

## Legal Protection Against Trademark Label Substitution: Analysis Based on Law Number 20 of 2016 Concerning Trademarks and Geographical Indications

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### ABSTRACT

Replacement labels on products that use registered trademarks are a crucial issue in the protection of intellectual property rights, as stipulated in Law No. 20 of 2016 concerning Trademarks and Geographical Indications. The method used is normative juridical research with a qualitative approach, through literature studies and interviews with legal experts and practitioners in the field of intellectual property. The study's results indicate that current regulations do not specifically address the protection of illegally modified brand labels, leaving legal loopholes that permit abuse. Although the Act grants exclusive rights to trademark owners and imposes the threat of sanctions against violators, its implementation remains limited due to the lack of adequate oversight mechanisms and weak law enforcement. In addition, dispute resolution in cases like this tends to be complex because it involves a complaint and requires difficult proof. At the same time, the litigation process is often time-consuming and expensive. Therefore, this study recommends the need for regulatory reform through more specific implementing regulations, such as Government Regulations on the Use of Trademarks by Third Parties, as well as increased public supervision and education on the protection of trademark rights to ensure legal certainty and justice for registered trademark holders.

## INTRODUCTION

The development of the increasingly dynamic business world encourages companies to continue to innovate in introducing their products to consumers. One aspect that has received significant attention is brand identity, which serves as the primary symbol for distinguishing a company's products from those of its competitors (Quintina et al., 2017). In this case, the label on the product plays a vital role as a visual element that represents the brand. Labels not only serve as a means of communication but also as a guarantee of the authenticity and quality of the products offered (Hans & Kansil, 2023). Brand owners often make label replacements that aim to refresh the product's look or adjust to market trends. This change is expected to attract consumer attention and increase product competitiveness (Yulianto, 2023). However, in practice, label *replacement* is often done by other irresponsible parties. Nonetheless, label replacements can have inevitable legal repercussions. This may raise questions regarding the validity of legal protection against the trademark.

Label replacements carried out by unauthorized parties without the trademark owner's permission can lead to serious legal violations. This action is typically taken to exploit a product for illicit profit. This phenomenon has the potential to harm brand owners, both in terms of material and immaterial. Additionally, this type of action can also mislead consumers, thereby undermining trust in the brand in question (Hans & Kansil, 2023). Law Number 20 of 2016 concerning Trademarks and Geographical Indications (hereinafter referred to as the MIG Law) provides a clear legal basis regarding trademark protection. This law regulates various aspects related to registration, utilization, and trademark protection from all forms of infringement. However, in the context of label replacement, there are still legal loopholes that require further analysis to ensure optimal protection for brand owners.

In some cases, the brand owner's replacement of the label without regard to legal provisions may give rise to a dispute. For example, a too significant label change could be considered the creation of a new brand, which would require re-registration (Febriansyah, 2013). This will undoubtedly have implications for the legal protection attached to the brand. Therefore, brand owners need to understand the legal limitations and provisions regarding label replacement to avoid potential disputes.

Label replacement by irresponsible parties is a serious violation that has not been regulated in the MIG Law. This action not only harms the brand owner but also harms consumers who obtain products of quality that do not match their origin. Therefore, firm legal measures are needed to handle these kinds of cases. The phenomenon of unauthorized label replacements also highlights the importance of the role of relevant authorities, such as the Directorate General of Intellectual Property (DJKI), in overseeing and enforcing the law. Adequate supervision and consistent law enforcement are expected to provide maximum protection for brand owners and prevent infringements (Budiyanti & Gumilang, 2023). Additionally, educating brand owners and the public about the importance of brand protection is a preventive measure that needs to be taken.

From a business perspective, unauthorized label replacements can damage a brand's reputation and lower consumer trust levels. Therefore, strong legal protection of brands is a pressing need to ensure business sustainability.

This study aims to analyze the legal protection against trademark label replacement based on the MIG Law. The formulation of the problem in this study is how to address the legal protection of trademark labels that are altered without the permission of the trademark owner, and the second is how to model the legal settlement of intellectual property rights infringement in the form of trademark label replacement. It is hoped that this research will contribute to strengthening legal protection for brand owners, enabling them to pay more attention to their rights while protecting consumers from the negative impact of unauthorized label replacement. Through this study, it is also hoped that effective legal solutions can be found to address the various problems that arise from label replacement. Thus, the legal protection of registered trademarks can be optimized, thereby providing a sense of security for brand owners and increasing consumer confidence in products on the market.

