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Judicial Inconsistency and Its Implications for Trademark Protection in Indonesia

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Original Article

Abstract

The issue of legal certainty and trademark protection for relevant parties arises from the inconsistency between the decisions of the *Judex Facti* and *Judex Juris* in trademark cancellation cases. This study aims to identify the nature of this inconsistency and its implications for trademark legal protection in Indonesia. Drawing on statutory regulations, Medan Commercial Court Decision No. 6/Pdt.Sus-HKI/Merek/2022, and Supreme Court Decision No. 989 K/Pdt.Sus-HKI/2024, this normative legal research employs both case-based and conceptual approaches. The findings indicate that the Commercial Court adopts a narrow interpretation of “interested parties” and does not recognize first use as a legal basis, resulting in the dismissal of the trademark cancellation claim. In contrast, the Supreme Court applies a broader and more progressive interpretation by acknowledging historical use and identifying indications of bad faith in the trademark registration process. These divergent interpretations generate legal uncertainty, underscoring the need for harmonization between courts to ensure equitable trademark protection.

Keywords: *Judex Facti, Judex Juris, Interested Parties*

Abstrak

Persoalan mengenai kepastian hukum dan perlindungan hak merek bagi pihak yang berkepentingan muncul akibat ketidakkonsistenan amar putusan antara *Judex Facti* dan *Judex Juris* dalam perkara pembatalan merek. Penelitian ini bertujuan mengidentifikasi bentuk ketidaksinambungan tersebut serta dampaknya terhadap perlindungan hukum merek di Indonesia. Berdasarkan peraturan perundang-undangan serta Putusan Pengadilan Niaga Medan Nomor 6/Pdt.Sus-HKI/Merek/2022 dan Putusan Mahkamah Agung Nomor 989 K/Pdt.Sus-HKI/2024, penelitian hukum normatif ini menggunakan pendekatan kasus dan konseptual. Hasil kajian menunjukkan bahwa Pengadilan Niaga menafsirkan “pihak yang berkepentingan” secara sempit dan tidak mengakui penggunaan pertama sebagai dasar hukum, sehingga gugatan pembatalan merek ditolak. Sebaliknya, Mahkamah Agung menafsirkan secara luas dan progresif dengan mengakui penggunaan historis serta menilai adanya iktikad tidak baik dalam pendaftaran merek. Perbedaan ini menimbulkan ketidakpastian hukum, sehingga harmonisasi penafsiran antar peradilan diperlukan untuk memastikan perlindungan hak merek yang adil.

Kata kunci: *Judex Facti, Judex Juris, Pihak Yang Berkepentingan*

1. INTRODUCTION

In every country, there exists a judiciary, which constitutes a branch of state authority. The primary function of the judiciary is to resolve disputes between individuals, communities, and states, while its secondary function involves contributing to policy formation. Although judicial decisions principally apply to the parties involved—particularly in civil cases—they often influence public policy and can have significant implications for economic development. Another important responsibility of the judiciary is to oversee governmental actions. Judges exercise judicial authority with various rights and obligations, and the principles of autonomy and accountability remain two major challenges for judicial systems worldwide. While these principles can be explained theoretically, they are often difficult to implement in practice.

Article 24(1) of the 1945 Constitution of the Republic of Indonesia provides that judicial authority is exercised independently to uphold law and justice. Under the applicable legal framework, an independent judiciary ensures justice and legal certainty for the Indonesian people. Judicial power must remain free from influence by other branches of government, and no governmental body may intervene in the exercise of this authority. In Indonesia, judicial power is vested in the Supreme Court and its subordinate courts—including general, religious, military, and administrative courts—as well as the Constitutional Court.

