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Research Article

Strengthening Intellectual Property Rights: Legal Responses to Trademark Counterfeiting in Indonesia's E-Commerce Era

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Abstract: This research examines legal protection against the unauthorized use of counterfeit trademarks in Indonesia under Constitution Number 20 of 2016 concerning Brands and Geographical Indications (MIG Law). The study addresses significant challenges arising from the circulation of counterfeit goods, which causes economic losses of up to Rp 291 trillion, tax revenue losses, and employment disruptions. With the rise of e-commerce and digital platforms, counterfeiters exploit technological advancements to distribute fake products widely, complicating enforcement efforts. The research objectives include analyzing the comprehensive legal framework for trademark protection, evaluating enforcement mechanisms, and identifying effective dispute resolution routes. The study employs a qualitative approach, reviewing relevant legislation, enforcement data, and stakeholder perspectives. Key findings reveal that while the MIG Law provides a strong statutory basis, enforcement remains constrained by procedural requirements such as the necessity of owner complaints to trigger criminal proceedings. Non-litigation alternatives like mediation and arbitration offer viable dispute resolution but depend on effective implementation. Criminal enforcement is notably more effective in securing counterfeit goods than civil litigation. The study recommends legal reforms to empower authorities for proactive actions without owner complaints and the enhancement of human resource capabilities, including IP investigator training and mediator certification. In conclusion, strengthening both legal provisions and institutional capacity is essential for robust protection of registered trademarks against counterfeiting in Indonesia's evolving digital economy.

Keywords: Intellectual Property Rights; Trademark Counterfeiting; E-commerce.

1. Introduction

In the era of global trade today, this brand has a vital role in business and trade. Because the brand is a sign That differentiates a product produced by someone or a legal entity from products produced by other parties [1]. The brand does not only function as an identity of a product, goods, or services but also becomes asset valuable which describes reputation and quality from a product or services offered by the perpetrator business. According to Constitution Number 20 of 2016 concerning Brands and Indications Geographic, brands are defined as signs that can be displayed in a way graphic in the form of images, logos, names, words, letters, numbers, or a combination of elements that have Power differentiator and used in activity trading goods and services. Existence brands become crucial in guarding healthy, fair, and protective business consumers and supporting Micro, Small, and Medium Enterprises (MSMEs) and the domestic industry.

Opportunity violations and technology, information, and communication development are also increasing. One form of violation of rights, such as Intellectual Property (IPR), is the most frequently occurring and impacts the owner of a legitimate brand. Practice forgery of brands not only happens in traditional markets but is also increasingly rampant in digital

markets or e-commerce [2]. This becomes a serious issue for an owner brand registered that has been building a reputation and trusting consumers for years.

Circulating goods' false potential harms the economy RI up to Rp 291 trillion. This study was conducted by the Indonesian Anti-Counterfeiting Society (MIAP) and the Institute for Economic Analysis of Law & Policy, Pelita Harapan University (IEALP UPH), regarding the impact of forgery on the Indonesian economy. According to the report, state losses caused by circulation products reached more than Rp. 291 trillion, with a loss on tax amounting to Rp 967 billion, and more than 2 million chance work. Example case Directorate Criminal Specifically, Polda Metro Jaya confiscated 77,061 various forms of packaging medicines and supplements. Among the proof of Goods is the product supplement brand Interlac, the originally produced company PT Interbat pharmacy. The company reports forgery products they find after violations in e-commerce or marketplace.

DJKI has strengthened enforcement strategy law and collaboration with e-commerce platforms such as Tokopedia, Shopee, Bukalapak, Lazada, and TikTok Shop to press the number of violations. Throughout 2021, Tokopedia removed more than 1.4 million products illegally and closed more than 25,000 stores that violate IP. Collaboration This covers the agreement of the same (MoU) for preventing the circulation of goods, the KI certification program, and education for platform managers and actors' businesses.

The Indonesian government acknowledges the importance of protecting brand rights, particularly in the face of global and regional economic development. In response, Indonesia has renewed regulations related to brands to validate Constitution Number 20 of 2016 concerning Brands and geographical indications. This replaces Constitution Number 15 of 2001 concerning Trademarks, which are still lacking and cannot accommodate development needs in the Brands and Indications Geographical [3].

Protection laws for brands become essential to remember the magnitude of potential caused by used by practicing forgery brands. Brands registered officially in the Directorate General Rights Riches Intellectuals of the Ministry of Law and Human Rights receive protection law for 10 years from the registration date, which can be extended for the same period [4]. This gives certainty to the owner brand to operate his efforts and form state recognition of the right exclusive owner brand. The right exclusive section covers several important things. First, the right to use the brand exclusively, where the owner brand prevents other parties from using the same or similar brand, can cause societal confusion [5]. Second, the right To transfer or divert ownership of the brand, which allows the brand to be traded, inherited, or diverted to other parties [6]. Third, the rights demand the party using the brand without permission, which allows the owner brand to submit a lawsuit to the offender brand to get change, make a loss, or terminate the use of infringing brand law.

However, many perpetrator businesses still do not understand the importance of registering brands and protecting the laws that accompany them. Research shows a constraint in understanding and awareness of the public protection law brand in law and government [4]. Lack of understanding This is an enabling factor that makes the occurrence violation brand extensive and sustainable.

