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LEGAL PROTECTION OF REGISTERED TRADEMARK OWNERS' ECONOMIC RIGHTS AGAINST THE ALLEGED DISTRIBUTION OF COUNTERFEIT DANCOW MILK PRODUCTS

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Abstract
The circulation of suspected counterfeit Dancow-branded milk products through e-commerce platforms raises concerns regarding the protection of the economic rights of registered trademark owners in the digital marketplace. This study aims to analyze violations of trademark owners' economic rights arising from the unauthorized use of registered trademarks and to examine the available civil legal remedies under Law Number 20 of 2016 concerning Trademarks and Geographical Indications, as well as from the perspective of the Indonesian Ulema Council (MUI) Fatwa Number 1 of 2005 on the Protection of Intellectual Property Rights. This research employs a normative-juridical method using statutory and conceptual approaches. The results indicate that the circulation of products suspected of bearing counterfeit Dancow trademarks may infringe the exclusive rights of registered trademark owners and potentially cause economic losses, including reduced commercial value, loss of business opportunities, and reputational harm. The Trademark Law provides civil remedies through claims for damages and requests to cease the circulation of infringing goods, supported by general provisions on unlawful acts and the legal responsibilities of e-commerce platform operators. From the perspective of Islamic law, the unauthorized use of another party's trademark is prohibited because it violates the principles of justice and the protection of property rights. This study contributes to strengthening the legal protection of registered trademark owners' economic rights by integrating positive law and Islamic law within the context of digital commerce.

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1. INTRODUCTION

The development of the global economy and the rapid advancement of digital technology have brought significant changes to global trade patterns. Geographical distance and national borders no longer constitute substantial barriers to economic activities. With only a few taps on a smartphone screen, individuals can purchase, sell, and market products across the world. Buying and selling constitute fundamental activities that serve as a bridge through which individuals conduct transactions (Aidri & Tarigan, 2026).

As a form of intellectual creation, a trademark plays an important role in facilitating and promoting the trade of goods and services in Indonesia. A trademark functions as an indicator of the origin of particular goods or services while simultaneously distinguishing them from other goods and services. The use of a trademark may also indicate the quality of the relevant goods or services. In practice, however, unlawful acts against registered trademark rights frequently occur, including unfair business competition, counterfeiting, and the unauthorized use of trademarks (Gultom, 2018). A trademark serves not only as an identity but also as an important instrument for preventing fraudulent conduct that may give rise to unfair business competition. Nevertheless, many business actors tend to disregard this function and seek to obtain unlawful profits by infringing the rights of registered or well-known trademarks. Business competition may generate positive effects, but it may also produce negative consequences when conducted through improper practices and within an unhealthy economic system, thereby creating unfair competition (Rokan, 2010). Within the legal framework of intellectual property, a trademark is understood not merely as a name, symbol, or distinguishing sign attached to a product. It has developed into an intangible asset with substantial commercial value. Such value is formed through a long-term process of building consumer trust and brand equity, which requires considerable investment in product innovation, marketing strategies, consistent quality, and the maintenance of business reputation. In modern commerce, trademarks function as representations of quality and guarantees of product standards that shape consumer preferences and loyalty. Consequently, the value of a trademark may exceed the physical value of the product to which it is attached (Jened, 2017).

One phenomenon demonstrating the urgency of this study concerns the alleged circulation of counterfeit Dancow-branded formula milk, which caused widespread public concern in mid-2025. The case attracted extensive public attention after videos comparing genuine and allegedly counterfeit products circulated widely across various social media platforms. The videos showed that the counterfeit products bore a highly significant resemblance to the genuine products, particularly in terms of the trademark and logo, making them difficult for ordinary consumers to distinguish through visual inspection. This phenomenon demonstrates consumers' vulnerability to trademark counterfeiting practices and reflects weaknesses in the supervision and legal protection of well-known trademarks in Indonesia (kosteve_, 2025). In addition, an online seller account named SAKINAH-OFFICIALSTORE was identified as allegedly selling counterfeit Dancow milk through Shopee, one of Indonesia's e-commerce platforms (Shopee Indonesia, n.d.).

