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Legal Protection for Trademarks That Are Substantially Similar in Business Practice in Indonesia

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Abstract

This study examines the systematic vulnerabilities embedded within the Indonesian first to file trademark registration framework under Law Number 20 of 2016 concerning Trademarks and Geographical Indications. Utilizing a qualitative normative juridical research design, the investigation evaluates the persistent misalignment between statutory mandates, administrative examinations, and judicial outcomes. The analysis shows that the absence of standardized testing metrics for the triple identity test generates severe subjectivity during the evaluation of dominant visual, phonetic, and conceptual elements. Furthermore, comparative case studies of landmark litigations expose deep inconsistencies in how commercial courts interpret bad faith intentions and cosmetic brand modifications. These institutional challenges are exacerbated by the rapid growth of the digital marketplace, which enables sophisticated lookalike storefronts to exploit existing legal voids and dilute corporate goodwill. The study concludes that building a secure and innovative domestic market ecosystem requires urgent structural reforms, including automated phonetic mapping technologies, standardized judicial evaluation guidelines, and inclusive registration pathways.

Keywords : *Trademark Protection, Substantial Similarity, First To File, Judicial Consistency, Digital Marketplace.*

INTRODUCTION

In the contemporary epoch of global economic integration and accelerated digital transformation, trademarks have evolved from rudimentary signs of commercial origin into high-value strategic assets that fundamentally dictate corporate market share and competitive advantage. The expansion of cross-border e-commerce platforms and transnational supply chains has exacerbated the vulnerabilities of intellectual property frameworks, particularly within emerging markets striving to harmonize domestic growth with international standards. Within the Indonesian jurisprudence, the transition toward a strict first to file regime under Law Number 20 of 2016 concerning Trademarks and Geographical Indications represents a paradigm shift designed to institutionalize formal legal certainty and construct an attractive environment for foreign direct investment (Setiawan, 2025). However, this administrative prioritization of registration speed over substantial market usage inadvertently generates systemic legal friction when subsequent filings exhibit a substantial similarity to pre-existing marks, thereby challenging the equilibrium between proactive market innovation and the imperative of robust intellectual property enforcement (Sulastri & Nurhayani, 2026). This structural tension is further amplified by the operational realities of digital marketplaces, where the fluidity of brand reproduction constantly tests the boundaries of statutory differentiation.

Extant literature examining the trajectory of intellectual property protections within developing economies frequently emphasizes the structural hurdles of translating statutory instruments into functional market safeguards. Prior scholarly inquiries have established that the efficacy of geographical indications and sector specific protections remains contingent upon cohesive regulatory execution and market alignment, demonstrating that localized commercial identities require rigorous administrative shielding to navigate volatile international markets successfully (Simatupang et al., 2024). Concurrently, broader legal analyses regarding national heritage and intellectual capital underscores the pervasive difficulties the state encounters when attempting to establish unambiguous operational parameters for cultural and commercial expressions within a pluralistic legal framework (Setiyono et al., 2024). While these foundational studies offer critical insights into the macrosociolegal dynamics of intellectual asset management, they tend to maintain an expansive, non specialized focus, leaving a conspicuous analytic void regarding the precise micro level mechanics of phonetic, visual, and conceptual similarities that precipitate corporate litigation and consumer confusion in daily business operations.

A critical synthesis of current legal scholarship exposes severe conceptual and empirical fractures regarding the enforcement capacities of regulatory bodies confronted with localized non compliance and administrative subjectivities. Empirical assessments indicate that the regulatory infrastructure governing micro and small enterprises is often characterized by systemic friction, where a profound lack of institutional literacy and legal awareness prevents smaller commercial actors from effectively anticipating or mitigating intellectual property infringements (Widarsadhika et al., 2025). Furthermore, this protective deficit is exacerbated when local enterprises attempt to align with transnational trade requirements, revealing that compliance mechanisms are frequently fragmented, overly convoluted, and poorly synchronized with the real world operational capacities of domestic business entities (Yuanitasari & Suwandono, 2025). The existing literature is predominantly descriptive, focusing heavily on statutory data while systematically neglecting the deep-seated institutional inconsistencies within the Directorate General of Intellectual Property, where examiners rely on highly subjective, non-standardized parameters to evaluate substantial similarity.

