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Criminal Regulation Against Counterfeiting of Goods and Trademarks in the Industrial Sector

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Abstract

Counterfeiting of goods and trademarks has become a serious threat affecting various industrial sectors around the world. In Indonesia, criminal law regulation related to counterfeiting of goods and trademarks has been adequate with relatively severe sanctions, but its effectiveness is moderate due to weak human resources, limited technology, and lack of coordination between law enforcement agencies. This research aims to examine the criminal regulation of trademark counterfeiting in the context of criminal law, with a focus on cases of product counterfeiting. The research method used is a qualitative method through a literature study to interpret various aspects related to the complexity of legal regulations, challenges in law enforcement, social and economic impacts, and prevention efforts made. The results show that diverse legal regulations at the national and international levels affect the effectiveness of law enforcement against trademark counterfeiting. Prevention efforts such as the development of new detection technologies and increased public awareness show positive steps in addressing this issue. This makes it necessary to harmonize legal regulations, strengthen human resources and technology, improve coordination between agencies, and increase public education so as to strengthen the protection of intellectual property rights in society.

Keywords

Product Piracy, Criminal Law, Industrial Sector, Trademark, Counterfeiting of Goods

1. Introduction

The era of rapid economic globalization, industry and trade have become the backbone of a country's economic growth. However, with this growth also comes new challenges in the form of increased cases of counterfeiting of goods and trademarks (Risandi & Disemadi, 2022). The issue of counterfeiting of goods and trademarks has become the focus of attention in various industrial sectors around the world (Isradjuningtias, 2022). Counterfeiting of goods and trademarks has become a serious threat to industrial integrity, consumers, and intellectual property, and is detrimental to the economy as a whole. The practice not only results in huge financial losses for brand owners and original manufacturers, but also poses a significant negative impact on consumers and can undermine market integrity and create economic injustice. This issue has become increasingly urgent as increased globalization and international trade have facilitated the circulation of counterfeit goods to various parts of the world. Amidst the increasing complexity of technology and global trade, the problem of counterfeiting is increasingly difficult to address effectively. Governments and law enforcement agencies in various countries continue to try to find effective solutions to tackle counterfeiting. However, these efforts are often hampered by various challenges, ranging from lack of resources to lack of coordination between the various parties involved. In recent years, cases of trademark counterfeiting have been on the rise, especially in industry sectors related to technology and innovation (Androschuk, 2023).

Trademark counterfeiting can be done through various means, such as using the same trademark as a registered trademark, or using logos and designs similar to a legitimate trademark (Sapozhnyk, 2023). In some cases, trademark counterfeiting can be done in order to manipulate consumers and gain material benefits. In 2019, global trade in counterfeit and pirated products reached USD 464 billion, equivalent to 2.5% of world trade, with the EU importing USD 134 billion worth of counterfeit goods, comprising 5.8% of its imports. In some countries, counterfeiting of goods and trademarks can be seen where China serves as the main source of counterfeit products, while economies such as Hong Kong (China), Singapore, and the United Arab Emirates play an important role as transit points for these illicit goods (Lima & Yonamine, 2023). This underscores the importance of enhancing international cooperation and implementing strong measures to effectively address trademark counterfeiting. In Indonesia, counterfeiting of goods and trademarks has become a significant issue in the industrial sector. According to data from the Directorate General of Intellectual Property, trademark counterfeiting cases in Indonesia have increased significantly in recent years. In 2022, there were more than 1,500 reported cases of trademark counterfeiting, a 20% increase from the previous year. This counterfeiting does not only occur in daily consumption products, but also in products that have the potential to endanger public health and safety.

For this reason, Indonesia, as part of the international community, has also ratified the Agreement on the Establishment of the World Trade Organization (WTO). One of the agendas of the WTO is an agreement on trade aspects related to intellectual property rights including trade in counterfeit goods (Kurniawati, 2020). In addition, one of the phrases that is widely circulated in society, namely "Why buy something more expensive if there is something cheaper", makes pirated goods in Indonesia sell well. Entrepreneurs who have patented their product brands suffer losses because many counterfeit goods are sold in the market using their brands. The cheap price of counterfeit goods does make many consumers become enamored, so many consumers choose to buy counterfeit goods. Criminal regulation of counterfeit goods and trademarks in Indonesia is an important focus in law enforcement and consumer protection efforts. A criminal law review of product piracy cases shows that despite the existence of regulations governing counterfeiting, the effectiveness

of their implementation is still often questioned. This condition indicates an urgent need to strengthen criminal regulation and enforcement mechanisms against counterfeiting of goods and trademarks, in order to provide a stronger deterrent effect for perpetrators and protect the rights of consumers and owners of original trademarks.

Although there have been significant efforts in law enforcement related to counterfeiting of goods and trademarks in the industrial sector, there are some problems found such as, stated by Aurellia & Roisah (2023); Benia et al. (2023), where trademark counterfeiting in Indonesia poses significant challenges that impact consumers, brand owners, and businesses both online and offline. Legal protection of marks through trademark registration is essential, however criminal sanctions against counterfeiters may not effectively deter such infringement. In addition, unauthorized use of marks can harm brand owners and businesses, and threaten market security. Criminal law regulation related to trademark counterfeiting can be considered less comprehensive and does not provide sufficient protection for consumers and businesses. Trademark counterfeiting in Indonesia is an important issue discussed in various studies. Several previous studies have analyzed and evaluated the criminal regulation of trademark counterfeiting in Indonesia. The legal framework to combat counterfeiting includes laws on trademarks and intellectual property rights (Sari, 2023; Situmeang et al., 2023). The complexity of Indonesia's legal system and bureaucratic inefficiencies impede the effective transfer of intellectual property rights, contributing to the prevalence of counterfeiting (Aurellia & Roisah, 2023).