From a normative legal perspective, such conduct constitutes an infringement of the trademark owner's exclusive rights, as affirmed in Article 1 point 5 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications. This provision defines trademark rights as exclusive rights granted by the state to the owner of a registered trademark for a specified period, allowing the owner to use the trademark or authorize another party to use it. These exclusive rights include the right to enjoy the economic benefits and profits generated by the trademark concerned.

Although the amount of material loss has not yet been officially disclosed in monetary terms, the unauthorized use of a trademark has, as a matter of law, fulfilled the element of loss suffered by the registered trademark owner. Such losses are not limited to the loss of potential economic profits but also include damage to the trademark's reputation and the diversion of consumer trust to counterfeiters. In this context, Article 83 paragraph (1) of Law Number 20 of 2016 provides a legal basis for registered trademark owners to file civil lawsuits seeking compensation and/or the termination of all acts relating to the unauthorized use of their trademarks.

Furthermore, the sale of allegedly counterfeit Dancow-branded milk by the SAKINAH-OFFICIALSTORE account may also be classified as an unlawful act under Article 1365 of the Indonesian Civil Code. This is because the conduct satisfies the elements of an unlawful act, fault, loss, and a causal relationship between the unlawful conduct and the losses suffered by the legitimate trademark owner. The sale of counterfeit products materially results in the loss of potential revenue that should have accrued to the registered trademark owner.

In addition to its assessment under positive law, trademark counterfeiting and the circulation of counterfeit products are also contrary to the principles of Islamic law. Fatwa of the Indonesian Ulema Council Number 1 of 2005 concerning the Protection of Intellectual Property Rights affirms that intellectual property rights, including trademark rights, constitute legitimate rights protected under Islamic law. The infringement of such rights is categorized as an act of injustice and is prohibited. In the context of counterfeit Dancow milk, the conduct contains elements of gharar, referring to uncertainty or ambiguity, and tadlis, referring to fraud or misrepresentation. The unauthorized exploitation or appropriation of the economic value of a trademark is regarded as an unlawful act because it contradicts the principle of justice, causes harm to other parties, and potentially disrupts the economic order of society. Accordingly, trademark counterfeiting is not only problematic under positive law but is also inconsistent with the ethical and legal principles of Islam.

A number of previous studies have examined the legal protection of registered trademarks in the contexts of trademark infringement in e-commerce, intellectual property protection, and law

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enforcement against the circulation of counterfeit goods. Studies on trademark protection in electronic transactions have been conducted by Fathur Roji (2023), Alexander Kennedy and Franciscus Xaverius Wartoyo (2024), Reinhat Jefri Suryadi and Elfrida Ratnawati Gultom (2023), and Ni Putu Cynthia Maharani and I Made Dedy Priyanto (2022). These studies highlight the weak protection of trademark owners and consumers in digital commerce due to the inadequate regulation of trademark infringement on e-commerce platforms. Furthermore, studies by Wulan N. M. Wulur et al. (2023), Enjelina Sibatuara and Andryawan (2023), Khairunnisa Roebama et al. (2024), and Yolanda Bella Puspita et al. (2023) demonstrate that Law Number 20 of 2016 provides legal protection to registered trademark owners through exclusive rights, claims for compensation, and the termination of trademark infringement. Nevertheless, its implementation continues to encounter obstacles concerning the evidentiary requirements for proving losses and the effectiveness of law enforcement. In addition, Eko Bambang Rahmono (2024) emphasizes that the mechanism for claiming compensation in trademark infringement cases has not functioned optimally because there are no clear guidelines for calculating the economic losses suffered by trademark owners.