Temporarily, forgery brands harm the owner's legitimate brands financially and damage the reputation and trust of consumers to produce original products. In the context of the national economy, practicing forgery brands can lower the domestic power competition industry and inhibit economic growth [3]. Although Indonesia has its framework of adequate laws for protecting brands, enforcement laws to violate brands Still face various challenges. One of the main challenges is the implementation provision in the constitution, which states that a brand violation is an offense complaint according to Article 103 of Law No. 20 of 2016 [2]. This means that violations of brand No will be prosecuted by law enforcement law without a complaint from the owner brand. This causes lots of case violation brands that are not reported or followed up for various reasons, such as lack of awareness of the owner brand or consideration of cost and time in the process of enforcement law.

The other challenge is progress in technology information and the presence of e-commerce platforms that open up bigger opportunities for perpetrator-violation brands. Online transactions are increasingly popular, allowing the circulation of false products with more reach and broad and challenging detection. Vice President of the Indonesian Corporate Counsel Association (ICCA) Yanne Sukmadewi states that with technological progress and e-commerce, opportunities to perpetrate violation brands have become bigger [7]. Condition This demands mechanism protection and enforcement of more effective laws for face forms

violation brands in the digital age. Effective effort law still needs to be improved to give optimal protection for the registered owner brand. Yanne Sukmadewi tips perpetrator businesses for handling problem violation brands with internal focus and external effort before choosing step litigation. Internal focus includes monitoring system companies online and offline, while external effort includes casting reports to institution-related or requesting e-commerce platforms to take down products falsely.

Constitution Number 20 of 2016 concerning Brands and Indications Geographical has arranged various protection laws and efforts to settle dispute brands. In preventive protection law done through system registration, brands require various criteria to ensure that the registered trademark is not equal to the brand registered other or not contradictory with the constitution's provision [8]. In a way, repressive law also regulates criminal and civil sanctions for perpetrators who violate the brand.

For owners whose rights are violated, several effort laws concerning Trademarks and Indications Geographic can be taken in Article 83 of Law No. 20 of 2016. Owner brand can submit a lawsuit, change, loss, and/ or termination of all related actions with the brand in a way without rights. In addition, Article 100-102 of Law No. 20 of 2016 concerning Trademarks and Indications Geographical explains that offender brands can also be charged sanctions in the form of criminal prison maximum of 10 years and a fine of up to Rp5 billion [2]. The dispute brands can be completed through court ortive settlement disputes like negotiation, mediation, or arbitration.

Based on the introduction above, research about Legal Protection Against Use Rights to Counterfeit Trademarks Based on Constitution Number 20 of 2016 Concerning Brands and Indications Geographical has become very relevant and important. Research This can analyze comprehensive forms of protection, the law given to owner-brand registered, and the laws that can be taken if a forgery brand happens.

The protection of intellectual property rights, particularly trademarks, has become increasingly vital in the digital era, where the circulation of counterfeit goods not only undermines economic stability but also challenges the effectiveness of existing legal frameworks. Previous research has primarily focused on the economic impact of brand counterfeiting in Indonesia, the regulatory responses such as the enactment of Law No. 20 of 2016 concerning Trademarks and Geographical Indications and the persistent gaps in public understanding and enforcement mechanisms. However, earlier analyses have not sufficiently addressed the interaction between technological advancements, such as the rise of e-commerce, and the evolving strategies for brand protection and law enforcement. The novelty of this research lies in its comprehensive examination of brand protection within the context of digital platforms, contrasting current legal responses with practical realities faced by brand holders, and proposing more adaptive enforcement strategies that integrate both preventive and repressive measures.

The study finds that even though significant legal frameworks exist, the prevalence of online trademark infringement necessitates renewed approaches that bridge regulatory intent with on-the-ground effectiveness, especially as e-commerce continues to expand. This research formulates the core question: How can Indonesia's legal protection mechanisms for trademarks be made more effective in responding to violations emerging from digital environments, particularly e-commerce, and what regulatory or procedural improvements are required to enhance brand owner protection and enforcement in this evolving landscape? This question becomes the central thread guiding the subsequent analysis and discussion throughout the article.

2. Preliminaries or Related Work or Literature Review

The legal protection of trademarks in Indonesia has been extensively examined in the aftermath of Law No. 20 of 2016 on Marks and Geographical Indications. This review synthesizes key findings from recent Scopus-indexed studies and other peer-reviewed literature, highlighting the evolution of regulatory mechanisms, enforcement challenges, and emerging dispute-resolution strategies.

2.1. Regulatory Framework and Scope of Protection

Law No. 20/2016 replaced the earlier Law No. 15/2001, expanding the definition of a "mark" to include names, logos, sounds, holograms, and combinations thereof. It adopts a

first-to-file registration system, granting exclusive rights upon registration and providing a refusal ground for applications substantially similar to well-known marks even for dissimilar goods or services under Article 21. However, foreign well-known trademarks must still establish recognition in Indonesia to benefit from these provisions, creating evidentiary burdens for international rights holders [9].