Criminal liability for trademark counterfeiting is also an important aspect, with laws governing corporate criminal liability (Joshua et al., 2023). To address this issue, a strong trademark protection mechanism is essential by emphasizing the importance of prevention strategies to effectively combat brand counterfeiting. Thus, this research focuses on analyzing and evaluating the criminal regulation of trademark counterfeiting in Indonesia by analyzing trademark counterfeiting cases that have occurred in Indonesia. This research aims to analyze and solve the problem of trademark counterfeiting in Indonesia, as well as contribute to the knowledge and practice of related criminal law, analyze the impact of trademark counterfeiting on consumers, brand owners, and businesses, and find out effective prevention strategies because trademark counterfeiting can harm consumers, brand owners, and businesses, as well as threaten market security and public trust.

2. Literature Review

2.1. Product Piracy

The practice of piracy and copyright infringement has become an influential phenomenon in Indonesian society. Despite its long history, the issue of copyright infringement is still not fully resolved (Djameludin & Fuad, 2024). Product piracy refers to the illegal practice of reproducing, distributing, or using a product without permission or without paying royalties to the owner of the product's copyright, trademark, patent, or design rights (Uguru & Umobong, 2022). Product piracy is considered an offense that is subject to criminal sanctions. Product piracy may include infringement of copyright, trademark, patent, and design rights. Copyright infringement includes acts such as copying, reproducing, or distributing copyrighted works without the permission of the owner, such as piracy of books, movies, music, or computer software (Jaman et al., 2021). Trademark infringement occurs when a person uses a trademark without permission or makes counterfeit products under a registered trademark, harming the legitimate trademark owner and misleading consumers. Meanwhile, patent infringement occurs when a product or process protected by a patent is used, manufactured, or sold without the permission of the

patent owner. In addition, design right infringement occurs when the design of a product protected by its design right is copied or used without the permission of the owner (Haryono, 2022).

2.2. Criminal Law

Criminal law is a branch of law that enforces rules that aim to protect society from harmful or dangerous acts, as well as to maintain order and justice in society (Maruf, 2021). In addition, criminal law is a branch of law that regulates behavior that is considered a violation of societal norms that is so important and serious that it threatens security, order, and public welfare (Khotimah, 2023). The main purpose of criminal law is to protect society from criminal acts by sanctioning the perpetrators of crimes. The importance of criminal law in product piracy cases cannot be ignored. Product piracy is an act that violates intellectual property rights, which include copyrights, trademarks, and patents. Product piracy cases harm the rights holders of such products financially as well as morally, as it deprives them of the fruits of legitimate intellectual work. In this context, criminal law has an important role in upholding justice and ensuring that perpetrators of product piracy are sanctioned according to the level of the offense. The sanctions imposed by criminal law can be in the form of fines, imprisonment, or other sanctions that can provide a deterrent effect to the perpetrators and prevent the recurrence of piracy in the future. In addition, criminal law also has a role in protecting consumers from counterfeit or unguaranteed products (Marsela et al., 2024). By imposing strict sanctions against product piracy, criminal law can help ensure that the public only uses safe and quality products.

2.3. Industrial Sector

The industrial sector refers to a group of companies or organizations operating in the same or similar fields that focus on the production or provision of certain goods and services (Julyanthry et al., 2020). In the context of counterfeiting of goods and trademarks, the industrial sector is a focal point because it is vulnerable to harmful counterfeiting practices. The manufacturing, pharmaceutical, electronics, and food and beverage industries are some examples of sectors that are frequently targeted for counterfeiting (Gayialis et al., 2022). In the manufacturing industry, products such as clothing, bags, and shoes are often targeted by counterfeiters which can harm the original trademark owners and disrupt fair business competition. In the pharmaceutical sector, counterfeiting of medicines is a serious problem as it can endanger the lives of consumers and undermine public trust in legitimate pharmaceutical products. Meanwhile, electronic products and food and beverages are also vulnerable to counterfeiting, which not only harms trademark owners, but also jeopardizes the health and safety of consumers (Maritano et al., 2024).

2.4. Trademark

Trademarks are not materially tangible and are only affixed to a product that sells in the market. However, trademarks are very important because when consumers use a product, what is valued is the brand (Nopiana & Disemadi, 2021). The main function of a trademark is so that consumers can characterize a product both goods and services owned by the company so that it can be distinguished from other similar company products owned by its competitors (Hans & Kansil, 2023). The importance of a trademark in influencing the development of the business of a good or service can be seen from the desire of the public to use goods or services that have a well-known brand (Rusman, 2020). At this time, many business actors commit trademark infringement such as the use of well-known trademarks without the

permission of the trademark owner. This is an easy way to counterfeit a product because of the current phenomenon of people becoming misled label consumers. Manufacturers also take advantage of the weakness of consumers who are less observant when buying products by making products that have brand similarities with well-known brands (Biela & Rosando, 2022).