Despite their contributions, these previous studies have generally focused on the normative dimensions of trademark protection, regulatory effectiveness, litigation procedures, and law enforcement in general. They have not specifically positioned the economic rights of trademark owners as the central concern of legal protection. Therefore, the novelty of the present study lies in its placement of the economic rights of registered trademark owners as the primary focus of legal protection against the circulation of allegedly counterfeit Dancow-branded milk through e-commerce platforms. This study conceptualizes a trademark as an intangible economic asset whose commercial value and reputation may be directly harmed by product counterfeiting. In addition, this study adopts an integrative approach combining positive law and Islamic law through an examination of Law Number 20 of 2016 concerning Trademarks and Geographical Indications and Fatwa of the Indonesian Ulema Council Number 1 of 2005 concerning the Protection of Intellectual Property Rights. It also emphasizes mechanisms for restoring economic rights through claims for compensation as regulated under Article 83 paragraph (1) of Law Number 20 of 2016.

This study aims to analyze the protection of the economic rights of registered trademark owners against the circulation of allegedly counterfeit Dancow-branded milk products on e-commerce platforms, based on Law Number 20 of 2016 concerning Trademarks and Geographical Indications and Fatwa of the Indonesian Ulema Council Number 1 of 2005 concerning the Protection of Intellectual Property Rights. The research questions addressed in this study include: how the circulation of allegedly counterfeit products infringes the economic rights of registered trademark owners; what legal protection mechanisms and civil compensation claims may be pursued by registered trademark owners; and how Islamic law views the protection of the economic value of trademarks as part of property (al-māl) that must be safeguarded. This study is academically significant because it is expected to enrich the discourse on intellectual property law, particularly regarding the protection of the economic rights of trademark owners in relation to trademarks as intangible economic assets. It also offers a theoretical contribution through an integrative approach combining positive law and Islamic law in understanding trademark protection in the era of digital commerce.

2. RESEARCH METHOD

This study employs normative juridical legal research to examine written legal norms and legal doctrines concerning the protection of the economic rights of registered trademark owners against the circulation of allegedly counterfeit Dancow-branded milk products. The approaches adopted comprise a statute approach and a conceptual approach. The statute approach examines the provisions of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, the Indonesian Civil Code, and Fatwa of the Indonesian Ulema Council Number 1 of 2005 concerning the Protection of Intellectual Property Rights. Meanwhile, the conceptual approach examines legal concepts and scholarly perspectives concerning trademark rights, economic rights, civil compensation, and trademarks as property (al-māl) possessing economic value (al-māliyyah).

The research materials consist of primary legal materials, secondary legal materials, and non-legal materials serving as supporting data. The primary legal materials include Law Number 20 of 2016 concerning Trademarks and Geographical Indications, the Indonesian Civil Code, and Fatwa of the Indonesian Ulema Council Number 1 of 2005 concerning the Protection of Intellectual Property Rights. The secondary legal materials comprise books, scholarly journal articles, and previous research findings.

The non-legal materials consist of digital information obtained from the TikTok and Shopee platforms, which is used as supporting data to illustrate the alleged circulation of counterfeit Dancow-branded milk products on e-commerce platforms. Such information is not treated as legal evidence or as a basis for establishing the occurrence of a legal violation; rather, it is used solely as a factual illustration underlying the urgency of the study. The research materials were collected through library research and analyzed qualitatively by identifying, classifying, interpreting, and correlating the applicable legal norms with the research problems. Conclusions were subsequently drawn through deductive reasoning.

3. RESULT AND ANALYSIS

Identification of Economic Rights Infringement Arising from the Circulation of Allegedly Counterfeit Dancow-Branded Milk Products on E-Commerce Platforms under Law Number 20 of 2016 concerning Trademarks and Geographical Indications

The alleged circulation of counterfeit Dancow-branded milk products came to public attention through various videos and information disseminated on social media, as well as online media reports published in 2025. These materials indicated that allegedly counterfeit Dancow-branded milk products were being sold through e-commerce platforms at prices substantially lower than those of officially distributed products. One widely circulated video uploaded by the TikTok account @kosteve_ presented a comparison between an authentic product and an allegedly counterfeit product by highlighting differences in packaging, color, texture, aroma, and taste. These allegations were further reinforced by the discovery of a marketplace account suspected of selling counterfeit Dancow milk products under the store name “SAKINAH-OFFICIALSTORE.” The store offered the products at unusually low prices, while several customer reviews included photographs of packaging bearing the Dancow trademark.

