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Synergy of Trademark Protection and Consumer Rights: A Legal Analysis on the Prevention of Product Counterfeiting

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Abstrak: This study examines legal protection for consumers in cases of product counterfeiting through the perspectives of consumer protection law and trademark law. The phenomenon of product counterfeiting is increasingly prevalent in Indonesia, causing harm not only to original producers but also endangering consumers as the most vulnerable party. This research employs a normative juridical method with a statute approach and a conceptual approach. Data sources consist of primary legal materials in the form of relevant laws and regulations, as well as secondary legal materials such as literature, journals, and expert opinions. The analysis is conducted qualitatively, emphasizing legal interpretation of applicable norms. The findings indicate that consumers are highly vulnerable in cases of product counterfeiting due to limited access to information, knowledge asymmetry, and the difficulty of distinguishing between genuine and counterfeit products. Legal protection can be pursued through two pathways: prevention and enforcement. Preventive legal strategies include strengthening regulations, integrated supervision, and consumer education. Meanwhile, enforcement is carried out through both criminal and civil legal actions against counterfeiters. Furthermore, the synergy between trademark protection and consumer protection serves as a crucial pillar in preventing counterfeiting practices, as both complement each other in ensuring justice, legal certainty, and utility. This study underscores the importance of the involvement of all stakeholders government, producers, consumers, and law enforcement authorities in establishing a layered protection system. Thus, the ultimate goal of consumer protection is not only to provide legal certainty but also to foster a fair and healthy trading environment.

Keywords: Consumer Protection, Product Counterfeiting, Legal Strategies, Brand Protection

INTRODUCTION

Brand protection and consumer rights are two fundamental aspects of modern trade law governance that are closely interconnected. A brand is not merely understood as a symbol or a distinguishing mark of a product, but also embodies values of trust, quality assurance, and an image internalized in the minds of consumers¹. The existence of a brand enables consumers to

make rational choices based on the reputation of producers, thereby directly linking the role of the brand to the consumer's right to obtain products that are safe, authentic, and compliant with established standards². When product counterfeiting occurs, it is not only the brand owners who suffer economic and reputational losses, but also consumers who lose their legal protection to access legitimate, high-quality

¹ Bosworth, D., and Yang, D., The Economics and Management of Global Counterfeiting, Paper Submitted to the Sixth World Congress on Intellectual Capital and Innovation, 2002.

² Harjono, D. K., Panjaitan, H., Soerjadjanegara, M., Kamal, A. H. M. and Suwarno, S., Ensuring Fair Business Practices and Consumer Rights: The Role and Impact of Indonesia's Consumer Dispute Settlement Agency, *Jurnal Hukum Unissula*, vol. 40, no. 1, pp. 259–71, 2024.

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goods that do not endanger their health or safety. Within this framework, a legal analysis of the synergy between brand protection and consumer rights in preventing product counterfeiting becomes highly relevant for comprehensive discussion³.

The phenomenon of product counterfeiting has been escalating alongside the advancement of digital technology and the increasing openness of cross-border trade. The World Customs Organization (WCO, 2022) reports that counterfeit products are no longer limited to luxury goods such as handbags, watches, or branded clothing, but have also penetrated pharmaceuticals, cosmetics, electronics, and even vehicle components⁴. This development poses a serious threat to consumer rights, as counterfeit products often fail to meet the safety and quality standards required by law. Counterfeit medicines, for instance, may cause fatal health risks to society, while counterfeit vehicle parts can endanger road users' safety. Therefore, the issue of product counterfeiting cannot merely be viewed from the perspective of the brand owner's economic interests, but must also be addressed in relation to the broader aspect of consumer protection⁵.

Historically, the legal regime for trademark protection emerged earlier than the legal regime for consumer protection. Trademark protection was primarily intended to safeguard the interests of business actors from unfair competition and infringements that

could harm commercial reputation⁶. Meanwhile, consumer protection arose alongside growing awareness of the imbalance between producers and consumers, particularly in terms of access to information, bargaining power, and safety guarantees. In practice, however, these two legal regimes complement each other, since product counterfeiting constitutes a violation that not only harms trademark owners but also threatens consumer rights. Therefore, the synergy between trademark protection and consumer rights should be examined not only within the framework of positive law but also in the context of policy implementation and effectiveness at both the national and international levels⁷.

The international legal approach also indicates that product counterfeiting is a cross-border issue requiring cooperative mechanisms among nations. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), as an international instrument, establishes minimum standards of trademark protection that WTO member states must adopt. However, such protection is often still viewed primarily from the perspective of the economic interests of intellectual property rights holders⁸. On the other hand, various international instruments on consumer protection, such as the UN Guidelines for

³ Panjaitan, H., Aspek Hukum Kegiatan Perpajakan Dalam Perspektif Hukum Perdata, *Jurnal Hukum To-Ra: Hukum Untuk Mengatur Dan Melindungi Masyarakat*, vol. 8, no. 3, pp. 302–15, 2022.

⁴ Ertekin, L., Sorescu, A. and Houston, M. B., Hands off My Brand! The Financial Consequences of Protecting Brands through Trademark Infringement Lawsuits, *Journal of Marketing*, vol. 82, no. 5, pp. 45–65, 2018.

⁵ Devarhubli, G., *Patents, Trademarks, and Copyrights: Protecting Creative Assets*, Inkbound Publishers, 2022.

⁶ Mateski, A., and Gjorgjioska, E., Violations Of Trademark Rights From The Average Consumer Perspective, *XII. IBANESS Congress Series on Economics, Business and Management–Plovdiv/Bulgaria*, University of Agribusiness and Rural Development/Bulgaria, University" St ..., 2019.

⁷ Teremetskyi, V., Davydenko, V., Kiryk, A., Tur, I., Diorditsa, I. and Varkhov, A., Consumers Rights in the Field of Electronic Trade in Medicinal Products: Legal Challenges and Global Harmonization Trends, *Journal of Pioneering Medical Sciences*, vol. 14, pp. 113–19, 2025.