2.5. Counterfeiting of Goods

Counterfeiting of goods is an illegal practice in which a product is manufactured or distributed by imitating or falsifying trademarks, patents, or other intellectual property rights owned by another person or company without their permission or consent (Adawiyah, 2023). This practice aims to deceive consumers into believing that the product is genuine, when in fact it is not. Counterfeiting of goods in the industrial sector can be divided into several types based on its characteristics. One of them is trademark counterfeiting, where the products made imitate legitimate trademarks such as clothes, bags, shoes, and other luxury goods. In addition, there is also counterfeiting of consumer goods such as cosmetics, medicines, food, and beverages that can endanger the health and safety of consumers. Drug counterfeiting is a particularly dangerous type as it can threaten the lives of consumers by containing unsafe ingredients. Counterfeiting has a detrimental impact on various industrial sectors, the economy, and society in general, making it imperative to enforce strong laws and public awareness to purchase authentic products.

3. Methods

This research employs a qualitative approach using a literature review method to identify, evaluate, and interpret studies related to the criminal regulation of goods and trademark counterfeiting in the industrial sector. The data collected successfully identifies various relevant sources, including primary sources such as laws and government regulations that provide a strong legal foundation for trademark protection in Indonesia, and secondary sources such as scholarly journals, books, research reports, dissertations, and articles. These secondary sources broaden insights into criminal law practices in international and other legal contexts. The study also analyzes case studies, both from Indonesian courts and at the international level, to gain a deeper understanding of the challenges and law enforcement strategies in combating trademark counterfeiting. The analysis process was carried out through several stages. Data Organization and Classification: Grouping the data into main categories such as legal regulations, enforcement challenges, economic impacts, and prevention efforts. Critical Evaluation: Assessing the reliability, relevance, and validity of information. Identification of Themes and Patterns: Identifying key recurring themes in the literature. Inter-Country Comparison: Comparing criminal law regulations in Indonesia and other countries to identify differences, similarities, and best practices. Verification of Information: Ensuring consistency and accuracy in the findings from various sources. Consistency of Interpretation: Ensuring that the interpretation of the data aligns with the findings to produce a more in-depth and reliable conclusion.

4. Results

Legal provisions can be seen that the laws that are the main legal basis for trademark protection in Indonesia are Law Number 20 of 2016 concerning Trademarks and Law Number 31 of 2000 concerning Industrial Designs. These two laws regulate the definition, rights, and obligations relating to trademarks and industrial designs, and provide a legal framework for criminal action against violations of intellectual property rights. The relevant government regulations

strengthen the implementation of the laws, ensuring there are clear guidelines regarding the enforcement process and criminal sanctions. In addition, several regions in Indonesia have issued regional regulations that support criminal regulation against trademark counterfeiting. These regulations aim to address specific counterfeiting issues at the local level, tailored to the conditions and needs of each region (Marlyna & Sardjono, 2019). In this analysis, it is identified that regional regulations play an important role in strengthening law enforcement and protecting intellectual property rights in the region.

The analysis of court decisions related to trademark counterfeiting cases provides an in-depth insight into how the law is applied in practice. Court decisions reveal the interpretation of the law by judges, successes or failures in law enforcement, and the impact of sanctions imposed which identifies patterns in court decisions that can inform future improvements in legal policy and practice. In addition, international conventions and agreements such as Trade-Related Aspects of Intellectual Property Rights (TRIPS) provide a global framework for trademark protection and criminal law enforcement against counterfeiting. It reviews how Indonesia complies with these international standards and how international agreements influence national legal policies and practices. The international legal literature also offers a broader perspective on best practices that Indonesia can adopt. In a comparative study with other countries, this research conducts an analysis of the criminal law arrangements against trademark counterfeiting in several other countries. This comparison provides insights into different approaches in law enforcement, effectiveness of sanctions, and innovations in counterfeiting prevention (Situmeang et al., 2023). Countries with more advanced or effective legal practices in dealing with trademark counterfeiting can be a reference for Indonesia in improving regulation and law enforcement. The data collected regarding legal arrangements shows that criminal regulation against trademark counterfeiting in Indonesia consists of various laws and government regulations aimed at protecting intellectual property rights. Comparative studies with legal regulations in other countries show variations in the legal approach, with some countries having a stricter or more flexible approach depending on the needs and prevalence rate of counterfeiting within their industry sector.

Table 1. Legal Arrangements

Data Type	Data Description
Law	Law No. 20 of 2016 concerning Trademarks. Law No. 31 Year 2000 on Industrial Design. Government Regulations related to trademark protection.
Government Regulation	Government Regulations related to the implementation of the Trademark and Industrial Design Law. Government Regulation on criminal sanctions against trademark counterfeiting.
Regional Regulation	Regional Regulations that support the criminal regulation of trademark counterfeiting at the local level.
Court Decision Cases	Analysis of court decisions related to trademark counterfeiting cases in Indonesia.
International Law Literature	Relevant international conventions and treaties related to trademark protection and criminal law.
Comparative Studies with Other Countries	Analysis of criminal law regulation against trademark counterfeiting in other countries.

The challenges in enforcing the law against trademark counterfeiting, one of the main challenges is the lack of resources. Law enforcement officials often face limitations in terms of personnel, budget, and facilities that result in suboptimal handling of trademark counterfeiting cases, due to a lack of experts in Intellectual Property Rights (IPR) and criminal investigations, as well as a limited budget that

limits surveillance and enforcement operations. The next challenge is the complexity of illegal trade networks. Trademark counterfeiting often involves complex and well-organized illegal trade networks, which can operate across several countries. This complexity includes the use of sophisticated technology to conceal the identity and location of the perpetrators, as well as the distribution of counterfeit products through complicated logistical channels (Sari, 2023). Law enforcement agencies often struggle to track and dismantle these networks, which operate covertly and use evolving methods. Inter-agency coordination is also a major challenge in law enforcement against trademark counterfeiting. Effective law enforcement requires good cooperation between various government agencies, such as the police, customs, IPR watchdogs, and relevant ministries. However, there is often a lack of coordination and cooperation between these agencies. The absence of an efficient information sharing system and differences in procedures and priorities between agencies can hamper joint efforts in dealing with counterfeiting cases.