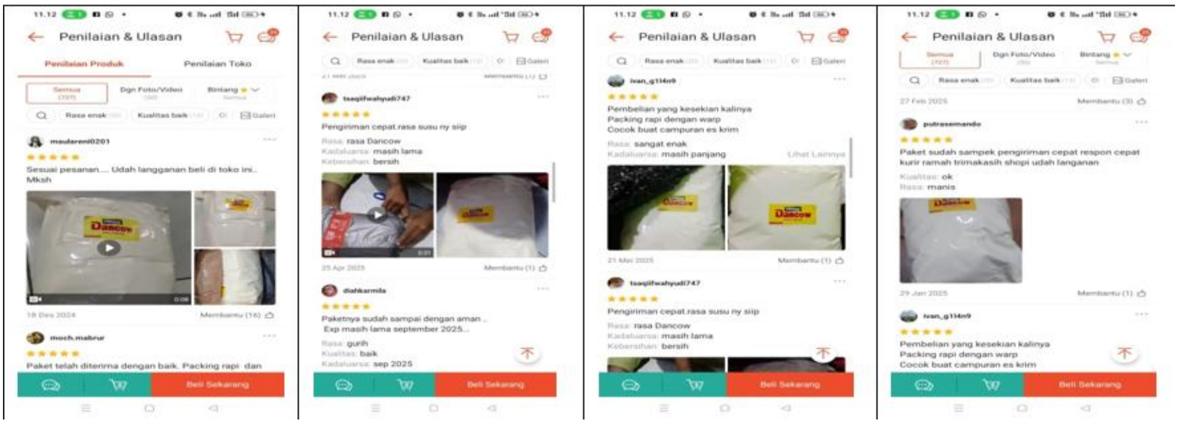

Figure 1.

The information circulating in the public domain is used in this study solely as supporting data to illustrate a developing social phenomenon and not as legal evidence proving that a violation of law has occurred. Therefore, the determination of whether a trademark infringement has taken place must remain grounded in a normative analysis of the applicable statutory provisions.

From the perspective of trademark law, the unauthorized use of the Dancow trademark on allegedly counterfeit milk products is contrary to the exclusive rights stipulated in Article 1 point 5 of the Law on Trademarks and Geographical Indications. Should the allegation be substantiated, such conduct may result in the transfer of the economic benefits associated with the trademark from its lawful owner to a party using it without authorization. This may cause various forms of loss, including the loss of potential profits, a decline in the trademark’s commercial value, and damage to its reputation.

Trademark rights are exclusive rights granted by the state to the owner of a registered trademark to use the trademark independently or to authorize another party to use it for a specified period (Law Number 20 of 2016 concerning Trademarks and Geographical Indications, Article 1 point 5). This definition confirms that a trademark is not merely a distinguishing sign but also a legally protected right possessing economic value and granting its owner full authority to control its commercial exploitation.

Furthermore, the exclusive trademark rights referred to in Article 1 point 5 of the Trademark Law comprise two principal dimensions: the right to use and the right to license. In the case of the circulation of allegedly counterfeit Dancow milk products, both dimensions are simultaneously infringed. Counterfeiters not only use the trademark without authorization but also implicitly deprive the trademark owner of the opportunity to lawfully license the trademark to other parties. Consequently, the trademark owner may lose potential income from licensing arrangements, royalties, and other forms of lawful economic exploitation. Such losses are both economic and strategic because they may adversely affect the trademark's long-term commercial value.

