represents a symptom of a distorted market. A perfect market dictates that both producers and consumers possess comprehensive knowledge regarding prices across multiple dimensions, including the utility, quality, and production methods of the commodities present in said market[39]

Market integrity requires business actors to obtain competitive advantages through legitimate means, including product quality, innovation, efficiency, service, and investment in their own reputation, rather than through the appropriation of another party's reputation or goodwill. Accordingly, *passing off*, imitation of well-known trademarks, or the unauthorized use of marks capable of causing consumer confusion may undermine market integrity because

---

[37] Carina Budi Siswani, "Implementation of Good Faith Principles in Trademark Registration in Indonesia," *Journal of Law, Politic and Humanities* 5, no. 6 (2025), https://doi.org/10.38035/jlph.v5i6.2547.

[38] Md. Samsul Alam, Faizul Haque, Prem Puwanenthiren, et al., "Whoever Walks in Integrity Walks Securely: Does Corporate Integrity Culture Mitigate Climate Change Exposure?" *Journal of Business Ethics* 204 (2026): 885–906, https://doi.org/10.1007/s10551-025-06088-5.

[39] Masyhur Malaka, "Praktek Monopoli dan Persaingan Usaha," *Jurnal Al-'Adl* 7, no. 2 (2014): 39–52, https://doi.org/10.31332/aladl.v7i2.218.

such conduct provides an unfair competitive advantage that is not derived from merit-based competition.[40] The protection of trademarks and competition law therefore converge in their broader objective of ensuring that market mechanisms operate honestly, transparently, and competitively. In this context, the protection of well-known trademarks may be understood not merely as an instrument for safeguarding exclusive rights, but also as a legal mechanism for preserving market integrity and preventing commercial advantages obtained through unfair business practices.

Trademark infringement as a form of unfair business competition is indeed not yet specifically regulated in Indonesia. Unfair business competition in Indonesia is governed under Law No. 5/1999. The definition of unfair business competition according to Article 1, point 6 of Law No. 5/1999 is: 'competition among business actors in conducting production and/or marketing activities for goods and/or services carried out dishonestly or unlawfully or in a way that hampers business competition. This definition extends beyond conventional antitrust concerns and encompasses commercial conduct that exploits another undertaking's reputation through deceptive market practices. In the context of well-known trademarks, unfair competition may arise where a business actor intentionally adopts or registers a mark that closely resembles a famous trademark in order to capitalize on its established goodwill, mislead consumers, or obtain an unfair commercial advantage. Accordingly, the legal protection of well-known trademarks should not be viewed solely as the enforcement of exclusive trademark rights but also as a mechanism for preserving market fairness, protecting consumer confidence, and preventing the misappropriation of commercial reputation. Such an approach reflects the complementary relationship between Law No. 20/2016 and Law No. 5/1999, both of which ultimately seek to maintain honest commercial practices and fair market competition.[41]

Consequently, business actors who deviate from the law and fail to conduct business in accordance with business ethics may create a climate of unfair business competition. Regarding the conditions of unfair business competition, Azhari Akmal opines as follows:'In reality, a market with perfect competition is rarely encountered. What frequently occurs is imperfect competition. Nonetheless, competition is still viewed as something essential in a market economy. Competition remains recognized, except that the underlying assumptions differ from those underlying perfect competition. It is within this imperfect competition that monopolistic and oligopoly practices will be encountered.[42]

Based on the provisions of Article 1, point 6 of Law No. 5/1999, Elyta Ras Ginting outlines the elements of unfair business competition as follows: Any activity that contains the following elements: a. The existence of dishonest methods in business activities, both in the fields of production and marketing; b. The methods employed constitute an unlawful act; c. The unlawful act aims to eliminate competitors; d. The presence of elements constituting

[40] Antonio Roncero Sánchez, "Unregistered Trademark Protection: Between Trademark Law and Unfair Competition Law," *Lex Mercatoria Journal*, no. 8 (2024), https://doi.org/10.21134/n8w4t485
[41] Graeme B. Dinwoodie, "Ensuring Consumers 'Get What They Want': The Role of Trademark Law," *The Cambridge Law Journal* 83, no. 1 (2024): 36–61, https://doi.org/10.1017/S0008197323000636.
[42] Azhari Akmal Tarigan, "Praktek Monopoli dan Persaingan Usaha Tidak Sehat dalam Perspektif Hukum Ekonomi dan Hukum Islam," *Jurnal Mercatoria* 9, no. 1 (2016): 54–63, https://doi.org/10.31289/mercatoria.v9i1.351.

restrictive trade practices or barriers to entry; e. The act is committed among fellow business actors[43].

