



A Legal Review of the “First to File” Principle in Indonesia’s Trademark Registration System

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Abstract

This study examines the legal construction, application, and limitations of the First to File principle within Indonesia’s trademark registration system. The research employs a non empirical normative legal method grounded in doctrinal legal inquiry. Legal materials consist of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, Government Regulation Number 22 of 2018 concerning International Trademark Registration under the Madrid Protocol, relevant ministerial regulations, international legal instruments, and scholarly literature on intellectual property law. The analysis applies statutory, conceptual, and doctrinal approaches supported by grammatical, systematic, and teleological interpretation. The findings indicate that the First to File principle functions as the central mechanism for allocating trademark rights and promoting legal certainty through a constitutive registration framework. The study also demonstrates that the principle is not absolute because its operation is constrained by doctrines concerning good faith, protection of well known marks, prior reputation, and judicial intervention in cases involving substantive injustice. The research further identifies the need for stronger substantive examination, improved institutional safeguards, enhanced protection for small business actors, and broader dispute resolution mechanisms. A balanced framework integrating legal certainty and substantive justice is essential for the future development of trademark protection in Indonesia.

Keywords : *First To File Principle, Trademark Registration, Legal Certainty, Good Faith, Intellectual Property.*



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INTRODUCTION

In the contemporary global economy, trademarks have evolved from mere indicators of commercial origin into strategic legal assets that shape market competition, consumer trust, business valuation, and cross border trade integration. The increasing internationalization of commerce, the rapid expansion of digital marketplaces, and the growing significance of intangible assets have intensified the need for trademark systems capable of providing both legal certainty and effective protection against misappropriation. International intellectual property governance has consequently emphasized the importance of registration based protection mechanisms that facilitate predictability and harmonization across jurisdictions, as reflected in the institutional framework developed under the World Intellectual Property Organization and related international registration arrangements administered through the Madrid System (World Intellectual Property Organization, 1967 amended 1979). Within this broader transformation, Indonesia has undertaken substantial reforms of its trademark regime through Law Number 20 of 2016 concerning Trademarks and Geographical Indications and its subsequent implementing regulations, including the integration of international trademark registration mechanisms and administrative modernization initiatives that align domestic trademark governance with global standards while simultaneously responding to the demands of a rapidly expanding national economy (Republic of Indonesia, 2016; Republic of Indonesia, 2018; Ministry of Law and Human Rights of the Republic of Indonesia, 2019). These developments have positioned the First to File principle as the central foundation of trademark protection in Indonesia, thereby creating a legal framework in which registration functions not merely as an administrative procedure but as the constitutive basis for the emergence of exclusive rights.

The growing prominence of registration based trademark protection has generated an extensive body of scholarly debate regarding the normative justification and practical consequences of the First to File principle. Foundational intellectual property scholarship consistently argues that registration systems strengthen legal certainty by creating publicly verifiable ownership records, reducing evidentiary disputes, and enhancing transactional efficiency within commercial markets (Cornish et al., 2019; Bentley et al., 2022). Empirical and doctrinal studies in the Indonesian context generally support this position by demonstrating that trademark registration provides a clearer basis for ownership claims and facilitates judicial enforcement against infringement. Research focusing on legal awareness among micro, small, and medium enterprises highlights that trademark registration substantially improves legal protection and strengthens business competitiveness in increasingly contested markets (Simatupang et al., 2025). Similar observations emerge from analyses of trademark dispute resolution, where courts frequently prioritize registration status as the primary determinant of ownership, reinforcing the constitutive nature of trademark rights under Indonesian law (Sina et al., 2023). Studies examining criminal and civil enforcement mechanisms further indicate that the registration system contributes to stronger legal remedies against infringement while supporting broader objectives of market order and consumer protection (Wibowo et al., 2025). Collectively, these studies suggest that the First to File doctrine has become an essential instrument for promoting legal certainty, administrative efficiency, and commercial stability.