⁸ Padhi, P. K., A Quest towards Fashion Design Protection Model for the Intellectual Property Rights Global Regime, *International Journal for Research in Applied Sciences and Biotechnology (IJRASB)*, vol. 5, no. 5, pp. 4–14, 2018

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Consumer Protection, emphasize the importance of ensuring that consumers are protected from goods and services that may endanger their safety and health. Thus, there remains significant room to strengthen the integration between trademark law instruments and consumer protection frameworks in order to address the threat of product counterfeiting more comprehensively⁹.

In the Indonesian context, product counterfeiting has become a highly pressing issue. Data from the Ministry of Trade and the Directorate General of Intellectual Property reveal the high number of reports concerning the circulation of counterfeit goods, both in traditional markets and on e-commerce platforms. Counterfeit products commonly found in Indonesia include branded clothing, cosmetics, pharmaceuticals, and illegal cigarettes. This not only threatens state revenue from taxation but also directly impacts public health. Legal protection of trademarks is regulated under Law No. 20 of 2016 on Trademarks and Geographical Indications, while consumer protection is governed by Law No. 8 of 1999 on Consumer Protection. These two regulations in fact provide a relatively strong legal foundation; however, their implementation frequently encounters obstacles ranging from weak law enforcement and limited supervision to the lack of public awareness regarding the dangers of counterfeit products¹⁰.

From the perspective of legal theory, the synergy between trademark protection and consumer rights can be analyzed through a utilitarian approach and a distributive justice approach. The utilitarian approach emphasizes

achieving the greatest benefit for society at large through effective legal protection against counterfeiting practices. By preventing the circulation of counterfeit products, the law not only protects trademark owners from financial losses but also provides broader benefits for consumers in the form of quality assurance and safety¹¹. Meanwhile, the distributive justice approach highlights the aspect of equity, namely ensuring that consumers are not harmed by fraudulent practices and that legitimate producers obtain their lawful rights over the fruits of their efforts. Both approaches demonstrate that trademark protection and consumer rights essentially share the same goal: creating a fair, transparent, and secure marketplace¹².

Furthermore, the integration of trademark protection and consumer rights is closely linked to the development of digital technology. The era of e-commerce presents new challenges, as product counterfeiting has become easier to carry out and its distribution increasingly difficult to monitor. Digital platforms often serve as channels for the circulation of counterfeit goods, exploiting weak seller verification mechanisms and the limited capacity for cross-jurisdictional oversight. This reinforces the urgency of implementing binding legal mechanisms that hold not only business actors but also digital platform providers accountable in preventing the circulation of counterfeit products. In several developed countries, regulations have evolved to place legal responsibilities on e-commerce platforms, for instance through

⁹ McKenna, M. P., Testing Modern Trademark Law's Theory of Harm, *Iowa L. Rev.*, vol. 95, p. 63, 2009.

¹⁰ Ilyas, M. I., PROTECTION OF EXCLUSIVE RIGHTS OF "STANDARD" PEN BRAND HOLDERS AGAINST THE CIRCULATION OF COUNTERFEIT PRODUCTS, *Journal of Law and Social Change Review*, vol. 1, no. 01, pp. 310–24, 2025.

¹¹ Marlyna, H. and Sardjono, A., Does the Trademark Protection Regulation Protect Consumers against Counterfeit Products? Analyzing the Theories of Trademark and Indonesian Trademark Law., *Pertanika Journal of Social Sciences & Humanities*, vol. 27, no. 2, 2019

¹² Cao, Y., Ren, S. and Du, M., Strategic Trademark Management: A Systematic Literature Review and Prospects for Future Research, *Journal of Brand Management*, vol. 29, no. 5, pp. 435–53, 2022.

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obligations to carry out notice-and-takedown procedures against allegedly counterfeit goods. However, in Indonesia, such regulations remain in their early stages, thereby necessitating the strengthening of the legal framework to protect both trademarks and consumers in the digital trade era¹³.

Through this analysis, it becomes clear that the synergy between trademark protection and consumer rights is not a separable issue but must instead be situated within an integrative framework. Efforts to prevent product counterfeiting should be regarded as a dual strategy: on the one hand, safeguarding the economic value and reputation of trademarks, and on the other, guaranteeing the fundamental rights of consumers. Therefore, this study seeks to analyze, from a legal standpoint, the interrelation between these two regimes in addressing the challenges of product counterfeiting, both in terms of legal norms, policy, and implementation practices. The approach adopted is a normative-comparative analysis, examining practices at both the international and national levels, as well as their relevance in formulating more effective legal strategies in Indonesia. In this way, the article aims to provide not only an academic contribution but also practical recommendations for strengthening the synergy between trademark protection and consumer rights in both global and national contexts.

METHOD

This study employs a normative juridical approach as the primary framework for analyzing the synergy between trademark protection and consumer rights in the context of product counterfeiting prevention. The normative approach was chosen because the issue under examination is conceptual,

regulatory, and closely related to the validity and applicability of legal norms, both within national legislation and international legal instruments. In the context of legal research, a normative juridical approach enables the researcher to examine law as a system of norms that regulate human behavior in society¹⁴. In other words, the main focus of this study is how legal rules, doctrines, and both international and national principles interact to create a synergy between trademark and consumer protection against the threat of product counterfeiting.

The normative juridical method is combined with conceptual and comparative approaches. The conceptual approach is applied to understand the fundamental ideas concerning trademarks, consumer rights, and product counterfeiting from a theoretical perspective. A trademark is understood not merely as a legally protected distinguishing sign, but also as a symbol of quality, assurance, and reputation, which directly implicates consumer protection. Meanwhile, consumer rights are perceived as fundamental rights that must be safeguarded by law to ensure a balance between producers and consumers in commercial transactions. Through this conceptual approach, the study examines the synergy of these two aspects as an integrative legal construction. The comparative approach, on the other hand, is employed to contrast regulatory practices and legal implementation in Indonesia with those in several other jurisdictions, both developed and developing countries. This approach is useful for identifying weaknesses, strengths, and opportunities for legal harmonization in preventing cross-border product counterfeiting.