2.2. Famous Marks and Recognition Criteria

Several studies analyze the parameters for recognizing a mark as "well-known." Donandi & Cakranegara note that Indonesian examiners and courts consider public recognition, marketing investments, international registrations, successful enforcement actions, and valuation associated with the mark's reputation. Despite these criteria, absence of implementing regulations has led to inconsistent application and reliance on judicial discretion, undermining legal certainty [10].

2.3. Enforcement Challenges and ADR Mechanisms

Empirical research indicates that enforcement of trademark rights faces systemic hurdles: low awareness among MSMEs, underdeveloped Online Dispute Resolution (ODR) infrastructure on local e-commerce platforms, and the high cost and duration of conventional litigation. Tutuarima and Tuasikal advocate for strengthening Alternative Dispute Resolution (ADR) by integrating ODR systems, enhancing legal literacy, and fostering collaboration among government, ADR institutions, and platform providers to accelerate and streamline dispute resolution [11].

2.4. Trademark Protection in E-Commerce

The rapid growth of e-commerce has intensified trademark infringement, especially counterfeiting and unauthorized use. Kennedy and Wartoyo evaluate trademark protection on Tokopedia, Shopee, and Lazada, arguing that platform-level internal policies and cooperation with authorities are vital for preventing infringements and maintaining consumer trust. They emphasize the human rights dimension, framing trademark protection as essential for safeguarding the economic and social rights of brand owners and ensuring fair marketplace conditions [12].

2.5. Legal Remedies and Future Directions

Studies on specific cases, such as Scopus brand infringement by local entities, illustrate the practical application of Law No. 20/2016's criminal and civil sanctions provisions. Notably, Elsevier has pursued both criminal complaints and cancellation actions based on "persamaan pokoknya" with unregistered but well-known marks. Future research suggests empirical assessments of court decisions to gauge the consistency of judicial reasoning and the impact of recent amendments under the Job Creation Law on enforcement efficacy [13].

Collectively, the literature underscores that while Law No. 20/2016 provides a comprehensive statutory framework, its effectiveness hinges on coherent implementing regulations, robust dispute-resolution infrastructure, and enhanced stakeholder awareness. Strengthening ODR, standardizing well-known mark recognition guidelines, and bolstering public and judicial capacity are critical to realizing the law's protective ambitions.

3. Proposed Method

This method studies law normative with an approach to legal doctrinal focus on analysis of material primary and secondary law-related protection brands [14]. The Normative method was chosen Because object study in the form of norm law in Constitution Number 20 of 2016 concerning Brands and Indications Geographical, as well as its implementation in decision court and doctrine law. Researchers adopt a descriptive-analytical specification study to describe mechanism protection law at a time to analyze the effectiveness of regulation in handling forgery brands.

Primary data were obtained from legislation (particularly Law No. 20/2016), commercial court decisions, and official documents from the Directorate General of Intellectual Property. Secondary data included legal journals, scientific articles, textbooks, and official publications from relevant institutions related to trademark counterfeiting. Data was collected through

library research by systematically inventorying legal materials using content analysis techniques [15].

Data analysis using the qualitative interpretive method has three stages: 1) presentation of data, 2) data reduction with grouping material law based on the theme, and 3) verification through triangulation sources for valid findings. The statute approach is applied to study hierarchy and consistency norm law, while the conceptual approach is used to analyze construction law brands in the Indonesian IPR system.

Study This limits the analysis of aspects of positive law without involving studies in the empirical field, considering the focus on implementing normative Law No. 20/2016. The study's validity is guarded through credibility, and only material law accredited is used. Moreover, dependability with following protocol study law is good normative.

4. Results

4.1. Legal Protection Against Use of Trademark Rights

Based on Law No. 20 of 2016 concerning Trademarks and Indications Geographical, protection law to owner brands registered in violation through forgery brand covers aspect rights exclusive, mechanism lawsuit civil, sanctions criminal, and alternative settlement dispute. Rights exclusive owner brand registered is guaranteed after the registration process is complete. The power distinguisher, mark graphics (incl. non-traditional brands like sound, hologram, or form three dimensions), and use in trading goods/services. Owner brand registered its authority to prevent the use of the brand by another party without permission, okay for goods/services similar and also No similar, as long as there is equality mainly or the whole that gives rise to consumer confusion [16].

In the context of the forgery brand, protection law is set up through Article 83 of Law No. 20/2016, where the owner brand can submit a lawsuit in court Commerce For demand change to make a loss or termination use a brand by actor counterfeiter. Lawsuit This is applicable if there are similarities in principle (e.g., similarity sound, shape, or combination element dominant) or if the overall brand is registered with brands used by perpetrators. For example, using a "Strong" brand for similar toothpaste with a brand registered "Strong" can be considered a violation that meets the requirements of the condition of a lawsuit change loss. The judge's considerations in the case similarly emphasize the loss of financial experience , owner brand consequence, subtraction sale or reputation, and the intentional perpetrator in violating the right brand [17].

On the criminal side, Article 100-102 of Law No. 20/2016 provides threat sanctions layered for perpetrator forgery brands. The perpetrator who uses a brand in the same way overall for goods/services can be sentenced to 5 years in prison or a fine of Rp. 2 billion, while using a brand similar in principle is threatened with 4 years in prison or Rp2 billion fine. Threat sanctions are more heavily applied If the product is false, resulting in a disturbance of health, environment, or death of humans, with a maximum of 10 years in prison or a fine of Rp5 billion. In addition, trade goods results for counterfeit brands are subject to a 1-year penalty confinement or a Rp 200 million fine by Article 102 [18].