## **LITERATURE REVIEW**

### **Trademark**

The export of domestic goods now accounts for a sizeable amount of the world economy. Products and services are frequently determined by the popularity of their brand, as you are aware. Because of this, governments in many nations are making a concerted effort to assist regional producers whose brands are well-known and highly regarded by consumers. Ensuring the protection of the trademarks (brands) of companies that produce competitive goods abroad is crucial at the same time. Popular brands like Apple, Ferrari, Adidas, Samsung, Sony, and others are now regarded as the nation's official symbols.

One of the primary requirements for any company entity nowadays is having a brand that is appropriate for your enterprise. Statistics show that over 2 million trademarks were filed globally in 2001, and by 2016, that number had risen to nearly 7 million. A trademark and a service mark are goods and services provided by one legal entity or individual to other legal entities in accordance with Law of the Republic of Uzbekistan No. 267-II, dated August 30, 2001, "On Trademarks, Service Marks and Appellations of Origin of Goods." and people are properly registered trademarks to set them apart from such products. Additionally, the law has a guideline that specifies how marks can be registered as trademarks. Images, words, symbols of a specific shape, and other symbols, as well as their collective expression in any one color or a variety of colors, can all be registered under this rule. Article 15 of the 1994 World Trade Organization Trade-Related Aspects of Intellectual Property Rights (TRIPS) is in accordance with this (Abdugopirovich, 2021).

### **Geographical Indication**

A geographical indication is a sign that, as a result of geographical environmental elements, such as natural or human influences, or a combination of both, gives the produced commodities particular features and characteristics. The reputation (fame) of the commodities is derived from their qualities and attributes that are preserved and can be preserved for a specific amount of time. This, in turn, enables the items to have a high economic worth.

The Directorate General of Intellectual Property Rights (DG IPR) in Indonesia has registered a number of geographical indications, including Kintamani Coffee, which comes from Kintamani on Bali Island. The region where the Bali Kintamani type is found is higher than 900 meters above sea level. The intriguing thing is that, because of its agricultural system, which is renowned for being uniform, particularly in the Kintamani region, the agroecosystem of this variety of Kintamani Bali coffee is ideal for the growth of Arabica coffee. Despite the high air temperatures, this area is known to have a climate that is chilly and dry (Yessiningrum, 2015).

### **Legal Protection**

In the world of business, merek, one type of HKI, has been used for many years and has important uses since it is used to convey information about products such as goods and services. In a commercial setting, a merek can be a very expensive product, and there are often merek that make the price of a product far higher than that of the company in question. The fact that Indonesia has already enacted and strengthened the Merek Law, which dates back to 1961's Undang-Undang No. 21, followed by 1992's Undang-Undang No. 12, and then again in 2001's Undang-Undang No. 15, indicates that the importance of the Merek law cannot be overstated. It is necessary to have more luwes seiring laws in relation to the rapid growth of the business world. The goal of this study is to provide legal protection for merek in the trade of goods and services.

Transfer and removal of trademark protection in Indonesia, and how trademark law is protected in barangay and service transactions. The first trademark registration is evidence directed to the trademark. Trademark registration also serves as a basis for rejection of the same trademark in its entirety, or the same in principle suggested by others for similar goods or services. Trademark rights are a special blessing given by the nation to the owner of a registered trademark. Therefore, other organizations cannot use a registered trademark without the owner's consent. Trademark registration that is considered to be removed will have an impact if the trademark that has been made is not used in accordance with the provisions stated in the law. Second, the trademark as a business entity will be able to generate large profits if used by considering business aspects and effective management techniques.

As the importance of this merek grows, it is necessary to implement hukum protection, namely as an obyek related to the rights of individuals or the hukum authority. The purpose of Undang-Undang No. 15 of 2001 was to provide more legal protection for those who are vulnerable to dagang. Due to the

protection of the law for merek in the process of selling goods and services, it is believed that merek owners will be able to use the law to their advantage (Mamahit, 2013).

