Indonesian Journal of Business Analytics (IJBA)
Vol. 5, No. 3 (June) 2025: 2331-2344

Legal Review of Priority Watch List Status in Intellectual Property Infringement in Indonesia

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A R T I C L E I N F O
Keywords: Intellectual Property Rights, Indonesia, Priority Watch List

Received : 20, April
Revised : 15, May
Accepted: 09, June

A B S T R A C T
The development of international law reflects efforts to create a more just, peaceful, and stable global social order. Countries seek to protect so that people can enjoy fundamental rights, including intellectual property rights (IPR). However, in practice, violations of IPR are still rampant, including in Indonesia. The method employed is a normative juridical approach, involving an analysis of national laws and regulations, as well as international legal instruments that regulate the protection of IPR. The study's results show that, although Indonesia has a sufficient legal basis, challenges persist in aspects such as implementation, supervision, and coordination between institutions. The status *of the Priority Watch List* (PWL) provides pressure, while also presenting an opportunity for Indonesia to improve its laws, strengthen enforcement, and increase public awareness of respecting IPR in the digital era.

DOI: https://doi.org/10.55927/ijba.v5i3.14635
ISSN: 2808-0718
https://journal.formosapublisher.org/index.php/ijba

INTRODUCTION

Intellectual Property Rights (IPR) are exclusive rights granted by law to individuals or groups over the intellectual works they produce, whether in the form of technology, art, design, symbols, or brands. IPR plays a crucial role in modern economic activities, as it encourages innovation and adds value to products and services. In general, IPR is divided into several main categories: copyrights, patents, trademarks, industrial design, geographical indications, trade secrets, and plant variety protection. Each of these forms of protection is designed to protect a wide range of creative and innovative expressions, from artwork to technological inventions and a product's trademark identity (Aprita et al., 2024).

A study conducted by Kanwar and Everson on 32 countries between 1981 and 1990 found that the protection of intellectual property had a significant influence on investment in research and development. The study's results indicate that a robust IP protection system can foster innovation and accelerate technological progress within a country (Kanwar & Everson, 2023).

According to Chayes and Chayes (1993), when a country joins an international agreement, it tends to adjust itself to the patterns of behavior, forms of relationships, and expectations that have been established between the parties to the agreement. This adjustment reflects a process by which the state reduces its anarchic nature in the international order. Three main factors influence the behavior of countries and encourage the adjustment process, namely efficiency in implementation, national interests related to the treaty, and norms applicable in the international community (Chayes & Chayes, 1993).

The protection of intellectual property rights (IPR) has been regulated at both national and international levels. Historically, the regulation of intellectual property rights (IPR) globally began with the Paris Convention of 1883, which regulated the protection of industrial assets, such as patents and trademarks, and the Berne Convention of 1886, which regulated the protection of literary and artistic works (WIPO, 2005). As international trade has developed, IPR protection has become increasingly important. It is accommodated in the 1994 TRIPS (*Trade-Related Aspects of Intellectual Property Rights*) Agreement under the auspices of the WTO (*World Trade Organization*) (WTO, 2025). The TRIPS Agreement requires each WTO (*World Trade Organization*) member state to provide minimum standards of protection and enforcement of all internationally recognized forms of IPR. The TRIPs agreement is an international agreement that has been fully ratified and has received broad support from most countries worldwide. This agreement aims to create a more stable trade and investment climate. In Part 1 of Article 1, the TRIPs Agreement outlines the general provisions and the basic principles on which it is based (Noerhadi, 2021).

In addition to the WTO, the development of the international IPR system is also facilitated by WIPO (*World Intellectual Property Organization*), a specialized organization under the United Nations established through the Stockholm

Convention in 1967 (WIPO, 2025). WIPO plays a crucial role in drafting and managing various intellectual property agreements, as well as providing technical assistance and legislative support to its member countries. Indonesia is a member of both organizations and has incorporated international provisions into its national legal system through various sectoral laws, such as the Copyright Law, the Patent Law, the Trademark and Geographical Indication Law, as well as other laws that regulate the protection of other forms of intellectual property rights (IPR). Thus, the IPR protection system in Indonesia is an integral part of the global commitment to building an ecosystem that supports innovation, creativity, and healthy business competition.