Constitutionally mandated judicial power constitutes one of the central pillars of state authority. An independent and accountable judiciary is essential for a democratic state governed by the rule of law. According to the law, grounded in Pancasila and the 1945 Constitution, the judiciary independently administers justice to uphold legal order and fairness. Thus, alongside the executive and legislative branches, the judiciary holds autonomous authority that must not be influenced by other powers. Judicial independence, however, does not imply the absence of oversight. Court proceedings must adhere to recognized general principles of good adjudication and procedural law to ensure fair judicial processes. Judicial independence must be exercised in a manner consistent with Pancasila, the Constitution, and applicable laws.

A democratic and lawful state requires a judiciary that is independent, impartial, and free from external interference. When judicial power becomes subject to outside influence, the principles of the rule of law and democracy cannot be upheld. Any action involving judges must be taken strictly in accordance with the law. The theoretical foundation of judicial power lies in the doctrine of the separation of powers. In his *Two Treatises of Government*, John Locke argued that state power should be divided among several institutions to prevent its abuse. He distinguished between legislative, executive, and federative powers. Because the executive implements laws and administers justice,

Locke's classification effectively combines judicial and executive authority within the executive branch.¹

Judicial institutions serve not only as enforcers of law and justice but also as strategic actors responsible for safeguarding human rights as an integral component of the rule of law. Human rights are grounded in the belief that human beings, as creations of God Almighty, bear responsibility for managing and preserving the universe sincerely and for the welfare of humanity. Accordingly, human rights exist to guarantee human dignity and the integrity of their environment, and must therefore be respected and protected by the state and by law for the common good. Article 28C(1) of the 1945 Constitution affirms that every person has the right to education, to acquire knowledge, and to utilize arts, culture, science, and technology to enhance quality of life and human well-being.

In the modern world, individuals frequently produce original works through their intellectual efforts for various personal and economic purposes. Intellectual Property Rights (IPR), exclusive to human creativity, encompass all creations generated from human thought. According to the World Intellectual Property Organization (WIPO), intellectual creations—including literary and artistic works, inventions, symbols, names, and images—constitute tradeable assets. As noted by David I. Bainbridge, the purpose of intellectual property law is to recognize and reward human ingenuity. Intellectual property involves exploratory and creative processes that require both mental and physical effort; therefore, the resulting products are valuable and merit legal protection.² The IPR system provides incentives and recognition to designers, creators, inventors, and other holders of intellectual works. It is widely acknowledged that IPR plays a pivotal role in contemporary economic growth, as knowledge accumulation is one of the main drivers of economic development. IPR is also crucial in both individual and international interactions, facilitating trade and investment, promoting technological advancement, supporting the commercialization of inventions, enriching social and cultural development, encouraging exports, and strengthening international reputation.³

With the expansion of global trade, competition among businesses has intensified, particularly in markets characterized by highly creative industries. Brands have become vital assets for enhancing product visibility and competitiveness. Because reputation is often viewed as a measure of business success, brand owners rely on advertising to strengthen and maintain product credibility. Article 1(1) of Law No. 20 of 2016 concerning Trademarks and Geographical Indications defines a trademark as a sign—such as an image, logo, name, word, letter, number, arrangement, or hologram, or any combination thereof—used by individuals or legal entities in trade or service activities.

¹ Yulkarnaini Siregar and Zetria Erma, *Kekuasaan Kehakiman* (Tasikmalaya: Perkumpulan Rumah Cemerlang Indonesia, 2023).

² David I Bainbridge, *Intellectual Property*, 4th ed. (London: Fitman Publishing, 1999).

³ Sujana Donandi, *Hukum Hak Kekayaan Intelektual Di Indonesia* (Yogyakarta: Deepublish, 2019).

