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Legal Analysis Of MSMEs Trademark Protection From A Trade Law Perspective: The First To File Principle

Amelia Cendikia Al Khansa^{1*}, Gaga Alfarghana 'Aisy², Ghefira Nur Fatimah³, Gina Sonia⁴, Nabilla Fitri Arfian⁵, Naysila Fitri Solihat⁶, Rizkia Novebiani Putri⁷, Nandang Najmudin⁸

¹⁻⁸ UIN Sunan Gunung Djati Bandung, Indonesia

email: ameliacendikia02@gmail.com¹

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Abstract

This study examines the legal protection of Micro Small and Medium Enterprises trademarks within the Indonesian trademark regime from a trade law perspective by focusing on the application of the first to file principle. The research employs a normative juridical method supported by a descriptive analytical approach and relies exclusively on secondary legal materials, including legislation, judicial decisions, scholarly literature, and relevant legal doctrines. The analysis reveals that the first to file principle provides a structured mechanism for determining trademark ownership and contributes to commercial certainty in trade relations. The study also identifies persistent structural challenges affecting MSMEs, including limited legal awareness, registration barriers, unequal access to legal protection, trademark appropriation practices, and normative gaps concerning prior users. These conditions create tensions between formal legal recognition and substantive economic justice. Through doctrinal and conceptual analysis, the study proposes a reconstructed protection framework that integrates good faith considerations, recognition of prior use, alternative dispute resolution mechanisms, collective trademark models, digital registration reforms, and targeted incentive policies. The findings indicate that a balanced approach between legal certainty and equitable protection is necessary to strengthen MSME competitiveness and support sustainable trade development in Indonesia.

Keywords : Trademark Protection, MSMEs, First To File Principle, Trade Law, Legal Justice.



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INTRODUCTION

The increasing integration of global markets, digital commerce, and knowledge based economies has transformed trademarks from mere indicators of commercial origin into strategic intangible assets that determine business competitiveness, market recognition, and long term economic sustainability. Within this evolving landscape, the protection of trademark rights has become a central concern in trade law because trademarks function not only as legal identifiers but also as instruments that facilitate consumer trust, market differentiation, and commercial expansion. The contemporary international intellectual property regime has increasingly emphasized the importance of registration based protection systems that provide legal certainty and transactional efficiency for market actors. Many jurisdictions have consequently adopted registration centered approaches that prioritize formal recognition of trademark ownership through administrative procedures. In Indonesia, the implementation of the first to file principle under Law Number 20 of 2016 concerning Trademarks and Geographical Indications reflects this broader global trend by granting exclusive rights to the first applicant who successfully registers a trademark. While this framework is intended to strengthen legal predictability and commercial stability, its operation within the rapidly expanding Micro Small and Medium Enterprises sector has generated complex legal questions concerning the relationship between formal ownership, actual use, and equitable protection in commercial transactions. The significance of these questions has intensified as MSMEs increasingly contribute to economic development while simultaneously relying on trademarks as essential instruments for market participation and business growth (Winarsasi et al., 2023).

Existing scholarship has produced substantial insights into the legal architecture of trademark protection and its implications for business actors. Studies have emphasized that trademark registration constitutes the primary mechanism through which exclusive rights, legal certainty, and enforceable

protection are obtained under contemporary trademark systems. Research has demonstrated that registered trademarks serve not only as protective legal instruments but also as economic assets capable of strengthening MSME independence, facilitating access to financing, and enhancing commercial value creation within competitive markets (Usanti et al., 2024). Other scholars have highlighted the strategic role of trademark protection in promoting local economic justice by safeguarding the commercial identities and market positions of small enterprises against unfair competition and unauthorized appropriation (Sultan et al., 2025). Simultaneously, analyses of trademark law have underscored the normative rationale of the first to file principle as an efficient mechanism for resolving ownership disputes and reducing legal uncertainty through clear registration records (Winarsasi et al., 2023). Empirical investigations have further revealed that trademark protection contributes to broader economic governance by preventing intellectual property infringements and reinforcing compliance within commercial ecosystems, particularly among micro and small enterprises that often operate within vulnerable market environments (Widarsadhika et al., 2025).