## RESEARCH METHODS

Both legislative and conceptual approaches are incorporated into the normative legal research methods used in this study. Law No. 20 of 2016 covering Trademarks and Geographical Indications, along with other relevant rules, are reviewed in order to implement the legislative approach. The purpose of this study is to examine the legislative framework governing label replacement and brand protection.

To comprehend the idea of brand protection and the legal ramifications of label replacement—whether done by the brand owner or by unauthorized parties without authorization—a conceptual approach is used. This method assists in locating legal gaps and offers fixes for issues that come up. Primary legal documents, such as relevant laws and regulations, as well as secondary legal materials, such as books, journals, and the outcomes of interviews with DJKI, provided the data used in this study. To fully comprehend the topics covered, a qualitative analysis of the data is conducted.

## RESULTS AND DISCUSSION

### *Legal Protection of Trademark Labels That Are Altered Without The Permission of The Trademark Owner*

One of the most crucial components in the commerce and business sector is the brand, which acts as an identity for the goods and services that companies provide. Furthermore, brands are a means of enhancing consumers' perceptions, trust, and reputation about particular goods or services (Pingkan & Kalalo, 2021). Legally speaking, trademarks are safeguarded as a type of intellectual property governed by the MIG Law. The owner of the trademark has the sole authority to use, license, or forbid others from using the brand without authorization because to this legal protection (Prameswari & Aidi, 2024).

By preventing unauthorized use of the same brand or one that is conceptually similar, this legal protection seeks to avoid confusing the public. The first-to-file concept serves as the foundation for this. Until the contrary is demonstrated, the first individual to register a trademark application is granted protection under the first-to-file system. According to Article 1 (paragraph 5) 5 of the MIG Law, the owner of the registered trademark has exclusive rights. The state's granting of exclusive rights is a type of legal protection that must reflect legal certainty in addition to guaranteeing justice. Thus, in accordance with the fairness principle, a third party who disputes the existence of the registered trademark owner's exclusive rights may request that the registered trademark be canceled.

However, in accordance with the legal certainty principle, the state's granting of exclusive rights has undergone a verification process that checks formal and material requirements and announcements prior to issuing the

certificate, which must be upheld to prevent arbitrary lawsuits (Mustafa, 2022). The rights of registered trademark owners include the ability to bring criminal charges against trademark infringers, collect damages, and file civil lawsuits. Furthermore, through the trademark registration and registration system, the Directorate General of Intellectual Property (DJKI) is essential in providing administrative protection and guaranteeing the preservation of trademark owners' rights (Denny, 2022).

The MIG Law's article 2 (paragraph 3) states that a variety of signs, including names, logos, images, words, letters, numerals, color schemes, sound forms, and holograms, are covered by legal protection. In the context of trade in goods and services, a brand serves to differentiate goods and services manufactured by particular people or organizations. Nonetheless, if the application for registration is identical to a registered trademark or a well-known trademark that belongs to another party, whether for the same or different goods or services, it may be denied (Qistani et al., 2023). Furthermore, a bad-faith application is not admissible. This evaluation of good faith is frequently arbitrary and contentious, particularly when parties want to copy the brand for their own benefit.

Legal protection for registered trademarks lasts for ten years after the date of registration and may be extended for an additional ten years. To improve accessibility for business actors, the government has streamlined the registration and renewal procedure using both manual and electronic techniques (Fajar et al., 2018).

Brand owners frequently update or modify their labels and other brand components as market conditions and times change. Replacing a brand's label is usually done for a number of reasons, including as keeping up with the newest design trends, drawing in new customers, or reviving a brand's reputation (Yulianto, 2016). However, label modifications may result in legal repercussions, especially when it comes to the legitimacy of trademark protection. In order to become more competitive or set themselves apart from rivals, businesses are also encouraged to switch brands by market and competition pressure (Hans & Kansil, 2000). A brand shift is a calculated move to rebuild the company's reputation and win back customer trust in such a scenario (Putra, 2014). Furthermore, keeping an existing brand is frequently a component of a strategy for a gradual shift to a new one, particularly in order to prevent consumer misunderstanding or a decline in market loyalty (Nurdianto & Purnomo, 2021).