In the era of free trade, the increasing diversity of products expands the scope of goods and services transactions. Whether intentional or not, the use of similar or identical marks may give rise to trademark infringement. The wide availability of goods and services exposes consumers to numerous choices and price variations, increasing the likelihood of imitation or piracy of well-known marks. One example of bad faith in trademark registration occurs when an applicant dishonestly imitates or plagiarizes a well-known brand, thereby harming others and engaging in unfair competition.⁴ Generally, “bad faith” encompasses fraudulent conduct, actions that may mislead others, or behavior that intentionally disregards legal obligations for personal gain. It may also refer to deliberate actions taken to achieve dishonest or unethical objectives. Legal mechanisms are available to invalidate trademark applications filed in bad faith.⁵

Today, many parties register trademarks in bad faith, as illustrated by the dispute between David Pitoi (Plaintiff) and Muhammad Halomoan Teguhsi (Defendant). The conflict began when the Plaintiff filed a trademark cancellation lawsuit against the Defendant, asserting that he was the first user of the mark and that the Defendant’s trademark bore a strong resemblance to a symbol that the Plaintiff had used since 1972. The Plaintiff further alleged that the Defendant adopted the similar symbol with malicious intent. Under Article 76 of Law No. 20/2016, an interested party has the right to file a lawsuit seeking cancellation of a trademark that infringes upon their rights and interests.

In Decision No. 6/Pdt.Sus-HKI/Merek/2022, the Medan Commercial Court rejected the Plaintiff’s lawsuit in its entirety. Although the Court dismissed the Defendant’s objection regarding legal standing, it held that the Plaintiff had failed to establish a sufficient legal interest to justify cancellation of the Defendant’s trademark. The Court found that, despite the Plaintiff submitting certain evidence of prior use, the evidence was insufficient to show a direct relationship or rights violation connected to the Defendant’s registration. As a result, the lawsuit was dismissed without examining the similarity between the two marks or the presence of bad faith.

The Plaintiff subsequently filed an appeal, and the Supreme Court overturned the lower court’s ruling through Decision No. 989 K/Pdt.Sus-HKI/2024. The Supreme Court held that the Plaintiff qualified as an interested party because he had used the symbol since 1972, as demonstrated by documents P-1 through P-36, including organizational statutes (AD/ART). The Court further found substantial similarity between the Defendant’s registered mark and the Plaintiff’s symbol. Additionally, it determined that the Defendant’s trademark registration was made in bad faith, given

⁴ Endang Purwaningsih, *Hak Kekayaan Intelektual: Kapita Selekta*, 1st ed. (Bandung: C.V. Mandar Maju, 2021), <https://mandarmaju.com/main/detail/491/HAK-KEKAYAAN-INTELEKTUAL>.

⁵ Widya Annisa Pudji Lestari, Yuniar Rahmatiar, and Muhamad Abas, “Perlindungan Hukum Terhadap Merek Terkenal Atas Permohonan Merek Yang Diajukan Dengan Itikad Tidak Baik: Studi Putusan Nomor 1850 K/Pdt.Sus-HKI/2022,” *Jurnal Ilmiah Advokasi* 13, no. 3 (2025): 779–96, <https://doi.org/10.36987/jiad.v13i3.7604>.

the Plaintiff's longstanding and continuous use of the symbol. Based on these considerations, the Supreme Court granted the Plaintiff's claim, declared the Defendant's trademark invalid, and ordered its removal from the General Register of Trademarks.

2. RESEARCH METHODOLOGY

This study employs a normative legal research methodology based on the background and problem formulation previously identified. Legal research is understood as a process of discovering legal rules, principles, and doctrines to address emerging legal issues. Normative legal research provides legal arguments when gaps, ambiguities, or conflicts of norms arise. The research is descriptive in nature, aiming to explain the applicable legal provisions and relate them to positive legal theories relevant to the core issues. Additionally, the study compiles in-depth information concerning individuals, conditions, and specific phenomena.