Despite these contributions, the literature reveals important conceptual and empirical tensions that remain insufficiently resolved. A significant body of research continues to evaluate trademark protection primarily through the lens of formal legal certainty while paying comparatively limited attention to the distributive consequences of registration based systems for resource constrained enterprises. The well known Bensusan trademark dispute illustrates how the first to file principle may produce outcomes that are formally valid yet controversial from the perspective of substantive fairness because legal ownership becomes detached from the chronology of actual commercial use and reputation development (Sina et al., 2023). Likewise, studies examining trademark policy optimization have identified structural obstacles that prevent many MSMEs from securing timely registration, including administrative complexity, information asymmetry, and limited institutional support, yet these analyses often stop short of interrogating how such barriers reshape the balance between legal certainty and commercial justice within trade law frameworks (Zakariya, 2024). Existing discussions therefore remain fragmented between doctrinal defenses of registration based ownership and practical concerns regarding unequal access to legal protection, leaving unresolved questions about whether the first to file principle adequately accommodates the realities of MSME commercial activities.

This unresolved tension acquires greater significance when viewed against contemporary evidence concerning legal awareness, enforcement challenges, and infringement risks within the MSME sector. Research has consistently shown that low levels of legal literacy continue to hinder trademark registration among small business actors, thereby exposing them to substantial legal vulnerabilities despite their active participation in commerce (Simatupang et al., 2025). At the same time, studies on trademark counterfeiting and criminal enforcement indicate that inadequate protection mechanisms can generate broader economic harms by weakening market confidence and encouraging opportunistic exploitation of commercially valuable brands (Sitorus & Mulyadi, 2025). The practical consequences extend beyond individual ownership disputes because unregistered trademarks may undermine business continuity, reduce investment incentives, and constrain the ability of MSMEs to leverage intellectual property as a source of competitive advantage. These conditions reveal that the unresolved relationship between formal registration requirements and substantive commercial protection is not merely a doctrinal issue but a pressing concern with direct implications for economic development, regulatory effectiveness, and the inclusiveness of trade governance.

Within this context, the present study positions itself at the intersection of trade law, intellectual property protection, and MSME development by critically examining the legal consequences of the first to file principle beyond its conventional justification as a guarantor of legal certainty. Unlike prior studies that predominantly focus on registration procedures, infringement prevention, policy optimization, or isolated dispute cases, this research seeks to develop a more integrated understanding of how the first to file principle operates as a legal institution that simultaneously produces certainty, exclusion, and unequal bargaining positions within commercial relations. By situating trademark protection within a broader trade law perspective, the study addresses a notable gap in the literature concerning the extent to which formal ownership regimes can reconcile the competing objectives of legal certainty, economic efficiency, and substantive justice for MSMEs. Such an approach contributes to ongoing scholarly debates regarding the legitimacy and effectiveness of registration based intellectual property systems in emerging economies where structural disparities continue to shape access to legal rights.

This study aims to analyze the legal protection of MSME trademarks under the first to file principle from a trade law perspective and to examine the legal consequences faced by MSMEs that have established and utilized trademarks without securing prior registration. The research further seeks to evaluate the extent to which the existing trademark regime provides legal certainty while simultaneously addressing concerns of fairness and commercial equity. Theoretically, the study contributes to the development of trademark law scholarship by advancing a more nuanced understanding of the interaction between formal legal certainty and substantive protection within registration based systems. Methodologically, it offers a comprehensive normative legal analysis that integrates doctrinal interpretation with critical evaluation of trade law principles, thereby providing a framework for assessing the effectiveness of trademark protection mechanisms in contexts characterized by asymmetrical access to legal resources and institutional support.

RESEARCH METHODS

This study employs a non empirical legal research design grounded in a normative juridical approach to examine the legal protection of Micro Small and Medium Enterprises trademarks under the first to file principle within the framework of Indonesian trade law. The research is descriptive analytical in nature because it seeks not only to describe the existing legal framework governing trademark protection but also to critically evaluate the extent to which the principle of registration based ownership provides legal certainty and substantive justice for MSMEs. The study relies exclusively on secondary data derived from authoritative legal materials, including statutory regulations, judicial decisions, scholarly books, peer reviewed journal articles, and other relevant legal documents concerning trademark law, intellectual property rights, and commercial law. The selection of legal sources was guided by their relevance to the research objectives, their doctrinal significance in interpreting trademark protection mechanisms, and their contribution to understanding the legal consequences faced by MSMEs that utilize trademarks without prior registration. The analytical framework integrates the Theory of Legal Certainty as the grand theoretical perspective, the Theory of Legal Protection as the intermediate analytical lens, and the First to File Principle as the applied legal doctrine for assessing the effectiveness and limitations of the existing trademark protection regime (Marzuki, 2017; Rahardjo, 2006).