The principles of Law No. 5/1999 are regulated under Article 2, which stipulates that: 'Business actors in conducting their business activities in Indonesia shall be based on economic democracy, taking into account the balance between the interests of business actors and the public interest.' Meanwhile, the objectives of Law No. 5/1999 are governed under Article 3 of Law No. 5/1999, which determines that:

The objectives of enacting this law are to:

a. Safeguard the public interest and enhance national economic efficiency as part of the efforts to improve public welfare;
b. Realize a conducive business climate through the regulation of fair business competition, thereby ensuring equal business opportunities for large enterprises, medium enterprises, and small enterprises;
c. Prevent monopolistic practices and/or unfair business competition generated by business actors;
d. Achieve effectiveness and efficiency in business activities.

Unfair business competition is also known by the term unfair competition. Julius Rizaldi provides 5 (five) formulations of the forms of unfair competition in trademark ownership, as follows:

1. Any form of action that may cause confusion regarding the distinctive characters or marks belonging to well-known trademarks that are already widely recognized by the public.
2. Actions that imitate the product shape of a well-known trademark or product packaging that is already widely recognized by the public.
3. The use of a well-known trademark's characters on different types of goods/services; for instance, a well-known trademark is recognized for toothpaste products, but another party uses the identical character for a candy product. This action will mislead the public as if both products are related or originate from the same source.
4. The act of imitating a well-known trademark constitutes damage to the reputation of the pre-existing trademark. A concrete manifestation thereof is the loss of public trust in the quality of the well-known trademark's product due to the circulation of competitor products that resemble the well-known trademark or the mark previously utilized by said well-known trademark.
5. The existence of actions that demonstrate losses suffered by the well-known trademark or a decrease in sales turnover.[44]

Concerning acts of unfair business competition, Suhasril and Taufik Makaro posit that unfair competition constitutes unfair business conduct that contravenes good morals, including actions such as: manipulating consumers through deception or deceptive

[43] Elyta Ras Ginting, *Hukum Anti Monopoli Indonesia: Analisis Dan Perbandingan Undang-Undang Nomor 5 Tahun 1999*, (Bandung: Citra Aditya Bakti, 2001).
[44] Julius Rizaldi, *Perlindungan Kemasan Produk Merek Terkenal Terhadap Persaingan Curang* (Bandung: Alumni, 2009).

information, counterfeiting a competitor's trademark, launching comparative advertising that discredits rivals, and similar practices.[45] Amplifying this perspective, legal scholar Abdulkadir Muhammad delineates the prohibition against unfair business competition within the framework of Intellectual Property Rights as follows:

1. Unfair business competition constitutes a civil tort, which is forbidden by law and order.
2. Unfair business competition infringes upon the exclusive intellectual property rights granted by the state to Authors or Inventors, in a manner that harms the right holder and the public interest.
3. Unfair business competition can reduce or even halt the generation of new creations or inventions, thereby functioning as a prevention for industrial development.
4. Ultimately, unfair business competition reflects a clear moral decline or bad faith on the part of the commercial actor.[46]