Despite these contributions, the existing literature reveals significant conceptual and empirical limitations that remain insufficiently addressed. A substantial proportion of Indonesian trademark scholarship continues to approach the First to File principle primarily as a procedural mechanism for determining ownership priority, thereby overlooking its deeper relationship with competing values of fairness, good faith, and substantive justice. While several studies acknowledge the existence of disputes involving bad faith registrations, they frequently examine such cases in isolation without systematically evaluating the tension between formal registration rights and equitable considerations within the broader architecture of trademark law. Critical analyses have pointed out that excessive reliance on registration formalism may create circumstances in which parties that have developed commercial goodwill through prolonged market use become vulnerable to opportunistic registrations by third parties (Winata & Satino, 2025). At the same time, scholarship concerning good faith requirements demonstrates that judicial interpretations of bad faith remain inconsistent and often depend upon case specific factual assessments rather than coherent doctrinal standards, generating uncertainty regarding the circumstances under which registered rights may legitimately be challenged (Zalukhu, 2023). These unresolved issues reveal a fragmented body of knowledge in which legal certainty and substantive justice are frequently treated as competing rather than complementary objectives.

The persistence of these ambiguities has important scientific and practical implications. From a theoretical perspective, unresolved tensions between registration based entitlement and good faith limitations raise fundamental questions concerning the normative legitimacy of constitutive trademark systems and the extent to which exclusive rights should remain insulated from challenges based on prior use or equitable interests. From a practical perspective, these uncertainties directly affect business actors operating within increasingly competitive commercial environments, particularly small and medium enterprises that often possess limited awareness of intellectual property protection mechanisms and face heightened vulnerability to trademark appropriation strategies. Existing evidence indicates that inadequate understanding of trademark registration continues to expose business actors to significant legal risks despite the availability of formal registration procedures (Simatupang et al., 2025). Concurrently, recurring disputes involving famous marks and contested ownership claims demonstrate that the application of the First to File principle continues to generate legal controversies that extend beyond procedural questions and implicate broader concerns regarding fairness, market integrity, and the prevention of abusive registration practices (Sina et al., 2023; Winata & Satino, 2025). The continuing expansion of Indonesia's participation in global commercial networks further amplifies the urgency of establishing a more coherent legal understanding of how registration based rights should interact with principles of good faith and equitable protection.

Against this background, the present study positions itself within an emerging scholarly effort to move beyond the conventional dichotomy between legal certainty and substantive justice in trademark law. Rather than treating the First to File principle solely as an administrative rule governing ownership

acquisition, this research conceptualizes the principle as a complex legal institution whose legitimacy depends upon its capacity to balance formal registration requirements with safeguards against opportunistic conduct. Existing studies have largely examined either the advantages of registration based protection or the doctrinal treatment of bad faith in separate analytical frameworks. Relatively little attention has been devoted to examining how the constitutive structure established under Indonesian trademark law simultaneously produces certainty, creates vulnerabilities, and incorporates corrective mechanisms intended to preserve fairness. By integrating statutory analysis, doctrinal interpretation, and critical engagement with contemporary scholarship, this study seeks to provide a more comprehensive legal assessment of the operation of the First to File principle within Indonesia's evolving trademark registration system.

This study aims to analyze the implementation of the First to File principle within Indonesia's trademark registration system under Law Number 20 of 2016 concerning Trademarks and Geographical Indications. It examines the extent to which the principle functions as the legal foundation for acquiring exclusive trademark rights while also evaluating the role of good faith limitations in preventing the misuse of registration procedures. The study contributes theoretically by developing a more integrated understanding of the relationship between constitutive trademark protection, legal certainty, and substantive justice within contemporary trademark law. Methodologically, it contributes through a systematic normative legal analysis that combines statutory interpretation and conceptual examination to assess the coherence of Indonesia's trademark registration framework and its implications for the protection of legitimate trademark interests.