It is important to note that the criminal forgery brand includes an offense complaint, so the owner brand must submit a report to the Police or Directorate General Riches Intellectual (DJKI) to trigger legal proceedings. Without complaint, enforcement law cannot be enforced, even though proof of violation is already evident. On the other hand, Law No. 20/2016 also provides room for settlement dispute alternatives like mediation or arbitration, which allows the owner brand to finish problems without through-track litigation [16].

The owner brand is obliged to ensure the use of the brand in a way that is active in terms of time, and certain aspects also become important. Article 74 of Law No. 20/2016 regulates the deletion of registered brands that have not been for three consecutive years (before being changed to 5 years old based on Constitutional Court Decision No. 144/PUU-XXI/2023. This aim allows owner brands, especially SMEs, to overcome constraints such as force majeure that hinder brand use. However, the owner still must maintain the right to monitor violations and take action if required.

To press IP violations, DJKI has strengthened enforcement strategy law and collaboration with various e-commerce platforms such as Tokopedia, Shopee, Bukalapak, Lazada, and TikTok Shop. Throughout 2021, Tokopedia removed more than 1.4 million products illegally and closed more than 25,000 stores that violate IP. Collaboration This

covers the agreement Work (MoU) for preventing the circulation of fake goods, the KI certification program, and education for platform managers and actors' businesses [19].

A study conducted by the Indonesian Anti-Counterfeiting Society (MIAP) and the Institute for Economic Analysis of Law & Policy, Universitas Pelita Harapan (IEALP UPH) on the impact of forgery on the Indonesian economy. Quoted from the report: These are state losses caused by circulation products falsely reaching more from Rp. 291 trillion, with loss on tax amounting to Rp 967 billion, and more from 2 million chance Work [20].

Investigator Directorate Criminal Specifically, Polda Metro Jaya confiscated 77,061 various forms of packaging medicines and supplements. Among the proof of Goods is the product supplement brand Interlac, the originally produced company PT Interbat pharmacy. The company reports forgery products after finding violations in e-commerce or the marketplace. As for goods not by rules, they circulated not only on online platforms but also in stores outside the network. Five men responsible answer in matter This. They are IB (31), I (32), FS (28), FZ (19), and S (62), which were found in nine different locations in Jakarta and Banten. Since 2021, they estimated a scoop-up profit amounting to Rp. 130.4 billion [21].

Thus, protection laws for using the right brands in Indonesia have been set up comprehensively through Law No. 20 of 2016, which includes giving exclusive rights, mechanism lawsuits, civil and criminal sanctions, and settlement dispute alternatives. However, the challenges in the field are still significant, as reflected by the high number of violations and losses caused by the economic consequences of forgery brands. For that, the synergy between owner brand, apparatus enforcer law, government, and actors industry, including e-commerce platforms, is essential to strengthen the protection of the right brand and press circulation goods. Success protection laws for brands depend on existing regulations on awareness, supervision, and enforcement of consistent and collaborative laws across the board in ecosystem trade.

4.2. Legal Remedies and Alternatives Completion Trademark Dispute

Competition dispute brands in Indonesia face the complexity of law, economy, and society. Based on the analysis of framework regulations and practices enforcement law, the latest system of protection riches intellectual property (IPR) adopted a multi-path approach combining mechanism litigation, restorative, and alternative settlement dispute resolution (ADR). This integration reflects an effort to interest holder rights, perpetrator violations, and society-wide while simultaneously accommodating substantive principal justice in the modern IPR regime.

Constitution Number 20 of 2016 concerning Brands and Indications Geographical (MIG Law) stipulates two main settlement tracks for disputes: litigation through Court Commercial and non-litigation via mediation or arbitration. Article 90 of the MIG Law specifically explicitly mandates effort mediation before lawsuit submission, except for cases of piracy brands. This aligns with the principle of first to file, which becomes the action system registration brand in Indonesia, where protection law is only given to registered brands registered brands [22].

The MIG Act sanctions progress starting from a fine of Rp2 billion until a criminal 5 years in prison for violation of brand identical and 4 years for brand substantive similar. Sanctions are a deterrent effect during instrument recovery loss of economy holder rights. Article 21 of the MIG Law regulates the mechanism for lawsuit cancellation, which must have the brand submitted to Court Commerce within 5 years from registration. The decision court became condition absolute for Directorate General Riches Intellectual (DJKI) to revoke the legal status of the brand dispute. In practice, case litigation brands in Indonesia involve confiscation maritime preliminary injunction to prevent proof of the disappearance of goods during the legal process.

Violating Right Riches Intellectual Property (IPR), particularly brands, has become a serious challenge in Indonesia. Based on Bareskrim data, the Police, from 2016 to February 2024, recorded 636 IPR crimes handled, with 658 cases among them related to violation brands (Kurniawan, 2023). Enforcement efforts, laws, and alternatives to settlement disputes should be kept going to protect the right owner brand. This article analyzes effectiveness mechanisms based on empirical data and studies.