Unfair business competition is also a major concern in the Paris Convention. Article 10bis, paragraph (2) of the Paris Convention stipulates that the operation of a business must not conflict with 'honest practices in industrial or commercial matters.' These 'honest practices in industrial or commercial matters' are also recognized under Article 16, paragraph (2) and paragraph (3) of the TRIPS Agreement. Another opinion regarding the concept of 'honest practices in industrial or commercial matters' is as follows: 'Honest trade practice' implies the existence of good faith in acquiring rights to a trademark or rights to a Geographical Indication. The presence of this good faith determines whether legal protection is granted. Rights to a trademark or rights to a Geographical Indication are only granted to a party acting in good faith. Thus, acting in good faith also constitutes the foundation for obtaining legal protection."[47] Beyond the 'honest trade practice' doctrine, the Paris Convention explicitly enumerates specific acts of unfair competition under Article 10bis paragraph (3). Article 10bis paragraph (3) of the Paris Convention mandates that:

The following in particular shall be prohibited:

1. all acts of such a nature as to create confusion by any means whatever with the establishment, the goods, or the industrial or commercial activities, of a competitor;
2. false allegations in the course of trade of such a nature as to discredit the establishment, the goods, or the industrial or commercial activities, of a competitor;
3. indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.

---

[45] Suhasril dan Muhammad Taufik Makarao, *Hukum Larangan Praktik Monopoli dan Persaingan Usaha Tidak Sehat di Indonesia* (Bogor: Ghalia Indonesia, 2010).

[46] Abdulkadir Muhammad, *Kajian Hukum Ekonomi Hak Kekayaan Intelektual* (Bandung: Citra Aditya Bakti, 2001).

[47] Lotte Anemaet, "Which Honesty Test for Trademark Law? Why Traders' Efforts to Avoid Trademark Harm Should Matter When Assessing Honest Business Practices," *GRUR International* 70, no. 11 (2021): 1025–1042, https://doi.org/10.1093/grurint/ikab079.

The definition of unfair business competition is regulated under Article 1, point 6 of the Unfair Business Competition Law. Based on this definition, it contains several elements as follows:

1. Competition among business actors.
2. Conducting production and/or marketing activities for goods and/or services.
3. Carried out dishonestly or unlawfully, or in a way that hampers business competition

If further elaborated and linked to the issue of the Pierre Cardin well-known trademark: concerning this first element, competition is defined in English as '... a struggle or contest between two or more persons for the same objects.' Bearing in mind the aforementioned terminology of competition, it can be concluded that in every competition, the following elements will be present: a. The existence of two or more parties involved in an effort to outperform one another; b. The existence of a mutual intent among them to achieve the same objective.[48] According to Teguh Sulistia, competition itself is divided into two categories, namely intra-brand competition and inter-brand competition. Intra-brand competition is a form of competition that occurs among distributors or retailers who carry products from the same business actor. Meanwhile, inter-brand competition is a form of competition among business actors who have products within the same relevant market.[49]

Alexander competes within the identical business sector as the proprietor of the famous French trademark 'Pierre Cardin,' specifically targeting the product industry protected under Class 3 goods. Moreover, both entities harbor a mutual objective: to derive maximum commercial profit from the distribution of their respective products. The rivalry between Pierre Cardin and Alexander Satryo Wibowo illustrates a form of inter-brand competition where both competitors utilize the exact same mark, Pierre Cardin. Operating within the identical classification of goods, this commercial friction not only inflicts financial injury upon the legitimate business actor but also detrimentally impacts consumers by engendering confusion over the existence of two identical Pierre Cardin brands. Therefore, the statutory element of business competition stipulated in Article 1 point 6 of Law No. 5/1999 is fully satisfied.

Furthermore, regarding the second element in the definition of unfair business competition, marketing strategies formulated by business actors will also impact the prevailing business competition climate. However, competition among business actors as producers is frequently carried out to capture existing consumers, whose numbers are limited[50]. Regarding good marketing strategies, Tarita Koeswanto posits that a healthy business competition climate can be fostered through the commitment and determination of business actors to implement Good Corporate Governance principles in managing their companies, spanning from business operations to the point where the products reach

[48] Arie Siswanto, *Hukum Persaingan Usaha* (Jakarta: Ghalia Indonesia, 2002).
[49] Teguh Sulistia, *Aspek Hukum Usaha Kecil Dalam Ekonomi Kerakyatan* (Padang: Andalas University Press, 2006).
[50] L. Budi Kagramanto, *Mengenal Hukum Persaingan Usaha (Berdasarkan UU No. 5 Tahun 1999)* (Surabaya: Laros, 2008).