The analytical procedure was conducted through a systematic review and qualitative interpretation of legal materials using statutory, conceptual, and case based approaches. Legal norms contained in relevant legislation were examined alongside doctrinal opinions and judicial interpretations to identify patterns, inconsistencies, and normative implications relating to trademark ownership and protection. The collected materials were subsequently organized, classified, and interpreted through legal reasoning techniques that connected statutory provisions with broader principles of legal certainty, justice, and commercial fairness. To ensure methodological rigor, the study employed source triangulation across multiple categories of legal materials and maintained analytical consistency through cross examination of statutes, legal doctrines, and scholarly arguments. The credibility of the findings was further strengthened through a transparent interpretive process that prioritized authoritative legal sources, logical coherence, and doctrinal consistency, thereby ensuring that the conclusions accurately reflect both the normative structure of Indonesian trademark law and its implications for MSME trademark protection under the first to file system.

RESULTS AND DISCUSSION

Legal Certainty and Normative Foundations of Trademark Protection Under the First to File Principle

The normative structure of trademark protection in Indonesia is fundamentally constructed upon the first to file principle, which establishes registration as the constitutive basis for acquiring exclusive trademark rights. From a trade law perspective, this principle seeks to create predictability in commercial transactions by providing a clear legal mechanism for determining ownership. Legal certainty occupies a central position because trademarks function not only as business identifiers but also as valuable commercial assets within competitive markets (Winarsasi et al., 2023). The statutory framework embodied in Law Number 20 of 2016 reflects the legislative intention to reduce ownership ambiguity and strengthen the reliability of market relations.

A doctrinal examination demonstrates that registration serves as the legal event through which trademark rights are recognized and protected by the state. The constitutive character of the system places administrative registration above factual use as the primary determinant of ownership status. Such an approach is consistent with the broader objective of intellectual property governance that prioritizes transparency and legal order in commercial activities (Dzikir, 2024). Legal certainty emerges because rights and obligations become identifiable through official records maintained by the competent authority.

Within the framework of legal certainty theory, law is expected to provide clarity regarding the position of legal subjects and the consequences attached to their actions. The registration system fulfills this expectation by generating objective evidence that can be verified through administrative procedures. The existence of a trademark certificate reduces evidentiary disputes because ownership is determined through documented legal facts rather than subjective claims. This condition reflects the doctrinal understanding that certainty contributes to the stability of commercial relations and supports market confidence (Rahardjo, 2006).

The legal protection generated through trademark registration extends beyond ownership recognition and includes the capacity to exclude unauthorized users from exploiting the registered mark. Exclusive rights enable business actors to secure market identity and prevent unfair commercial appropriation. Such protection has significant implications because trademarks increasingly represent intangible assets with measurable economic value. The relationship between legal protection and commercial competitiveness has been emphasized in studies examining the role of trademarks in strengthening MSME sustainability (Jaman, 2024).

A review of the legal literature indicates that trademark registration performs several interconnected functions within the Indonesian intellectual property system. Registration provides evidence of ownership, establishes a basis for rejecting similar applications, and supports enforcement actions against infringement. These functions collectively contribute to the operationalization of legal certainty in commercial law. The normative rationale supporting this framework is frequently associated with the need to maintain orderly market competition and legal predictability (Hasibuan et al., 2022).

Table 1. Normative Functions of Trademark Registration Under the First to File System

Legal Function	Normative Objective	Commercial Implication
Proof of ownership	Establish legal status of trademark holder	Reduces ownership disputes
Exclusive rights protection	Prevent unauthorized use	Strengthens market position
Basis for refusal of similar marks	Maintain trademark distinctiveness	Supports fair competition
Enforcement mechanism	Facilitate legal remedies	Enhances business certainty
Public registration record	Ensure transparency	Improves market confidence

Source: Developed by the author based on Dzikir (2024), Hasibuan et al. (2022), and Winarsasi et al. (2023).