- **Mechanism Criminal Law Enforcement:** Handling case violation brands through tracking criminals becomes the primary choice for secure proof physical and stop

practice illegal. According to Bareskrim data Police, from 1,167 reports of IPR violations received Since 2016, 709 reports (60.7%) have been completed at the level of Police. Investigator Indonesian National Police used his authority to do foreclosure goods evidence, such as forgery supplement Interlac, which resulted in the confiscating of 77,061 packages of products [23]. The investigation process often ends with agreement, peace, and restorative justice. For example, in 2016–2021, 656 cases (68.5%) of IPR violations were stopped (SP3) because of peace between reporter and reporter. Mechanism This is viewed efficiently to avoid a lengthy judicial process, although critics highlight the risk of injustice if the perpetrator does not bear full consequences.

- **Alternative Completion Disputes Outside Court:** Apart from the criminal path, settlement disputes through mediation and arbitration are more interesting. Directorate General Riches Intellectuals (DJKI) noted that in 2023, 53 complaints of IPR violations were accepted, with 22 cases completed through mediation (DJKI, 2024). An example is the case violation right ebook creation by SMK Kehutanan Pekanbaru, which was completed with a change loss of Rp. 5,000,000 and the commitment socialization right created at school [24]. DJKI also strengthens mediator capacity through work the Same with the National Mediation Center (PMN), producing 37 certified mediators by 2024. Institutions such as the Arbitration Board IPR Mediation (BAM IPR) handled 1,184 IPR cases from 2015–2021, focusing on completing dispute brands and rights.
- **Effectiveness Handling Criminal vs. Civil:** Although Track Civil allows owner brand demand change to make a loss economy, the proof process is often complicated. Data shows that 243 cases of right creation and 27 cases of design industry handled by the Indonesian National Police (2016–2021) are more effective in a criminal way because of the ability of investigators to secure proof of goods [7]. On the other hand, civil lawsuits in court business are only effective if the perpetrator has been identified and evidence documentation is strong. Practitioner Donny A. Suryaputra Law confirmed that tracking criminals is superior to forgery brands because they allow foreclosure immediately. For example, in the Polda Metro Jaya operation, 77,061 items of proof supplement false success secured through criminal investigation [23].
- **Case Study Mediation vs. Investigation Criminal:** DJKI 2023 will handle 128 IPR violations, with 22 cases completed through mediation (DJKI, 2024). One example of success is mediation between the Association Caring for Creative Works (PPKC) and Forestry Vocational School Pekanbaru. Initially, PPKC demanded a change in the loss of Rp. 13,900,000, but the second party agreed on Rp. 5,000,000, accompanied by a commitment to socialization rights created [24]. Case mediation dispute Longchamp brand handled Directorate General Riches Intellectuals (DJKI) became an example concrete from this mechanism. In this case, DJKI facilitated agreement peace between the owner of the Longchamp brand and bag shop owners who use the brand, with an agreement change to make a loss amounting to 50 million rupiah and a commitment to stop the production and distribution of illegal. Mediation process This involves pre-mediation. For equalization perception, the second split party before the discussion is intensive, finally reaching a consensus [25]. On the other hand, investigating criminal seller supplements in Jakarta secured 77,061 evidence and uncovered the forgery method brands on e-commerce platforms (Kurniawan, 2023). This case shows that a combination of enforcement of law crimes and awareness of perpetrator businesses is required to reduce violations.
- **Challenges and Recommendations:** Although enforcement of the law to violate rights and access to Intellectual Property Rights (IPR) in Indonesia continues to increase, several challenges still need to be addressed so that IPR protection runs optimally. One of the challenges is the limitations of Source Power human beings, where the Directorate General Riches Intellectuals (DJKI) currently only has 37 certified mediators to handle thousands of cases throughout Indonesia. In addition, the report's vocation also becomes constraint significant, recording as many recordings of IPR violations as possible Because the reporter is interested in the consensus economy of or threat from the party reported. Another challenge is coordination across institutions that still needs to be enhanced; for example, a collaboration between DJKI, Bareskrim Police, and Customs will succeed in closing 4,070 illegal sites by 2023, although the amount increased from 1,326 sites in 2016 previously. To overcome

various challenges, some recommendations can be implemented, including training 500 investigators, addition specifically IPR at the level area, socialization of restorative justice scheme so that agreement peace No harm owner brand, as well as integration system digital reporting such as The Lion HKI application, has received 1,167 reports since 2016. With these steps, effective enforcement of law and protection of intellectual property rights in Indonesia is expected to be improved. Data shows that settlement dispute brands through crime are more effective quantitatively, with 709 cases completed by the Police. However, mediation and arbitration are still required to reduce the burden on courts. Collaboration inter-agency, improvement of human resources capacity, and technology reporting have become key to strengthening IPR protection in Indonesia.

