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Marketplace Responsibility For The Distribution Of Counterfeit Goods That Infringe Trademark Rights

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Abstract

The rapid development of e-commerce has accelerated the growth of marketplaces in Indonesia while simultaneously increasing the circulation of counterfeit goods that infringe trademark rights. This issue causes significant losses to both trademark owners, whose exclusive rights are violated, and consumers, who may purchase products that fail to meet quality and authenticity standards. The primary legal challenge lies in the absence of clear and comprehensive regulations defining the scope of marketplace liability for trademark infringements committed by third-party sellers, resulting in legal uncertainty. This study aims to analyze the legal framework governing marketplace responsibility and examine the forms of legal liability under Indonesian positive law. Using normative legal research with statute and conceptual approaches, the study analyzes primary, secondary, and tertiary legal materials through qualitative and prescriptive methods. The findings indicate that existing regulations remain fragmented and general, lacking specific provisions on marketplace accountability. Based on legal liability and intermediary liability theories, marketplaces may be held responsible when they knowingly allow, tolerate, or negligently fail to prevent trademark infringements on their platforms. Therefore, stronger regulatory harmonization, effective notice-and-takedown mechanisms, stricter seller and product verification, and the adoption of digital monitoring technologies are essential to enhance legal protection for trademark owners and consumers while fostering a secure and fair digital commerce ecosystem.

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INTRODUCTION

The development of information and communication technology has brought about significant changes in people's trading patterns. Buying and selling activities, previously conducted conventionally, have now shifted to electronic commerce (e-commerce) systems through various marketplace platforms. The presence of marketplaces provides convenience for businesses and consumers by connecting sellers and buyers in one efficient digital system. However, behind this convenience, various legal issues have arisen, one of which is the rampant circulation of counterfeit goods that infringe trademark rights through marketplace platforms. This phenomenon not only harms brand owners as exclusive rights holders, but also causes economic and legal losses for consumers who obtain counterfeit goods of substandard quality (Ramli, 2006).

Trademark rights are part of Intellectual Property Rights (IPR) that receive legal protection based on the principle of exclusivity. In Indonesia, trademark protection is regulated by Law Number 20 of 2016 concerning Trademarks and Geographical Indications, which grants registered trademark owners exclusive rights to use their trademarks and prohibits others from using trademarks that are essentially or entirely similar without permission. In digital commerce practices, trademark infringement is increasingly complex because infringers can easily market counterfeit products through marketplaces with identities that are difficult to trace. This condition causes legal protection for trademark rights holders to face new challenges that require regulatory adjustments and more effective oversight mechanisms.

Data shows that e-commerce transactions in Indonesia continue to grow annually, making marketplaces a primary means of distributing goods to the public. However, this increase in transactions has also been accompanied by a rise in the circulation of counterfeit goods using well-known brands without authorization. Various studies have shown that many marketplace platforms remain a medium for the circulation of counterfeit products due to weak seller verification systems and product oversight. As a result, consumers often have difficulty distinguishing between genuine and counterfeit goods offered through digital platforms (Tabansa et al., 2025; Zahra et al., 2025).

The legal issue that then arises concerns the limits and forms of marketplace responsibility for the circulation of counterfeit goods. Normatively, marketplaces act as electronic system providers that facilitate transactions between sellers and buyers. On the other hand, marketplaces

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derive economic benefits from every transaction that occurs on their platforms. This situation has given rise to debate about whether marketplaces act solely as intermediaries or also have a legal responsibility to prevent, monitor, and take action against the circulation of counterfeit goods that infringe trademark rights. Several studies have stated that marketplaces cannot be absolved of legal responsibility if proven negligent in monitoring or failing to follow up on reports of trademark infringement occurring on their platforms (Mawardi et al., 2026).

Regulations regarding marketplace responsibilities can actually be found in several laws and regulations, including Law Number 8 of 1999 concerning Consumer Protection, Law Number 1 of 2024 concerning the Second Amendment to the Electronic Information and Transactions Law, and Government Regulation Number 80 of 2019 concerning Electronic Commerce (PMSE). The PMSE PP stipulates that providers of electronic commerce must ensure that the systems used are not exploited for activities that violate laws and regulations. However, these regulations do not explicitly stipulate the form of marketplace accountability in the event of trademark infringement by third-party sellers (Shihab et al., 2025). Legal responsibility is a fundamental concept in legal science which relates to the obligation of a person or legal entity to bear the consequences of actions they have committed, whether due to error (fault liability) or due to negligence. Obligations stipulated by statutory regulations. According to Peter Mahmud Marzuki, legal responsibility arises as a consequence of the rights and obligations stipulated by law, so that any legal entity who commits a violation can be held accountable in accordance with applicable norms (Marzuki & Sh, 2021).