The information presented in Table 1 illustrates that legal certainty is not confined to ownership recognition but extends to broader market governance objectives. Each legal function contributes to the creation of a structured commercial environment where rights can be identified and protected through formal procedures. The registration mechanism consequently serves both private and public interests because it protects individual trademark owners while promoting transparent market conduct. Such findings support arguments that trademark law operates as an instrument of economic regulation as well as private rights protection (Setiawan, 2025).

A conceptual assessment of trademark protection also reveals the growing importance of intellectual property within contemporary economic development strategies. Registered trademarks increasingly function as assets capable of generating economic opportunities beyond their traditional role as product identifiers. Research has demonstrated that trademark ownership may strengthen business resilience and facilitate access to commercial opportunities that require legally recognized

intellectual assets (Usanti et al., 2024). The significance of registration therefore extends into broader questions concerning enterprise development and economic participation.

The legal advantages associated with registration have encouraged policymakers to expand access to trademark protection for small business actors. Several studies indicate that institutional reforms have sought to simplify administrative procedures and improve accessibility through digital registration mechanisms. These developments reflect recognition that effective legal protection requires not only substantive legal rules but also efficient administrative implementation (Khasna, 2024). The modernization of registration services illustrates the evolving relationship between legal certainty and regulatory accessibility.

From a trade law perspective, the effectiveness of the first to file principle depends upon its capacity to create a balance between administrative efficiency and commercial protection. Formal registration mechanisms reduce uncertainty by providing an objective basis for determining ownership rights. At the same time, the legitimacy of the system is strengthened when business actors perceive registration as accessible and capable of protecting legitimate commercial interests. This relationship explains why legal certainty remains a foundational objective of trademark regulation within contemporary intellectual property governance (Mustomi et al., 2025).

The normative analysis undertaken in this study confirms that the first to file principle possesses a strong doctrinal foundation within Indonesian trademark law. Registration functions as the central legal instrument through which ownership, exclusivity, and enforceability are established in commercial relations. Existing legal doctrines consistently support the view that certainty is indispensable for maintaining market order and protecting economic assets. The analysis also indicates that the practical effectiveness of this certainty depends upon the extent to which legal protection remains accessible to MSMEs operating within increasingly competitive trade environments (Peter Mahmud Marzuki, 2017).

Structural Challenges of MSME Trademark Protection Within the First to File Regime

The normative analysis reveals that the effectiveness of trademark protection for MSMEs is constrained by structural vulnerabilities that extend beyond the formal design of trademark legislation. Although registration serves as the gateway to legal recognition, many MSMEs encounter institutional and socioeconomic barriers that impede their ability to secure timely protection. These barriers create asymmetrical legal outcomes because business actors with greater resources are more capable of navigating administrative requirements and protecting commercial identities. Such conditions indicate that access to trademark protection is influenced not only by legal norms but also by disparities in legal capacity and market position (Apriani & Said, 2022).

One of the most persistent challenges concerns the low level of legal awareness among MSME actors regarding the strategic importance of trademark registration. Existing studies demonstrate that many entrepreneurs continue to perceive trademarks as secondary business concerns despite their significant economic and legal functions. This perception delays registration and increases exposure to ownership disputes when commercial success attracts competitors seeking to capitalize on established market reputations. The relationship between legal awareness and trademark protection has been consistently identified as a decisive factor affecting the effectiveness of intellectual property governance among small enterprises (Gea & Disemadi, 2022).

The consequences of limited legal awareness become more severe when combined with insufficient dissemination of intellectual property information. Educational initiatives concerning trademark registration remain uneven across regions, creating substantial variations in knowledge and compliance among MSME actors. Research examining legal awareness programs indicates that many entrepreneurs acquire information regarding trademark registration only after encountering legal risks or commercial conflicts. Preventive legal protection consequently becomes less effective because registration decisions are often reactive rather than strategic (Simatupang et al., 2025).

Financial limitations represent another structural obstacle affecting trademark registration among MSMEs. Although registration fees have been reduced through several policy initiatives, indirect costs associated with documentation, administrative compliance, and legal consultation continue to discourage participation. Many small enterprises prioritize short term operational expenditures over long term intellectual property protection because immediate business survival is perceived as more

urgent. This economic reality creates conditions in which legally vulnerable businesses postpone registration despite recognizing its importance (Fibrianti et al., 2022).