5. Discussion

5.1. Effectiveness Regulation of Law No. 20 of 2016 in Handling Trademark Counterfeiting

Law No. 20 of 2016 concerning Trademarks and Indications Geographic (MIG Law) has provided a comprehensive framework for protecting brand-registered goods through mechanisms of preventive registration brand and repressive sanctions criminal and civil. However, its implementation still faces significant challenges. Bareskrim Data Indonesian National Police (2016–2024) shows that from 1,167 reported IPR violations, only 709 cases (60.7%) were resolved at the level of investigation, while 656 cases (56.2%) were discontinued through agreement peace restorative justice. This indicates that even though the MIG Act provides threat criminals with up to 10 years imprisonment and a fine of Rp. 5 billion, preference for non-litigation settlement precisely dominates, potentially reducing the effect of the deterrent perpetrator.

The main constraints lie in the status of the isolated brand as an offense complaint (Article 103 of the MIG Law), which requires the owner brand to submit an official report to trigger legal proceedings. In the context of the digital economy, this mechanism Is Ineffective Because Lots of owner brands, especially MSMEs, cannot track and report massive e-commerce platform breaches. Case study confiscation of 77,061 packages supplemented by Polda Metro Jaya (2023) shows that law enforcement is only effective If supported by proof of physical and coordination across institutions.

5.1.1. Economic and Social Impacts of Trademark Counterfeiting

Forgery brands harm owner rights financially and have a systemic impact on the economy nationally. The Indonesian Anti-Counterfeiting Society (MIAP) report revealed that state losses reached Rp. 291 trillion consequence circulation product fake, with lost tax amounting to Rp967 billion and 2 million field threatened work. Examples are seen in the case for forgery supplement Interlac, where the perpetrators produced profit illegally amounting to Rp130.4 billion before arrest.

On the consumer's side, products falsely at risk endanger health and safety, such as in case medicines and supplements are fake containing toxic material. However, the low awareness society, where 63% of buyers do not care about authenticity products, aggravates the circulation of goods illegally. This demand approach is holistic and combines enforcement law with education.

5.1.2. Challenge Law Enforcement in the Digital Age

The development of e-commerce has expanded the scope for forgery brands. Throughout 2021, platforms like Tokopedia deleted 1.4 million products illegally and closed 25,000 violating stores, but the number of violations is still high because easy registration account sellers are false. Anonymity in the digital world makes it challenging to identify the perpetrator, while the production speed of goods falsely exceeds the apparatus's ability to investigate.

DJKI collaboration with digital platforms through a Memorandum of Understanding (MoU) and system takedown automatically becomes step progressive. However, its effectiveness is hampered by the limited human resources of DJKI, which only has 37 certified mediators to handle thousands of reports nationwide. Required integration technology intelligence artificial intelligence (AI) and blockchain for tracking chain supply and verifying the authenticity of products in real-time.

5.1.3. The Dilemma of Restorative Justice in Trademark Dispute

Implementing restorative justice (RJ) in settlement dispute brands, as in the case of mediation between PPKC and SMK Forestry Pekanbaru (2023), successfully saves time and cost law. However, RJ risks harming the owner's brand If the agreement peace is not accompanied by proportional compensation. For example, replace loss of Rp. 5 million in case violation right ebook creation rated No comparable with loss economy owner right.

In addition, RJ often utilizes perpetrators to avoid sanctions. Bareskrim Data Indonesian National Police (2016–2021) showed that 68.5% of cases were stopped via RJ, but only 22% of perpetrators complied with commitment change loss. To mitigate this risk, the MIG Act must revise the RJ mechanism with an obligatory supervision implementation agreement and sanctions for the perpetrator of the violation commitment.

5.1.4. Critical Analysis Regarding the Status of Complaint Offenses

Violation status branded as an offense complaint (Article 103 of the MIG Law) becomes an obstacle in enforcement law. In 2016–2024, the reporter revoked 44% of reported violations because of pressure, economics, or threats from the perpetrator. This contradicts the principle of proactive enforcement in the TRIPS Agreement, which requires WTO member countries to take action for IPR violations without waiting for a complaint.

If the brand is registered, a change of violation status is required to become offense normal without condition complaint to allow the apparatus to act independently. This step aligns with practices in Singapore and Malaysia, where the Police can confiscate false products based on findings without reporting the owner's brand. A revision of the MIG Law is also necessary to strengthen the authority of DJKI and Customs to supervise trading across limits proactively.

5.1.5. Recommendation Strategic For Strengthening Trademark Protection

Based on the above analysis, some recommendations can submitted:

a. MIG Law Revision: Changing the status of violations brand registered becomes offense normal for cases with proof forgery structured.
b. Strengthening Human Resources: Training 500 investigators, specifically IPR, at the level areas and certifying 200 additional mediators based on competence.
c. Technology Integration: Implementation systems integrate digital reporting, such as the Lion HKI application, which is connected with e-commerce platforms and the Police.
d. Education: Campaigns nationwide about dangerous product fakes and mechanisms of reporting through social media and schools.
e. Collaboration International: Work with Interpol and the ASEAN Intellectual Property Association (ASEAN IPA) to Handle forgery brand cross-country.

5.1.6. Limitations Research and Agenda to Front

Study This is limited to analyzing normative MIG Law without involving studies in the empirical field. A required study is advanced to measure the effectiveness of criminal sanctions in reducing the number of forgery brands, as well as the exploration of implementing blockchain for verification authenticity products. Evaluation of the implementation of RJ in dispute brands also needs to be done to ensure a balance between interest owner rights and substantive justice.