From the perspective of economic rights, trademark infringement through the circulation of counterfeit products undermines the trademark owner's exclusive right to control the market and regulate product distribution. The economic rights of a trademark owner include the right to determine which parties may use the trademark through licensing arrangements, the right to derive profits from every authorized use of the trademark, and the right to maintain the quality and reputation of the trademark in the eyes of consumers. When counterfeit products enter the market, a portion of the market share that should belong to the legitimate trademark owner is diverted to the counterfeiter, thereby causing both actual and potential economic losses (Pangestu et al., 2022).

Legal Remedies for Compensation Available to Registered Trademark Owners Against Counterfeiting Practices on E-Commerce Platforms

The Constitution of the Republic of Indonesia of 1945 affirms that Indonesia is a state governed by law. The concept of the rule of law guarantees legal certainty, order, and legal protection founded upon truth and justice. Such certainty, order, and protection are reflected in various legal activities within society. As Indonesian citizens, individuals naturally expect peace, security, and comfort in conducting their social lives (Sativa, 2014).

The development of trade through e-commerce platforms has significant legal implications for the protection of registered trademark rights. E-commerce constitutes a form of transaction involving the purchase and sale of goods or services in a manner comparable to conventional trade. The principal distinction is that e-commerce relies on the internet as the primary medium for conducting transactions. Accordingly, agreements or contracts are concluded electronically through internet-based systems. At present, Indonesia's e-commerce sector is experiencing rapid and highly dynamic development (Hasanah et al., 2024).

From a normative perspective, Article 83 paragraph (1)(a) of Law Number 20 of 2016 constitutes the principal provision governing civil remedies available to registered trademark owners. This provision entitles trademark owners to institute legal proceedings against any party that, without authorization, uses a trademark that is substantially or entirely similar to a registered trademark. Such proceedings may be brought against direct counterfeiters as well as other parties that derive economic benefits from the unauthorized use of the trademark. A registered trademark owner may file a claim against any person who uses an identical or substantially similar trademark for comparable goods or services without permission. The claim may include a demand for compensation. This mechanism is intended to protect trademark owners from losses caused by unauthorized use and to prevent damage to the image and reputation of the trademark. The provision therefore provides a strong legal basis for trademark owners to pursue legal action against infringements that may prejudice their legitimate interests.

In filing a claim for compensation arising from trademark infringement, the plaintiff is, in principle, required to establish a causal relationship between the defendant's unlawful conduct and the losses suffered by the registered trademark owner. Compensation under civil law is intended to restore the plaintiff to the economic position that would have existed had the infringement never occurred, in accordance with the principle of restitutio in integrum. In the context of trademark infringement, the losses incurred by the trademark owner are not limited to actual financial losses but may also include lost profits, diminished market opportunities, reputational damage in the eyes of consumers, and expenses incurred in maintaining, enforcing, and protecting the trademark rights concerned (Sinaga et al., 2020).

As provided in Article 84 paragraph (1) of the Law on Trademarks and Geographical Indications, Indonesian trademark law not only provides a remedial mechanism through compensation but also offers preventive legal measures to avert greater losses. This provision authorizes registered trademark owners to petition the court to order the cessation of the production, distribution, and/or trade of goods and/or services that unlawfully use the trademark concerned. An order to cease such activities performs a strategic function in protecting the economic rights attached to a trademark because it seeks to terminate the source of loss at an early stage before its effects become more extensive. In the context of branded-product counterfeiting on e-commerce platforms, an order suspending distribution is particularly relevant because digital distribution channels enable counterfeit goods to be marketed in large quantities and reach a broad range of consumers within a relatively short period.

Pursuant to Article 94 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, a trademark owner who considers that their rights have been infringed may, on the basis of sufficient preliminary evidence, request the Commercial Court to issue a provisional injunction. Such an injunction may be intended to prevent goods suspected of resulting from trademark infringement from entering commercial channels, preserve evidence related to the infringement, secure and prevent the destruction or disappearance of evidence by the alleged infringer, and/or terminate the infringement in order to prevent greater losses.