The protection of technology utilized in the lawful manufacturing process has grown more and more important in light of the commerce and industrial sectors' explosive growth. Trademarks that establish the product's identity in the marketplace are included in this protection, in addition to elements of intellectual property like patents, industrial designs, or trade secrets over production technologies. Product protection in the marketplace mostly relates to defense against the product's related brand. The brand, which represents the caliber, standing, and image of the manufactured goods, acts as the primary conduit between the producer and the customer. As a result, the owner is responsible for

protecting the brand from legal infractions and bad faith. Generally speaking, fraud and deceptive networks are included in the definition of bad faith. It also encompasses actions that are deemed unjustified in the pursuit of an unethical objective or that disrespect legal and corporate ethics in the interest of maximizing profit (Mustafa, 2022). In addition to preventing financial losses, this protection seeks to preserve consumer trust in the manufactured goods and brands.

Intellectual property rights are violated when labels are changed without a good reason and the prior trademark owner's consent. Such infractions may result in financial losses, but they may also damage the brand's reputation and lead to consumer misconceptions about the product's origins or quality. As a result, business actors must be well aware of the significance of legal protection for brands and always put honesty and transparency first when conducting business. Encouraging a competitive and healthy corporate climate requires strict enforcement of these infractions.

Since the action is not predicated on third parties using the product in good faith, changing labels without authorization is against Law Number 20 of 2016 respecting Trademarks and Geographical Indications. This law gives registered trademark owners legal protection, including defense against third parties using their mark to mislead the public about the product's origin. According to Article 83, in the event of a violation, the owner of the trademark has the sole, state-protected right to sue and, if the conditions of the violation are met, to pursue criminal action.

In addition to safeguarding the rights of lawful trademark owners, legal trademark protection also shields consumers' interests from the danger of buying deceptive counterfeit goods (Izazi et al., 2019). Customers have a right to goods that are genuine, secure, and up to par. In addition, brand owners who act in good faith are assured of the protection of their mark. Despite the Trademark and Geographical Indications Act's regulation of trademark legal protection, there are still a number of flaws that make it challenging to successfully apply protection in practice. Proving that a trademark label modification was made without the owner's consent is one of the primary obstacles (Putra, 2000).

Complete data and documentation are necessary for this proving procedure, but so is clarity regarding the type of violation in question, especially if the label change is done covertly or undetectably by someone with bad intentions. Furthermore, third-party trademark use oversight is a challenge in and of itself. Brand owners frequently lack strong management systems or adequate information to track how their brand is being used in different distribution areas (Puspitasari & Prabowo, 2023). The constraints of laws that specifically prohibit changing brand names without the owner's permission make this worse. The MIG Law leaves opportunity for interpretation and possible misuse by parties that take advantage of such legal loopholes because it does not specifically control technical provisions regarding banned types of label modification or restrictions on their usage in the context of licensing.

The case between Rhodey and Hamlin, which recently went viral and garnered public attention on social media, is one instance of this. Local fashion retailer Hamlin distributes goods from other companies at far higher costs without revealing where they come from. When a content producer going by the handle @jiglyciouss found out that the laptop sleeve he had purchased from Hamlin was actually a brand of a far less expensive product, the case was first made public. Customers were incensed by this revelation because they felt duped and wanted Hamlin to be more open. In response, Hamlin took to social media to apologize and provide clarifications. They accept responsibility for any mistakes made by their manufacturing partners. Nevertheless, a lot of customers are still dissatisfied because, in addition to this instance, it has been discovered that Hamlin has frequently switched the brand of other goods to his own. Customers thus doubt Hamlin's ethics and corporate integrity.

This instance emphasizes the value of honesty and openness in business, as well as the necessity of upholding customer confidence. Because it gives false information and charges prices that are out of line with the quality of the products, Hamlin's product relabeling technique is regarded as unethical. Business actors are supposed to operate honestly, transparently, and without taking any acts that could deceive customers in accordance with the framework of business ethics.