In modern legal developments, the concept of responsibility extends not only to the direct perpetrator of a violation but also to any party legally connected to the violation. In the context of e-commerce, digital platform providers can be held liable if they are proven to have knowledge of, condoned, or negligent in preventing legal violations occurring through the electronic systems they manage (Fuady & SH, 2014). The theory of legal responsibility is important in this research because marketplaces not only serve as intermediaries for transactions but also have the authority to regulate, supervise, and control trading activities taking place on their platforms. Therefore, if counterfeit goods are circulated that infringe trademark rights, it is necessary to analyze the extent to which the marketplace can be held accountable for such violations.

A trademark is a form of Intellectual Property Right (IPR) that serves as a distinguishing identity for goods or services produced by an individual or business entity. Trademark protection aims to provide legal certainty to trademark owners while protecting consumers from misrepresentation regarding a product's origin. Trademarks have high economic value because

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they symbolize reputation, quality, and consumer trust in a product (Saidin, 2010). In Indonesia, legal protection for trademarks is regulated by Law Number 20 of 2016 concerning Trademarks and Geographical Indications. According to Article 1 number 1, a trademark is a sign that can be displayed graphically to distinguish goods and/or services produced by an individual or legal entity from the goods and/or services of other parties. Registered trademark holders obtain exclusive rights to use their trademark and have the right to prohibit other parties from using the same or substantially similar trademark without permission. In e-commerce, trademark infringement commonly occurs through the sale of counterfeit goods that use well-known brands without authorization. This practice not only harms the brand owner but also has the potential to mislead consumers by providing goods of a quality that does not meet the standards of the original product.

A marketplace is a form of Electronic Commerce (PPMSE) that provides electronic communication to connect sellers and buyers in digital transactions. The existence of marketplaces in Indonesia is legally based on Government Regulation No. 80 of 2019 concerning Electronic Commerce (PMSE) and Law No. 1 of 2024 concerning the Second Amendment to the Law on Information and Electronic Transactions. According to Gunawan Widjaja, digital platform providers have an obligation to maintain secure, reliable, and responsible electronic systems to protect the interests of those using those services. Therefore, marketplaces cannot be viewed solely as neutral entities providing transactional platforms, but also have specific legal obligations to prevent legal violations within the systems they manage. The development of e-commerce practices demonstrates that marketplaces play a strategic role in determining seller verification policies, product monitoring, violation reporting mechanisms, and the removal (takedown) of products found to be in violation of the law. Therefore, the existence of marketplaces is a crucial factor in trademark protection efforts in the digital commerce era (LEMBAYUNG, 2026).

In cyber law doctrine, the concept of intermediary liability is recognized, namely the legal responsibility that can be imposed on digital platform providers for illegal activities carried out by users of those platforms. This concept developed in response to the increasing role of digital platforms in controlling economic activity and public communication. Marketplace operators can be held liable if they fail to fulfill their supervisory obligations and provide adequate protection to their platform users. Marketplaces, as PPMSEs, have a legal obligation to ensure their electronic systems are not used to distribute counterfeit products that infringe trademark rights (Ratumbanua et al., 2026). In the context of trademark protection, marketplace responsibilities can take the form of preventive or repressive measures. Preventive measures include verifying

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seller identities, monitoring traded products, and providing a reporting mechanism for trademark infringement. Repressive measures can include removing infringing products, closing seller accounts, and cooperating with law enforcement authorities in the enforcement process.

Legal protection for brand owners aims to guarantee the exclusive rights they hold over a registered brand. Meanwhile, legal protection for consumers aims to provide security, convenience, and legal certainty in obtaining goods and services. These two forms of protection are closely related to the circulation of counterfeit goods in the marketplace. The widespread circulation of counterfeit goods on the marketplace is not only a violation of brand rights, but also a form of violation of consumer rights as regulated in the Consumer Protection Law (Daud et al., 2026). Therefore, strengthening marketplace responsibility is an important instrument for realizing effective legal protection for brand owners and consumers in e-commerce transactions.