The circulation of allegedly counterfeit Dancow-branded milk products through e-commerce platforms constitutes a form of unlawful conduct that potentially violates not only the specific provisions of trademark law but also the general principles of Indonesian civil and cyber law. Such practices may cause substantial economic losses to the trademark owner, including lost profits, a decline in trademark value, and reputational damage that may adversely affect consumer trust.

Under Article 1365 of the Indonesian Civil Code, any unlawful act that causes loss to another person obliges the perpetrator to compensate for that loss. In the context of the circulation of allegedly counterfeit Dancow-branded milk products through e-commerce platforms, the unauthorized use of a registered trademark constitutes unlawful conduct because it infringes the exclusive rights of the trademark owner. The element of fault may also be established where the business actor knowingly uses, or ought reasonably to have known that it was using, the Dancow trademark, which is a registered and well-known trademark. As a result of such conduct, the trademark owner may suffer economic losses in the form of lost potential profits and the erosion of the trademark’s commercial value.

The losses arising from such unlawful conduct are not limited to actual losses but may also include potential losses. In electronic commerce, the broad and rapid reach of digital distribution enables counterfeit products to circulate in large quantities within a relatively short period. This condition magnifies the losses suffered by the trademark owner because consumers who purchase counterfeit products at lower prices may reduce the market share of genuine products. Accordingly, a clear causal relationship may be established between the conduct of business actors selling counterfeit products and the economic losses suffered by the trademark owner (Agustina, 2003).

In addition to the direct seller, an e-commerce platform may also be held accountable under Article 26 of Government Regulation Number 80 of 2019. In essence, this provision requires business actors engaged in trading through electronic systems to protect consumer rights and comply with applicable laws and regulations. This obligation includes compliance with legislation governing intellectual property rights. Therefore, e-commerce platforms are responsible for ensuring that goods traded through their systems do not violate the law, including the trademark rights of other parties.

In the case of the alleged circulation of counterfeit Dancow milk products, if an e-commerce platform fails to exercise adequate supervision over sellers offering counterfeit goods, such omission may be regarded as a breach of its legal obligations under Article 26 of Government Regulation Number 80 of 2019. This negligence creates an opportunity for the continuing infringement of the trademark owner’s economic rights. A platform that derives financial benefits from such transactions may indirectly enjoy economic gains generated by the circulation of counterfeit goods and may therefore, from a juridical perspective, be subject to civil liability for the resulting losses.

Furthermore, Article 15 of the Law on Electronic Information and Transactions, as amended by Law Number 1 of 2024, requires electronic system providers to operate electronic systems in a reliable, secure, and responsible manner. In the context of e-commerce, this obligation encompasses the provision of supervisory mechanisms, procedures for handling infringement reports, and measures for removing unlawful content or product listings. If an e-commerce platform fails to fulfil these obligations and consequently facilitates the circulation of allegedly counterfeit Dancow-branded milk products, such failure may be characterized as legal negligence.

The failure of an electronic system provider to fulfil its obligations under Article 15 of the Law on Electronic Information and Transactions has direct implications for the protection of the trademark owner’s economic rights. An unreliable and insecure electronic system enables counterfeiters to exploit digital platforms to expand the distribution of counterfeit products. This exacerbates the trademark owner’s economic losses because counterfeit products may circulate more extensively and become increasingly difficult to control. Therefore, non-compliance with Article 15 of the Law on Electronic

Information and Transactions affects not only the technical operation of electronic systems but also the substantive protection of intellectual property rights (Makarim, 2022).

From the perspective of legal liability, the relationship between Article 1365 of the Indonesian Civil Code, Article 26 of Government Regulation Number 80 of 2019, and Article 15 of the Law on Electronic Information and Transactions demonstrates that infringements of trademark owners' economic rights in e-commerce are multidimensional. The seller bears direct liability for committing an unlawful act, whereas the e-commerce platform may bear liability for negligence in performing its legal and technical obligations as an electronic system provider. The combined application of these provisions strengthens the legal basis upon which trademark owners may seek comprehensive recovery for their economic losses.