Administrative complexity further contributes to unequal access to trademark protection. Procedural requirements often require technical understanding that may not be readily available to entrepreneurs operating with limited legal support. Studies on trademark registration policy indicate that procedural inefficiencies and information gaps remain significant deterrents to wider participation among MSMEs. These challenges demonstrate that legal protection cannot be assessed solely through statutory provisions because administrative accessibility directly influences regulatory effectiveness (Zakariya, 2024).

Table 2. Major Legal and Institutional Barriers Faced by MSMEs in Trademark Registration

Barrier	Legal Consequence	Impact on MSMEs
Low legal awareness	Delayed registration	Loss of rights
Financial constraints	Registration avoidance	Vulnerability
Administrative complexity	Low participation	Weak protection
Brand squatting	Ownership disputes	Economic losses
Weak documentation	Difficulty proving prior use	Litigation disadvantage

Source: Developed by the author based on Gea and Disemadi (2022), Simatupang et al. (2025), Zakariya (2024), Oscar and Soesatyo (2025), and Sina et al. (2023).

The patterns summarized in Table 2 illustrate that the challenges faced by MSMEs are interconnected rather than isolated. Weak legal awareness contributes to delayed registration, while financial and administrative obstacles reduce participation in the trademark system. These conditions collectively increase exposure to ownership disputes and commercial exploitation. The analysis suggests that institutional barriers often operate cumulatively, producing disadvantages that extend beyond individual registration decisions.

One manifestation of these structural weaknesses is the growing phenomenon of brand squatting, whereby individuals register trademarks that have already acquired commercial value through prior use by another party. Such practices exploit the gap between market recognition and formal registration status, creating opportunities for opportunistic behavior. The problem becomes particularly acute for MSMEs that have invested significant effort in developing brand reputation but have not completed registration procedures. Scholars have identified brand squatting as a recurring consequence of registration systems that inadequately address the realities of commercial use before registration (Oscar & Soesatyo, 2025).

The doctrinal implications of brand squatting can be observed through the widely discussed Benu trademark dispute. Judicial reasoning in this case emphasized registration priority while placing limited weight on claims relating to prior commercial use and reputation development. The dispute illustrates how ownership outcomes may diverge from public perceptions of fairness when legal recognition is determined primarily through procedural chronology. Analyses of the case have highlighted the tension between administrative certainty and broader considerations of equitable commercial protection (Sina et al., 2023).

The vulnerability of first users constitutes a significant normative concern within contemporary trademark scholarship. Business actors who have continuously used a mark and cultivated consumer trust may nevertheless encounter difficulties when competing against parties possessing stronger legal documentation. Weak documentation practices among MSMEs frequently undermine their ability to establish historical use and commercial reputation during disputes. This evidentiary imbalance limits the practical value of prior use in situations where registration remains the dominant determinant of ownership (Hasan et al., 2025).

These challenges ultimately raise broader questions concerning economic justice within the trademark protection regime. Trademark rights influence market participation, business continuity, and opportunities for wealth creation, making unequal access to protection a matter of distributive significance. Studies examining intellectual property enforcement have shown that infringement, counterfeiting, and ownership disputes can impose disproportionate burdens on smaller enterprises with limited legal resources (Sitorus & Mulyadi, 2025). The concept of trademark protection as a pillar of

local economic justice gains relevance in this context because the effectiveness of legal protection directly affects the capacity of MSMEs to compete and sustain commercial growth within increasingly complex market environments (Sultan et al., 2025).

Reconstructing an Equitable Trademark Protection Framework for MSMEs in Indonesian Trade Law

The normative findings indicate that future trademark protection for MSMEs requires a regulatory reconstruction that extends beyond formal registration requirements and incorporates broader considerations of economic justice within commercial law. Contemporary trade regulation increasingly recognizes that intellectual property protection should not only safeguard proprietary interests but also facilitate inclusive market participation for smaller business actors. This orientation is consistent with legal protection theory, which emphasizes the alignment of legal institutions with social welfare objectives rather than purely procedural outcomes (Rahardjo, 2006). The analysis demonstrates that a more balanced trademark framework can strengthen the relationship between market efficiency and distributive fairness in MSME development.