Marketplaces hold a strategic position in the modern e-commerce system. Therefore, an analysis of marketplace responsibility for the circulation of counterfeit goods that infringe trademark rights needs to be conducted, taking into account aspects of intellectual property rights protection, consumer protection, and the evolving concept of digital platform provider responsibility. This lack of clarity in the regulations creates a legal vacuum regarding the standard obligations of marketplaces to monitor traded products. On the one hand, marketplaces often rely on the concept of safe harbor as digital platform providers. However, modern legal developments indicate a tendency to apply the principle of intermediary liability, which places legal responsibility on platform providers who know or should have known about a violation of the law but fail to take adequate action to prevent or stop it. Therefore, a comprehensive legal review is needed to determine the extent of marketplace responsibility for the circulation of counterfeit goods that infringe trademark rights and what forms of legal protection can be provided to brand owners and consumers. Based on this description, this research is important to analyze the legal regulations regarding marketplace responsibility for the distribution of counterfeit goods that violate trademark rights and to examine the forms of legal responsibility that can be imposed on marketplaces from the perspective of Indonesian positive law. The research findings are expected to contribute to the development of e-commerce regulations and trademark protection in the digital economy era.

METODS

This research uses a normative legal research method (McConville, 2017), namely research that focuses on the study of legal norms contained in laws and regulations, doctrines, and legal

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decisions related to marketplace responsibility for the circulation of counterfeit goods that violate trademark rights. This approach is used because the object of research is oriented towards the analysis of legal regulations governing the protection of trademark rights and the accountability of marketplace organizers in electronic commerce. The approaches used include a statutory approach and a conceptual approach. The statutory approach is carried out by examining various relevant regulations, including Law Number 20 of 2016 concerning Trademarks and Geographical Indications, Law Number 1 of 2024 concerning the Second Amendment to the Law on Information and Electronic Transactions, Law Number 8 of 1999 concerning Consumer Protection, and Government Regulation Number 80 of 2019 concerning Commerce Through Electronic Systems. Meanwhile, the conceptual approach is used to analyze the concepts of legal responsibility, intermediary liability, and protection of intellectual property rights in electronic commerce transactions. The legal materials used consist of primary legal materials, namely laws and regulations related to trademark rights and e-commerce; secondary legal materials, in the form of books, scientific journals, and relevant research results. The collection of legal materials was carried out through library research by exploring various relevant and reliable legal sources. They were also analyzed using qualitative analysis methods with prescriptive analysis techniques, namely reviewing and interpreting applicable legal provisions to obtain legal arguments regarding the form and limits of marketplace responsibility for the circulation of counterfeit goods that violate trademark rights as well as legal protection efforts for brand owners and consumers in the e-commerce system.

FINDINGS AND DISCUSSION

Legal Regulations on Marketplace Responsibilities for the Circulation of Counterfeit Goods that Violate Trademark Rights

The development of e-commerce has transformed trade transaction patterns from conventional systems to platform-based digital systems. Marketplaces, as providers of electronic trading (PPMSE), no longer merely serve as transaction platforms, but also play a crucial role in ensuring the security, reliability, and legality of goods traded through their platforms. In this context, the circulation of counterfeit goods using unauthorized trademarks is one of the most common legal issues in e-commerce activities. Normatively, protection of trademark rights in Indonesia is regulated in Law Number 20 of 2016 concerning Trademarks and Geographical Indications. Article 83 paragraph (1) gives the owner of a registered trademark the right to file a lawsuit against any party who without the right uses a trademark that is essentially or entirely

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similar to similar goods and/or services. This provision indicates that the use of a trademark without permission is an unlawful act that can give rise to civil and criminal liability.

Furthermore, Law No. 1 of 2024 concerning the Second Amendment to the Electronic Information and Transactions Law requires electronic system providers to maintain reliable, secure, and responsible systems. This obligation is reinforced by Government Regulation No. 80 of 2019 concerning Electronic Commerce (PMSE), which requires platform providers to maintain the security of electronic transactions and prevent misuse of the systems they manage (Delia et al., 2026). Under consumer protection law, marketplaces are also obligated to protect consumers from losses arising from products traded through their platforms. This aligns with Law Number 8 of 1999 concerning Consumer Protection, which places businesses as the party obligated to guarantee the quality, safety, comfort, and accuracy of information regarding goods and/or services marketed to the public. In electronic transactions, consumer protection becomes even more crucial given that consumers cannot directly inspect the condition of the goods they intend to purchase, thus relying heavily on the information and systems provided by the marketplace. Therefore, marketplaces have a responsibility to ensure that the product information displayed is not misleading and does not facilitate the circulation of counterfeit goods that could harm consumers and brand owners.