An Analysis of Indonesian Ulema Council Fatwa Number 1 of 2005 concerning the Protection of the Economic Value of Trademarks (Al-Māliyyah)

Intellectual property rights, including trademark rights, constitute a form of proprietary right possessing economic value (al-ḥaqq al-mālī). The third dictum of the fatwa states that intellectual property rights are legally recognized under Islamic law and possess legitimate economic benefits; therefore, they must be protected in the same manner as other forms of property. This recognition means that a trademark is not merely a symbol or distinguishing sign but also an intangible economic asset possessing commercial value and capable of constituting a legitimate object of ownership under Islamic law (Fatwa of the Indonesian Ulema Council Number 1 of 2005).

Contemporary Islamic jurisprudential literature maintains that a right possessing beneficial value and capable of being transferred or monetized may be classified as property (māl), even if it has no physical form. Wahbah al-Zuḥaylī argues that something may be categorized as property when it provides benefits recognized by Islamic law and is customarily utilized by human beings (al-Zuḥaylī, 2006). Therefore, a trademark possessing reputation, goodwill, and demonstrable economic value fulfils the element of al-māliyyah and consequently gives rise to legal protection over its economic benefits.

From the perspective of Islamic law, trademark counterfeiting is not merely a violation of business ethics but may also be categorized as ghaṣb, namely the unlawful seizure or appropriation of another person's proprietary rights. Although a trademark is intangible, the economic benefits attached to it render it part of property (al-māl) recognized under Islamic law. Accordingly, any unauthorized appropriation or exploitation of a trademark's economic value, including through the circulation of counterfeit Dancow-branded milk products, constitutes the unlawful control or use of another person's property. Allah Almighty states in Surah al-Nisāʾ, verse 29:

يَٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوا لَا تَأْكُلُوٓا أَمْوَٰلَكُم بَيْنَكُم بِٱلْبَٰطِلِ إِلَّآ أَن تَكُونَ تِجَٰرَةً عَن تَرَاضٍ مِّنكُمْ ۚ وَلَا تَقْتُلُوٓا أَنفُسَكُمْ ۚ إِنَّ ٱللَّهَ كَانَ بِكُمْ رَحِيمًا

"O you who believe, do not consume one another's wealth unlawfully, except through trade conducted by mutual consent among you. And do not kill yourselves. Indeed, Allah is Most Merciful to you."

In addition to being categorized as ghaṣb, trademark counterfeiting also contains the element of tadlīs, or fraud and misrepresentation. Counterfeiters intentionally use signs or identities resembling the genuine trademark in order to create the impression that the goods being sold are authentic or officially distributed products. Such practices mislead consumers and undermine transactional mechanisms founded upon honesty and transparency. In Islamic commercial jurisprudence, tadlīs is prohibited because it eliminates genuine consent (riḍā), which constitutes an essential basis for the validity of a contract. Consumers who purchase products under the assumption that they are genuine cannot be regarded as having provided valid consent to a transaction involving deception. The prohibition against fraudulent practices in trade is expressly affirmed in a hadith of the Prophet Muhammad, peace be upon him, narrated by Imam Muslim:

مَنْ غَشَّنَا فَلَيْسَ مِنَّا

"Whoever deceives us is not one of us."

The Indonesian Ulema Council fatwa also expressly declares that any infringement of intellectual property rights, including the unauthorized use of a trademark, constitutes an act of injustice and is prohibited under Islamic law. Trademark counterfeiting involves appropriating the economic benefits of another person's property without lawful entitlement, thereby contravening the principle of justice (al-ʿadl) and the prohibition against unlawfully consuming the property of others, as affirmed in the Qur'an. Consequently, the circulation of counterfeit Dancow-branded milk products through e-commerce platforms not only violates positive law but is also inconsistent with the fundamental principles of Islamic law.