The primary legal materials used in this research include Law No. 1 of 1950 concerning the Composition and Authority of Judicial Bodies, Law No. 14 of 1985 concerning the Supreme Court, Law No. 48 of 2009 concerning Judicial Power, and Law No. 20 of 2016 concerning Trademarks and Geographical Indications. The secondary legal materials consist of textbooks presenting expert opinions, research reports, and scholarly journals relevant to the subject matter. This study adopts a conceptual approach by linking the concept of inconsistency between *Judex Facti* and *Judex Juris* decisions with the theories of trademark cancellation, interested parties, and bad faith. It also uses a case approach, relying on judicial decisions concerning trademark cancellation and interested party status as the foundation of analysis. To process the data, this study applies qualitative descriptive analytical techniques. All collected data are organized and examined through a systematic categorization process. The data are then grouped according to specific patterns and themes, classified, and interconnected to produce coherent and comprehensive findings.

3. RESEARCH RESULT AND DISCUSSION

3.1. The Discontinuity of Decisions Between *Judex Facti* and *Judex Juris* in Trademark Cancellation Lawsuits Filed by Interested Parties

The judges or judicial bodies authorized to examine the factual elements of a civil lawsuit constitute the *Judex Facti*. Article 37(1) of Law No. 19 of 1948 concerning the Composition and Powers of Judicial Bodies states that "District Courts examine and adjudicate all civil and criminal cases at the first instance, unless another judicial body is

designated by law to examine and adjudicate such cases.⁶” Meanwhile, the *Judex Juris* at the cassation level is responsible for reviewing the application of law and is not authorized to reassess factual matters.

The Supreme Court, which holds the authority of *Judex Juris*, reviews the judicial reasoning and legal considerations exercised by the *Judex Facti*. According to Article 1(6) of Law No. 48 of 2009 concerning Judicial Power, “Supreme Court Justices are judges serving at the Supreme Court.” Furthermore, Article 20(2)(a) of the same law provides that “The Supreme Court has the authority to adjudicate at the cassation level decisions rendered at the final level by courts within all judicial jurisdictions subordinate to the Supreme Court, unless otherwise stipulated by law.”⁷

Ensuring that a material review is conducted by parties with a legitimate interest in the outcome of the legal process is essential. Legal standing refers to the right of an individual, group, or organization to appear as a plaintiff in a civil proceeding.⁸ Legal standing also serves as a fundamental mechanism for protecting citizens from concrete actions or general policies implemented by the government.⁹ It determines whether an individual or entity is sufficiently affected to justify filing a petition or claim before the Supreme Court.¹⁰

In Decision No. 6/Pdt.Sus-HKI/Merek/2022, the Medan Commercial Court ruled that the Plaintiff had no direct connection to the disputed trademark. As a result, the Court rejected the Plaintiff’s formal argument concerning legal standing and held that the Plaintiff did not qualify as an interested party. This indicates that the *Judex Facti* adopted a narrowly framed interpretation. The Court did not recognize the Plaintiff’s continuous use of the symbol since 1972 as sufficient evidence of legal interest.

Prior use is one of the fundamental principles in trademark law for determining a party’s direct relationship to the disputed mark. Nevertheless, the Medan Commercial Court did not consider the Plaintiff’s prior use adequate to establish legal standing in a cancellation lawsuit. Under the principle of prior use, the first user of a mark is entitled to legal protection in trade or service activities, and the trademark owner is the party

⁶ Pemerintah Republik Indonesia, “Undang-Undang (UU) Nomor 19 Tahun 1948 Tentang Susunan Dan Kekuasaan Badan-Badan Kehakiman” (1948), <https://peraturan.bpk.go.id/Details/25778/uu-no-19-tahun-1948>.

⁷ Pemerintah Republik Indonesia, “Undang-Undang (UU) Nomor 48 Tahun 2009 Tentang Kekuasaan Kehakiman” (2009), <https://peraturan.bpk.go.id/Details/38793/uu-no-48-tahun-2009>.

⁸ Makhyatul Fikriya, Elan Jaelani, and Utang Rosidin, “Perbandingan Legal Standing Pengajuan Judicial Review Untuk Warga Negara Asing Di Negara Indonesia Dan Negara Jerman,” *Themis: Jurnal Ilmu Hukum* 1, no. 1 (2023): 1–5, <https://doi.org/10.70437/themis.v1i1.139>.