#### ***Legal Settlement Model for Intellectual Property Rights Infringement in The Form Of Brand Label Replacement***

The complaint detection system is the main legal settlement method accessible when disagreements arise over unlawful alterations to brand labels. If the aggrieved trademark owner registers a complaint, new legal action may be initiated. This implies that law enforcement cannot act right away to stop such infringement unless the trademark owner reports them or objects (Santosa, 2022). Since not all brand owners have the ability or resources to actively monitor and report violations, in practice, this strategy frequently acts as a barrier.

The parties to the dispute desire a quicker and more effective resolution as a result of the backlog of cases that impacts the lengthy settlement process (Santyaningtyas et al., 2023). There are a number of ways to resolve a dispute that has been reported, including mediation, arbitration, and legal action. Particularly when the parties want to preserve their business connection, mediation and arbitration are frequently selected as a quicker and more private alternative to dispute resolution (Kusumo & Sugama, 2020). However, judicial litigation is frequently the last option in certain cases that are serious or involve widespread offenses. Sadly, court cases are frequently costly, time-consuming, and necessitate intricate evidence gathering, which can cause brand owners to suffer further financial and reputational damages (Puspitasri & Prabowo, 2022).

Parties are allowed to select non-litigation techniques or alternate, more effective dispute resolution forums, including alternate Dispute Resolution (ADR), since litigation is thought to be an excessively time-consuming method of resolving disputes. According to Law Number 30 of 1999 about Arbitration and Alternative Dispute Resolution, arbitration is one type of ADR that may be



employed. The Indonesian National Arbitration Board (BANI), an independent organization that offers a variety of out-of-court conflict resolution services, can assist in resolving disputes through arbitration. The MIG Law also contains provisions on arbitration as a means of resolving conflicts. It stipulates that parties may choose to use arbitration or other APS ways to settle disagreements instead of filing a lawsuit.

According to Article 1, paragraph 1 of the Arbitration Law and the APS, arbitration is a process that involves a written agreement (arbitration agreement) between the parties to settle civil disputes outside of the general court. This arbitration agreement may have been established after the issue has occurred or may have been a provision in the contract before the conflict (Santyaningtyas et al., 2020). According to Article 4, paragraph (2) of the Law, the disputing parties must fulfill formal conditions, such as incorporating arbitration clauses in the contract they mutually agreed upon, in order for trademark disputes to be settled by arbitration.

According to Article 1 number 8 of the Arbitration Law and APS, BANI is referred to in this regard as an arbitration institution. This means that the parties have chosen BANI to render a decision on disputes that emerge or to offer legally binding opinions even in cases where no disagreement has yet materialized. In accordance with the guidelines in Articles 27 to 58 of the Arbitration Law and APS, BANI arranges arbitration, mediation, and other dispute resolution procedures. Furthermore, BANI has its own internal regulations, known as the BANI Rules and Procedures, which specify how conflicts unique to the organization are to be settled (Wahib, 2011).

Under applicable laws and regulations, particularly Law Number 20 of 2016 concerning Trademarks and Geographical Indications (MIG Law), Rhodey, the aggrieved trademark owner, has a legal obligation to take settlement measures in response to Hamlin's alleged trademark rights infringement. The first step in dealing with trademark infringement is to file a formal complaint with law enforcement authorities, such as the Police or the Prosecutor's Office. The Directorate General of Intellectual Property (DJKI), which is in charge of intellectual property protection in Indonesia, may also receive a complaint. A trademark registration certificate, documentation of products that have been relabeled without authorization, and proof of Hamlin's distribution or sales that could deceive customers are all necessary pieces of evidence to support the case. Since the harmed party must be the main source of complaints, the law enforcement process for trademark infringement cannot progress without a report from them. This stage is essential to starting official legal actions.

According to Law Number 30 of 1999 governing Arbitration and Alternative issue Resolution, the issue must be settled through the alternative dispute resolution mechanism (APS) following the filing of the formal complaint. Rhodey and Hamlin may have reached a peaceful agreement in this issue by mediating or arbitrating through a recognized organization, such the Indonesian National Arbitration Board (BANI), which could have included an open apology, a halt to the abusive activities, and restitution for the losses incurred. Compared

to litigation in court, settlement through Alternative Dispute Resolution (ADR) is thought to be more effective, quicker, and beneficial for preserving confidentiality and business relationships between the two parties. But what if the settlement reached through non-litigation means doesn't work out? Under the terms of Article 83 of the MIG Law, Rhodey is then fully entitled to seek his remedy in a civil lawsuit in the Commercial Court. He may request the discontinuation of the use of a trademark or label that is similar to his and may also seek material and immaterial damages.