Outside of multilateral frameworks such as the WTO, the enforcement of Intellectual Property Rights (IPR) is also influenced by the unilateral approach of developed countries, especially the United States. One of the important instruments used by the U.S. government is the annual *Special 301 Report* published by the *United States Trade Representative* (USTR). This report aims to assess the level of protection and enforcement of intellectual property rights (IPR) in various trading partner countries, as well as identify market access barriers faced by IPR-based industry players from the United States due to weaknesses in IPR systems in other countries (USTR, 2023). Through this report, the USTR categorizes countries into various groups, including Watch List, Priority Watch List, and Priority Foreign Country, based on the severity of the identified problems.

The Priority Watch List is a category that pinpoints countries with severe and systemic weaknesses in IPR protection. This category shows that the practice of piracy, counterfeiting, and regulations that are not by international standards is still widespread in Indonesia, which has been on this list since 1989, is considered to have not shown significant progress despite several legal reforms and the establishment of an anti-piracy task force (Manurung, 2025).

The countries on this list are generally judged based on input from key industries in the U.S., such as the pharmaceutical, music, software, and film sectors, which have suffered losses due to piracy and counterfeiting. Indonesia is one of the countries that consistently appear in the report. Indonesia's status on the *Priority Watch List* serves as a basis for encouraging the government to improve its legal system and IPR enforcement, although this report does not originate from multilateral forums such as the WTO. Nevertheless, many countries, including Indonesia, take this report seriously because it affects legal reputation, investment climate, and international trade relations (USTR, 2023).

In addition to digital content piracy, the circulation of counterfeit goods in Indonesia is another primary concern in official reports. The USTR has repeatedly placed Indonesia on the *Priority Watch List* due to the high rate of counterfeit products and weak enforcement of related laws. For example, the physical market of Mangga Dua in Jakarta has been listed in the *USTR's Review of Notorious Markets for Counterfeiting and Piracy* (until the 2024 edition) as a center for trading counterfeit products of various brands (USTR, 2023). This indicates that Indonesia is still considered a region prone to the circulation of pirated goods in the eyes of US trade authorities.

Indonesia's leading e-commerce platform was once officially mentioned in the U.S. Trade Representative (USTR) report. The USTR's 2021 *Notorious Markets* report highlighted Tokopedia, Bukalapak, and Shopee as online platforms that allegedly facilitate the sale of counterfeit goods in large volumes. Brand owners complain that Shopee has slow and ineffective content notification and downgrading procedures, as well as a lack of strict sanctions that provide a deterrent effect for fake or pirated sellers. Meanwhile, Bukalapak has invested in an anti-counterfeiting system (for example, through seller checks and listing removal processes). However, many counterfeit products are still found, so these efforts are not seen as enough to prevent the emergence of new infringing sellers. Tokopedia is also included in the USTR'*s notorious marketplace list*. However, the platform is said to have made improvements to reporting and enforcement mechanisms, as well as increased cooperation with brand owners to tackle counterfeiting on its website. This indication of improvement in Tokopedia shows a proactive response from local industry players; even the Indonesian E-commerce Association (IdEA) affirms its commitment to supporting the removal of counterfeit goods from online platforms and routinely reminds its members to comply with IPR protection rules. However, despite these efforts, the volume of counterfeit goods on Indonesian online platforms is still in the negative spotlight in the international arena (USTR, 2023).