The unresolved ambiguity surrounding the doctrine of substantial similarity poses an immediate threat to market stability and institutional integrity, demanding urgent scholarly and pragmatic interventions. When administrative bodies and judicial forums fail to deploy consistent, predictable metrics for evaluating deceptively similar marks, the foundational tenets of commercial trust and equitable competition are severely undermined. This systemic unpredictability mimics the vulnerabilities observed in complex contractual frameworks, where inadequate regulatory protections and unbalanced power dynamics consistently disadvantage good-faith actors and destabilize the broader market ecosystem (Zulkifli & Noor, 2024). The scientific urgency stems from the pressing need to reconstruct the legal interpretations of the triple identity test within the Indonesian courts, as evidenced by the high-profile conflict between PT Gudang Garam Tbk and Gudang Baru, which illustrated how cosmetic variations and phonetic resemblances can exploit systemic loopholes to systematically deceive the consuming public.

This investigation establishes its unique scholarly locus at the intersection of normative doctrine, judicial behavior, and the evolving digital political economy of Southeast Asia. By navigating beyond the conventional boundaries of domestic statutory descriptions, this research addresses the critical gaps identified in previous works concerning the vulnerability of underrepresented market actors (Widarsadhika et al., 2025) and the challenges of cross-border regulatory compliance (Yuanitasari & Suwandono, 2025). Rather than treating trademark disputes as isolated corporate battles, this study reconfigures the discourse by positioning substantial similarity as a structural impediment to regional economic integration and consumer sovereignty. It integrates the theoretical foundations of international intellectual property law, such as the likelihood of confusion doctrine from the TRIPs Agreement, with empirical realities of the Indonesian market, providing a comprehensive critique of how the first to file framework can be manipulated by opportunistic registrants to the detriment of legitimate brand owners (Setiawan, 2025).

Driven by these theoretical and empirical imperatives, this study aims to systematically dissect the legal definition, operational boundaries, and judicial application of the concept of substantial similarity under Law Number 20 of 2016 concerning Trademarks and Geographical Indications. Utilizing a rigorous normative juridical methodology combined with a conceptual and statutory approach, the inquiry scrutinizes landmark judicial precedents, administrative guidelines from the Directorate General of Intellectual Property, and the prevailing market bottlenecks that impede effective enforcement. The primary theoretical contribution of this research lies in the development of a standardized, multi-dimensional framework designed to minimize examiner subjectivity and enhance judicial consistency in trademark adjudication. Methodologically, this study pioneers an integrated analytical approach that bridges statutory interpretation with real-world digital market trends, ultimately providing actionable policy recommendations and institutional mechanisms to fortify legal certainty, protect consumer choices, and cultivate a secure, equitable commercial ecosystem in Indonesia.

RESEARCH METHODS

To achieve the target objective of analyzing the statutory provisions, judicial applications, and administrative bottlenecks surrounding the trademark registration framework in Indonesia, this study employs a qualitative non empirical legal research design. The investigation is systematically structured as a normative juridical study utilizing both statutory and conceptual approaches to dissect the operationalization of Law Number 20 of 2016 concerning Trademarks and Geographical Indications. Rather than drawing from field operations or empirical samples, the primary data source consists of primary legal materials, which encompass the explicit statutory mandates of the Indonesian Trademark Law alongside authoritative court decisions, specifically the landmark intellectual property adjudication of the Supreme Court of the Republic of Indonesia in the dispute between PT Gudang Garam Tbk and Gudang Baru. Secondary data sources are derived from reputable international law journals, academic textbooks, and documented reports from the Directorate General of Intellectual Property to contextualize the systemic implementation issues within the national legal framework. The data selection criteria are strictly bounded by relevance to trademark registration disputes, consumer confusion under the first to file system, and cases involving substantial similarity in local business practices. The analytical framework is anchored upon the doctrine of the triple identity test and the international principle of the likelihood of confusion to critically evaluate how cosmetic variations and visual resemblances are adjudicated within the Indonesian market ecosystem.