consumers.[51] Pierre Cardin, as the owner of the well-known trademark from France, has long engaged in production and marketing activities across various parts of the world. Pierre Cardin utilizes its trademark for goods in classes 3, 9, 10, 12, 16, 18, 20, 21, 23, 24, 25, 30, 32, 33, and 34, whereas Alexander uses the Pierre Cardin trademark to protect Class 3 goods. This demonstrates that the production and marketing activities for products under the Pierre Cardin trademark both from France and owned by Alexander, are concurrently deployed for Class 3 goods within the market.

Furthermore, the protection of well-known trademarks is closely connected to market integrity, as trademarks serve as an important mechanism enabling consumers to accurately identify the commercial origin and reputation of goods or services. The unauthorized use or registration of a mark similar to a well-known trademark may disrupt the functioning of the market by creating a misleading perception regarding the source, quality, affiliation, or commercial relationship associated with a product. Such conduct not only prejudices the trademark owner through the erosion of its goodwill but also undermines the quality and reliability of information available to consumers when making economic decisions. Accordingly, the protection of well-known trademarks should not be understood solely as a mechanism for safeguarding the private interests of trademark owners, but also as a means of maintaining honest transactions, transparency of market information, and consumer confidence, all of which constitute important elements of market integrity.

And lastly, regarding the final element, the existence of business competition law within the realm of IPR specifically trademarks aims to provide protection for a climate of fair competition in order to open up economic opportunities, innovation, and possibilities for all parties.[52] Law No. 5/1999 provides 3 (three) alternative indicators to declare the occurrence of unfair business competition, as follows:

a. Business competition conducted in a dishonest manner;

b. Business competition conducted in an unlawful manner;

c. Business competition conducted in a manner that hampers competition among business actors.

Based on the elaboration above, it can be argued that the existence of the Pierre Cardin trademark owned by Alexander in Indonesia creates conditions of unfair business competition. The three methods for creating conditions of unfair business competition among business actors in Indonesia are alternative in nature. It can be stated that the unfair business competition resulting from trademark infringement and the free-riding on the reputation of the Pierre Cardin trademark from France was caused by 3 (three) methods: dishonestly, unlawfully, and by hampering competition. Therefore, the element of being conducted in a dishonest or unlawful manner, or hampering business competition, is fulfilled; thus, Alexander's actions have created conditions of unfair business competition as they satisfy the

---

[51] Saptana Tri Prasetiawan, Irdham Ahmad, Aswanti Setyawati, and Munawaroh Zainal, "The Power of Ethical Leadership on Good Corporate Governance and Contextual Performance," *Dinasti International Journal of Economics, Finance & Accounting* 5, no. 6 (2025), https://doi.org/10.38035/dijefa.v5i6.3720.

[52] Susanti Adi Nugroho, *Hukum Persaingan Usaha Di Indonesia Dalam Teori dan Praktik Serta Penerapan Hukumnya* (Jakarta: Kencana Prenada Media Group, 2012).

elements of unfair business competition as regulated under Article 1, point 6 of Law No. 5/1999.

Consequently, such unfair business competition can cause detriment to the public interest, namely by creating conditions that mislead consumers.[53] In addition to harming the public interest, this unfair business competition also damages Pierre Cardin as the owner of the well-known trademark. For this reason, Pierre Cardin may file a tort lawsuit for damages due to the unlawful act committed by Alexander Satryo Wibowo. Based on the grounds of trademark infringement and the emergence of unfair business competition, Pierre Cardin, as the well-known trademark owner, can seek damages for both trademark infringement and the unlawful act resulting from the unfair business competition.