In terms of law enforcement, Indonesian authorities have uncovered several significant cases involving the production and distribution of counterfeit goods. For example, at the end of 2024, the National Police Criminal Investigation Branch dismantled a production network of counterfeit vehicle parts, with a Chinese citizen serving as the primary supplier. In this operation, the police confiscated 1,396 boxes of counterfeit brake pads labeled with well-known automotive brands (Toyota, Honda, Daihatsu, Mitsubishi, Isuzu, and Ford), as well as various printing machines and equipment used to produce the counterfeit parts. The value of the confiscated evidence is estimated to reach Rp 3 billion, with a potential state loss of around Rp 10.8 billion due to the loss of excise/import revenue. Against the perpetrators, the police applied criminal articles, including Law No. 8 of 1999 concerning Consumer Protection, with the threat of a 5-year prison sentence or a fine of up to Rp 2 billion for violations of the circulation of counterfeit goods (Kompas, 2025). This case shows that Indonesia is not only a market, but also an area where efforts are being made to produce local counterfeit goods, ranging from fashion commodities to electronics and automotive components.

One of the main reasons why Indonesia remains on the *Priority Watch List* is the high rate of IPR violations, including the circulation of counterfeit goods and piracy of digital content through illegal IPTV services, which are violations of industrial brands and designs, are still widely found in the Indonesian market, covering various products such as *fashion*, electronic goods, to pharmaceuticals.

The OECD estimates that the global trade in counterfeit goods is worth hundreds of billions of dollars and has a negative impact on health, safety and consumer confidence (OECD, 2019).

Problem Formulation

a. What are the factors that cause Indonesia to be included in the *Priority Watch List*?
b. What is the impact on Indonesia due to violations that result in a *Priority Watch List status*?

RESEARCH METHODS

The research method employed in this study is a normative juridical research method. According to Soerjono Soekanto, the normative juridical approach is a type of legal research that involves examining literature as the basis for research, typically by conducting a comprehensive search of relevant literature related to the problem being investigated. Peripheral legal materials are in the form of laws and regulations. In contrast, secondary legal materials consist of literature, legal journals, and tertiary legal materials, including general dictionaries and specialized legal dictionaries (Soekanto & Mamudja, 2021).

In the context of the Legal Review of the Status *of the Priority Watch List* in Intellectual Property Infringement in Indonesia. Indonesia has been repeatedly included in the *Priority Watch List* by *the United States Trade Representative* (USTR, 2023). This status indicates that Indonesia continues to face significant challenges in enforcing intellectual property (IPR) rights, particularly in protecting patents, trademarks, and copyrights from widespread infringement. This study aims to assess the implementation of laws and regulations in Indonesia related to intellectual property rights (IPR) violations, as well as their effectiveness in responding to international scrutiny, as reflected in the status of the *Priority Watch List*. The normative juridical approach is employed to assess how Indonesian law, both in the context of legislation and court practice, addresses and handles these issues from the perspective of the applicable law.

RESULTS AND DISCUSSION

Profit of life for the owner. Intellectual Property is a right derived from the results of creative activities of human thinking ability expressed to the general public in various forms, which helps support human life because it has economic value. The tangible manifestation of these abilities is evident in various fields, including technology, science, art, and literature. Intellectual Property is the right to obtain legal protection for intellectual property under laws and regulations (Sinaga, 2020).

Indonesia is one of the United States' leading trading partners in the Indo-Pacific region. With a large population and a high level of purchasing power, this condition provides significant benefits for both countries in building mutually beneficial bilateral relations. The value of bilateral trade between the United States and Indonesia exceeded $ 29 billion in 2018 for the goods sector, as well as approximately $ 3.9 billion for the services sector. The considerable market potential in Indonesia provides various economic advantages for both countries, especially in terms of exports of intellectual property products owned by the United States, such as films, music, and software, which are widely marketed and consumed in Indonesia (Wiratama & Hanura, 2023).