The procedural analysis follows a progressive legal interpretation technique where statutory texts are systematically matched against judicial outcomes and administrative behavior. The first phase of this qualitative analysis involves a literal and teleological interpretation of the administrative criteria utilized by the Directorate General of Intellectual Property during substantive examinations to identify inconsistencies in how examiners evaluate dominant visual, phonetic, and conceptual elements. In the second phase, a comparative case study analysis is executed on the selected judicial precedents to trace the rationale of the judges in determining bad faith and consumer deception, thereby mapping the gaps between theoretical protections and real-world commercial enforcement. To ensure the highest standard of academic rigor and reliability within this non empirical framework, the study utilizes source triangulation by verifying statutory norms against judicial interpretations and prevailing scholarly consensus across international literature. The entire analytical trajectory is governed by a strict objective paradigm that eliminates descriptive biases, ensuring that the synthesized findings logically culminate in actionable, standardized recommendations for structural and institutional reforms within the Indonesian intellectual property landscape.

RESULTS AND DISCUSSION

Conceptualizing Substantial Similarity under the First to File Trademark Registration Regime

The operationalization of the first to file trademark registration system within the Indonesian marketplace establishes a rigid administrative priority that inherently reshapes corporate competition and brand building strategies. Under Law Number 20 of 2016 concerning Trademarks and Geographical Indications, legal certainty is heavily anchored upon the exact timestamp of formal electronic submission rather than actual prior commercial usage. This strict statutory mechanisms can generate a profound administrative vacuum when opportunistic market actors deliberately engineer and register subsequent brand representations that closely mimic the core identifier elements of established businesses without being entirely identical. The structural vulnerability within this framework emerges because administrative swiftness often bypasses deep market realities, allowing deceptively close structural patterns to gain prima facie legal validity and exclusivity before the original creators can identify or mount appropriate legal resistance (Oscar & Soesatyo, 2025).

The core legal friction in domestic corporate practices focuses on the nebulous doctrine of substantial similarity, which requires an intricate evaluation of dominant elements that dictate consumer memory and behavioral patterns. This doctrine goes far beyond simple cosmetic variations, encompassing visual displays, phonetic resemblances, and conceptual values that collectively form the commercial identity of a specific product line. Opportunistic market entries exploit these administrative parameters by executing minor cosmetic adjustments such as modifying letter cases, altering background colors, or appending secondary descriptors while preserving the phonetic or visual weight of the pre-existing mark. Such strategic mimicking directly destabilizes corporate differentiation because the core commercial identity remains highly vulnerable to predatory filings that utilize formalistic registration pathways to systematically undermine the distinctiveness of older operational brands (Sulastri & Nurhayani, 2026).

To unpack the exact regulatory dimensions of these ongoing corporate challenges, a comprehensive review of the statutory criteria and systemic operational dynamics under Law Number 20 of 2016 shows how various types of trademark configurations encounter severe administrative subjectivities during initial substantive examinations.

Table 1. Statutory Criteria and Systemic Implementation Vulnerabilities of Trademark Types

Trademark Category	Core Statutory Identifier Elements	Primary Source of Substantial Similarity Vulnerability	Associated Market Enforcement Risks
Traditional Word & Logo	Alphabetic text, visual marks, color compositions	Phonetic proximity, shared dominant visual configurations, cosmetic prefixes	High consumer confusion, deceptive copycat brands, market dilution
Three-Dimensional (3D)	Physical packaging shapes, product container designs	Standardized container geometries, generic industrial representations	Overlapping shapes, weak distinctiveness, complex examiner evaluation
Sound & Hologram	Short audio jingles, multi-dimensional visual shifts	Overlapping acoustic notes, generic digital visual transitions	High evidentiary burdens, lack of numerical testing parameters

Source: Derived and synthesized from international literature and statutory provisions (Oscar & Soesatyo, 2025, Sulastri & Nurhayani, 2026).

As systematically structured above in Table 1, traditional word and logo marks display a highly pronounced vulnerability to phonetic proximity and cosmetic modifications, which directly threatens market integrity and consumer choice. This particular administrative threat manifests intensely within the fast-moving consumer goods sector where consumers frequently make quick purchasing decisions based on brief visual or acoustic impressions rather than meticulous comparative structural analyses. The presence of overlapping visual patterns or deceptively close acoustic frequencies allows copycat brands to easily siphon consumer goodwill while technically remaining outside the bounds of direct literal identity. This institutional reality highlights that when the administrative framework overemphasizes formal registration speed while lacking clear numerical parameters for determining similarity, copycat entities can easily find gaps to legally mimic high-repute brands.