⁹ Oce Madril and Jery Hasinand, “Perkembangan Kedudukan Hukum (Legal Standing) Dalam Pengujian Administratif Di Pengadilan Tata Usaha Negara Dan Uji Materi Di Mahkamah Agung,” *Jurnal Hukum & Pembangunan* 51, no. 4 (2021): 952–70, <https://doi.org/10.21143/jhp.vol51.no4.3296>.

¹⁰ Edward Imanuel Luntungan, “Aspek Hukum Terkait Legal Standing Dalam Mengajukan Permohonan Ke Mahkamah Konstitusi,” *Lex Privatum* 16, no. 1 (2025): 1–12, <https://ejournal.unsrat.ac.id/v3/index.php/lexprivatum/article/view/61958>.

who first uses the mark.¹¹ In this case, the Plaintiff clearly demonstrated that the disputed symbol had been used since 1972, long before the Defendant registered the trademark.

Various administrative documents (P-1 to P-36), including the organization's Articles of Association and records of symbol usage, show that the symbol has been an integral part of the Plaintiff's organizational identity for more than fifty years. However, the Commercial Court did not accord sufficient legal weight to this historical use. The Court appeared to adopt a rigidly formalistic approach, treating trademark registration certificates or similar forms of formal exclusive rights as the sole indicators of legal standing. In effect, the *Judex Facti* assumed that trademark registration is the only basis for legal protection, disregarding earlier use of the mark.

Furthermore, the Commercial Court failed to consider that Article 76 of the Trademark Law expressly recognizes cancellation lawsuits filed by "interested parties," a category that doctrinally encompasses first users, parties likely to suffer future harm, and parties directly linked to a name or symbol used in economic or organizational activities.

The Commercial Court indirectly rejected the claim of an individual who had used a mark for many years but had not registered it, effectively disregarding the principle of prior use. This approach contradicts the fundamental purpose of trademark law, which seeks to prevent other parties from exploiting the history, reputation, or identity associated with a mark, even when the mark has not been formally registered. Because the symbol had served as the Plaintiff's identity since 1972, its continuous use should have been sufficient to demonstrate a legitimate legal interest in the case.

Furthermore, the Medan Commercial Court and the Supreme Court adopted divergent interpretations of the term "interested party" under Article 76(1) of Law No. 20 of 2016.¹² The Commercial Court applied a narrow interpretation, defining an interested party as one possessing a formal right, such as a registered trademark. Consequently, the Plaintiff was not recognized as an interested party despite presenting extensive evidence of prior use dating back to 1972, as well as a historical and organizational connection to the symbol. By refusing to acknowledge prior use as a basis for legal standing, the Commercial Court effectively limited the definition of an interested party to those who had formalized their rights through registration or demonstrated clear material loss.

The Court focused exclusively on formal documents—such as certificates of exclusive rights—while overlooking the legal significance of long-standing use and

¹¹ Farah Zhafirah Putri Lubis and Rahaditya Rahaditya, "Implementasi Prinsip First To Use Pada Pembatalan Merek Berdasarkan Undang-Undang Nomor 20 Tahun 2016," *Syntax Literate: Jurnal Ilmiah Indonesia* 8, no. 5 (2023): 3217–28, <https://doi.org/10.36418/syntax-literate.v8i5.11807>.

¹² Pemerintah Republik Indonesia, "Undang-Undang (UU) Nomor 20 Tahun 2016 Tentang Merek Dan Indikasi Geografis" (2016), <https://peraturan.bpk.go.id/Details/37595/uu-no-20-tahun-2016>.

identity-forming functions of the symbol. As a result, the lawsuit was dismissed on the ground that the Plaintiff lacked a legally relevant interest to invalidate the Defendant's mark. This reasoning disregards the principle that users of a mark prior to registration are entitled to protection, even without formal registration, and fails to consider that another party's registration could restrict the Plaintiff's continued use of a mark that had served as organizational identity for fifty years.