The legal materials used in this research consist of primary, secondary, and tertiary sources. Primary legal materials include national legislation, such as Law No. 20 of 2016 on Trademarks and Geographical Indications, Law No. 8 of 1999 on Consumer Protection, as well as relevant provisions in criminal and civil law relating to product

¹³ Mythili, G., A CRITICAL ANALYSIS ON DECEPTIVE SIMILARITIES OF TRADEMARKS IN INDIA, *International Journal of Scientific Research in Modern Science and Technology*, vol. 4, no. 4, pp. 21–31, 2025.

¹⁴ Creswell, J. W. and Creswell, J. D., *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*, Sage publications, 2017

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counterfeiting. In addition, international legal instruments such as the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), the Paris Convention for the Protection of Industrial Property, and the United Nations Guidelines for Consumer Protection (UNGCP) serve as key references. Secondary legal materials consist of academic literature, reputable international journals, textbooks on intellectual property law and consumer law, as well as reports from international organizations such as the OECD, WIPO, and UNCTAD. Tertiary legal materials include legal encyclopedias, law dictionaries, and conceptual reference sources that support the understanding of terminology and the theoretical framework employed.

Legal material collection was carried out through library research. The researcher examined relevant legal and non-legal literature to enrich the analysis. This process involved searching international journal databases such as HeinOnline, SpringerLink, JSTOR, Scopus, and ProQuest, as well as official online legal sources provided by WIPO, WTO, and the Government of Indonesia. Literature searches were conducted using keywords such as “trademark protection,” “consumer rights,” “counterfeit products,” and “legal framework on intellectual property and consumer protection.” The selection of sources was conducted rigorously based on the publisher’s reputation, the recency of publication, and their relevance to the research topic. Thus, the data obtained has academic validity and can be scientifically accounted for.

The data analysis technique employed was normative qualitative analysis. The analysis was carried out through three main stages: legal interpretation, legal construction, and legal evaluation. The interpretation stage aimed to understand the meaning of norms within statutory regulations and international instruments for instance, how Article 20 of the TRIPS Agreement is understood in the context of restrictions on trademark use, or how Article 4 of the Consumer Protection Act is interpreted to protect consumers from counterfeit goods. The construction stage was used to establish interconnections between

trademark protection norms and consumer protection norms to create a coherent synergy framework. The evaluation stage was conducted by reviewing the effectiveness of these norms in practice, both through national case studies and international comparisons.

In practice, the analysis was conducted systematically using a descriptive-analytical method. First, the researcher described the existing regulatory framework at both international and national levels. This description covered the substance of the law, the scope of protection, and enforcement mechanisms. Second, the researcher analyzed how these frameworks interact whether overlaps, gaps, or opportunities for synergy exist. Third, a critical evaluation was conducted on the effectiveness of law enforcement in preventing counterfeit products by examining real cases such as counterfeit medicines, cosmetics, and electronic goods in Indonesia and other countries. Fourth, the results of the analysis were used to formulate strategic recommendations grounded in international legal principles, national needs, and sustainable consumer protection.

This research method also considered a multidisciplinary approach. Counterfeit products are not merely a legal issue but also involve economic, social, and technological dimensions. Therefore, the legal analysis was complemented with an understanding of the economic impact of counterfeit goods, such as loss of state revenue, business losses, and disruption to international trade. Social aspects, such as consumers’ low awareness of the dangers of counterfeit products, were also taken into account. Meanwhile, developments in digital technology, particularly e-commerce, were identified as a key element that poses new challenges for supervision and law enforcement. This multidisciplinary approach allows for a more comprehensive and contextual legal analysis.

To maintain the validity and reliability of the data, the researcher employed source triangulation. Every piece of information or legal doctrine obtained from secondary literature was verified against primary legal documents and official sources from international institutions. For example, if a

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journal discussed the effectiveness of TRIPS in preventing counterfeit products, such analysis was compared with the official TRIPS Agreement text and WTO reports on its implementation. Hence, the research conclusions were not solely based on the subjective views of individual authors but also had strong legal and empirical foundations.

In addition, this study employed case study analysis on several instances of counterfeit products in Indonesia and other countries. For example, cases of counterfeit medicines handled by Indonesia's National Agency of Drug and Food Control (BPOM) and international cases of counterfeit cosmetics addressed by the European Union Intellectual Property Office (EUIPO). These case analyses illustrate how the synergy between trademark and consumer protection works in practice, as well as the extent to which existing regulations effectively provide legal protection. The case study approach also enables the identification of obstacles to legal implementation, such as weak supervision, limited resources, or low public awareness.

From a methodological perspective, this study applied normative-comparative analysis to formulate recommendations relevant to Indonesia. Comparative analysis was carried out by examining policies in developed countries, such as the United States with its Lanham Act system, which provides strong trademark protection, or the European Union with its Consumer Protection Cooperation Regulation, which places consumers at the center of protection. Such comparisons provide insights into best practices that can be adopted or adapted to Indonesian conditions. Comparative analysis also highlights existing legal gaps, ensuring that the recommendations produced are not only normative but also practical and applicable.

Furthermore, this research acknowledges a critical approach to law. Law is not perceived merely as normative text but also as a product of political, economic, and social processes. With this critical perspective, the research highlights how trademark protection often prioritizes the economic interests of rights holders, while consumer protection is frequently regarded as secondary.

Through critical analysis, this study seeks to shift the paradigm, arguing that both regimes share a common objective in preventing counterfeit products. Accordingly, the law should not only protect the interests of large corporations but also ensure distributive justice for consumers as the more vulnerable party.