The doctrinal evaluation of substantial similarity is heavily guided by the triple identity test, an analytical framework that evaluates trademark overlap across distinct visual, phonetic, and conceptual axes. Visual similarity examines the structural layout, font style, and overall spatial presentation of the mark to see if the general layout creates an indistinguishable first impression for everyday consumers. Phonetic similarity isolates the acoustic cadence and sound variations of the brand name when spoken aloud, which often serves as a primary source of confusion in verbal market transactions. Conceptual similarity looks into the underlying cognitive meaning, brand imagery, or commercial message conveyed by the marks, ensuring that different words that evoke the exact same commercial association are not permitted to crowd the market.

This multi-dimensional testing procedure becomes significantly more complex when applied to non-traditional trademarks such as three-dimensional packaging designs, specific acoustic jingles, or complex holographic representations. As highlighted in Table 1, these non-traditional configurations often lack clear, quantitative testing metrics within the Directorate General of Intellectual Property, forcing examiners to rely on highly subjective assessments. For instance, determining whether a specific structural curve on a three-dimensional container constitutes a substantial copy requires expert design metrics that standard legal frameworks do not clearly provide. Consequently, this lack of standardized evaluation rules creates high levels of legal unpredictability, leaving multi-dimensional brand innovations highly exposed to continuous imitation.

The broader socio-economic implications of these administrative vulnerabilities manifest as a direct dilution of brand equity and a profound distortion of healthy market competition. When the legal infrastructure fails to draw definitive boundaries around the concept of substantial similarity, corporate entities are forced to divert significant financial capital away from innovation and toward continuous administrative and judicial defensive actions. This systemic issue is particularly damaging for micro, small, and medium enterprises that lack the specialized legal teams required to navigate long, complex trademark disputes. The resulting market environment rewards strategic registration manipulation over genuine market performance, which heavily undermines investor confidence and reduces the overall competitiveness of the domestic commercial ecosystem (Setiawan, 2025).

Furthermore, the legal friction surrounding deceptive similarities is not isolated to corporate assets but also severely impacts the protection of regional culinary products and strategic agricultural developments. When localized commercial identifiers and unique regional product lines are subjected to the strict first to file regime, they are frequently copied by unauthorized commercial actors who register highly similar traditional marks. This predatory behavior dilutes the market exclusivity of specific agricultural intellectual property assets, preventing regional producers from establishing distinct, high-value commercial presences in competitive international trade environments (Simatupang et al., 2024). This specific interaction between strict administrative registration protocols and traditional community assets demonstrates that trademark vulnerabilities can easily spill over to harm broader national economic initiatives.

The ongoing struggle to establish uniform boundaries for substantial similarity also reveals a deeper cultural friction between formal Western concepts of individual property and localized community dynamics. The state often encounters significant administrative difficulties when trying to integrate highly individualistic trademark exclusivity frameworks with communal traditions and historical cultural identities (Setiyono et al., 2024). When private business entities use the first to file system to register words or visual symbols deeply rooted in local communal history, it creates a problematic overlapping of private exclusive rights over shared cultural expressions. This legal overreach underscores the critical need for a more comprehensive substantive examination process that balances formal administrative efficiency with deep contextual awareness of local societal practices.

Resolving the ongoing ambiguities within the first to file registration regime requires an administrative shift toward a highly structured, objective evaluation paradigm. The current reliance on individual examiner subjectivity must be replaced with clear, automated testing systems that can mathematically map phonetic and visual overlapping before a mark is officially approved. Without these institutional upgrades, the trademark system will continue to experience frequent ownership disputes, which ultimately burdens the judiciary and weakens consumer confidence. Protecting the market against deceptive similarities is a core requirement for building a secure, predictable, and highly innovative national business environment.

Judicial Trends and Legal Certainty in Adjudicating Deceptive Proximity and Trademark Infringements

The application of statutory provisions by the Indonesian judiciary in trademark litigation often uncovers deep conceptual inconsistencies regarding the parameter of essential similarity. Legal adjudications at the Commercial Court level reveal highly volatile standards when assessing whether two competing marks possess confusing similarities that harm original trademark owners. This variability stems from the broad subjective authority granted to judges in interpreting the visual, phonetic, and conceptual elements of disputed corporate brands. Business actors frequently experience significant market unpredictability because a minor cosmetic variation might be deemed illegal in one case but validated as a distinct trademark in another separate lawsuit (Hapriyanto et al., 2024).