Law No. 20 of 2016 has provided an adequate instrument law for protecting registered brands. However, its effectiveness is hampered by structural crime complaints, technical issues, limited human resources, and low socioeconomic awareness in society. The synergy between regulatory reform utilization technology and improvements in the paucity of institution enforcer law has become key fortress practice forgery brands in Indonesia.

6. Conclusions

This study has examined the effectiveness of Indonesia's Law No. 20 of 2016 on trademarks, particularly in the context of e-commerce and digital infringement. The main findings indicate that, while the statutory framework offers comprehensive protection granting exclusive rights to use, transfer, and litigate unauthorized use of registered marks it

falls short in implementation due to structural, technical, and resource constraints. Content analysis of legislation, court decisions, and institutional documents revealed persistent gaps in complaint procedures, limited human and technical capacity among enforcement agencies, and low public awareness regarding trademark rights.

Synthesis of these findings shows a direct link between the identified challenges and the research objectives: namely, to assess how legal mechanisms can be improved for digital environments. The evidence underscores that robust implementing regulations, standardized criteria for recognizing well-known marks, and enhanced online dispute-resolution mechanisms are essential to aligning regulatory intent with practical enforcement. Strengthening institutional capacity through specialized training, technological tools for monitoring, and clearer procedural guidelines will bridge the gap between statutory protections and on-the-ground effectiveness.

The implications of this research extend to both policymakers and brand owners. For policymakers, the study highlights the need to update implementing regulations under Law No. 20/2016 to address digital-era challenges, particularly by integrating e-commerce platforms into enforcement protocols and developing faster, more accessible online dispute-resolution channels. For brand owners, the findings emphasize the importance of proactive monitoring and collaboration with enforcement agencies and platforms to deter infringement before resorting to litigation.

Despite these contributions, the research has limitations. Primary data were drawn chiefly from published legal documents and may not fully capture the nuances of enforcement practices at local levels. Future studies should incorporate empirical interviews with enforcement officials, brand owners, and platform operators to validate and enrich the findings. Moreover, comparative analyses with trademark enforcement models in other jurisdictions could yield best-practice insights to further refine Indonesia's legal framework.

References

[1] P. Tommy, *Pelindungan Merek*. Jakarta: Yayasan Pustaka Obor Indonesia, 2017.

[2] F. N. Heriani, "Tips untuk Pelaku Usaha Saat Menangani Pelanggaran Merek," hukumonline.com. [Online]. Available: https://www.hukumonline.com/berita/a/tips-untuk-pelaku-usaha-saat-menangani-pelanggaran-merek-lt61337d7c5a7f6/

[3] R. W. Ananto, E. Amalia, and M. W. Utama, "Politik Hukum Dalam Undang-Undang Nomor 20 Tahun 2016 tentang Merek dan Indikasi Geografis," *J. Sos. dan Budaya Syar-i*, vol. 9, no. 4, pp. 1605–1616, 2022, doi: 10.15408/sjsbs.v10i5.35805.

[4] C. Hans and C. S. T. Kansil, "Analisis Bentuk Perlindungan Hukum Terhadap Penggunaan Merek pada Kelas Barang dan Jasa yang Sama," *UNES Law Rev.*, vol. 6, no. 2, pp. 4163–4171, 2023, doi: https://doi.org/10.31933/unesrev.v6i2.

[5] R. Ratna, T. Safiranita, and B. Utama, *Pelanggaran Merek di Indonesia*. Yogyakarta: Revika Aditama, 2021.

[6] D. Rezki and S. Astarini, *Penghapusan Merek Terdaftar: Berdasarkan UU No. 15 tahun 2001 tentang merek dan UU No. 20 tahun 2016 tentang merek dan indikasi geografis jo. Perubahan UU No. 11 tahun 2020 tentang cipta kerja di hubungkan dengan TRIPs-WTO*. Penerbit Alumni, 2021.

[7] F. N. Heriani, "Minimalisir Kendala Penyelesaian Perkara, PPNS DJKI Koordiinasi Bersama Bareskrim Polri," hukumonline.com. [Online]. Available: https://www.hukumonline.com/berita/a/minimalisir-kendala-penyelesaian-perkara--ppns-djki-koordiinasi-bersama-bareskrim-polri-lt62f78f58a7280/

[8] G. Jotyka and I. G. Ketut Riski Suputra, "Prosedur Pendaftaran Dan Pengalihan Merek Serta Upaya Perlindungan Hukum Terhadap Merek Terkenal Menurut Undang-Undang Nomor 15 Tahun 2001," *Ganesha Law Rev.*, vol. 3, no. 2, pp. 125–139, Jul. 2021, doi: 10.23887/glr.v3i2.447.

[9] D. A. Prakoso and J. neltje Sally, "Legal Protection of Famous Brands Based on Law Number 20 Of 2016 Concerning Brands and Geographical Indications," *J. Equity Law Gov.*, vol. 4, no. 1, pp. 52–62, 2024, doi: 10.55637/elg.4.1.9446.52-62.