Legal responsibility arises when there is a legal obligation that is not carried out properly, resulting in losses for other parties (Abdulkadir Muhammad, 2021). In the marketplace context, these obligations are reflected in the implementation of secure electronic systems and the oversight of trading activities taking place on their platforms. Current regulations provide a legal basis for imposing responsibilities on marketplaces. However, these regulations are still general in nature and do not specifically address marketplace accountability mechanisms for trademark infringement by third-party sellers. This situation has led to differing interpretations regarding the limits of marketplace responsibility in e-commerce practices. Some argue that marketplaces merely act as intermediaries, connecting sellers and buyers, so the primary responsibility remains with the sellers, as the direct perpetrators of the violations. On the other hand, a growing view is that marketplaces can be held accountable if they are proven to have knowledge of, tolerate, or are negligent in following up on reports of counterfeit products being traded through their platforms..

These differing interpretations indicate a normative gap in the Indonesian legal system regarding the standard obligations marketplaces must fulfill in preventing and addressing trademark infringement. However, marketplaces essentially have significant control over trading

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activities within their systems, such as verifying seller identities, removing infringing products, closing accounts of violators, and restricting access to sellers who repeatedly commit violations. This authority demonstrates that marketplaces have the capacity to take preventative and enforcement action against the circulation of counterfeit goods. Furthermore, the development of global digital commerce practices indicates a trend toward expanding the responsibilities of digital platforms through the application of the principle of intermediary liability. This principle emphasizes that platform providers can be held liable if they fail to exercise their due diligence obligations or fail to take necessary action upon learning of a legal violation on their platform. Thus, marketplace liability is based not only on direct involvement in the violation, but also on the level of care and effort taken to prevent the violation.

The existence of marketplaces in the modern e-commerce system can no longer be positioned as a completely neutral party. The greater the role and economic benefits marketplaces derive from digital transaction activities, the greater the legal demands to ensure that these platforms do not facilitate the circulation of counterfeit goods that infringe trademark rights. Therefore, more comprehensive and firm regulations are needed regarding the form, boundaries, and accountability mechanisms of marketplaces to provide legal certainty for brand owners, consumers, and platform operators themselves.

Marketplace Responsibility in the Circulation of Counterfeit Goods that Violate Trademark Rights

In modern legal doctrine, the concept of intermediary liability has evolved, namely the legal responsibility that can be imposed on digital platform providers for unlawful activities carried out by users of those platforms. This concept has evolved because digital platforms are no longer viewed as entirely passive entities but rather as having the ability to control the activities taking place within the systems they manage. The development of digital technology requires an expansion of the concept of legal responsibility for parties who obtain economic benefits from a trading activity, including electronic platform providers (Sardjono, 2006). Thus, a marketplace can be held liable if it knows or should know that there is a trademark infringement but does not take the necessary action to stop the infringement.

Marketplace responsibility can be classified into preventive and repressive liability. Preventive liability emphasizes efforts to prevent trademark infringement before harm occurs through measures such as seller identity verification, product legality verification, the use of counterfeit detection technology, automatic screening of well-known trademarks, and the

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provision of trademark infringement reporting mechanisms. These preventive measures are essential considering the high volume of transactions on marketplace platforms, where reactive supervision alone often allows counterfeit goods to remain available for extended periods. Meanwhile, repressive liability arises after trademark infringement has been identified and includes removing infringing products (take down), blocking seller accounts, terminating access for repeat offenders, cooperating with law enforcement authorities, and providing compensation to affected consumers in accordance with applicable laws. Together, these preventive and repressive measures reflect the marketplace's responsibility to ensure a secure, accountable, and legally compliant digital trading environment. In international practice, the notice and takedown mechanism has become the standard for handling intellectual property rights violations on digital platforms. However, the implementation of this mechanism in Indonesia still faces various obstacles, particularly regarding the speed of response and the effectiveness of oversight of reported products.

Marketplace Liability Analysis Based on Liability Theory and Consumer Protection

From the perspective of legal liability theory, a marketplace can be held liable if it meets certain elements: the existence of a legal obligation, a violation of that obligation, the existence of a loss, and a causal relationship between the violation and the resulting loss. These elements are the basis for determining whether a legal entity can be held responsible for actions that cause losses to another party. In the context of e-commerce, marketplace liability is not only assessed from its direct involvement in the sale of counterfeit goods, but also from the extent to which the marketplace has fulfilled the legal obligations inherent in its status as a digital platform provider.