Ultimately, this research method was designed to achieve two main objectives. First, to provide theoretical understanding of the interrelation between trademark protection and consumer rights within the legal framework. Second, to generate practical recommendations for policymakers, law enforcement authorities, and business actors in formulating more effective strategies for preventing counterfeit products. By applying normative juridical, conceptual, comparative, multidisciplinary, and case study approaches, this research aspires to contribute significantly to academic scholarship while also delivering practical benefits in strengthening the synergy between trademark protection and consumer rights, both in Indonesia and within the global context.

RESULTS AND DISCUSSION

Legal Protection Analysis of Trademarks in the Context of Product Counterfeiting Prevention

Legal protection of trademarks constitutes a fundamental instrument in safeguarding the existence and sustainability of a healthy market-based economic system, where fair and transparent business competition can only be guaranteed if the exclusive rights of trademark owners are respected and enforced. A trademark is not merely a symbol or trade sign attached to a product or service; rather, it carries a deeper meaning as an identity, reputation, and representation of the quality offered by producers to consumers. In the modern context, a trademark also functions as an intellectual asset with high economic value. Thus, violations through counterfeiting practices not only cause financial losses but also erode public trust in the legal system and market mechanisms. Therefore, analyzing legal protection of trademarks in the context of preventing product counterfeiting is crucial to

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understand both normatively, juridically, and in terms of implementation.

In Indonesia, trademark protection is normatively regulated under Law No. 20 of 2016 concerning Trademarks and Geographical Indications. This law stipulates that a trademark is any sign capable of being graphically represented, such as images, logos, names, words, letters, numbers, color arrangements, in two- or three-dimensional forms, sounds, holograms, or a combination of two or more of these elements, used to distinguish goods and/or services produced by one individual or legal entity from those of another. This definition illustrates that the scope of trademarks is broad and flexible, thereby requiring adaptive legal instruments for protection. Nevertheless, trademark counterfeiting remains a difficult phenomenon to curb, particularly in industries based on mass consumption such as pharmaceuticals, cosmetics, food, and beverages, where consumers often face limitations in verifying product authenticity.

Preventing product counterfeiting cannot be separated from both preventive and repressive legal protection mechanisms. Preventive protection is implemented through the trademark registration system, which grants exclusive rights to its owner for commercial use. This system adopts the first-to-file principle, meaning that whoever first registers a trademark is legally entitled to its protection. While this principle provides legal certainty, it is also vulnerable to exploitation by bad-faith actors who register popular but unregistered trademarks belonging to original owners. This phenomenon, commonly referred to as “trademark squatting,” often leads to prolonged legal disputes. Hence, legal awareness among business actors to register their trademarks at an early stage is crucial to avoid such harmful practices.

Meanwhile, repressive protection is realized through law enforcement mechanisms, whether civil, criminal, or administrative. Trademark owners whose rights have been infringed may file lawsuits for damages or cessation of use in commercial courts. In the criminal domain, counterfeiters may face imprisonment and/or fines as

stipulated under the Trademark Law. Administratively, the Directorate General of Intellectual Property (DGIP) may reject, cancel, or revoke trademark registrations that are deemed to violate others’ rights. However, the effectiveness of repressive enforcement often encounters obstacles, such as limited resources among law enforcement authorities, lack of public awareness, and high tolerance toward counterfeit products, which are often perceived as a “cheap alternative.”

Upon deeper analysis, legal protection of trademarks in preventing product counterfeiting carries broad implications not only for trademark owners but also for consumers, the state, and the international community. For trademark owners, strong legal protection fosters a sense of security in innovating and investing, since their hard work cannot easily be imitated by irresponsible parties. For consumers, trademark protection guarantees the right to safe, high-quality products consistent with promised standards. For the state, such protection enhances investment climate, strengthens national industrial competitiveness, and prevents economic losses caused by the proliferation of illegal products. At the international level, trademark protection reflects Indonesia’s commitment to international legal standards, particularly the Trade-Related Aspects of Intellectual Property Rights (TRIPs) agreement, which obliges WTO member states to enforce effective protection of intellectual property rights.

In a global context, brand counterfeiting is not a phenomenon that occurs only in Indonesia; rather, it is a transnational issue involving cross-border production and distribution networks. Therefore, legal protection of trademarks must be supported by international cooperation, both through bilateral and multilateral agreements. The Paris Convention for the Protection of Industrial Property (1883) and the Madrid Agreement on the International Registration of Marks are two key instruments that provide the foundation for countries to mutually safeguard trademarks. However, the challenges of implementation remain significant, particularly concerning disparities

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in law enforcement capacities across countries, as well as the prevalence of cross-border trade practices that exploit legal loopholes in jurisdictions with weak regulations. Indonesia itself continues to face serious challenges in harmonizing national laws with international standards, particularly in terms of the effectiveness of law enforcement and inter-agency coordination.

One crucial aspect that must be considered in analyzing the legal protection of trademarks is the cultural attitude of society toward the law. In many regions, counterfeit products are not viewed as a serious violation but rather as a strategy to obtain goods at affordable prices. This perception is exacerbated by the lack of public awareness regarding the negative impacts of counterfeit goods, including health and safety risks as well as long-term economic losses. Consequently, preventing counterfeiting through trademark protection cannot rely solely on positive law; it also requires widespread and continuous legal education for society. The government, academics, and business actors must work synergistically to build awareness that purchasing genuine products is not merely a matter of lifestyle but also a form of contribution to equitable economic development.

Moreover, the development of digital technology introduces new dimensions to trademark protection. Counterfeiting no longer occurs only in traditional markets but has become increasingly prevalent on e-commerce platforms and social media. Counterfeit products can now be marketed widely, rapidly, and with limited oversight, thus requiring specific regulations that define the responsibilities of digital platforms in preventing the distribution of illegal goods. Indonesia has begun moving in this direction by promoting policies related to electronic commerce, but enforcement still needs to be strengthened. Several developed countries have already adopted the notice-and-takedown mechanism, whereby trademark owners can request platforms to promptly remove products suspected of infringement. This mechanism could serve as a model for Indonesia in

optimizing trademark protection in the digital era.