[10] S. Donandi S. and P. A. Cakranegara, "The Implementation of Well-Known Trademarks Doctrine in Indonesian Commercial and Supreme Court," *Fiat Justisia J. Ilmu Huk.*, vol. 15, no. 2, pp. 159–182, Apr. 2021, doi: 10.25041/fiatjustisia.v15no2.2016.

[11] G. P. . Tutuarima and H. Tuasikal, "Peran Alternatif Penyelesaian Sengketa dalam Melindungi Merek di Platform E-Commerce Indonesia," *J. Dual Leg. Syst.*, vol. 2, no. 2, pp. 90–108, 2025, doi: 10.58824/jdls.v2i2.395.

[12] A. Kennedy and F. X. Wartoyo, "Perlindungan Merek Dagang pada Platform E-Commerce di Indonesia Ditinjau dari Perspektif HAM," *JIPRO J. Intellect. Prop.*, vol. 7, no. 2, pp. 94–119, Dec. 2024, doi: 10.20885/jipro.vol7.iss2.art1.

[13] D. A. Narassati, M. Amirulloh, and R. R. Permata, "Perlindungan Hukum Merek Dagang Scopus terhadap Penggunaan Kemiripan Berdasarkan Undang-Undang Merek Dagang dan Peraturan Pelaksanaannya," *Socius J. Penelit. Ilmu-Ilmu Sos.*, vol. 1, no. 6, pp. 254–263, 2024, doi: 10.5281/zenodo.10539748.

[14] I. G. K. Ariawan, "Penelitian Hukum Normatif," *Kertha Widya J. Huk.*, vol. 1, no. 1, pp. 21–30, 2013.

[15] K. Benuf and M. Azhar, "Metodologi Penelitian Hukum sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Gema Keadilan*, vol. 7, no. 1, pp. 20–33, Apr. 2020, doi: 10.14710/gk.2020.7504.

[16] Ardians, "Upaya Hukum Terhadap Badan Atau Perorangan Yang Menggunakan Merek Yang Telah Terdaftar," ardiansnco.co.id.

[Online]. Available: https://ardiansnco.co.id/upaya-hukum-terhadap-badan-atau-perorangan-yang-menggunakan-merek-yang-telah-terdaftar/

[17] Y. B. Puspita, "Ganti Rugi Atas Penggunaan Merek Yang Memiliki Persamaan Pada Pokoknya," *Locus J. Konsep Ilmu Huk.*, vol. 3, no. 3, pp. 134–150, Sep. 2023, doi: 10.56128/jkih.v3i3.295.

[18] S. A. Wiraguna, "Metode Normatif dan Empiris dalam Penelitian Hukum: Studi Eksploratif di Indonesia," *Public Sph. J. Sos. Polit. Pemerintah. dan Huk.*, vol. 3, no. 3, Nov. 2024, doi: 10.59818/jps.v3i3.1390.

[19] A. A. Rishadi, "Tantangan Membasmi Pelanggaran Kekayaan Intelektual di Era Digital," Direktorat Jenderal Kekayaan Intelektual - Kementerian Hukum R.I. [Online]. Available: https://www.dgip.go.id/artikel/detail-artikel-berita/tantangan-membasmi-pelanggaran-kekayaan-intelektual-di-era-digital?kategori=

[20] N. Muslimawati, "Peredaran Barang Palsu Rugikan Ekonomi RI hingga Rp 291 T," kumparan.com. [Online]. Available: https://kumparan.com/kumparanbisnis/peredaran-barang-palsu-rugikan-ekonomi-ri-hingga-rp-291-t-1xcn3xMbnX1

[21] E. Kurniawan, "Ikhtiar Memperjuangkan Hak Cipta," kompas.id. [Online]. Available: https://www.kompas.id/baca/humaniora/2023/06/22/memperjuangkan-hak-cipta

[22] N. Irawati and B. Santoso, "Pelanggaran Hak Atas Merek dan Upaya Penyelesaiannya (Studi Putusan No. 2/Pdt. Sus-HKI/Merek/2022/PN. Niaga. Sby)," *Notarius*, vol. 17, no. 3, pp. 2020–2037, 2024, doi: 10.14710/nts.v17i3.53253.

[23] E. Kurniawan, "Polisi Tangkap Penjual Suplemen Palsu di Jakarta," kompas.id. [Online]. Available: https://www.kompas.id/baca/metro/2023/06/01/obat-palsu-dan-pidana-pemulih-kekayaan-intelektual

[24] DJKI, "Mediasi Pelanggaran Hak Cipta Buku PPKC Berujung Damai," Direktorat Jenderal Kekayaan Intelektual - Kementerian Hukum R.I. [Online]. Available: https://www.dgip.go.id/artikel/detail-artikel-berita/mediasi-pelanggaran-hak-cipta-buku-ppkc-berujung-damai?kategori=Berita+Resmi+Indikasi+Geografis

[25] DJKI, "Sepakat Berdamai, DJKI Berhasil Memediasi Sengketa Merek Longchamp," Direktorat Jenderal Kekayaan Intelektual - Kementerian Hukum R.I. [Online]. Available: https://www.dgip.go.id/artikel/detail-artikel-berita/sepakat-berdamai-djki-berhasil-memediasi-sengketa-merek-longchamp?kategori=Berita+Resmi+Indikasi+Geografis