In order to preserve the idea of justice and have a deterrent effect, Rhodey may also bring criminal charges against Hamlin if it is established that his actions satisfy the requirements for criminal offenses listed in Articles 100 to 102 of the MIG Law, such as using the same or a similar trademark without authorization and in bad faith. In this situation, the element of bad faith becomes a critical component that can be demonstrated by Hamlin's deliberate sale of products with altered labels without providing consumers with transparency and with the intention of profiting illegally. As a result, Rhodey's settlement attempt serves as both a defense of its exclusive rights as the owner of a registered trademark and a contribution to the development of a robust, open, and compliant business environment that adheres to intellectual property protection standards. In this instance, appropriate and balanced enforcement of the law will improve legal certainty, safeguard consumer interests, and motivate other corporate actors to engage in morally and honestly competitive market behavior.

## **ADVANCED RESEARCH**

Future research should focus on more comprehensive regulatory reforms that are urgently needed to strengthen the protection of trademark rights, particularly in situations where third parties use trademarks without authorization. One of the strategic steps that can be taken is to draft and issue Government Regulations on the Use of Trademarks by Third Parties in the context of protecting and enforcing rights to Trademarks and Geographical Indications. This regulation needs to contain detailed regulations regarding the use of the trademark in business relationships or licensing agreements, including the supervision mechanism, the obligation to include the identity of the licensee on the product packaging, as well as a strict prohibition against any form of label change without the written permission of the trademark owner. This provision is expected to provide more concrete protection and serve as a definitive legal reference in resolving disputes arising from deviations from the license provisions.

These additional regulations must also accommodate the need for flexibility in the business world, while still ensuring that the exclusive rights of brand owners are not violated. For example, by setting clear limits on the extent to which third parties can make adjustments to the packaging or design of the label for distribution or marketing purposes, without obscuring the original identity of the protected brand. In addition, the regulation regarding proof in label change disputes also needs to be strengthened, such as by encouraging the

systematic recording or registration of license agreements. Thus, this Government Regulation is not only complementary to the Trademark and Geographical Indication Act, but also an important instrument in creating legal protection that is more effective, transparent, and adaptive to modern trade dynamics.

## CONCLUSION

Increasingly dynamic business developments encourage companies to continue making changes or innovating, including through relabeling as part of their marketing strategies. Labels are a crucial element that showcases brand identity and product quality. Legal protection of trademarks plays a crucial role in maintaining the exclusive rights of brand owners while ensuring consumers' rights to authentic products. However, in practice, such protection still faces several serious challenges, especially in the case of unauthorized changes to brand labels. The complex process of proving infringement, limited oversight of the use of a trademark by third parties, and the absence of specific provisions in applicable regulations leave trademark owners vulnerable to misuse of their trademark rights, mainly if such use occurs in the context of a business cooperation or licensing agreement that is not regulated in detail.

Both non-litigation and litigation methods may be used to resolve trademark infringement disputes, especially those involving unapproved label revisions. Nonetheless, many parties prefer to look for quicker fixes due to the delicate nature of trademark infringement allegations and the time and expense burden associated with the legal system. A quicker and more adaptable solution is provided by alternative dispute resolution, which includes mediation, arbitration, and settlement through the Indonesian National Arbitration Board (BANI). Its efficacy, however, is largely dependent on the parties' agreement because the selection of a settlement forum is still optional and is not required in every trademark dispute.

Based on these conditions, there is an urgent need to update the law through the issuance of implementing regulations or government regulations that are more technical and detailed, particularly regarding the use and modification of trademarks by third parties. These additional regulations can fill the gaps that have not been regulated in the Trademark and Geographical Indications Act, as well as provide legal certainty for trademark owners in the face of potential infringement. Thus, it is hoped that the mechanism for protecting and settling disputes over trademark rights can operate more fairly, effectively, and sustainably in the face of the increasingly complex dynamics of the business world.

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