A central aspect of legal reconstruction involves harmonizing procedural certainty with substantive justice through a more contextual interpretation of trademark ownership. Existing registration based protection remains important for commercial predictability, yet trade law should also acknowledge circumstances in which strict formalism produces inequitable consequences. Several doctrinal studies suggest that proportional legal protection can be achieved when registration requirements are complemented by mechanisms that evaluate actual commercial use and legitimate business interests (Jaman, 2024). Such an approach contributes to a more responsive legal framework without undermining the integrity of trademark administration.

The study further identifies the need to reformulate the operation of the first to file principle through the incorporation of good faith considerations during registration examination. Good faith functions as an important normative safeguard against opportunistic registrations that seek to exploit informational asymmetries between market participants. Comparative legal scholarship increasingly places good faith at the center of intellectual property governance because trademark rights derive legitimacy from fair commercial conduct rather than administrative formalities alone (Setiawan, 2025). This reconstruction would reinforce ethical standards within Indonesia's evolving trade environment.

Recognition of prior commercial use may also serve as a complementary doctrinal mechanism for enhancing fairness in trademark adjudication. Such recognition does not replace registration as the basis of ownership but provides courts with additional evaluative criteria when disputes reveal inequitable registration practices. Normative legal analysis indicates that limited consideration of prior use can reduce tensions between formal entitlement and commercial reality in MSME transactions (Sultan et al., 2025). The incorporation of this principle would encourage a more nuanced balance between administrative certainty and equitable outcomes.

Collective protection mechanisms present another important avenue for legal reform because many MSMEs operate within community based production networks. The collective trademark model enables groups of enterprises to share legal protection while reducing registration and maintenance burdens. Studies on collective trademark governance demonstrate that this approach can expand access to intellectual property protection among businesses with limited institutional resources (Millenia & Haq, 2022). Similar conclusions are advanced by research emphasizing collective trademarks as an effective instrument for strengthening market identity and regional competitiveness (Nugroho et al., 2023).

Table 3. Proposed Reform Strategies for Strengthening MSME Trademark Protection

Reform Area	Proposed Measure	Expected Outcome
Registration system	Simplified procedures	Higher registration rates
Legal awareness	Continuous education	Better compliance
Collective trademarks	Shared protection model	Reduced costs
ADR mechanism	Faster dispute resolution	Efficient enforcement
Incentive schemes	Subsidized registration	Inclusive protection

Source: Constructed by the author based on Nugroho et al. (2023), Millenia and Haq (2022), Ningsih and Karim (2025), Khasna (2024), and Samsithawrati et al. (2025).

The reform strategies presented in Table 3 reveal that effective trademark protection requires simultaneous institutional and regulatory interventions rather than isolated legislative amendments. The proposed measures address structural weaknesses while preserving the essential functions of trademark registration within commercial governance. Normative interpretation of the literature suggests that integrated reforms are more capable of producing sustainable legal outcomes than singular policy initiatives (Nugroho et al., 2023). The findings support a multidimensional approach that combines legal accessibility, institutional efficiency, and economic inclusiveness.

Alternative dispute resolution represents another critical component of future trademark governance for MSMEs. Litigation often imposes substantial financial and procedural burdens that are disproportionate to the economic capacity of smaller enterprises. Scholarly evaluations of dispute settlement mechanisms indicate that mediation and negotiation can provide faster and more accessible pathways for resolving trademark conflicts while preserving commercial relationships (Ningsih & Karim, 2025). Greater institutional support for these mechanisms would improve access to justice within the intellectual property system.

The analysis also highlights the strategic significance of incentive based regulation in promoting trademark registration among MSMEs. Financial assistance programs, registration subsidies, and administrative fee reductions can increase participation rates among enterprises that would otherwise remain outside the formal protection regime. Comparative assessments of incentive policies demonstrate that targeted support measures enhance legal inclusion while strengthening overall compliance with intellectual property regulations (Samsithawrati et al., 2025). Such initiatives reflect a regulatory philosophy that encourages participation through facilitation rather than coercion.

Digital transformation constitutes an additional pillar of trademark protection reform in the contemporary trade environment. Efficient electronic registration systems reduce administrative complexity and improve accessibility for enterprises located outside major urban centers. Research concerning digitalized registration services shows that technological modernization contributes to greater transparency, procedural efficiency, and user engagement within intellectual property administration (Khasna, 2024). Enhanced digital infrastructure can therefore function as a catalyst for broader institutional effectiveness.