Technological developments and innovations also make trademark counterfeiting easier. Advanced technologies such as 3D printing, mass production, and e-commerce allow perpetrators to produce and distribute counterfeit goods more easily and quickly. Law enforcement must continuously adapt to these technological developments to be able to identify and deal with counterfeiting cases effectively. However, it is often the case that the technology used by law enforcement officials lags behind the technology used by counterfeiters (Sapozhnyk, 2023). Lastly, differences in the implementation of criminal laws against trademark counterfeiting at the national and local levels also pose a challenge. Some regions may have stricter or weaker regulations compared to the national law, which may create inconsistencies in law enforcement. Different interpretations of the law by courts in different regions may also result in inconsistent rulings, reducing the overall effectiveness of law enforcement. The discussion shows that there are various factors that hinder the effectiveness of law enforcement against trademark counterfeiting in Indonesia. Lack of resources, the complexity of illegal trade networks, lack of coordination between agencies, technological challenges, and differences in national and local laws. These challenges affect the effectiveness of law enforcement and require a holistic and coordinated approach to address these issues. With a focus on improving resource allocation, strengthening inter-agency cooperation, adopting advanced technologies, and harmonizing legal regulations at different levels to address trademark counterfeiting more effectively (Table 2).

Table 2. Challenges in Law Enforcement

Types of Challenges	Data Description
Lack of Resources	Limited personnel and budget in law enforcement agencies to tackle counterfeiting cases.
Complexity of Illegal Trade Networks	An analysis of the complexity of illegal trade networks involved in trademark counterfeiting.
Inter-Agency Coordination	Evaluate the level of coordination between different government agencies in the enforcement of laws against trademark counterfeiting.
Technology and Innovation Challenges	The impact of technological development and innovation in facilitating the practice of trademark counterfeiting.
National and Local Legal Differences	An analysis of the differences in the implementation of criminal laws against trademark counterfeiting at the national and local levels.

Trademark counterfeiting has a significant financial impact on the original manufacturer. Manufacturers face huge losses due to the decline in sales of their genuine products caused by the circulation of counterfeit products in the market. These losses not only affect direct revenue but also damage brand image and

reputation. Consumers who are tricked into buying counterfeit products are often disappointed with the quality of the product, which can lower trust in the original brand and cause long-term losses to the manufacturer. In addition, trademark counterfeiting carries a great risk to consumer health and safety. Counterfeit products are often manufactured without adhering to strict quality and safety standards, which can endanger consumers. For example, counterfeiting of medicines, food, or electronic products can result in dangerous side effects, physical damage, or even death. In this regard, it was found that the lack of effective supervision and enforcement against counterfeit products contributes to the increased risk to consumer health and safety (Maruf, 2021).

From an economic perspective, trademark counterfeiting has a significant negative impact on the national economy. The economy loses out on tax revenues that would have been earned from the sale of original products. In addition, counterfeiting practices reduce incentives for foreign investment, as international companies may feel unsafe operating in markets that cannot protect their intellectual property rights. This impact can extend to all sectors of the economy, reducing economic growth and worsening labor market conditions. In conclusion, trademark counterfeiting carries far-reaching and adverse consequences. Financially, genuine manufacturers incur huge losses and lose their brand reputation. Socially, consumers face serious health and safety risks from counterfeit products that do not meet quality and safety standards (Kurniawati, 2020). Economically, trademark counterfeiting harms the national economy by reducing tax revenues and deterring foreign investment. This emphasizes the importance of increased law enforcement and surveillance against trademark counterfeiting to protect genuine producers, consumers, and the national economy as a whole.

Table 3. Social and Economic Impacts

Type of Impact	Data Description
Financial Losses for Original Producers	An analysis of the amount of financial loss suffered by genuine manufacturers due to trademark counterfeiting.
Consumer Health and Safety Risks	Negative impact on consumer health and safety due to counterfeit products that do not meet quality standards.
Impact on the National Economy	Evaluation of the macro impact on the national economy, including loss of tax revenue and investment.

Efforts to prevent trademark counterfeiting involve several important strategic measures. One of the key efforts is enhanced law enforcement, which includes training and capacity building for law enforcement officials, including police, prosecutors, and judges, to understand the complexities of trademark counterfeiting and intellectual property rights cases. This measure also includes the allocation of adequate resources to support surveillance and enforcement operations, as well as the establishment of specialized units that focus on intellectual property crimes. In addition, international and inter-agency cooperation is key in tackling trademark counterfeiting which often involves cross-border trade networks. This cooperation includes information exchange, coordination of law enforcement operations, and the signing of extradition treaties for counterfeiters, as well as cooperation at the national level between the police, customs, IPR watchdog agencies, and relevant ministries (Maruf, 2021). Education and raising public awareness regarding the dangers of trademark counterfeiting are effective prevention efforts. Educational campaigns through mass media, seminars, and educational programs in schools aim to increase public understanding of the importance of intellectual property rights and the negative impact of product counterfeiting.