Indonesia's placement on the *Priority Watch List* (PWL) *by the United States Trade Representative* (USTR) in the annual *Special 301 Report* indicates that Indonesia remains a country with significant weaknesses in the protection and enforcement of intellectual property (IPR) rights. This classification indicates that, although the national legal system is formally compliant with sufficient legal instruments, it has not been able to provide adequate and consistent IPR protection. *The United States Trade Representative* (USTR) annually releases a Special 301 report that contains a list of Priority Watch Lists for countries considered to have inadequate protection and enforcement of intellectual property rights. Indonesia has been in a state of status quo for 36 consecutive years, which indicates that there are chronic problems in the IPR protection system in Indonesia. Countries included in the *Priority Watch List* by 2025 are: Argentina, Chile, China, India, Indonesia, Mexico, Russia, Venezuela (USTR, 2025)

Indonesia has experienced many prominent cases related to copyright infringement in the field of internet-based television broadcasting (illegal IPTV). In 2023, a syndicate that had been illegally broadcasting 72 Korean and international television channels for about nine years was successfully dismantled through a joint INTERPOL operation involving Indonesian and Korean law enforcement. The operation under the "INTERPOL *Stop Online Piracy* (I-SOP)" project facilitated simultaneous raids in both countries at the end of October 2023, resulting in the arrest of three suspected operators of the illegal IPTV service. These illegal services reportedly operate with advanced infrastructure (including the use of 40 official Korean cable TV accounts) and cause losses estimated at around USD 1.23 million to broadcast rights owners (Interpol, 2025).

In recent years, the Directorate General of Intellectual Property (DJKI), through its Directorate of Investigation and Dispute Resolution, has made various strategic efforts to encourage Indonesia to be removed from the *Priority Watch List* (PWL). One of the important steps is Indonesia's accession to Interpol membership on December 13, 2022, which strengthens international cooperation in handling cross-border intellectual property infringement. In addition, DJKI also plans to sign a Memorandum of Understanding (MoU) between global brand owners and major e-commerce platforms in Indonesia to strengthen the IP protection ecosystem in the digital realm. In 2022, DJKI certified 87 intellectual property-based shopping centers in 29 provinces as a preventive measure against the circulation of pirated and counterfeit goods. Concrete cases were also handled, including 25 cases of IPR violations and the closure of 187 infringer sites during the same year. Entering 2023, DJKI is enhancing law enforcement innovations through collaboration with the Ministry of Communication and

Information and the Directorate General of Customs and Excise to conduct cyber patrols in the e-commerce sector, aiming to prevent the entry of goods that can violate intellectual property rights (IPR). This initiative responds to the rampant IPR violations on online platforms. A normative and educational approach also complements this effort. Supportive regulations and structured public campaigns are encouraged to build public awareness, ensuring that the public does not purchase or use counterfeit products. This combination of strengthening regulations, cross-sectoral cooperation, and public education is expected to enhance Indonesia's image in the international community regarding IPR enforcement and establish a strategic foothold for exiting the *Priority Watch List* (DJKI, 2024).

However, several efforts made by DJKI have not led to Indonesia's removal from the PWL list issued by the USTR. Indonesia is still included in the PWL monitoring list in special report 301 of 2025.

Factors that cause Indonesia to be included in the Priority Watch List

Indonesia's inclusion on the Priority Watch List (PWL) by the United States Trade Representative Office (USTR) indicates a discrepancy between national intellectual property (IPR) protection policies and international standards. This not only affects the global perception of the Indonesian legal system but also highlights the ineffectiveness of law enforcement in addressing IPR violations.

One of the primary factors cited in the 2025 Special 301 Report is the inadequate enforcement of laws against piracy and counterfeiting, particularly in the digital realm. The high rate of music piracy, the rise of piracy sites and applications, and the lack of legal action for online violations are the leading indicators of the weakness of national laws (USTR, 2025). This is strengthened by a statement from Romandelas Manurung, S.H., Civil Servant Investigator / First Expert Legal Analyst at the Directorate of Law Enforcement of DJKI, who stated that "one of the biggest obstacles in cracking down on IPR violations is the limited coordination between law enforcement agencies and the weak reporting and tracking system of online violations."(Manurung, 2025).

Additionally, law enforcement in the border area has not been operating optimally. Although the Ministry of Finance has issued a policy to allow the detention of counterfeit goods through *an ex officio* mechanism, the limited registration system and the obligations of local domicile and substantial guarantees are barriers for foreign rights holders to obtain adequate protection. This indicates that Indonesia's IPR system is not yet aligned with global interests.