Legal responsibility basically arises due to a violation of obligations that have been established by law (Salim, 2013). In the marketplace context, these legal obligations stem from regulations regarding e-commerce, consumer protection, and the implementation of electronic systems. Therefore, marketplaces are obligated to maintain secure, reliable, and responsible systems and to adequately monitor trading activities on their platforms. If these obligations are not optimally implemented, resulting in the circulation of counterfeit goods that harm both brand owners and consumers, the marketplace could potentially be held legally liable. Marketplaces can no longer fully protect themselves under the safe harbor concept if they are proven to have failed to fulfill their minimum oversight obligations regarding trading activities taking place on their platforms. Marketplaces that profit economically from each transaction have an obligation to ensure that their managed systems are not used as a means of breaking the law. Therefore, when

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the marketplace knows or at least should know that there are counterfeit products being traded but does not take appropriate action, such as removing the product (take down), blocking the seller's account, or further verification, then the element of negligence can be considered to have been fulfilled.

Furthermore, developments in digital law indicate a paradigm shift from the concept of a passive intermediary platform to one with active intermediary responsibility. This shift is based on the fact that marketplaces have significant control over the activities occurring within their systems, from setting product search algorithms and managing payment systems to labeling official stores, to reporting violations. This control demonstrates that marketplaces have the ability to prevent or at least minimize the circulation of counterfeit goods by implementing an effective oversight system. From a consumer protection perspective, consumers are the most vulnerable to the circulation of counterfeit goods. Consumers often lack the ability to distinguish between genuine and counterfeit products marketed through digital platforms. Limited access to information regarding product authenticity causes consumers to rely heavily on information provided by sellers and marketplaces. In many cases, product displays, descriptions, and even the use of well-known brands in digital advertisements can create the impression that the goods being offered are genuine. As a result, consumers potentially suffer losses both economically and in terms of the safety and quality of the products they receive. This view is in line with the theory of legal protection put forward by Philipus M. Hadjon that legal protection must be provided preventively and repressively in order to guarantee legal certainty and justice for society (Hadjon, 1987). In the context of e-commerce, legal protection is provided not only to brand owners as exclusive rights holders, but also to consumers as platform users. Preventive protection is realized through regulation, supervision, and violation prevention mechanisms, while repressive protection is realized through dispute resolution, compensation, and law enforcement against perpetrators of violations.

Efforts to Strengthen Marketplace Responsibility in Preventing the Circulation of Counterfeit Goods

There are several strategic steps that can be taken to strengthen marketplace accountability for the circulation of counterfeit goods that infringe trademark rights. These efforts are necessary given the growing development of digital business models that enable rapid and massive transactions, thereby increasing the risk of trademark infringement. First, regulatory harmonization is needed between Law Number 20 of 2016 concerning Trademarks and

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Geographical Indications, Law Number 8 of 1999 concerning Consumer Protection, Law Number 1 of 2024 concerning Electronic Information and Transactions, and Government Regulation Number 80 of 2019 concerning Electronic Commerce (PMSE). Currently, regulations regarding marketplace liability are scattered across various regulations with varying regulatory focuses. As a result, there are no provisions that explicitly regulate the limits, forms, and mechanisms of marketplace liability for trademark infringements committed by third-party sellers. Regulatory harmonization is needed to create legal certainty and avoid differences in interpretation in the application of marketplace legal liability.

Furthermore, regulatory harmonization is also crucial to emphasize the duty of care that marketplaces must implement when monitoring trading activities on their platforms. With clear standards, marketplaces can understand their legal obligations, while brand owners and consumers can gain certainty about the legal protection mechanisms available in the event of violations. Second, marketplaces need to implement stricter seller and product verification systems through the use of digital technologies, including artificial intelligence, machine learning, and integration with the registered trademark database held by the Directorate General of Intellectual Property. This system can be used to detect the use of trademarks that are substantially similar to registered trademarks, identify suspicious transaction patterns, and automatically screen products that potentially infringe trademark rights before they are released to consumers.

The application of digital surveillance technology is becoming increasingly important given the large number of products traded through marketplaces and the difficulty of manual monitoring. Research shows that the use of artificial intelligence-based technology can improve the effectiveness of counterfeit product identification and expedite the process of handling reports of intellectual property rights violations on e-commerce platforms (Khamil et al., 2025). Thus, a technology-based approach not only increases the efficiency of supervision, but also strengthens protection for brand owners and consumers.