The reconstructed framework emerging from this study envisions trademark protection as an integrated component of sustainable trade law development rather than a narrowly defined registration mechanism. Normative legal reasoning demonstrates that combining good faith standards, prior use considerations, collective protection models, incentive regulations, alternative dispute resolution, and digital administration creates a more balanced regulatory architecture (Marzuki, 2017). This model aligns legal protection with the practical realities of MSME participation in competitive markets while preserving the legitimacy of trademark governance. The proposed framework contributes a theoretical foundation for future trade law reforms that seek to reconcile commercial efficiency with equitable economic development (Rahardjo, 2006).

CONCLUSION

The analysis demonstrates that the first to file principle remains a fundamental mechanism for determining trademark ownership and promoting predictability within Indonesian trade law. The normative review confirms that trademark registration functions as the primary basis for legal recognition and commercial protection, while simultaneously exposing structural vulnerabilities experienced by MSMEs that face limitations in legal awareness, administrative capacity, and access to registration mechanisms. The findings further reveal that strict reliance on formal registration may generate disparities between legal validity and economic justice, particularly in situations involving prior users, trademark appropriation, and unequal bargaining positions. A more responsive legal framework is therefore required to reconcile commercial certainty with substantive protection objectives. The proposed reconstruction emphasizes the integration of good faith doctrine, consideration of prior use, strengthened alternative dispute resolution mechanisms, collective trademark protection models, digitalized registration services, and incentive based regulatory measures. Such reforms would enhance the effectiveness of trademark protection, support inclusive economic

participation, and establish a more balanced trade law regime capable of safeguarding MSME interests while preserving the integrity of the trademark registration system.

REFERENCES

- Apriani, N., & Ridwan Wijayanto Said. (2022). Upaya Perlindungan Hukum Terhadap Industri Usaha Mikro Kecil dan Menengah (UMKM) di Indonesia. *Journal Al Azhar Indonesia Seri Ilmu Sosial*, 3(1).
- Dzikir, N. (2024). The Legal Basis for Intellectual Property Protection: A Focus on Trademarks. *Verdict: Journal of Law Science*, 3(2), 94-101.
- Fibrianti, N., Suprpti, D. D., Ardiansari, A., Isnani, I., Paramita, N. D., & Windiahsari, W. (2022). Targeting MSME Opportunities through Brands: Strengthening the Legal Protection through Community Services. *Jurnal Pengabdian Hukum Indonesia (Indonesian Journal of Legal Community Engagement)*, 5(2), 205-226.
- Gea, L. K. B., & Disemadi, H. S. (2022). Relation Between The Awarenees of Culinary Msme Actors and Trademark Protection. *Jurnal Supremasi*, 1-16.
- Hasan, Y. S., Ela, S. R., Yulifwi, N., Musa, S., & Macmud, A. S. (2025). Trademark Counterfeiting: A Legal Review and Its Implications for Consumer Protection. *Indonesian Civil Law Review*, 1(2), 18-40.
- Hasibuan, P. M., Chairi, Z., & Aflah, A. (2022). Implementation of legal protection of brand rights for micro, small, and medium enterprises (MSMEs) according to Law Number 20 Year 2016 concerning marks and geographic indications. *Jhss (Journal of Humanities and Social Studies)*, 6(2), 156-160.
- Hidayat, A. A., Anwari, A. N., Zulvia, R. A., & Kholid, M. (2026). Negotiating Haqq al-Ibtikar and State Patent Law: A Socio-Legal Study of Masalahah and Intellectual Property among Indonesian Muslim SMEs. *DIKTUM: Jurnal Syariah dan Hukum*, 24(2), 138-167.
- Ingarasi, P., & Suwigno, N. P. (2022). The Benefits of Registered Trademark for MSME Actors in Surakarta City: A Case Study of IPR Protection. *SIGn Jurnal Hukum*, 4(2), 233-246.
- Jaman, U. B. (2024). Empowering MSMEs: Unravelling the Essence of Business Law and Brand Protection in Indonesia. *Jurnal Hukum Bisnis Bonum Commune*, 103-117.
- Khasna, S. (2024, November). Digitalization of Trademark Registration for MSMEs in Yogyakarta: Service Effectiveness and Efficiency Analysis. In *Iapa Proceedings Conference* (pp. 1078-1091).
- Millenia, P. A., & Haq, L. M. H. (2022). Strengthening the Legal Protection of Collective Trademark Ownership of Micro, Small, and Medium Enterprises (MSMEs). *Lex Journal: Kajian Hukum dan Keadilan*, 6(1), 152-170.
- Mustomi, O., Trisista, R. G. M., Haris, A., & Solehudin, R. H. (2025). Legal protection of intellectual property rights in the field of trademarks registered in Indonesia. *AMCA Journal of Community Development*, 5(1), 14-21.
- Ningsih, N. R., & Karim, M. (2025). The Effectiveness of Alternative Dispute Resolution in Trademark Protection in Indonesia: Challenges and Solutions. *Justice Voice*, 4(1), 1-12.
- Nugroho, S. A., Afianti, A. I., Indirayani, N. Q., Hutauruk, K. E., & Permatasari, T. P. (2023). Collective trademark as an alternative to shared trademark protection for micro, small and medium enterprises in Indonesia. *Diponegoro Private Law Review*, 6(1), 73-87.
- Oscar, K., & Soesatyo, B. (2025). Legal void in the first to file principle in the trademark registration system in Indonesia and its implications for trademark ownership disputes. *Asian Journal of Social and Humanities*, 3(9), 1661-1677.
- Peter Mahmud Marzuki. (2017). *Penelitian Hukum*. Prenada Media.
- Rahardjo, S. (2006). *Ilmu Hukum*. Citra Aditya Bakti.
- Samsithawrati, P. A., Dharmawan, N. K. S., Putra, M. A. P., Sawitri, D. A. D., & Hong, T. J. (2025). Trademark Registration Incentive Regulation for Small Businesses in Tourism: Human Rights and Protection Systems Comparison. *Jurnal Suara Hukum*, 7(2).
- Setiawan, P. (2025). Ideal Legal Protection Policy for Well-Known Trademark to Support Investment Climate in Indonesia. *Global Legal Review*, 5(2), 176-197.