In contrast, the *Judex Juris* adopted a broader, more progressive, and doctrinally coherent interpretation of the Plaintiff's legal standing. This perspective differs substantially from that of the *Judex Facti*. Rather than focusing solely on formal registration, the Supreme Court emphasized the substantive purpose of trademark law—namely, protecting prior users and preventing unethical or bad-faith registrations. The Supreme Court held that “interested party” should not be limited to owners of registered marks, as the Commercial Court had assumed. Instead, it must be assessed based on the substantive and demonstrable relationship between the Plaintiff and the disputed mark. Trademark law, the Court reasoned, is not merely an administrative system for registration; it is also a mechanism for preventing parties acting in bad faith from leveraging another's reputation, misleading consumers, or eliminating the rights of prior users.

Accordingly, the *Judex Juris* interpreted legal standing in line with the core objectives of trademark law. The party with the strongest historical connection to the mark—namely, the first user—must be afforded the opportunity to challenge a later registration. In this case, the Plaintiff had used the symbol continuously since 1972, reflecting longstanding organizational identity and historical legitimacy. The Supreme Court found that the Defendant's registration could hinder the Plaintiff's continued use of a symbol they had relied upon for decades. The Court therefore attached significant weight to documents P-1 through P-36, which demonstrated the Plaintiff's consistent and long-term use of the symbol as part of organizational activities.

Considering this historical evidence, the Supreme Court concluded that legal interest does not need to take the form of a formal exclusive right (such as a trademark certificate). Instead, consistent and long-standing use constitutes a valid legal basis for protecting a party's identity and reputation, and prior use should be treated as evidence of a substantive legal relationship. The Supreme Court also applied the precautionary, or preventive, principle to safeguard the party that would otherwise face greater potential harm. The Court further held that the Defendant's trademark registration demonstrated bad faith because the registered symbol was essentially identical to the symbol long used by the Plaintiff, and no reasonable justification existed for the Defendant's adoption of the same symbol. The Court stressed that the Indonesian legal system must not permit piracy or “disguised” registrations that undermine the rights of others. Based on this reasoning, the Supreme Court overturned the District Court's

decision dismissing the lawsuit, granted the Plaintiff's claim, invalidated the Defendant's trademark registration, and ordered its removal from the General Register of Trademarks.

This *Judex Facti* ruling affects the principle of legal certainty. Legal certainty in trademark law requires the coherent and predictable application of legal norms that allow the public to anticipate the consequences of their actions.¹³ Early users become particularly vulnerable when the Commercial Court refuses to recognize prior use as evidence of legal entitlement, leaving them exposed to opportunistic trademark registrations by third parties. In this regard, the substantive dimension of justice is undermined because the *Judex Facti* decision places excessive reliance on formal legality.

3.2. Legal Implications of the Discontinuity Between *Judex Facti* and *Judex Juris* Decisions on Legal Certainty and Trademark Rights Protection for Stakeholders in Indonesia

Legal certainty is defined by Soedikno Mertokusumo as “justifiable protection against arbitrary action, meaning that individuals must be able to obtain what they are entitled to under specific circumstances.”¹⁴ Legal certainty primarily requires certainty in implementation, meaning that laws formally enacted by the state must be enforced consistently. It also implies that every individual has the right to demand the enforcement of the law, that such demands will be fulfilled, and that anyone who violates the law will be prosecuted and sanctioned accordingly. To ensure consistent legal implementation, clarity of direction is essential; every legal term must be clearly and unequivocally formulated to eliminate ambiguity. This ensures that both the public and judges can rely on legal norms with confidence.¹⁵

A key distinction between the two decisions concerns the assessment of the Plaintiff's legal standing and the evidentiary value of prior use. According to *Judex Facti*, legal standing is limited to parties who can demonstrate formal rights through valid trademark registration. As a result, even though the Plaintiff presented evidence of continuous use of the symbol since 1972, the doctrine of prior use was not considered legally relevant. This approach led to the dismissal of the trademark cancellation lawsuit, preventing long-term users from obtaining protection for an identity symbol that had been used for more than five decades.