Furthermore, trademark protection in the context of preventing product counterfeiting must also be analyzed from a political economy perspective. Counterfeiting operations are often driven by large syndicates with strong distribution networks, meaning that combating them requires not only legal instruments but also political strategies involving cooperation among law enforcement agencies, border surveillance, and trade diplomacy. Without a comprehensive approach, trademark protection risks remaining rhetorical rather than substantive. This highlights the crucial role of the government as regulator, facilitator, and executor in ensuring effective trademark protection.

In conclusion, an analysis of trademark protection in the context of preventing product counterfeiting underscores that the success of a legal system is determined not only by the quality of its regulations but also by the consistency of implementation, public awareness, technological support, and international cooperation. Counterfeiting is a complex crime, and its prevention requires a balanced combination of preventive and repressive strategies. Without strong legal protection, trademarks risk losing their function as instruments of differentiation and guarantees of quality, ultimately harming not only producers and consumers but also the nation as a whole.

Consumer Vulnerability in Cases of Product Counterfeiting

Consumer vulnerability in cases of product counterfeiting is a highly complex and multidimensional issue, as it relates to the position of consumers as the weakest party in the trade transaction chain. Consumers are placed in a vulnerable position due to limited access to accurate information, the inability to identify product authenticity, and the lack of effective legal protection mechanisms. Product counterfeiting not only harms legitimate businesses but also creates both direct and indirect impacts on consumer safety, health, and economic interests. Within the context of consumer protection law, this condition

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demonstrates that consumers require additional safeguards through clear regulations, consistent law enforcement, and collective awareness in avoiding counterfeit products.

First, consumer vulnerability can be viewed from the perspective of information asymmetry. Products circulating in the market, particularly branded goods, are often very difficult to distinguish between genuine and counterfeit. The average consumer lacks the technical capability to identify the authentic characteristics of a product, as counterfeiters have developed increasingly sophisticated production techniques. For instance, in the case of pharmaceuticals, consumers may find it extremely difficult to differentiate original packaging from counterfeit ones, even though such differences are crucial to the safety of use. This information asymmetry places consumers in an unequal position compared to producers or counterfeiters, who possess far greater knowledge about production processes. In consumer protection law, information asymmetry is one of the fundamental reasons why the state must intervene through regulations that ensure fairness and legal certainty.

Second, consumer vulnerability is also linked to the direct impact on safety and health. Counterfeit products in the categories of medicine, food, cosmetics, and beverages often use raw materials that do not meet safety standards and may even contain hazardous substances. The circulation of counterfeit vaccines and medicines in Indonesia, for example, illustrates the serious risks borne by consumers. Consumers not only lose their economic rights but may also suffer permanent health damage or even loss of life. This underscores that product counterfeiting should not be viewed merely as a violation of intellectual property rights or an economic crime, but also as a violation of human rights, particularly the right to health and safety.

Third, from an economic perspective, consumers become victims of financial loss because they pay a price disproportionate to the quality of the product received. Consumers purchase goods with the belief that they are genuine, while in reality they are counterfeits of significantly lower quality. This economic

loss is not only individual but also systemic, as it undermines public trust in the market. When consumers are frequently deceived by counterfeit products, confidence in brands and even in the trading system as a whole declines. Such erosion of trust leads to reduced consumer participation in the formal economy, which in turn may hinder economic growth.

Furthermore, consumer vulnerability is exacerbated by the low level of legal awareness within society. Many consumers are unaware of the complaint procedures or legal mechanisms available when they fall victim to product counterfeiting. Limited legal literacy often leads consumers to resign themselves to losses without pursuing further legal action. In some cases, consumers even choose to continue purchasing counterfeit products due to their lower prices, despite knowing that the goods are not genuine. This phenomenon reflects a paradox: on the one hand, consumers suffer harm from the existence of counterfeit products, yet on the other hand, some consumers contribute to the problem by continuing to support the circulation of fake goods.

Consumer vulnerability can also be examined from the perspective of legal structures and law enforcement. Although regulations such as Law No. 8 of 1999 on Consumer Protection and Law No. 20 of 2016 on Trademarks and Geographical Indications are in place, their implementation in practice often remains ineffective. Many cases of product counterfeiting escape oversight due to weak market control systems. Law enforcement authorities sometimes focus more on violations of copyright or trademarks rather than on consumer harm. In reality, consumer protection should be the primary priority. This situation reinforces the position of consumers as the most vulnerable party, as they are disadvantaged not only in terms of information and economic capacity but also in terms of legal protection.

From the perspective of trade globalization, consumer vulnerability has increased due to the uncontrolled flow of goods across borders. Counterfeit products are not only produced locally but also imported from abroad at lower prices. E-commerce and

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digital trade further expand the circulation of counterfeit goods. Consumers engaging in online transactions find it more difficult to verify product authenticity, as they do not directly interact with the goods before purchasing. This makes fraud and counterfeit distribution even harder to eradicate. Within this framework, consumer protection requires an integrated international approach, involving cross-border cooperation in monitoring and law enforcement.

Moreover, consumer vulnerability is also linked to social and economic inequality. Low-income consumers are more inclined to purchase inexpensive products, many of which are counterfeits. With limited purchasing power, they prioritize affordability even at the expense of quality and safety. This condition highlights that lower- and middle-income groups are the most vulnerable victims. Such vulnerability cannot be resolved solely through legal regulation but must also be addressed through economic policies that enhance purchasing power and provide access to genuine products at affordable prices.

Beyond health, economic, and social aspects, consumer vulnerability in cases of product counterfeiting also has psychological dimensions. Victims of counterfeit products often experience trauma, disappointment, and loss of trust. In the long term, this can generate dissatisfaction with the existing consumer protection system and reinforce the perception that the state fails to safeguard public interests. From the perspective of responsive law, this situation calls for reform in the consumer protection system to make it more oriented toward the real needs of society.