- Simatupang, R., Siregar, H., & Simamora, S. F. (2025). Increasing Legal Awareness of MSME Entrepreneurs For Trademark Registration At Djki. *Anayasa: Journal of Legal Studies*, 2(2), 95-105.
- Sina, A. I., Nekha, A., Deswanda, C. N., & Pardomuan, J. B. (2023). Settlement of Legal Disputes Against Rights Holders of the Famous Brand" Benu" Based on the First to File Principle. *Diponegoro Private Law Review*, 6(2), 105-116.
- Sitorus, R. P., & Mulyadi, M. (2025). The Impact and Handling of Criminal Law on Trademark Counterfeiting in Medan City (Study of Medan District Court Decision No. 2152/Pid. Sus/2024/PN Mdn). *International Journal of Economic, Technology and Social Sciences (Injects)*, 6(1), 102-115.
- Sultan, R., Junus, N., & Elfrikri, N. F. (2025). Legal Protection Of MSME Trademarks As A Pillar Of Local Economic Justice. *YUDHISTIRA: Jurnal Yurisprudensi, Hukum dan Peradilan*, 3(1), 55-65.
- Usanti, T. P., Sujatmiko, A., & Kurniawan, A. (2024). Trademark Rights as Credit Collateral to Strengthen the Self-Reliance of MSMEs. *Srawung: Journal of Social Sciences and Humanities*, 12-24.
- Widarsadhika, R., Michael, T., Sihasale, G. G., Mauliddiyah, A. T., & Rahma, A. A. N. (2025). Effectiveness of Legal Protection in Preventing Intellectual Property Infringement by Micro and Small Enterprises. *J-CEKI: Jurnal Cendekia Ilmiah*, 4(4), 2071-2079.
- Winarsasi, P. A., Manullang, S. O., Setiawan, Y. A., & Al-Khalaf, A. (2023). Legal Protection of Marks in the Perspective of Property Rights Law. *Al-Mizan (e-Journal)*, 19(2), 341-362.
- Zakariya, R. (2024). Optimisation of Trademark Registration Policy for MSMEs in Indonesia. *DiH: Jurnal Ilmu Hukum*, 156-173.