This *Judex Facti* decision significantly undermined legal certainty. In trademark law, legal certainty requires consistent application of legal norms that allow the public to predict the legal consequences of their actions. First users faced heightened uncertainty

¹³ Nurul Iin Pratiwi, “Legal Implications of the *Judex Facti* Decision That Acquits the Defendant of Fraud in an Agreement,” *Estudiante Law Journal* 5, no. 2 (2023): 316–29, <https://doi.org/10.33756/eslaj.v5i2.21797>.

¹⁴ Sudikno Mertokusumo, *Hukum Acara Perdata Indonesia* (Yogyakarta: Liberty, 2006).

¹⁵ Serlika Aprita and Rio Adhitya, *Filsafat Hukum* (Depok: PT. RajaGrafindo Persada, 2020), <https://www.rajagrafindo.co.id/produk/filsafat-hukum-dr-serlika-aprita-s-h-m-h-rio-adhitya-s-t-s-h-m-kn/>.

because the Commercial Court refused to recognize longstanding use as evidence of legal entitlement, making them more vulnerable to opportunistic trademark registrations by third parties. In this sense, substantive justice was neglected because *Judex Facti* placed excessive reliance on formal legality.

In contrast, in its cassation decision, the Supreme Court substantially revised the legal reasoning applied by *Judex Facti*. The Court affirmed that the Plaintiff had been the “first user” of the symbol since 1972 and possessed a legitimate legal interest in it. The Supreme Court held that legal protection should extend not only to certificate holders but also to parties who can demonstrate actual and historical use of a mark. By doing so, the Court restored legal certainty by clarifying that the first-to-file principle is not absolute and must be accompanied by good faith. This clarification is essential because it establishes that, in trademark protection, legal certainty must take into account all relevant factors, including the historical use of the mark.

Legal protection within the judicial process refers to a series of measures designed to ensure that individuals involved in legal proceedings receive fair and equal treatment before the law. Such protection is essential to guarantee that individuals, as legal subjects, can fully exercise their rights, thereby ensuring a comprehensive sense of security for all parties.¹⁶ Legal protection safeguards human rights from violations committed by others and protects the public so they can enjoy the rights guaranteed by law.¹⁷ It also constitutes recognition of the dignity and human rights of legal subjects, shielding them from arbitrary state or private actions.

In the context of trademark law, legal protection is critical to prevent unauthorized use that may harm trademark owners. Registered trademark holders possess exclusive rights to take legal action against unauthorized users. Without adequate legal protection, counterfeiting and brand piracy become increasingly widespread. Effective law enforcement is therefore vital to ensure legal certainty for trademark owners. Trademark protection also assists consumers in distinguishing genuine goods from counterfeit products, thus helping them avoid loss or fraud. For this reason, governments must establish and enforce strict regulations to ensure the integrity of the trademark registration process.¹⁸

A significant divergence exists between the *Judex Facti* and *Judex Juris* decisions concerning legal certainty and trademark protection. The *Judex Facti* decision held that trademark rights protect only registered certificate holders, disregarding the rights of first users who have established identity through long-term use. This approach indirectly enables unscrupulous individuals to register marks that do not belong to them by

¹⁶ Sulaiman Sulaiman et al., *Perlindungan Hukum Di Indonesia* (Bandung: CV Widina Media Utama, 2025), 42.