To address such vulnerabilities, it must be acknowledged that consumers cannot be solely burdened with the responsibility of ensuring product authenticity. Greater responsibility should be borne by producers, the government, and law enforcement authorities. Producers must provide accessible product identification systems, such as digital certification, QR codes, or special labels that are difficult to counterfeit. The government must strengthen regulations and enhance the effectiveness of market surveillance. Law enforcement agencies must take firm action

against counterfeiters by imposing penalties that create a deterrent effect. All these measures must operate within a legal framework that places consumers at the center of protection.

In conclusion, consumer vulnerability in cases of product counterfeiting reflects the individual's inability to confront organized economic crime. This vulnerability arises from various aspects, including information asymmetry, health risks, economic losses, low legal awareness, and weak law enforcement. Consumers require stronger protection through the synergy of trademark protection and consumer protection. Thus, preventing product counterfeiting is not only about safeguarding brand reputation but also an essential instrument for ensuring consumers' fundamental rights, including the rights to safety, health, comfort, and justice.

Legal Strategies in Preventing Product Counterfeiting

Product counterfeiting is a cross-sectoral legal issue that intersects with intellectual property rights protection, consumer protection regulations, and international trade oversight. Counterfeiting not only causes economic losses to the original brand owners but also endangers consumers, as counterfeit products often fail to meet quality and safety standards. Therefore, legal strategies to prevent counterfeiting should be understood as a combination of strict regulation, consistent law enforcement, international cooperation, and public participation. In the Indonesian context, these strategies are rooted in Law No. 20 of 2016 on Trademarks and Geographical Indications, Law No. 8 of 1999 on Consumer Protection, as well as other technical regulations governing product distribution, trade, and market supervision.

1. National Legal Instruments in Counterfeiting Prevention

The first legal strategy involves the establishment and harmonization of adequate national regulations. The Law on Trademarks and Geographical Indications (MIG Law) provides the legal foundation for trademark owners to register their marks and file lawsuits against unauthorized use. Article 100 of the

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MIG Law, for example, imposes criminal sanctions for trademark counterfeiting, including imprisonment of up to five years and/or fines of up to two billion rupiah. This regulation normatively demonstrates the state's commitment to protecting both brand owners and consumers from the negative impacts of counterfeiting¹⁵.

In addition, the Consumer Protection Law (UUPK) is also relevant. Article 8 of the UUPK prohibits business actors from producing or trading goods that do not meet standards, fail to provide proper labeling, or use misleading information. Counterfeit products clearly fall into this prohibited category, as they mislead consumers. Thus, counterfeiting prevention is not merely about trademark protection but also an integral part of consumer protection against harmful trade practices. The UUPK extends the scope of protection beyond brand owners, ensuring consumers' rights to safety, comfort, and security¹⁶.

2. Law Enforcement and Legal Institutions

Well-drafted legislation will not be effective without consistent law enforcement. The next legal strategy is to strengthen the capacity of law enforcement agencies, including the police, prosecutors, courts, and the Directorate General of Intellectual Property (DJKI). Counterfeiting cases often face challenges such as weak evidence, difficulty tracing perpetrators operating covertly, and low consumer awareness in reporting counterfeit goods. In Indonesia, market operations involving Customs, the Food and Drug Supervisory Agency (BPOM), and the Ministry of Trade are important strategies to curb counterfeit circulation,

especially in the categories of pharmaceuticals, food, cosmetics, and electronics.

Nevertheless, the classic problem of partial and sporadic enforcement remains a major obstacle. Many cases are resolved merely by seizing counterfeit goods in markets, without dismantling the larger counterfeiting networks. Therefore, legal strategies must emphasize strengthening cross-agency investigative systems so that enforcement targets not only "street-level actors" but also the intellectual masterminds behind counterfeit distribution chains¹⁷. Preventive Strategies through Administrative Regulations.

Beyond criminal and civil enforcement, counterfeit prevention can also be pursued through administrative measures. For instance, requiring production codes, official barcodes, and product registration via the online single submission (OSS) system. These administrative regulations help build a database accessible to both consumers and enforcement agencies to distinguish genuine from counterfeit goods. This strategy has proven effective in countries such as Japan and South Korea, where governments actively use digital technology to mark genuine products with QR codes that consumers can scan prior to purchase¹⁸.

In Indonesia, halal certification, BPOM registration numbers, and the Indonesian National Standard (SNI) certification also serve as preventive instruments that function dually: protecting consumers and preventing counterfeiting. The challenge lies in ensuring that these certification systems themselves cannot be counterfeited. Hence, legal strategies in the digital era must integrate blockchain-based mechanisms or digital

¹⁵ Matlala, N., Shumba, K. and Chimucheka, T., The Roles of Brands in Consumer Protection, in *Brands, Branding, and Consumerism: Personal and Social Influences on Consumption*, Springer, pp. 377–406, 2025.

¹⁶ Vashistha, S., Analysing the Role of Copyrights and Trademarks in Business Transactions, *LawFoyer Int'l J. Doctrinal Legal Rsch.*, vol. 2, p. 944, 2024.

¹⁷ Vladimirovna, P. A., The Application of AI Technologies: Enforcement of Trademark Rights on E-commerce Marketplaces, *The Journal of World Intellectual Property*, vol. 28, no. 2, pp. 665–83, 2025.

¹⁸ Chaudhry, P., Cordellb, V. and Zimmermanc, A., Modelling Anti-Counterfeiting Strategies in Response to Protecting Intellectual Property Rights in a Global Environment, *The Marketing Review*, vol. 5, no. 1, pp. 59–72, 2005.



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verification systems to minimize document forgery.

3. International Cooperation in Counterfeiting Prevention

Counterfeiting is a cross-border phenomenon. Counterfeit goods are often produced in one country and sold in another via online trade or international distribution channels. Thus, national legal strategies must be connected with international mechanisms. As a member of the World Trade Organization (WTO), Indonesia has ratified the Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), which obliges member states to provide effective protection of intellectual property rights, including trademarks. Moreover, cooperation with the ASEAN Working Group on Intellectual Property Cooperation (AWGIPC) is a strategic instrument to strengthen anti-counterfeiting efforts in Southeast Asia¹⁹.