The judicial struggle to establish a uniform standard for substantial similarity is particularly apparent when courts attempt to decode the psychological element of bad faith. Under Law Number 20 of 2016, bad faith registration serves as a major ground for trademark cancellation, yet its systemic verification relies heavily on indirect evidence. Judges must look past formal registration timestamps and reconstruct the real corporate motives by examining how closely a new applicant copied pre-existing brand identifiers. The lack of standard legislative metrics for determining opportunistic intent often leads to conflicting judicial interpretations that inadvertently penalize genuine market innovators (Redian & Patrianto, 2026).

The structural vulnerabilities caused by these fluctuating judicial perspectives directly impact how enforcement frameworks operate across various strategic industrial sectors. When a commercial entity deliberately adopts minor structural modifications to siphon corporate goodwill, the affected brand owners face long, costly legal battles with highly uncertain outcomes. This persistent judicial ambiguity complicates efforts to enforce criminal or civil penalties against bad faith actors who exploit legal loopholes within the current court system. The resulting legal environment demands a comprehensive reassessment of how judicial bodies utilize evidentiary tests to protect commercial identities from deceptive copycat configurations (Mahmuctarom et al., 2024).

To closely examine these judicial patterns and map the precise legal gaps identified within the Indonesian litigation framework, the following comprehensive analytical matrix highlights the core rationales and conceptual issues emerging from landmark trademark adjudications.

Table 2. Judicial Rationale and Legal Gaps in Landmark Trademark Discrepancies

Litigated Case & Parties	Type of Material Proximity	Core Judicial Rationale (Ratio Decidendi)	Identified Legal Void & Market Impact
PT Gudang Garam Tbk vs Gudang Baru	Visual, packaging geometry, phonetic cadence	The Supreme Court recognized bad faith imitation of dominant colors and packaging themes	Ambiguity in setting concrete visual parameters for structural packaging variations
Industrial Product Copycat Disputes	Label design, typographic alignment	Commercial courts favored formalistic registration data over prolonged prior market exposure	Inconsistent definitions of prior user rights within a strict first to file system
Commercial Persona Imitations	Identity elements, corporate brand names	Judges required excessive proof of public recognition for non-traditional style attributes	Insufficient statutory criteria for protecting distinct personal or commercial attributes

Source: Synthesized from judicial precedents and intellectual property legal literature (Mahmuctarom et al., 2024, Pamungkas & Hulwanullah, 2025, Redian & Patrianto, 2026).

As systematically outlined above in Table 2, the landmark dispute between PT Gudang Garam Tbk and Gudang Baru demonstrates how courts evaluate substantial similarity by focusing heavily on combined visual and phonetic alignments. In this historic case, the Supreme Court of the Republic of Indonesia went beyond basic textual comparisons to analyze the overall packaging geometry and dominant color combinations used by the competitor. The court concluded that the close structural resemblances were intentionally designed to mislead everyday consumers and misappropriate the long-established market reputation of the original producer. This pivotal ruling set an important legal precedent by showing that cosmetic modifications cannot be used to mask bad faith business practices (Mahmuctarom et al., 2024).

However, the broader judicial trends following this landmark case reveal ongoing challenges in maintaining uniform standards across smaller commercial disputes. While high-profile corporate litigation receives intense scrutiny, standard commercial courts often revert to a strict, formalistic approach that favors registered entities regardless of minor brand imitations. This rigid focus on formalistic registration data creates a challenging legal environment for older businesses that face continuous, subtle brand copying. The lack of an integrated electronic database connecting the judiciary with the registration office frequently prevents judges from tracking real patterns of opportunistic filings (Hapriyanto et al., 2024).

This regulatory disconnect is also closely tied to broader socio-legal challenges concerning market standardisation and regulatory compliance across domestic business networks. When the judiciary provides inconsistent interpretations of trademark laws, it weakens the operational effectiveness of other state institutions that oversee market quality and corporate standards. Establishing clear judicial benchmarks is highly essential for ensuring that businesses can confidently invest in high-quality certifications without fear of immediate brand imitation. A stable, predictable judicial system is a vital prerequisite for building genuine market trust and protecting consumer interests from deceptive corporate practices (Alanazi et al., 2024).

Furthermore, these legal vulnerabilities become even more complex when trademark disputes involve distinct personal attributes or corporate styling elements. Under current judicial practices, protecting unique commercial persona identifiers remains difficult because statutory definitions focus primarily on traditional words and logos. Competitors frequently exploit this regulatory gap by imitating the recognizable styling, presentation methods, or distinct thematic expressions of popular commercial entities. The resulting legal gaps leave innovative entrepreneurs highly vulnerable to sophisticated imitation tactics that fall outside traditional statutory definitions of trademark infringement (Pamungkas & Hulwanullah, 2025).