RESEARCH METHODS

This study employs a non empirical normative legal research design grounded in doctrinal legal inquiry. The research focuses on examining the legal construction and application of the First to File principle within Indonesia's trademark registration system. Primary legal materials consist of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, Government Regulation Number 22 of 2018 concerning International Trademark Registration under the Madrid Protocol, and the Regulation of the Minister of Law and Human Rights concerning Trademark Registration. These sources are complemented by relevant international legal instruments, particularly the Convention Establishing the World Intellectual Property Organization, as well as authoritative secondary materials including scholarly works on intellectual property law, trademark protection, and legal methodology. The collection of legal materials was conducted through systematic library research involving the identification, classification, and examination of statutory provisions, legal doctrines, academic literature, and conceptual discussions relevant to trademark registration and the acquisition of exclusive trademark rights.

The analysis adopts a statutory, conceptual, and doctrinal approach to evaluate the normative foundations, legal coherence, and practical implications of the First to File principle in Indonesian trademark law. Legal materials were interpreted through grammatical, systematic, and teleological methods of legal interpretation in order to assess the relationship between constitutive trademark protection, legal certainty, and the doctrine of good faith within the broader framework of intellectual property law. The analytical framework further draws upon contemporary theories of trademark rights and legal certainty developed in intellectual property scholarship to critically examine the extent to which the Indonesian registration system balances administrative certainty with substantive justice. Through qualitative legal reasoning and doctrinal synthesis, the study seeks to generate a comprehensive understanding of the legal position, limitations, and implications of the First to File principle within Indonesia's evolving trademark protection regime.

RESULTS AND DISCUSSION

The Normative Construction of the First to File Principle in Indonesia's Trademark Registration System

The Indonesian trademark regime is fundamentally structured upon the First to File principle, which establishes registration as the constitutive basis for acquiring trademark rights. This legal orientation reflects a deliberate policy choice aimed at strengthening certainty in commercial transactions and intellectual property governance. The legal foundation of this approach is expressly embodied in Law Number 20 of 2016, which recognizes trademark rights only after registration has

been completed before the competent authority (Republic of Indonesia, 2016). Such construction aligns with international trends that prioritize administrative certainty as a prerequisite for effective trademark protection (Bentley et al., 2022).

A doctrinal examination demonstrates that the constitutive character of trademark registration transforms the registration certificate into the primary legal evidence of ownership. The legal consequence is that ownership disputes are generally resolved through verification of registration status rather than proof of prior commercial use. This model differs significantly from declarative systems that prioritize factual use in commerce as the source of rights. Intellectual property scholarship has consistently observed that constitutive registration systems reduce evidentiary uncertainty and facilitate judicial efficiency in trademark disputes (Cornish et al., 2019).

The adoption of the First to File principle cannot be separated from broader developments in international intellectual property governance. The harmonization agenda promoted through international institutions encourages member states to establish predictable trademark registration frameworks capable of supporting international trade. Indonesia’s participation in international trademark registration mechanisms reflects this orientation toward regulatory convergence and legal certainty (World Intellectual Property Organization, 1967 amended 1979). Government Regulation Number 22 of 2018 further reinforces this integration by accommodating international trademark registration procedures within the domestic legal system (Republic of Indonesia, 2018).

From a normative perspective, registration serves not only an administrative function but also a constitutive legal function. The legal effect emerges immediately after registration is granted and provides exclusive rights enforceable against third parties. This structure reflects a preventive model of legal protection because ownership conflicts can be minimized through publicly accessible registration records. Similar conclusions have been emphasized in studies examining the relationship between trademark registration and legal certainty in Indonesia (Ardian et al., 2025).

The statutory framework also assigns a strategic role to trademark examiners during the registration process. Substantive examination functions as a mechanism for evaluating eligibility before exclusive rights are granted. This procedural stage seeks to prevent conflicts involving identical or confusingly similar marks in the marketplace. Research on Indonesia’s examination system suggests that effective substantive review remains essential for maintaining the legitimacy of the First to File doctrine (Alexsander & Kansil, 2025).