International legal strategies are not limited to regulatory harmonization but also include intelligence-sharing among countries to target counterfeiting syndicates that frequently operate across borders. Here, the role of Interpol, the World Customs Organization (WCO), and other international institutions is crucial. Indonesia must strengthen its legal capacity to participate actively in such forums and leverage these networks to trace the origins of counterfeit goods entering domestic markets.

4. The Role of Judges and Jurisprudence

Another crucial legal strategy lies in progressive and consistent court rulings. Judges play a significant role in shaping jurisprudence related to counterfeiting by imposing maximum sanctions, awarding damages to brand owners, and recognizing consumer losses. Unfortunately, Indonesian courts often issue lenient sentences for counterfeiters, reducing deterrence. An effective legal strategy requires judicial

courage to interpret laws more progressively, particularly in linking trademark protection with consumer protection as a unified framework²⁰.

5. Public Participation and Legal Awareness

Counterfeiting prevention strategies must also involve consumers as active legal subjects. Public legal education on the dangers of counterfeit goods and how to identify genuine products is essential. Legally aware consumers will exercise more caution when purchasing, report suspicious goods, and refrain from supporting counterfeit trade. The state must establish accessible reporting systems, such as online applications that allow the public to directly report counterfeit products to authorities. This aligns with the concept of participatory law enforcement, where society is actively engaged in legal prevention and supervision²¹.

6. Integrating Legal Strategies with Digital Technology

The digital era presents both challenges and opportunities in counterfeit prevention. Many counterfeit products are now marketed through e-commerce and social media platforms. Therefore, legal strategies must regulate the liability of digital platforms. Several countries already impose obligations on marketplaces to act on counterfeit product reports, with penalties for non-compliance. Indonesia could adopt a similar approach by revising the Electronic Information and Transactions Law (ITE Law) or strengthening e-commerce regulations so that digital

¹⁹ Citaristi, I., Association of Southeast Asian Nations Asean, in *The Europa Directory of International Organizations 2022*, Routledge, pp. 460–76, 2022.

²⁰ Sitorus, R. P., The Impact and Handling of Criminal Law on Trademark Counterfeiting in Medan City (Study of Medan District Court Decision No. 2152/Pid. Sus/2024/PN Mdn), *International Journal of Economic, Technology and Social Sciences (Injects)*, vol. 6, no. 1, pp. 102–15, 2025.

²¹ Hafiz, F. and Hamidah, R., Strengthening Intellectual Property Rights: Legal Responses to Trademark Counterfeiting in Indonesia's E-Commerce Era, *Legitimacy: Journal Of Law and Islamic Law*, vol. 1, no. 1, pp. 1–11, 2025

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platforms do not become fertile ground for counterfeit trade²².

From the above discussion, it can be concluded that legal strategies for preventing product counterfeiting must adopt a multidimensional approach. First, strengthening national legal instruments aligned with both trademark and consumer protection. Second, ensuring consistent law enforcement with robust institutional support. Third, employing technology-based administrative tools to limit counterfeiters' opportunities. Fourth, building international cooperation to confront cross-border counterfeiting syndicates. Fifth, encouraging judges to develop progressive jurisprudence. Sixth, enhancing consumer legal awareness. Seventh, regulating the role of digital platforms in preventing counterfeit trade.

By integrating these strategies, product counterfeiting can be significantly reduced, thereby achieving a balanced protection between the rights of brand owners and the rights of consumers.

The Synergy of Trademark Protection and Consumer Rights as a Pillar of Prevention

The protection of consumers and trademarks is essentially two inseparable sides of the same coin in creating a healthy, fair, and sustainable market. In the context of preventing product counterfeiting, the synergy between the two serves as a key pillar that not only safeguards the economic interests of business actors but also guarantees the fundamental rights of consumers. Trademark protection is more oriented toward the interests of producers or holders of intellectual property rights, while consumer protection focuses on the rights of society as product users. Nevertheless, both converge on the same point of interest: ensuring that products circulating in the market are genuine, of high quality, and safe to consume. Without such synergy, efforts

to eradicate product counterfeiting would remain partial and tend to be ineffective.

The synergy between trademark protection and consumer rights can be seen from several dimensions. First, the legal regulatory dimension establishes a comprehensive foundation for protecting both consumers and trademark owners. Indonesia has enacted Law No. 20 of 2016 on Trademarks and Geographical Indications, which provides legal protection for trademark owners against the threat of counterfeiting and piracy. On the other hand, Law No. 8 of 1999 on Consumer Protection guarantees consumers' rights to obtain safe, high-quality goods in accordance with the information provided. These two laws should not stand alone but rather complement each other in implementation. This means that when there is a violation of trademark rights through product counterfeiting, it also constitutes a violation of consumer rights. Accordingly, law enforcement mechanisms must integrate both aspects in order to provide comprehensive protection.

Second, this synergy is reflected in market supervision functions. Relevant government agencies such as the Food and Drug Supervisory Agency (BPOM), the Directorate General of Intellectual Property (DGIP), and the Ministry of Trade have interconnected responsibilities. BPOM ensures the safety of circulating products, DGIP protects trademark rights, while the Ministry of Trade guarantees fair trade practices. If these supervisory roles are carried out in a coordinated manner, the prevention of counterfeit product circulation will be more effective. For example, when BPOM discovers the distribution of counterfeit medicines, such findings should not only be processed within the framework of consumer protection but also in terms of trademark infringement. The integration of these supervisory systems closes the legal loopholes often exploited by unscrupulous business actors.

Third, the synergy between trademark and consumer protection can also be seen in the realm of public education. Consumers who are highly aware of the importance of purchasing genuine products with registered

²² Mahmuctarom, M., Irawan, D. H. and Pratama, I. B. A., Criminal Regulation Against Counterfeiting of Goods and Trademarks in the Industrial Sector, *Research Horizon*, vol. 4, no. 5, pp. 87–102, 2024.