The provisions regarding unlawful acts are regulated under Article 1365 BW, which stipulates that: 'Every unlawful act that causes damage to another person obliges the person whose fault caused the loss to compensate for it. In the context of well-known trademarks, the unauthorized registration or use of a trademark that exploits the reputation and goodwill of another party may constitute not only trademark infringement but also an unlawful act where such conduct causes economic loss, reputational damage, or consumer confusion. Consequently, Article 1365 serves as a complementary legal basis for claiming damages in addition to the remedies available under Law No. 20/2016. Furthermore, Pierre Cardin may file a lawsuit seeking the annulment of the trademark certificate issued for the trademark registered by Alexander Satryo Wibowo by challenging the trademark certificate as a State Administrative Decision (*Keputusan Tata Usaha Negara*—KTUN) before the State Administrative Court (*Pengadilan Tata Usaha Negara*—PTUN). This approach is based on the argument that, in essence, a trademark certificate may be classified as a State Administrative Decision within the meaning of the applicable laws and regulations. Such an action represents the most viable legal remedy available to Pierre Cardin, considering that all ordinary legal remedies as well as extraordinary legal remedies have already been exhausted by Pierre Cardin as the owner of the well-known trademark.

4. Conclusions

As a contracting state to the Paris Convention and the TRIPS Agreement, Indonesia applies the National Treatment principle to ensure equal legal treatment for foreign trademark owners and recognizes the Right of Priority as a mechanism for preserving the filing date of trademark applications submitted in the country of origin. However, the exercise of this right remains subject to specific procedural requirements, including compliance with the prescribed filing period and timely submission of supporting documents, so that failure to satisfy these requirements may result in the loss of priority status and require the trademark owner to rely on the ordinary registration mechanism in Indonesia. These clearly prescribed requirements provide an objective and predictable framework because applicants are able to determine in advance the conditions that must be fulfilled and the legal consequences of non-compliance. Nevertheless, the strict procedural nature of the Right of Priority demonstrates that the effectiveness of protection for foreign and well-known trademarks depends not only on

[53] Nukri Jintcharadze, "Understanding Trademark Likelihood of Confusion: Unfair Competition in a Digital Era," *European Scientific Journal* 20, no. 14 (2024): 1–17, https://doi.org/10.19044/esj.2024.v20n14p1.

substantive legal recognition but also on administrative compliance; therefore, legal certainty can only be optimally achieved where the applicable requirements are formulated clearly and applied consistently, transparently, and predictably by the relevant authorities.

On the other hand, the empirical dispute between the famous French brand, Pierre Cardin, and Alexander Satryo Wibowo illustrates a profound intersection between Intellectual Property (IP) infringement and antitrust violations. Alexander's unauthorized registration of an identical mark within the same classification of goods (Class 3) constitutes a predatory commercial behavior (free-riding) driven by bad faith, which triggers market distortion and disrupts the healthy competitive climate mandated by Law No. 5/1999. To restore market fairness and safeguard consumers from product origin confusion, the Indonesian legal framework offers dual-track judicial remedies. The legitimate proprietor is entitled to pursue the BW Track by initiating a tort lawsuit pursuant to Article 1365 BW to claim commercial damages, while concurrently utilizing the PTUN to revoke the predatory trademark certificate as a legally flawed KTUN.

5. Acknowledgements

The authors gratefully acknowledge Universitas 17 Agustus 1945 Surabaya and Universitas Airlangga for their valuable institutional support and collaboration throughout the research and preparation of this article.

6. Funding (optional)

No funding was received for this study.

7. References

Aïssaoui, Rachida, and Frances Fabian. "Globalization, Economic Development, and Corruption: A Cross-Lagged Contingency Perspective." Journal of International Business Policy 5, no. 1 (2022): 1–28. https://doi.org/10.1057/s42214-020-00091-5.

Akmal Tarigan, Azhari. "Praktek Monopoli dan Persaingan Usaha Tidak Sehat dalam Perspektif Hukum Ekonomi dan Hukum Islam." Jurnal Mercatoria 9, no. 1 (2016): 54–63. https://doi.org/10.31289/mercatoria.v9i1.351.

Alexander, Rendy. "Penerapan Prinsip 'First to File' pada Konsep Pendaftaran Merek di Indonesia." Kertha Semaya: Journal Ilmu Hukum 10, no. 9 (2022): 2110–2121. https://doi.org/10.24843/KS.2022.v10.i09.p12.