Education is also important for consumers so that they can recognize genuine products and be aware of counterfeit products. The use of technology and innovation in the fight against trademark counterfeiting is also an important prevention

strategy. Technologies such as product tracking through Radio Frequency Identification (RFID), use of QR codes for product verification, and digital security systems can help manufacturers protect their products from counterfeiting. In addition, the development of an integrated database for counterfeit product monitoring and reporting can improve the effectiveness of law enforcement. Overall, enhanced law enforcement, cooperation among countries and agencies, public education and awareness, and the use of technology and innovation are important measures to prevent trademark counterfeiting (Sari, 2023). Improved law enforcement through training and capacity building of officers, as well as adequate resource allocation, can ensure more effective handling of cases. International and inter-agency cooperation strengthens law enforcement efforts and prevents counterfeit products from circulating in the market. Public education and awareness help reduce demand for counterfeit products and support enforcement efforts. Technology and innovation give counterfeiters an edge. This emphasizes the importance of synergizing various prevention efforts to protect intellectual property rights and maintain market integrity.

Table 4. Prevention Efforts

Types of Prevention Efforts	Data Description
Improved Law Enforcement	Government initiatives and programs to reduce trademark counterfeiting, such as awareness campaigns, strengthening regulations, and stricter law enforcement.
Public Education and Awareness	Involvement of non-governmental organizations and community groups in counterfeiting prevention efforts, such as consumer education and advocacy campaigns.
Inter-State and Agency Cooperation	Collaboration between countries in information exchange, mutual legal assistance, and international agreements to combat trademark counterfeiting.
Technology and Innovation	Use of new and innovative technologies to prevent counterfeiting, including product tracking systems, digital signatures, and blockchain.

Through the structured classification of data above, this research successfully identified the complexity and multi-dimensionality of the trademark counterfeiting problem within the industrial sector. The findings provide a strong foundation for policy recommendations that can improve the effectiveness of criminal regulation, law enforcement, as well as prevention efforts in Indonesia. A holistic and collaborative approach is expected to reduce the negative impact of trademark counterfeiting and improve the overall protection of intellectual property rights and consumer safety.

Table 5. Comparison between Criminal Law Regulations in Indonesia and Other Countries

Theme	Description
Regulatory Complexity	Variants in the legal regulation of trademark Counterfeiting at the national and international levels. For example, Indonesia, the United States, the European Union, and China
Challenges in Law Enforcement	Lack of resources, complexity of illegal trade networks, and lack of coordination.
Social and Economic Impact	Financial losses for producers, health risks for consumers, and impact on the economy.
Prevention and Innovation	New detection technologies, increased surveillance, and public education programs.

The complexity in the regulation of criminal regulation of trademark counterfeiting shows significant differences in approach between Indonesia, the United States, the European Union, and China. In Indonesia, Law No. 20 Year 2016 on Trademarks and Geographical Indications and Law No. 8 Year 1999 on Consumer Protection are the main foundations that emphasize law enforcement at the national level. In the United States, the legal system based on the Lanham Act provides strict sanctions both criminally and civilly, supported by a strong judicial system to handle trademark counterfeiting cases. While the European Union implements harmonized regulation through directives and regulations across its member states, the main focus is on trademark protection in the internal market with consistent legal harmonization efforts (Wahyudi & Syauqillah, 2022). In China, the increasingly tightened approach in trademark and other intellectual property rights laws demonstrates a strong commitment in tackling the problem of counterfeiting, illustrating the ever-growing complexity in law enforcement against intellectual property rights infringement at the national and international levels. The complexity in legal regulations governing trademark counterfeiting is evident from the significant variations between different countries. At the national level, each country has a unique legal framework to address trademark counterfeiting, which includes various laws and government regulations. The international level, there are efforts to create harmonization through treaties and international organizations such as the World Trade Organization (WTO), although challenges in implementation and enforcement remain. This comparison highlights the variation in legal approaches between countries in dealing with the issue of trademark counterfeiting. Although each country has different regulations, the ultimate goal is to protect intellectual property rights and ensure fairness in international trade. By understanding the complexity of these regulations, it is important for each country to continuously improve international coordination and internal oversight to strengthen the effectiveness of law enforcement and protect the economic and social interests of its people (Mastur et al., 2024).

The challenges in law enforcement against trademark counterfeiting are complex and often involve multiple countries such as Indonesia, the United States, the European Union, and China. In Indonesia, one of the main challenges is the lack of adequate human resources, technology, and budget to conduct effective law enforcement. Similarly, other countries such as the United States face the complexity of illegal trade networks that cross national borders using sophisticated technology to evade detection. Meanwhile, in the European Union, the main challenge is the complex coordination between member states in ensuring consistency in law enforcement across its territory. In China, despite advancements in laws and regulations, coordination between enforcement agencies remains an obstacle in effectively confronting the issue of trademark counterfeiting. Ineffective coordination between various law enforcement agencies within the country as well as between countries can hinder the exchange of vital information and efficient coordination of enforcement actions. The analysis shows that the major challenges in law enforcement against trademark counterfeiting include several aspects. Lack of human resources and technology is often an obstacle in dealing with increasingly complex illegal trade networks. In addition, the lack of effective coordination between law enforcement agencies both domestically and across national borders is a serious obstacle in dealing with counterfeiting cases quickly and effectively. Trademark counterfeiting has far-reaching impacts on society and the economy. Economically, counterfeiting can cause significant financial losses to the original producer, both in terms of lost revenue and the cost of restoring reputation. These challenges point to the need for a holistic and collaborative approach in enforcement against trademark counterfeiting (Kurniawati, 2020). While each country faces

unique challenges, efforts to increase resources, strengthen international cooperation, and improve coordination among enforcement agencies are key in effectively addressing the complexity of this problem. Thus, coordinated strategic measures can help reduce the prevalence of trademark counterfeiting and protect economic and consumer interests at both national and global levels.