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trademarks serve as the first line of defense against counterfeit goods. This educational effort not only emphasizes the health risks of consuming counterfeit products but also the importance of respecting intellectual property rights. At the same time, trademark holders are obliged to provide clear and transparent information to consumers regarding the distinguishing features of authentic products compared to counterfeit ones. For instance, through holographic labeling, certification, or QR codes that can be scanned to verify authenticity. Thus, public education becomes an instrument that unites the interests of consumers and trademark owners in a shared vision of counterfeit prevention.

Fourth, trademark and consumer protection can also work in synergy through litigation and non-litigation mechanisms. In practice, many counterfeiting cases brought to court only focus on trademark infringement without addressing the damages suffered by consumers. In fact, consumers who purchase counterfeit products have the right to demand compensation under the Consumer Protection Law. Therefore, synergy can be realized by integrating both aspects into a single lawsuit. Moreover, non-litigation channels such as mediation, arbitration, or settlement through the Consumer Dispute Settlement Agency (BPSK) may also be utilized to expedite protection for both parties.

Furthermore, such synergy is crucial within the framework of national economic development. Counterfeiting not only harms trademark holders and consumers but also disadvantages the state through the loss of potential tax revenue and the weakening of domestic product competitiveness. If consumers continue to be harmed by counterfeit products, public trust in the market will decline, while genuine trademark owners will be reluctant to invest in innovation. The synergy between trademark and consumer protection will foster a healthy business ecosystem, increase consumer confidence, and encourage investment. This aligns with the objectives of the Sustainable Development Goals (SDGs), particularly in the area of responsible consumption and production.

From the perspective of economic law theory, trademark and consumer protection can be understood as instruments for maintaining market efficiency. According to²³, the law should be directed toward minimizing the social costs arising from fraudulent practices such as product counterfeiting. With trademark protection in place, consumers' information search costs in identifying genuine products are reduced, thereby increasing the efficiency of transactions. Likewise, consumer protection ensures that producers have sufficient incentives to maintain product quality. Therefore, the synergy between the two is a necessity rather than a mere option.

On the other hand, building this synergy faces significant challenges. Overlapping institutional authority, low public awareness, and weak law enforcement often become major obstacles. Many cases of product counterfeiting are punished only with light administrative sanctions or fines that are disproportionate to the profits gained by the perpetrators. As a result, product counterfeiting continues to recur. For this reason, the synergy between trademark and consumer protection must be accompanied by institutional reform and stronger legal sanctions to create a deterrent effect. In addition, the role of civil society organizations and the media is also crucial in monitoring fraudulent trade practices and voicing consumer interests.

Furthermore, this synergy must also be strengthened through international cooperation. Product counterfeiting is not only a domestic issue but also a transnational phenomenon involving international production and distribution networks. Therefore, Indonesia needs to reinforce international agreements such as TRIPs (Trade-Related Aspects of Intellectual Property Rights), which regulate global trademark protection, while simultaneously integrating them with consumer protection

²³ Amir, A., Rafi, M. and Zafar, R., Jurisprudence of Trademark Counterfeiting: The Influence of Social Behavior on Trademark Protection in Pakistan, *Competitive Research Journal Archive*, vol. 3, no. 01, pp. 135–43, 2025.

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policies. Such cooperation is vital because many counterfeit products enter the country through illegal imports. With international collaboration, enforcement against counterfeiting can be carried out more effectively.

Based on these considerations, it can be affirmed that the synergy between trademark protection and consumer rights is not merely a legal rhetoric but rather a sustainable preventive strategy. This synergy ensures that the interests of businesses and consumers move hand in hand, creating a balance between the protection of intellectual property rights and the safeguarding of societal rights. In the context of legal development in Indonesia, the path toward this synergy requires a multidisciplinary approach, not only through legal instruments but also through economic policies, public education, and international cooperation. Thus, the synergy of trademark protection and consumer rights can truly serve as a fundamental pillar in preventing product counterfeiting and realizing a fair, safe, and healthy market.

CONCLUSION

Based on the findings and discussion regarding the issue of product counterfeiting in relation to trademark protection and consumer rights, several important conclusions can be drawn. First, product counterfeiting constitutes a serious violation that not only causes economic and reputational losses to trademark owners but also poses significant risks to consumer safety, health, and well-being. Counterfeit products circulating in the market often fail to meet quality and safety standards, thereby creating consumer vulnerability, particularly among groups with low levels of legal and economic literacy.

Second, consumer vulnerability in cases of product counterfeiting becomes even more complex due to limited knowledge, lack of access to information, and weak monitoring mechanisms in the field. Consumers are often unable to distinguish between genuine and counterfeit products, leaving them with very little bargaining power. This underscores the importance of enhancing consumer education

and strengthening regulations that are more responsive to the need for legal protection.

Third, legal strategies for preventing product counterfeiting require a multidimensional approach that not only emphasizes repressive measures through law enforcement and sanctions but also prioritizes preventive efforts by reinforcing regulations, building strict monitoring mechanisms, and fostering collaboration among the government, business actors, and society. Effective trademark protection cannot be separated from synergistic efforts involving law enforcement agencies, consumer protection bodies, and business associations to establish a transparent and accountable distribution system.

Fourth, the synergy between trademark protection and consumer protection becomes the main pillar in preventing product counterfeiting. Both complement each other, as successful trademark protection provides assurance for consumers to obtain safe and high-quality products, while the strengthening of consumer rights encourages producers to uphold the integrity of their brands. Thus, the integration of intellectual property law and consumer protection law can serve as a solid foundation for building a healthy, fair, and competitive trade ecosystem.

Overall, this study affirms that preventing product counterfeiting requires comprehensive measures based on regulation, monitoring, education, and synergy among all stakeholders. These efforts should not only focus on protecting the interests of business actors and trademark owners but also extend to fulfilling consumer rights as part of social justice and sustainable legal protection.

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