Alam, Md. Samsul, Faizul Haque, Prem Puwanenthiren, et al. "Whoever Walks in Integrity Walks Securely: Does Corporate Integrity Culture Mitigate Climate Change Exposure?" Journal of Business Ethics 204 (2026): 885–906. https://doi.org/10.1007/s10551-025-06088-5.

Anemaet, Lotte. "Which Honesty Test for Trademark Law? Why Traders' Efforts to Avoid Trademark Harm Should Matter When Assessing Honest Business Practices." GRUR International 70, no. 11 (2021): 1025–1042. https://doi.org/10.1093/grurint/ikab079.

Badan Pembinaan Hukum Nasional. Pemantauan dan Peninjauan Undang-Undang Nomor 20 Tahun 2016 tentang Merek dan Indikasi Geografis. Jakarta: Badan Pembinaan Hukum Nasional, 2025.

Batubara, Dinda Aprilia, OK. Saidin, and Edy Ikhsan. "Legal Protection of Well-Known Marks Against Passing Off: A Comparative Perspective." Jurist-Diction 8, no. 3 (2025): 301–324. https://doi.org/10.20473/jd.v8i3.68772

Basma, Dima. "Dilution Versus Unfair Advantage: Myths and Realities." International Review of Intellectual Property and Competition Law 52, no. 10 (2021): 1217–1257. https://doi.org/10.1007/s40319-021-01116-z.

Davis, Jennifer, and Łukasz Żelechowski. "Bad Faith, Public Policy and Morality: How Open Concepts Shape Trade Mark Protection." International Review of Intellectual Property and Competition Law 54, no. 7 (2023): 859–890. https://doi.org/10.1007/s40319-023-01350-7.

Dewi, Cokorde Istri Dian Laksmi. "Regulasi Pendaftaran Merek Internasional dalam Undang-Undang Republik Indonesia Nomor 20 Tahun 2016 tentang Merek dan Indikasi Geografis." Aktual Justice: Jurnal Ilmiah Magister Hukum Pascasarjana Universitas Ngurah Rai 3, no. 1 (2018). https://doi.org/10.47329/aktualjustice.v3i1.455.

Dinwoodie, Graeme B. "Ensuring Consumers 'Get What They Want': The Role of Trademark Law." The Cambridge Law Journal 83, no. 1 (2024): 36–61. https://doi.org/10.1017/S0008197323000636.

Djumhana, Muhammad, and R. Djubaedillah. Hak Milik Intelektual: Sejarah, Teori dan Praktiknya di Indonesia. Bandung: Citra Aditya Bakti, 2014.

Donandi S., Sujana, and Pandu Adi Cakranegara. "The Implementation of Well-Known Trademarks Doctrine in Indonesian Commercial and Supreme Court." Fiat Justisia 15, no. 2 (2021): 159–182. https://doi.org/10.25041/fiatjustisia.v15no2.2016.

Fuady, Munir. Hukum Anti Monopoli Menyongsong Era Persaingan Sehat. Bandung: Citra Aditya Bakti, 1999.

Ginting, Elyta Ras. Hukum Anti Monopoli Indonesia: Analisis dan Perbandingan Undang-Undang Nomor 5 Tahun 1999. Bandung: Citra Aditya Bakti, 2001.

Gunawati, Anne. Perlindungan Merek Terkenal Barang dan Jasa Tidak Sejenis terhadap Persaingan Usaha Tidak Sehat. Bandung: Alumni, 2015.

Harahap, M. Yahya. Tinjauan Merek Secara Umum dan Hukum Merek di Indonesia Berdasarkan Undang-Undang No. 19 Tahun 1992. Bandung: Citra Aditya Bakti, 1996.

Horman, Edbert Seligshan. "The Exclusive Rights of Licensees in Parallel Import Practices." Yuridika 36, no. 1 (2021): 57–74. https://doi.org/10.20473/ydk.v36i1.19378.