The social and economic impacts of trademark counterfeiting reflect significant challenges for various countries, including Indonesia, the United States, the European Union, and China. Financial losses for manufacturers are a major impact due to unfair competition with counterfeit products that are often sold at lower prices. This not only threatens the business sustainability of genuine manufacturers but also reduces tax revenue for governments, affecting the allocation of funds for development and public services. In addition, health and safety risks to consumers are a serious concern, as counterfeit products often do not meet established quality or safety standards. Social impacts include health and safety risks to consumers who use counterfeit products that do not meet standards. In aggregate, counterfeiting can also harm national economies by reducing tax revenues and investment in innovation. As such, there is a need for decisive and coordinated action from various parties, including the government, manufacturers, and consumers. Efforts to raise awareness of the risks of counterfeiting, increase market surveillance, and strengthen penalties against counterfeiters are key in protecting the economic and social interests of society. With these measures, it is expected to reduce the prevalence of trademark counterfeiting and ensure that products in circulation are safe and in accordance with established standards.

Prevention and innovation efforts in addressing trademark counterfeiting are key to protecting consumers, producers, and national economic interests in countries such as Indonesia, the United States, the European Union, and China. Detection technology development Developed countries such as the United States and the European Union have adopted advanced technologies to detect counterfeit products, such as barcode identification and hologram label technology. These technologies help in distinguishing genuine products from counterfeit products more accurately, improving the efficiency of law enforcement at the national level. Increased market surveillance, both at the border and within the domestic market, has been an effective strategy in preventing counterfeit products from entering the market. Countries such as China and Indonesia continue to increase market surveillance as part of broader prevention efforts. In addition, public education is important to raise public awareness about the risks and negative health and economic impacts of counterfeit products, which is actively conducted in many countries to empower consumers to be more aware of the products they buy. In addition, cross-border cooperation between countries, such as that of the European Union and the United States, in the exchange of information and law enforcement strategies is key in dealing with illegal trade networks that cross countries, enabling countries to support each other in effectively tackling trademark counterfeiting. Data on prevention efforts show that there are various initiatives undertaken to tackle trademark counterfeiting. Innovations in detection technology are the main focus, along with increased surveillance and stricter regulations. In addition, public education programs are also implemented to raise awareness of the negative impacts of counterfeit products (Kurniawati, 2020). Nonetheless, adapting to increasingly sophisticated counterfeiting strategies remains a challenge that needs to be addressed on an ongoing basis. Prevention efforts and innovations in tackling trademark counterfeiting demonstrate the importance of a holistic and coordinated approach from various parties. By combining detection technologies, strict monitoring, public education, and international cooperation, it is expected to reduce the prevalence of counterfeit products and enhance the protection of intellectual property rights and consumer safety. These measures not only help build a fairer business environment but also

support sustainable economic growth at the global level. Through a comparison between the legal arrangements in Indonesia with legal practices in other countries, it can be identified that each country has a unique approach in dealing with trademark counterfeiting. Some countries may have stricter regulations with heavier sanctions, while others may focus more on international cooperation to address cross-border issues.

5. Discussion

Criminal law regulation in Indonesia related to counterfeiting of goods and trademarks has been adequate with relatively severe sanctions. However, its effectiveness is still moderate due to various challenges, including weak law enforcement, sub-optimal inter-agency coordination, and low public awareness of the importance of trademark rights. The implementation of the law in Indonesia against counterfeiting of goods and trademarks shows some weaknesses. While there are some cases that have been successfully prosecuted with appropriate verdicts, many other cases show delays in the legal process, perceived lenient sentences, and lack of sufficient evidence. Countries such as the United States, the European Union, and China have more stringent and effective regulatory and enforcement systems in dealing with counterfeiting of goods and trademarks. Tougher sanctions, good public education, use of advanced technology, and international cooperation are key factors supporting their effectiveness. To improve the effectiveness of regulation and law enforcement in Indonesia, it is necessary to take some strategic preventive measures such as, the development of new detection technologies, increased surveillance, and public education, demonstrating a proactive response to the challenge of trademark counterfeiting. Based on these findings, several practical recommendations can be proposed to improve the effectiveness of the regulation and protection of intellectual property rights.

Wahyudi & Syauqillah (2022); Mastur et al. (2024), strengthening coordination between law enforcement agencies such as the police, prosecutors, and courts, as well as cooperation with other related agencies such as the Directorate General of Intellectual Property and the Ministry of Trade. This can increase the effectiveness of law enforcement and facilitate the investigation and prosecution process. Conduct educational campaigns to raise public awareness about the importance of trademark rights and the dangers of counterfeit goods through mass media, seminars, workshops, and educational programs in schools (Bodarenko, 2023). Finally, review the provisions of criminal sanctions against counterfeiting and trademark offenses to ensure more severe sanctions and provide a stronger deterrent effect for offenders (Muraev & Simon, 2022). The imposition of higher fines and longer prison sentences could be one solution.