Third, there is a need to strengthen the notice and takedown mechanism, which mandates marketplaces to immediately remove products reported as infringing trademark rights after initial verification. This mechanism must be more clearly regulated, including reporting procedures, the timeframe for handling reports, the marketplace's verification obligations, and the legal consequences if the marketplace fails to follow up on reports that meet the requirements. In current practice, not all marketplaces have the same standards for handling reports. Some platforms are able to respond to reports quickly, while others take a significant amount of time,

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allowing counterfeit products to continue circulating and potentially causing greater losses. Therefore, regulations are needed that require marketplaces to take prompt action on reports of trademark infringement to minimize losses experienced by brand owners and consumers (Ikhsania et al., 2025; Limbong, 2025).

Fourth, the government needs to establish minimum supervisory standards that must be implemented by all marketplaces to systematically prevent the circulation of counterfeit products. These standards could include mandatory seller identity verification, mandatory transaction data storage, implementation of a trademark infringement detection system, provision of easily accessible reporting features, and mandatory periodic audits of products traded through the platform. Establishing minimum supervisory standards can also serve as a tool to create uniform supervisory practices across marketplaces. With nationally applicable standards, each marketplace operator has the same level of responsibility in preventing the circulation of counterfeit goods. This is crucial because trademark protection depends not only on the actions of brand owners in conducting supervision but also requires the active participation of platform operators as the parties controlling the e-commerce system.

In addition to these four steps, closer collaboration is also needed between the government, brand owners, marketplaces, and consumer protection organizations to establish an integrated supervisory system. This collaboration can be realized through the exchange of violation data, the development of an electronic brand verification system, and the development of joint guidelines on handling counterfeit products in digital commerce. This collaborative approach is crucial because the circulation of counterfeit goods is a cross-sectoral problem that cannot be resolved through a regulatory approach alone. Ultimately, marketplaces have legal responsibilities that extend beyond their mere function as digital platform providers. As marketplaces' role in e-commerce increases, their inherent legal responsibilities also increase, particularly in preventing and combating the circulation of counterfeit goods that infringe trademark rights. Marketplaces have evolved into crucial actors in the digital economy ecosystem, not only benefiting economically from each transaction but also possessing the ability to control and supervise trading activities within their platforms. Therefore, strengthening regulations, implementing effective monitoring technology, optimizing notice and takedown mechanisms, and establishing minimum oversight standards are urgent steps to create a safer, more transparent, and fairer e-commerce system. This will ensure optimal legal protection for brand owners and consumers, while simultaneously fostering a healthy and sustainable digital trading climate in Indonesia.

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DISCUSSION

The development of e-commerce has brought about fundamental changes in the distribution patterns of goods and services in Indonesia. The presence of marketplaces as a means of digital transactions offers various conveniences for businesses and consumers, but at the same time, it also opens up opportunities for trademark infringement through the circulation of counterfeit goods. Research shows that the circulation of counterfeit goods in marketplaces not only causes economic losses for brand owners but also impacts consumer trust in the e-commerce system. Therefore, the protection of trademark rights in the digital ecosystem is an increasingly important legal issue that deserves attention.

Based on an analysis of existing laws and regulations, it is understood that Indonesia already has various legal instruments that can be used as a basis for regulating marketplace liability, including Law Number 20 of 2016 concerning Trademarks and Geographical Indications, Law Number 8 of 1999 concerning Consumer Protection, Law Number 1 of 2024 concerning Electronic Information and Transactions, and Government Regulation Number 80 of 2019 concerning Commerce Through Electronic Systems. However, existing regulations are still partial and do not explicitly regulate the form and limits of marketplace liability for trademark infringement committed by third-party sellers. This condition creates legal uncertainty in determining the extent to which marketplaces can be held accountable for the circulation of counterfeit goods that occur on their platforms. From a legal liability perspective, a marketplace can be held liable if it has a legal obligation, a breach of that obligation occurs, a loss occurs, and there is a causal relationship between the violation and the loss suffered by another party. In the context of e-commerce, the marketplace can no longer be viewed as a completely passive party because it has the ability to regulate, supervise, and control trading activities taking place within its system. Therefore, when a marketplace knows or should have known of a trademark infringement but fails to take appropriate action to prevent or stop it, there is a basis for imposing legal liability on the marketplace.