Huang, Wenting. "Protection of Well-Known Foreign Marks in the USA and China." Journal of Intellectual Property Law & Practice 16, no. 7 (2021): 666–676. https://doi.org/10.1093/jiplp/jpab037.

Jened, Rahmi. Hukum Merek (Trademark Law) dalam Era Global dan Integrasi Ekonomi. Jakarta: Prenadamedia Group, 2015.

Jintcharadze, Nukri. "Understanding Trademark Likelihood of Confusion: Unfair Competition in a Digital Era." European Scientific Journal 20, no. 14 (2024): 1–17. https://doi.org/10.19044/esj.2024.v20n14p1.

Kagramanto, L. Budi. Mengenal Hukum Persaingan Usaha (Berdasarkan UU No. 5 Tahun 1999). Surabaya: Laros, 2008.

Kurniawan, Itok Dwi, and Souad Ezzerouali. "Revisiting the Principle of Legal Certainty: A Contemporary Analysis through the Lens of Legal Positivism." Nusantara: Journal of Law Studies 3, no. 2 (2024): 137–146. https://doi.org/10.5281/zenodo.17385496

Kusumawati, Lanny. Aspek Hukum dalam Persaingan Usaha. Sidoarjo: Laros, 2010.

Lobo, Lobo P., and Ingrid Wauran. "Kedudukan Istimewa Merek Terkenal (Asing) dalam Hukum Merek Indonesia." Masalah-Masalah Hukum 50, no. 1 (2021): 70–83. https://doi.org/10.14710/mmh.50.1.2021.70-83.

Makarao, Muhammad Taufik, and Suhasril. Hukum Larangan Praktik Monopoli dan Persaingan Usaha Tidak Sehat di Indonesia. Bogor: Ghalia Indonesia, 2010.

Malaka, Masyhur. "Praktek Monopoli dan Persaingan Usaha." Jurnal Al-'Adl 7, no. 2 (2014): 39–52. https://doi.org/10.31332/aladl.v7i2.218.

Margono, Suyud. Aspek Hukum Komersialisasi Aset Intelektual. Bandung: CV Nuansa Mulia, 2010.

Marzuki, Peter Mahmud. Penelitian Hukum. Rev. ed. Cet. 15. Jakarta: Kencana, 2021.

Masunda, Stein, and Gabriel Mhonyera. "The Role of Intellectual Property Rights Protection on Intra-COMESA Trade with a Specific Focus on Trademarks." International Journal of Economics and Financial Issues 15, no. 1 (2024): 369–377. https://doi.org/10.32479/ijefi.17304.

Muhammad, Abdulkadir. Kajian Hukum Ekonomi Hak Kekayaan Intelektual. Bandung: Citra Aditya Bakti, 2001.

Nugroho, Susanti Adi. Hukum Persaingan Usaha di Indonesia dalam Teori dan Praktik serta Penerapan Hukumnya. Jakarta: Kencana Prenada Media Group, 2012.

Parinduri, Rahmi Jened Nasution. Interface Hukum Kekayaan Intelektual dan Hukum Persaingan (Penyalahgunaan HKI). Depok: RajaGrafindo Persada, 2017.

Peterson, Robert A., Isabella M. Cunningham, and Jeffrey A. Peterson. "Measuring Source, Affiliation, and Permission Likelihood of Consumer Confusion in Trademark Infringement Litigation." International Journal of Applied Decision Sciences 17, no. 2 (2024): 182–205. https://doi.org/10.1504/IJADS.2024.137010

Prasetiawan, Saptana Tri, Irdham Ahmad, Aswanti Setyawati, and Munawaroh Zainal. "The Power of Ethical Leadership on Good Corporate Governance and Contextual Performance." Dinasti International Journal of Economics, Finance & Accounting 5, no. 6 (2025). https://doi.org/10.38035/dijefa.v5i6.3720.

Pribadi, Slamet, and Dwi Seno Wijanarko. "Preventive Legal Protection of Trademarks in Indonesia Based on Law Number 20 of 2016 Concerning Marks and Geographical Indications." Journal of Law, Politic and Humanities 3, no. 1 (2023): 227–235. https://doi.org/10.38035/jlph.v3i1.161.