Utilizing advanced technology to detect and prevent counterfeiting of goods and trademarks is also very important. Technologies such as blockchain, digital tracking systems, and counterfeit detection software can be used to reduce the number of counterfeit products in the market. Enhancing international cooperation in law enforcement related to counterfeiting of goods and trademarks is also important. Learning from other countries' best practices and participating in international forums can help Indonesia adopt more effective strategies in addressing this issue. Finally, providing specialized training for law enforcement related to intellectual property law and counterfeiting case investigation techniques. This training can increase the capacity and competence of law enforcement in handling counterfeiting cases more effectively. By implementing these recommendations, it is hoped that the regulation and enforcement of criminal law against counterfeiting of goods and trademarks in Indonesia can be more effective, provide better protection for trademark owners, and reduce the number of counterfeit products on the market.

This research makes a significant theoretical contribution by adding new insights to the literature on criminal law regulation of counterfeiting of goods and trademarks. This study shows that although Indonesia has sufficient regulations, their effectiveness still needs to be improved through various strategies. This is in line with regulatory theory which emphasizes the importance of effective implementation to achieve legal objectives (Benia et al., 2023; Risandi & Disemadi, 2022). In addition, this research also expands the literature on international comparisons in criminal law enforcement. By comparing practices in Indonesia with other countries such as the United States, the European Union, and China, this research provides a new perspective on best practices that can be adopted. Comparative policy theory (Fadri, 2023; Ginting & Yuspin, 2022) supports this approach by showing that learning from other legal systems can improve the effectiveness of domestic regulation.

This research also has some limitations that need to be considered. The literature study methodology, while providing in-depth understanding from multiple perspectives, can be limited in terms of applicability and internal validity. The use of secondary data such as journal articles and government reports can have biases in terms of limited viewpoints or research focus. In addition, limitations in real case data from Indonesian courts may also affect the generalizability of this study's findings. Further studies can integrate a qualitative approach with live case studies to provide a more in-depth understanding of the real experiences of parties involved in trademark counterfeiting cases. For further research, it is recommended to expand the geographical and sectoral coverage in data collection, as well as to adopt a more holistic methodological approach, such as cross-country comparative case studies. Further integration with the social and economic theories underlying the motivation and impact of trademark counterfeiting may also provide more comprehensive and public policy-relevant insights. It is hoped that future research can make a greater contribution to improving the regulatory system and protection of intellectual property rights in Indonesia and globally.

6. Conclusion

Strong regulations to address counterfeiting of goods and trademarks through Law No. 20/2016 on Trademarks and Geographical Indications and Law No. 8/1999 on Consumer Protection demonstrate a commitment to protect intellectual property and consumer rights. Nevertheless, the challenges faced lie in the shortage of human resources, limited technology, and lack of coordination between law enforcement agencies. The results of a comparative evaluation with developed countries such as the United States, the European Union, and China show that Indonesia has the opportunity to strengthen its law enforcement with prevention efforts that focus on developing detection technology, increasing supervision, and public education being important strategies in dealing with this problem. This lays the foundation for the need to strengthen collaboration between law enforcement agencies, the government, and the private sector to ensure effective information exchange in handling counterfeiting cases, intensive training and investment in counterfeit detection technology to increase the capacity of law enforcement. By implementing these measures, Indonesia is expected to build a more effective and reliable legal environment, which not only protects the country's economic interests but also supports sustainable growth in the current era of globalization.