This research also shows that the safe harbor concept, often used by digital platform operators, cannot be applied absolutely. Legal protection through this concept can only be provided if the marketplace has carried out reasonable supervisory obligations and acted responsively to reports of violations received. Conversely, if the marketplace neglects its oversight or allows counterfeit products to continue being traded after learning of violations, the marketplace can be considered to have contributed to the losses suffered by brand owners and consumers. Thus, the development of digital law is moving towards strengthening the concept of

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intermediary liability, which positions digital platforms as legal entities with an active responsibility to prevent violations. From a consumer protection perspective, the presence of counterfeit goods in marketplaces places consumers at the highest risk of loss. Consumers generally lack access to verify the authenticity of products marketed online, and therefore rely heavily on information available on the platform. Therefore, marketplaces have an obligation to ensure the accuracy of product information, provide an effective complaint mechanism, and take swift action against products found to infringe trademark rights. These obligations constitute a form of preventative legal protection aimed at preventing losses before a transaction takes place.

The research also shows that strengthening marketplace accountability requires an approach that is not only based on regulations but also supported by the use of digital technology. Implementing a seller verification system, using artificial intelligence to detect counterfeit products, integrating data with registered brand databases, and optimizing notice and takedown mechanisms are steps that can increase the effectiveness of monitoring the circulation of counterfeit goods. Furthermore, minimum supervisory standards are needed that apply to all marketplaces to ensure uniformity in the implementation of obligations to protect brand and consumer rights. Overall, this study confirms that marketplaces play a strategic role in preventing and combating the circulation of counterfeit goods that infringe trademark rights. As marketplaces increase in the digital economy, the legal responsibilities inherent in platform operators also increase. Therefore, harmonizing regulations, strengthening oversight mechanisms, implementing supporting technology, and increasing cooperation between the government, brand owners, marketplaces, and consumers are necessary steps to create a safe and fair e-commerce ecosystem that provides legal certainty for all parties involved.

CONCLUSION

Based on the research and discussion, it can be concluded that regulations regarding marketplace responsibility for the circulation of counterfeit goods that violate trademark rights in Indonesia have a legal basis through Law Number 20 of 2016 concerning Trademarks and Geographical Indications, Law Number 8 of 1999 concerning Consumer Protection, Law Number 1 of 2024 concerning Electronic Information and Transactions, and Government Regulation Number 80 of 2019 concerning Trading Through Electronic Systems. However, these regulations are still general in nature and do not specifically regulate the form and limits of marketplace responsibility for trademark violations committed by third-party sellers.

This condition creates legal uncertainty in determining the extent to which marketplaces

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can be held accountable for the circulation of counterfeit goods that occur through their platforms. From the perspective of the theory of legal liability, a marketplace can be held accountable if there is a legal obligation attached to it, a violation of that obligation occurs, a loss occurs, and there is a causal relationship between the violation and the loss experienced by the brand owner or consumer. Marketplaces can no longer be viewed solely as passive transaction providers, but rather as electronic system providers capable of monitoring, controlling, and taking action against trading activities taking place on their platforms. Therefore, if a marketplace knows or should know about the circulation of counterfeit goods but fails to take adequate action, it can be held legally accountable under the principle of intermediary liability.

Efforts to strengthen marketplace accountability need to be implemented through harmonization of regulations governing e-commerce and trademark protection, implementation of stricter seller and product verification systems, strengthening notice and takedown mechanisms, and utilizing digital technology to more effectively detect trademark infringement. Furthermore, the government needs to establish minimum oversight standards that must be implemented by all marketplaces to systematically prevent the circulation of counterfeit goods. By strengthening regulations and effective oversight mechanisms, legal protection for brand owners and consumers can be optimally realized, while simultaneously creating a safe, fair, and sustainable e-commerce ecosystem.

REFERENCES

Abdulkadir Muhammad, S. H. (2021). Hukum perusahaan indonesia. PT Citra Aditya Bakti.

Beers, P. J., Van Mierlo, B., & Hoes, A. C. (2016). Toward an integrative perspective on social learning in system innovation initiatives. Ecology and Society, 21(1). https://doi.org/10.5751/ES-08148-210133

Daud, A., Bakung, D. A., & Moha, M. R. (2026). The Legal Liability of Marketplace Retailers for the Distribution of Counterfeit Goods in Indonesia. Journal of Law, Human Rights, Immigration, and Corrections, 1(3), 17–43.