¹⁷ M. J. Sapteno et al., *Musik Dan Perlindungan Hukum Di Indonesia*, ed. Jermias H. Van Harling (Indramayu: Penerbit Adab, 2024), <https://penerbitadab.id/musik-dan-perlindungan-hukum-di-indonesia/>.

¹⁸ Astrid Dyah Ernanda, “Efektivitas Perlindungan Hukum Terhadap Merek Terdaftar Dalam Mencegah Pemalsuan Dan Sengketa Kekayaan Intelektual Di Indonesia,” *Padjadjaran Law Review* 13, no. 1 (2025): 88–99, <https://doi.org/10.56895/plr.v13i1.2213>.

exploiting a system overly focused on formal documentation. In contrast, the Supreme Court held that trademark registration must be carried out in good faith.

The Court concluded that the Defendant registered the mark in bad faith by imitating a symbol that had been used for decades. By canceling a trademark registered through imitation, the Supreme Court reaffirmed a fundamental principle of trademark law: protection extends not only to the first registrant but also to the party with substantive and continuous rights to the mark. The Supreme Court's ruling strengthens legal protection for interested parties, particularly first users. On one hand, the cassation decision confirms that registration cannot serve as a tool to legitimize imitation or piracy. On the other hand, it affirms that historical evidence of use can constitute a strong legal basis for protecting rights to a mark, even without formal registration.

The inconsistency between the lower court and cassation decisions indicates that the concept of an "interested party," as stipulated in Article 76 of Law No. 20/2016, has not been applied consistently. Inconsistent interpretations of this concept risk making legal protection dependent on the subjective views of individual courts rather than a uniform standard. Such unpredictability increases the likelihood of abusive registration practices. In the long term, this situation necessitates standardized interpretive guidance across all judicial levels. The Supreme Court is responsible for establishing these interpretive standards, particularly concerning good faith and first use. Supreme Court Decision No. 989 K/Pdt.Sus-HKI/2024 can serve as an important jurisprudential reference to ensure that trademark protection prioritizes substantive justice and the legal interests of injured parties.

4. CONCLUSION

The findings derived from the analysis of Medan Commercial Court Decision No. 6/Pdt.Sus-HKI/Merek/2022 and Supreme Court Decision No. 989 K/Pdt.Sus-HKI/2024 indicate that the Commercial Court employed a narrow approach in interpreting legal standing, the principle of prior use, and the assessment of bad faith in trademark registration. This approach resulted in the rejection of the lawsuit and weakened protection for first users who had a long-standing substantive relationship with the disputed symbol. In contrast, the Supreme Court adopted a broader and more coherent interpretation aligned with the objectives of trademark law, namely protecting parties who have historically used a mark and preventing registrations made in bad faith. The Supreme Court emphasized that the first-to-file principle is not absolute and applies only to applicants acting in good faith, recognizing the evidentiary value of historical use.

The cassation decision—which granted the lawsuit, invalidated the Defendant's mark, and ordered its removal from the General Register of Trademarks—corrected the legal errors committed by the *Judex Facti* and restored legal certainty. This

inconsistency between judicial levels affects two critical components of the trademark legal system: legal certainty and the protection of trademark rights for interested parties. At the first instance, legal certainty was diminished because the applicable standards were inconsistently applied and failed to take prior use into account. The lack of protection for first users facilitated unethical registration practices. Although legal certainty was ultimately restored at the cassation level, the Supreme Court's ruling underscores the broader problem of inconsistent interpretation across courts in Indonesia.

The Commercial Court should give greater weight to historical evidence of use and avoid an overly formalistic approach when assessing legal standing. A more substantive evaluation would prevent injustice against first users and deter individuals who attempt to pirate trademarks. To ensure strong legal protection for prior users even in the absence of registration, the government and lawmakers should revise the concept of prior use contained in the Trademark Law. Furthermore, broad public awareness campaigns are needed to highlight the importance of trademark registration. Many organizations and traditional businesses remain unaware that prior use alone may be insufficient to secure formal legal protection without registration.

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