References

- Adawiyah, R. (2023). Pembajakan Merek Dalam Tatahan Hukum Kekayaan Intelektual Di Indonesia: Kraft Foods Global Brands Llc. (Oreo) Melawan Pt. Siantar Top Tbk (ORIORIO). *Aladalah: Jurnal Politik, Sosial, Hukum dan Humaniora*, 1(4), 158-180.
- Androschuk, G. (2023). Digital Piracy and Counterfeiture in the Terms Digital Transformation: Analysis of The State, Trends, Defense Mechanisms. *Theory and practice of intellectual property*, 3, 97-108.
- Aurellia, N., & Roisah, K. (2023). Legal Protection against Unregistered Marks and Unfair Competition Practices (Comparative Study of Indonesia and the United States). *International Journal of Social Science and Human Research*, 6, 3818-21.
- Benia, E., & Permata, R. R. (2023). Tinjauan Yuridis Pelindungan Hukum Bagi Pemilik Merek Dikaitkan Dengan Implementasi Asas Contante Justitie Dalam Penyelesaian Perkara Pidana Merek di Indonesia. *Sanskara Hukum dan HAM*, 1(03), 76-90.
- Biela, D. S., & Rosando, A. F. (2022). Akibat Hukum Terhadap Pelaku Usaha Yang Melakukan Pelanggaran Hak Atas Merek. *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance*, 2(1), 619-640.
- Djamaludin, S., & Fuad, F. (2024). Pertanggungjawaban Hukum Marketplace di Indonesia terkait Pelanggaran Hak Cipta: Tantangan, Regulasi, dan Upaya Pencegahan dalam Era E-Commerce. *UNES Law Review*, 6(3), 7980-7982.
- Fadri, I. (2023). Strengthening The Role of POLRI in The Implementation of International Criminal Law. *Jurnal Penelitian Hukum De Jure*, 23(2), 207-218.
- Gayialis, S. P., Kechagias, E. P., Papadopoulos, G. A., & Masouras, D. (2022). A review and classification framework of traceability approaches for identifying product supply chain counterfeiting. *Sustainability*, 14(11), 6666.
- Ginting, J., & Yuspin, W. (2022). Comparison of Several Criminal Law Provisions Between the Indonesian Criminal Code and the Criminal Code of Other Countries: A Brief Overview. *International Journal of Social Science Research and Review*, 5(10), 290-298.
- Hans, C., & Kansil, C. S. (2023). Analisis Bentuk Perlindungan Hukum Terhadap Penggunaan Merek pada Kelas Barang dan Jasa yang Sama. *UNES Law Review*, 6(2), 4163-4171.
- Haryono, H. (2022). Pelanggaran Merek Sebagai Bentuk Persaingan Curang Dalam Kegiatan Usaha Yang Dilarang Oleh Undang-Undang (Studi Yurisprudensi Perkara Merek Terdaftar). *Jurnal Meta-Yuridis*, 5(1), 106-115.
- Isradjuningtias, H. G. A. C. (2022). Perlindungan Hukum Terhadap Merek Terkenal Yang Berkepastian Hukum Berdasarkan Undang-Undang Nomor 20 Tahun 2016 tentang Merek dan Indikasi Geografis. *Jurnal Kewarganegaraan*, 6(3).
- Jaman, U. B., Putri, G. R., & Anzani, T. A. (2021). Urgensi Perlindungan Hukum Terhadap Hak Cipta Karya Digital. *Jurnal Rechten: Riset Hukum Dan Hak Asasi Manusia*, 3(1), 9-17.
- Joshua, M., Lie, G., & Putra, M. R. S. (2023). Analysis of Trademark Dispute Cases of PT. Gudang Garam and Gudang Baru. *QISTINA: Jurnal Multidisiplin Indonesia*, 2(1), 559-562.
- Julyanthry, J., Siagian, V., Asmeati, A., Hasibuan, A., Simanullang, R., Pandarangga, A. P., ... & Syukriah M, E. A. (2020). Manajemen Produksi dan Operasi.
- Khotimah, H., Dewi, K., Lubis, L. K. L. U., Prayogo, M. D. A., Viridi, S., & Khoiriah, S. U. (2023). Analisis Akar Penyebab Pembunuhan dalam Masyarakat Indonesia: Perspektif Teori Anomie Durkheim. *JISPENDIORA Jurnal Ilmu Sosial Pendidikan Dan Humaniora*, 2(3), 155-177.
- Kurniawati, A. (2020). Penegakan hukum terhadap pelanggaran hak cipta melalui media internet. *Jurnal Ilmiah Hukum Dan Dinamika Masyarakat*, 18(1), 19-32.
- Lima, M. B. A., & Yonamine, M. (2023). Counterfeit medicines: relevance, consequences and strategies to combat the global crisis. *Brazilian journal of pharmaceutical sciences*, 59, e20402.
- Maritano, V., Barge, P., Biglia, A., Comba, L., Aimonino, D. R., Tortia, C., & Gay, P. (2024). Anti-counterfeiting and fraud mitigation solutions for high-value food products. *Journal of Food Protection*, 100251.

- Marlyna, H., & Sardjono, A. (2019). Does the Trademark Protection Regulation Protect Consumers against Counterfeit Products? Analyzing the Theories of Trademark and Indonesian Trademark Law. *Pertanika Journal of Social Sciences & Humanities*, 27(2).
- Marsela, D., Yudhistira, Y., & Fawaid, B. (2024). Legal Protection of Consumers in Online Business: A Criminal Law Perspective in Handling Fraud and Identity Theft. *Research Horizon*, 4(3), 99-106.
- Maruf, A. (2021). Legal aspects of environment in Indonesia: An effort to prevent environmental damage and pollution. *Journal of Human Rights, Culture and Legal System*, 1(1).
- Mastur, M., Afif, M. N., & Bahari, A. S. (2024). Implications of Constitutional Legal Policies on Business Practices: Analysis of Economic Rights Protection and Corporate Regulation. *Research Horizon*, 4(3), 201-212.
- Muraev, P. P., & Simon, A. L. (2022). Coordination of the Law Enforcement Agencies in Combating Computer Crimes. *Legal Concept= Pravovaya paradigma*, 21(2), 35-42.
- Nopiana, N., & Disemadi, H. S. (2021). Perlindungan hukum terhadap pemegang hak merek: Suatu kajian komparatif antara jepang dan indonesia. *Widya Yuridika*, 4(2), 549-561.
- Risandi, K., & Disemadi, H. S. (2022). Pemalsuan Merek Sepatu Di Indonesia: Pengaturan Dan Sanksi?. *Jurnal Komunikasi Hukum (JKH)*, 8(2), 315-326.
- Rusman, R. S. (2020, November). Perlindungan Hukum Terhadap Pemegang Hak Merek Dalam Perdagangan Elektronik Di Marketplace (Platform). In *National Conference on Law Studies (NCOLS)* (Vol. 2, No. 1, pp. 170-181).
- Sapozhnyk, D. (2023). Modern Aspects of Identification Of Counterfeit Products. *Visnyk*, 2226.
- Sari, N. K. A. (2023). Criminal Liability for Corporate Crime in Indonesia. *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam*, 5(1), 867-874.
- Situmeang, A., Silviani, N. Z., & Tan, D. (2023). The Solving Indonesian Intellectual Property Rights Transfer Issue. In *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* (Vol. 23, No. 1, pp. 59-74).
- Uguru, U., & Umobong, M. C. (2022). Appraising the Impact of the Nigerian Copyright Act and Regulations in Combating Piracy in Nigeria. *Beijing L. Rev.*, 13, 247.
- Wahyudi, R., & Syauqillah, M. (2022). Strengthening cooperation among intelligence agencies in the enforcement of law on terrorism: The case of Indonesia. *JISPO Jurnal Ilmu Sosial dan Ilmu Politik*, 12(1), 23-38.



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