Delia, D., Tan, D., & Agustini, S. (2026). Regulasi Hukum Ekonomi Digital: Implikasi Undang-Undang Nomor 1 Tahun 2024 Terhadap E-Commerce dan Start-Up di Indonesia. Unes Journal of Swara Justisia, 10(1), 41–54.

Fuady, D. R. M., & SH, M. H. L. L. M. (2014). Teori-teori Besar Dalam Hukum: Grand Theory. Prenada Media.

Hadjon, P. M. (1987). Perlindungan hukum bagi rakyat di Indonesia: sebuah studi tentang prinsip-

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prinsipnya, penanganannya oleh pengadilan dalam lingkungan peradilan umum dan pembentukan peradilan administrasi negara. Bina Ilmu.

Ikhsania, L. R. N., Rama, B. G. A., Sudharma, K. J. A., & Puspadewi, A. A. A. I. (2025). Perlindungan Hukum terhadap Pembajakan Buku Pada Platform E-commerce di Indonesia. Al-Zayn: Jurnal Ilmu Sosial & Hukum, 3(5), 7075–7085.

Khamil, N., Wahyudi, M. H., Nurwahid, M. H. H., Alamsyah, M. R., & Wiguna, M. P. S. (2025). Perlindungan Merek Terdaftar Terhadap Pelanggaran Di Marketplace Digital Di Indonesia. Journal of Indonesian Comparative of Syari'ah Law, 8(3), 777–794.

LEMBAYUNG, A. A. (2026). IMPLEMENTASI PERATURAN PEMERINTAH NOMOR 80 TAHUN 2019 TENTANG PERDAGANGAN MELALUI SISTEM ELEKTRONIK TERHADAP AKTIVITAS JUAL BELI MOBIL BEKAS CONSUMER TO CONSUMER DI FACEBOOK MAKETPLACE.

Limbong, L. (2025). Peran Media Sosial dalam Meningkatkan Kasus Pembajakan Buku Digital di Indonesia: Analisis Penegakan Hukum Berdasarkan UU Hak Cipta 2022 pada Platform Shopee (Studi Kasus 2020-2025). Anthology: Inside Intellectual Property Rights, 3(1), 363–379.

Marzuki, P. M., & Sh, M. S. (2021). Pengantar ilmu hukum. Prenada Media.

Mawardi, C. P., Mumtahina, B., Shalshabilakanza, R., & Al Jernihi, M. D. D. (2026). Perlindungan Hak Atas Kekayaan Intelektual Terhadap Pemalsuan Merek Dagang di Platform E-Commerce. Punggawa Law Review, 1(3), 91–97.

McConville, M. (2017). Research methods for law. Edinburgh University Press.

Ramli, A. M. (2006). Cyber Law dan HAKI dalam Sistem Hukum Indonesia.

Ratumbanua, D. C. N., Kalalo, M. E., & Lengkong, N. L. (2026). Tanggung Jawab Lokapasar (Marketplace) Dalam Peredaran Produk Palsu Yang Melanggar Hak Merek. Al-Zayn: Jurnal Ilmu Sosial & Hukum, 4(3), 9986–10002.

Saidin, O. K. (2010). Aspek hukum hak kekayaan intelektual:(Intellectual property rights).

Salim, H. S. (2013). Penerapan teori hukum pada penelitian tesis dan disertasi.

Sardjono, A. (2006). Hak kekayaan intelektual dan pengetahuan tradisional. (No Title).

Shihab, S., Ulfah, S., & Said, M. F. (2025). Legal Liability of Marketplaces for the Circulation of Counterfeit Goods. ADVANCED PRIVATE LEGAL INSIGHTS, 1(2), 1–10.

Tabansa, C. V., Oktaviano, M. S., Aprilya, D. N., & Fikri, M. A. H. (2025). Membangun Ekosistem E-Commerce Shopee yang Berkeadilan: Rekonstruksi Perlindungan Hak Intelektual atas Pemalsuan Produk Skincare melalui Pendekatan Ekonomi Digital. Jurnal Multidisiplin Ilmu Akademik, 2(6), 442–454.

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Zahra, M. S., Megawati, L., & Kamilah, A. (2025). Peran Hukum Dagang dalam Mencegah Penipuan Produk di Platform E-Commerce: Studi Kasus Lazada Indonesia. Al-Musthalah: Jurnal Riset Dan Penelitian Multidisiplin, 2(1), 28–44.

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