Another factor is that violations of moral rights in Indonesia can be categorized as quite serious problems. These types of violations include acts of plagiarism in academic writings, cutting or altering songs in the Ring Back Tone service, using song lyrics in the form of parody, broadcasting songs on television or radio without including the name of the creator, recoloring black and white films, censorship of films, modifications to traditional dances, changes to paintings, and reproduction of paintings. Unfortunately, most of these violations do not receive adequate handling (Hawin & Riswandi, 2020).

Normatively, weaknesses are also found in several existing legal instruments. The Copyright Law is considered to still have substantial gaps, especially in terms of exceptions to the avoidance of protection technology. Similarly, the revision of the Patent Law through the Omnibus Law, passed in 2024, expands the scope of patents and simplifies enforcement through licensing or importation, but creates new ambiguities regarding the annual reporting of patents, as well as the disclosure of traditional knowledge-based inventions. Based on Article Number 1, paragraph (1) of Law Number 14 of 2001 concerning Patents, it is the exclusive right given by the state to the inventor for the results of their investment in the field of technology. This legal uncertainty magnifies the risks for patent holders and is a source of concern for foreign stakeholders.

Market barriers are also an inseparable aspect. The provisions of the Minister of Education and Culture Regulation No. 34 of 2019, which restrict foreign participation in the film industry through screen quotas and dubbing bans, reflect policies that aim to protect the domestic industry but have an impact on the investment climate and fair market access (USTR, 2025).

However, Indonesia has shown efforts to improve, including through increased cooperation between the Ministry of Communication and Informatics and DJKI, as well as the establishment of an IPR Enforcement Task Force. However, as explained by Romandelas Manurung, the existence of this Task Force "has not been fully able to penetrate the complexity of enforcement in the field, especially when violations are committed across sectors and digitally" (Manurung, 2025). This highlights the need for institutional strengthening, including the establishment of a specialized IPR unit within the National Police of the Republic of Indonesia.

Impact on Indonesia due to violations that give rise to Priority Watch List status

Indonesia, which has been on the Priority Watch List (PWL) for many years, has had to bear the layered legal, diplomatic, and economic consequences. Indonesia's inclusion in the list forces the government to accelerate the harmonization of IPR regulations with international standards. The revision appears in the Patent Law: the work obligation that previously required local production within three years and was questionable for foreign patent holders has been relaxed through the Job Creation package (2020) and the 2023 amendment, allowing patent owners to now fulfill their obligations through licensing or imports (Patent Law, 2023). Other changes include strengthening the protection of test data exclusivity in the pharmaceutical sector, tightening the anti-piracy provisions in the 2014 Copyright Law, and aligning trademark rules with global best practices (USTR, 2024). The PWL status also encourages institutional reform of the Directorate General of Intellectual Property (DJKI) to form a cross-agency PWL Task Force, increase investigator training, collaborate with Kominfo to block pirated sites, and coordinate with the police in handling cross-regional cases (DJKI, 2022). In other words, the PWL label acts as a catalyst, implying that Indonesia's enforcement has not reached the *level of* "*adequate and effective*" as mandated by Articles 41–61 of the TRIPS, thus triggering regulatory and operational reforms.[1]

In the international realm, PWL faces diplomatic pressure. Within *the framework of the Trade and Investment Framework Agreement* (TIFA), the United States requests annual IPR progress reports, emphasizing the establishment of special enforcement units and regular raids on "notorious" markets (WTO, 1994).

Based on the results of an interview with Romandelas Manurung, S.H., Civil Servant Investigator / First Expert Legal Analyst at the Directorate of Law Enforcement, DJKI, as well as an analysis of the Special 301 Report issued by the United States Trade Representative Office (USTR), an overview of the significant impact that intellectual property (IPR) infringement has on Indonesia's position in the international trade arena is obtained. Indonesia's status on the *Priority Watch List* (PWL) consistently reflects the national legal system's inability to provide adequate protection of intellectual property rights.