The resulting lack of legal certainty creates a highly challenging environment for domestic businesses, which must navigate unpredictable market conditions alongside unclear judicial protections. When judicial outcomes vary significantly between different jurisdictions, companies are forced to allocate substantial financial resources to continuous legal defense rather than productive business development. This systemic instability weakens the overall national investment climate by creating an impression that registered intellectual property rights remain highly vulnerable to predatory litigation. Resolving these persistent inconsistencies is absolutely critical for establishing a secure, predictable commercial ecosystem that fosters long-term economic growth (Setiawan, 2025).

Addressing the ongoing contradictions within the judicial application of trademark laws requires a structural shift toward standardized evaluation methodologies. The current reliance on subjective judicial impressions must be replaced with clear, binding guidelines that outline the exact visual and phonetic parameters of substantial similarity. Judges require specialized training and direct access to unified registration databases to accurately identify bad faith intentions during active trademark litigation. Without these essential institutional reforms, the domestic intellectual property framework will continue to struggle with high rates of brand confusion, which ultimately undermines consumer confidence and stalls broader economic innovation.

Digital Marketplace Disruptions, Institutional Obstacles, and Strategic Frameworks for Micro-Business Protection

The rapid evolution of the contemporary digital economy drastically reshapes the parameters of trademark enforcement and commercial brand protection across the Indonesian market ecosystem. Online marketplaces and social media networks act as primary channels for commercial operations, creating complex spaces where copycat brands replicate established business visual identities with extreme agility. The borderless nature of digital communication channels enables opportunistic sellers to establish misleading storefronts, bypass traditional geographic boundaries, and distribute lookalike commodities directly to unsuspecting buyers. This fast-moving shift in trade dynamics challenges existing enforcement bodies, who must continuously adapt slow statutory regulations to monitor highly dynamic and elusive digital storefront structures (Jannah et al., 2025).

The growth of unauthorized sellers on popular platforms like Instagram underscores the pressing need for rapid regulatory intervention. Fraudulent actors easily construct digital storefronts using deceptive account handles and altered high-repute logos, directly capitalizing on consumer visual familiarity. The current statutory enforcement mechanisms struggle to penalize these online operators due to the anonymity of digital transactions and the ease of deleting temporary internet accounts. This fluid marketplace environment dilutes original corporate goodwill and demands a comprehensive update of traditional procedural laws to successfully combat modern commercial fraud (Febriandika et al., 2022).

The integration of advanced digital architectures within business management infrastructure introduces additional administrative vulnerabilities for intellectual property frameworks. Corporate entities increasingly encounter unauthorized data use and strategic keywords copying designed to redirect search engine traffic to imitation products. These hidden computational practices operate in a grey area of current intellectual property legislation, leaving original trademark owners without immediate statutory recourse. The resulting institutional enforcement lag demonstrates that traditional legal frameworks are poorly equipped to handle the unique challenges posed by modern business information systems (Elpina, 2024).

To carefully evaluate these institutional challenges and establish clear pathways for structural remediation within the digital ecosystem, the following matrix contrasts the operational bottlenecks with targeted strategic solutions.

Table 3. Institutional Impediments and Strategic Remediation for Trademark Enforcement in E-Commerce Ecosystems

Operational Bottleneck Type	Specific E-Commerce Challenge	Direct Impact on Micro-Enterprise Operations	Proposed Strategic Policy Remediation
Digital Anonymity	Fraudulent storefront creation on Instagram and open marketplaces	Direct diversion of consumer traffic, loss of unique brand equity	Mandatory corporate identity verification linked directly with national registration data
Procedural Lag	High administrative costs, long processing times for official filings	Postponement of formal brand protection, heightened exposure to imitation	Implementation of micro-business subsidies and expedited verification channels
Deficient Legal Culture	Low consumer awareness, societal acceptance of affordable imitations	Normalization of trademark infringement across regional commercial hubs	Grassroots legal education initiatives alongside proactive market surveillance

Source: Synthesized from electronic marketplace reports and academic literature (Febriandika et al., 2022, Fibrianti et al., 2023, Ingarasi & Suwigno, 2022, Jannah et al., 2025, Rahmawati, 2025).