Rizaldi, Julius. Perlindungan Kemasan Produk Merek Terkenal terhadap Persaingan Curang. Bandung: Alumni, 2009.

Rokhim, Abdul, Annisa Wijayanti Winarsoputri, and Diyan Isnaeni. "Application of the Principle of Good Faith in the Implementation of Trademark Registration in Indonesia Based on the Supreme Court Decision Number 1051 K/PDT.SUS-HKI/2023." International Journal of Business, Law, and Education 5, no. 2 (2024): 2109–2124. https://doi.org/10.56442/ijble.v5i2.793.

Roncero Sánchez, Antonio. "Unregistered Trademark Protection: Between Trademark Law and Unfair Competition Law." Lex Mercatoria Journal, no. 8 (2024). https://doi.org/10.21134/n8w4t485.

Rundle, Kristen. "Fuller's Internal Morality of Law." Philosophy Compass 11, no. 9 (2016): 499–506. https://doi.org/10.1111/phc3.12338

Saidin, OK. Aspek Hukum Hak Kekayaan Intelektual (Intellectual Property Rights). Jakarta: RajaGrafindo Persada, 2009.

Samaranayake, Wathsala Ravihari. "Well-Known Marks: Jettisoning the 'Domestic Registration Requirement' Vis-à-Vis Dissimilar Goods and Services." GRUR International 74, no. 6 (2025): 507–524. https://doi.org/10.1093/grurint/ikaf054.

Siswani, Carina Budi. "Implementation of Good Faith Principles in Trademark Registration in Indonesia." Journal of Law, Politic and Humanities 5, no. 6 (2025). https://doi.org/10.38035/jlph.v5i6.2547.

Siswanto, Arie. Hukum Persaingan Usaha. Jakarta: Ghalia Indonesia, 2002.

Subagyono, Bambang Sugeng Ariadi, Irawati, and Pujiyono. "Legal Threats against the Existence of Famous Brands: A Study on the Dispute of the Brand Pierre Cardin in Indonesia." International Journal of Law and Management 63, no. 4 (2021): 387–395. https://doi.org/10.1108/IJLMA-01-2018-0006.

Sujatmiko, Agung, Mochamad Kevin Romadhona, Patrick Keizer, and Christoph Antons. "The Legal Reform of Trademark Protection and Dispute Mitigation: Lessons From Licensing Well-Established Brands in Indonesia." Journal of Law and Legal Reform 5, no. 2 (2024). https://doi.org/10.15294/jllr.vol5i2.3467.

Sulistia, Teguh. Aspek Hukum Usaha Kecil dalam Ekonomi Kerakyatan. Padang: Andalas University Press, 2006.

Tse, C. H., Klaus E. Meyer, Yigang Pan, and Tailan Chi. "Evolution of MNE Strategies amid China's Changing Institutions: A Thematic Review." Journal of International Business Studies 55, no. 6 (2024): 657–675. https://doi.org/10.1057/s41267-024-00715-5.

Upreti, Pratyush Nath. "The Role of National and International Intellectual Property Law and Policy in Reconceptualising the Definition of Investment." International Review of Intellectual Property and Competition Law 52, no. 3 (2021): 301–330. https://doi.org/10.1007/s40319-020-01009-7.

Usman, Rachmadi. Hukum Hak Atas Kekayaan Intelektual: Perlindungan dan Dimensi Hukumnya di Indonesia. Bandung: Alumni, 2003.

Utomo, Tomi Suryo. Hak Kekayaan Intelektual (HKI) di Era Global: Sebuah Kajian Kontemporer. Yogyakarta: Graha Ilmu, 2010.

Winatha, I Gede Mahatma Yogiswara, A. A. Gede Agung Indra Prathama, and Putu Chandra Kinandana Kayuan. "Comparative Analysis of Legal Protection and Criteria of Well-Known Marks (Indonesia, United States, India, China, and Germany)." Audito Comparative Law Journal 4, no. 1 (2023): 45. https://doi.org/10.22219/aclj.v4i1.23768.