The results of the interviews revealed that weak law enforcement, especially against digital violations such as illegal IPTV and online content piracy, is one of the primary reasons for Indonesia's continued presence on the list. Romandelas Manurung stated that, to date, the enforcement of violators' sites remains administrative, in the form of blocking, rather than reaching the stage of prosecution that can have a deterrent effect. Coordination between agencies, including law enforcement officials, remains a challenge that limits the effectiveness of handling IPR violations as a whole.

Meanwhile, the USTR's Special 301 Report highlights the rampant online piracy, circulation of counterfeit goods, and weak border registration and enforcement systems as key issues that have not been adequately addressed. Physical marketplaces such as Mangga Dua and major e-commerce platforms in Indonesia are mentioned in the report as distribution centers for counterfeit goods. The USTR noted that, despite efforts to block piracy and cross-ministerial cooperation, piracy through IPTV and online media continues on an alarming scale.

According to Romandelas Manurung, one of the concerns is the potential revocation of the *Generalized System of Preferences* (GSP) facility by the United States. GSP is a preferential trade scheme that provides import duty tariff relief for export products from developing countries, including Indonesia. If Indonesia is deemed unable to ensure adequate protection of intellectual property rights, the sustainability of this facility may be reconsidered by U.S. trade authorities. The revocation of the GSP will directly impact the competitiveness of Indonesian products in the US market, reduce export volumes, and put pressure on labor-intensive industrial sectors, such as textiles, footwear, and light manufacturing, which heavily rely on these tariff incentives.

Additionally, from the perspective of international reputation, Indonesia's inclusion in the PWL list also lowers the country's bargaining position in bilateral and multilateral trade forums. An inability to demonstrate significant progress in IPR protection may hamper the trade negotiation process and potentially create technical and non-tariff barriers from partner countries.

DJKI's efforts in responding to this situation have been carried out through various strategies, including Indonesia's membership in Interpol to strengthen cross-border enforcement, cooperation with the Ministry of Communication and Informatics and Customs in cyber patrols, and IPR-based certification for shopping centers. However, as Romandelas emphasized, these steps need to be improved through the establishment of a special IPR enforcement unit in the police structure, as well as strengthening regulatory support that can integrate the law enforcement systemically. Thus, IPR violations that cause Indonesia to remain on the *Priority Watch List have far-reaching consequences not only on weak national law enforcement but also on the potential disruption of trade relations and the loss of international trade facilities such as GSP. Therefore, a comprehensive reform is needed in the IPR protection system that is not only normatively responsive, but also adaptive to the dynamics of technology-based and digital-based infringements. The research found that the position of PWL Indonesia also reduces macroeconomic competitiveness, which can ultimately affect exports, product prices, and the potential loss of duty-free incentives.* With Indonesia's continued inclusion on the *Priority Watch List* , it is not only a legal issue, but also a threat to its investment climate and international market access (Wibowo et al., 2023).

CONCLUSION

Indonesia has long been included in the Priority Watch List (PWL) issued by the United States Trade Representative (USTR), indicating serious concerns about the protection and enforcement of intellectual property rights (IPR) in the country. The main factors that contribute to Indonesia's continued presence on this list include rampant intellectual property rights (IPR) violations in both physical and digital markets, weak law enforcement, suboptimal cross-agency coordination, regulatory gaps concerning international standards, and diplomatic and economic pressure from the United States and the global creative industry.

The impact of PWL status is quite significant for Indonesia. Domestically, the government is encouraged to reform IPR regulations to align with international standards, as reflected in the revision of the Patent Law and the strengthening of clinical trial data protection in the pharmaceutical sector. In addition, the establishment of the PWL Task Force and increased coordination between agencies demonstrate serious efforts to improve IPR law enforcement. At the international level, PWL status affects Indonesia's trade relations, including the re-evaluation of the Generalized System of Preferences (GSP) facility by the United States, as well as creating risk perceptions for foreign investors, especially in the license-based sector.

Nonetheless, this pressure also presents opportunities for Indonesia to strengthen its IPR system, which can ultimately enhance national competitiveness and attract more foreign investment.

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