As systematically detailed above in Table 3, the ongoing procedural lag within the state registration apparatus heavily compromises the long-term viability of micro-enterprises. Small business owners frequently face prolonged administrative waiting periods and complex paperwork requirements that consume limited corporate capital. These financial and administrative hurdles cause many small operations to delay formal registration, leaving their brand names vulnerable to predatory registration by larger competitors. Resolving these operational barriers requires targeted structural policies that simplify registration pathways and provide affordable protection options for emerging business actors (Rahmawati, 2025).

The practical benefits of formal trademark protection remain out of reach for many localized businesses due to a lack of clear information regarding intellectual property advantages. Many entrepreneurs operate under the assumption that simple regional business permits provide full corporate name exclusivity across the entire national territory. This widespread misunderstanding results in high numbers of unregistered brands, leaving them completely exposed to sudden cease-and-desist notices from third-party entities who secured prior federal registration. Educational programs are vital to bridge this knowledge gap and demonstrate how formal registration secures unique commercial assets (Ingarasi & Suwigno, 2022).

This systemic vulnerability is further amplified by a weak domestic legal culture regarding intellectual property enforcement and consumer purchasing habits. A significant segment of the consumer population prioritizes low pricing over brand authenticity, which sustains a highly profitable market for deceptively similar goods. This normalization of trademark imitation devalues genuine innovation and discourages small businesses from investing in high-quality differentiation strategies.

Changing these deeply ingrained market dynamics requires a comprehensive approach that elevates consumer legal awareness while increasing penalties for open trademark infringement (Fibrianti et al., 2023).

To address these diverse challenges, the state must implement structural legal reforms that align intellectual property protection with sustainable development objectives and ethical commercial principles. Reconstructing current laws using balanced principles like *Maqāṣid al-Sharīʿah* offers a strong framework for building an equitable commercial market. This holistic approach prioritizes public interest, protects genuine creative endeavors, and discourages predatory filing tactics that harm community welfare. Integrating these consumer-welfare values into future revisions of Law Number 20 of 2016 will help establish a fairer and more balanced economic ecosystem (Nurani et al., 2026).

Furthermore, the legal framework must ensure that individual commercial protections do not inadvertently restrict or exploit shared cultural expressions. Private corporations occasionally attempt to register traditional regional terms or historical geographic symbols as exclusive corporate trademarks. This practice can restrict local communities from utilizing their own traditional knowledge within traditional manufacturing and regional trade operations. Future legislative updates must maintain a clear balance between private corporate rights and the preservation of communal cultural assets (Baskoro & Hafizhah, 2023).

The long-term preservation of national heritage and indigenous knowledge depends on establishing clear, accessible statutory boundaries for communal intellectual property. When regional agricultural products or traditional crafts face predatory copying in urban centers, local producers lack the corporate legal resources to challenge these practices. The government must introduce proactive regulatory protections that automatically guard traditional community assets from unauthorized commercial registration. Strengthening these legal protections prevents corporate entities from siphoning economic value away from traditional regional artisans (Afwa & Mardianto, 2022).

Establishing a balanced national market requires a unified regulatory framework that protects both individual corporate investments and communal cultural resources. Government interventions should focus on creating accessible legal avenues for traditional communities to register their collective geographical indications before private entities claim exclusivity. Implementing inclusive legal regulations ensures that small-scale local industries can participate safely in international trade without losing control over their cultural identities. This integrated approach provides a reliable foundation for transforming the domestic market into a secure, innovative, and globally competitive ecosystem (Ayu Palar et al., 2023).

CONCLUSION

The operationalization of the first to file trademark registration regime under Law Number 20 of 2016 concerning Trademarks and Geographical Indications reveals systemic vulnerabilities that demand integrated institutional reforms across administrative, judicial, and digital dimensions. While the administrative framework struggles with subjective examiners evaluations under the triple identity test, the yudisial application displays volatile interpretations of bad faith and substantial similarity in trademark disputes. These regulatory ambiguities are intensified by the digital economy expansion, where e commerce platforms facilitate fast moving visual mimicry that disproportionately impacts micro, small, and medium enterprises. Resolving these persistent bottlenecks requires an objective administrative shift toward quantitative visual and phonetic testing technologies, unified judicial databases to ensure legal certainty, and strategic policy interventions that align commercial protection with sustainable socioeconomic equity.

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