The unauthorized exploitation of a trademark constitutes a form of economic injustice (ẓulm iqtiṣādī) because it diverts potential profits that should rightfully accrue to the trademark owner to the counterfeiter. In the context of e-commerce, such injustice becomes more systemic because digital distribution facilitates and expands the reach of the infringement. Therefore, the protection of the economic value of trademarks from a Sharia perspective is intended not only to safeguard the individual interests of trademark owners but also to maintain order and justice within the economic system of society as a whole.

Furthermore, the Fatwa of the Indonesian Ulema Council affirms that intellectual property rights holders are entitled to protection of the economic benefits inherent in those rights, including the right to seek compensation for losses resulting from infringement. From a Sharia perspective, such a claim for compensation is consistent with the concept of ḍamān, namely the obligation of a person who commits an unlawful act to compensate the injured party for the resulting losses. This concept strengthens the legitimacy of civil claims for compensation brought by registered trademark owners, not only from a juridical perspective but also on moral and religious grounds.

In cases of trademark counterfeiting, ḍamān may be imposed in the form of an obligation upon the infringer to compensate the trademark owner for economic losses arising from lost profits, reputational damage, and expenses incurred in protecting and enforcing trademark rights. This principle is consistent with the compensation mechanism under positive civil law, as regulated by Law Number 20 of 2016 concerning Trademarks and Geographical Indications. It therefore demonstrates a point of convergence between Islamic law and national law in protecting the economic rights of trademark owners.

4. CONCLUSION

The circulation of allegedly counterfeit Dancow-branded milk products, particularly through e-commerce platforms, may normatively satisfy the elements of trademark infringement as regulated under Law Number 20 of 2016 concerning Trademarks and Geographical Indications. The unauthorized use of a trademark that is substantially or entirely similar to a registered trademark infringes the trademark owner's exclusive right to enjoy the economic benefits derived from the trademark. Such infringement may result not only in economic losses in the form of lost potential profits but also in reputational damage and the diversion of consumer trust, thereby diminishing the economic value of the trademark as an intangible asset.

Registered trademark owners have a strong legal basis for pursuing civil claims for compensation against trademark counterfeiting practices on e-commerce platforms. Such a legal basis is derived not only from Articles 83, 84, and 94 of the Trademark Law but is also reinforced by the general provisions of the Indonesian Civil Code concerning unlawful acts and by the obligations imposed upon business actors engaged in electronic commerce under Government Regulation Number 80 of 2019 and the Law on Electronic Information and Transactions. A claim for compensation serves as a mechanism for substantively restoring the economic rights of the trademark owner, whereas an order terminating the circulation of counterfeit goods constitutes a preventive measure intended to avert further losses during ongoing legal proceedings.

Accordingly, trademark protection mechanisms in the digital environment must be strengthened by improving the effectiveness of takedown systems for products suspected of infringing trademark rights, enhancing seller identity-verification procedures on e-commerce platforms, and promoting stronger cooperation among trademark owners, e-commerce platform operators, and law-enforcement authorities. Such cooperation is essential for improving prevention, supervision, and law enforcement so that the economic rights of registered trademark owners can be protected more effectively.

As affirmed in Fatwa of the Indonesian Ulema Council Number 1 of 2005, a trademark constitutes a proprietary right possessing economic value (al-ḥaqq al-mālī) and must therefore be protected. Trademark counterfeiting may be categorized as ghaṣb and tadlīs, both of which are prohibited because they involve the unlawful appropriation of economic benefits and deception in commercial transactions. Such infringement gives rise to an obligation of ḍamān, or compensation, as a means of restoring the economic rights of the trademark owner. Consequently, the protection of registered trademarks is founded not only upon juridical principles under positive law but also upon moral and normative legitimacy under Islamic law as part of the broader effort to preserve justice and economic order within society.

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