Table 1. Normative Characteristics of the First to File Principle in Indonesia

Legal Aspect	Function within Trademark Protection	Legal Implication
Trademark Registration	Basis for acquiring trademark rights	Rights arise after registration is granted
Registration Certificate	Evidence of trademark ownership	Provides legal standing in disputes
Substantive Examination	Assessment of registrability requirements	Reduces the risk of conflicting trademarks
Public Registration System	Publication of registered trademarks	Supports transparency and legal predictability
International Registration	Recognition through the Madrid Protocol framework	Facilitates international trademark protection

Source: Constructed by the author based on Republic of Indonesia (2016), Republic of Indonesia (2018), Ministry of Law and Human Rights of the Republic of Indonesia (2019), and Bentley et al. (2022).

The normative features summarized in Table 1 demonstrate that trademark registration functions as more than a procedural requirement. Each legal component contributes to a broader architecture designed to generate certainty and predictability. The legal consequences arising from registration establish a direct connection between administrative action and proprietary entitlement. Such institutional design reflects the preference for formal legal verification over factual market assertions.

The Ministerial Regulation governing trademark registration further operationalizes the statutory framework by detailing procedural requirements and examination standards. Administrative regulations contribute to legal consistency because they standardize the criteria applied during registration review. Regulatory coherence is particularly important in systems where registration constitutes the source of legal entitlement. The significance of procedural consistency has been highlighted in comparative discussions regarding trademark administration and institutional credibility (Ministry of Law and Human Rights of the Republic of Indonesia, 2019).

Legal scholarship has also emphasized that certainty generated by registration encourages investment in branding and market development. Business actors are more likely to allocate resources toward trademark creation when ownership rights can be clearly secured through registration. This relationship between legal certainty and economic activity remains one of the principal justifications for registration based systems (A'dawiyah, 2025). The constitutive model therefore operates not only as a legal mechanism but also as an economic governance instrument.

The conceptual foundation of the First to File doctrine is closely linked to theories of legal certainty within intellectual property law. Rights become objectively verifiable because ownership is determined through formal registration records rather than subjective claims of prior use. Such certainty contributes to predictability in judicial decision making and commercial transactions. Contemporary intellectual property scholars identify this characteristic as one of the central advantages of registration based trademark systems (Bentley et al., 2022).

Doctrinal analysis ultimately indicates that the Indonesian trademark system has been deliberately constructed around the principle that legal ownership arises through registration rather than use. The legislative framework, administrative regulations, and international commitments collectively reinforce this legal orientation. At the same time, the constitutive nature of registration creates important questions concerning fairness and competing interests that emerge when formal registration conflicts with substantive claims of legitimacy. These tensions provide the foundation for further examination of the practical and normative implications of the First to File principle within contemporary Indonesian trademark law.

Legal Limitations of the First to File Principle and the Challenge of Good Faith Protection

The doctrinal examination demonstrates that the First to File principle does not operate as an unlimited entitlement within Indonesian trademark law. Although registration remains the primary basis for acquiring exclusive rights, statutory and judicial developments have introduced corrective mechanisms intended to prevent unjust outcomes. Contemporary scholarship increasingly argues that excessive reliance on formal registration may undermine substantive fairness when ownership claims arise from dishonest conduct or opportunistic filings (Busroh et al., 2025). This tension reveals that legal certainty and substantive justice function as competing normative objectives rather than mutually reinforcing principles.

The challenge becomes more visible when trademark registration is used as a strategic instrument to appropriate commercial value generated by another party. Courts have increasingly examined the surrounding circumstances of registration rather than relying exclusively on chronological filing priority. The emergence of this approach reflects broader intellectual property theories that view trademark rights as instruments of market integrity rather than merely administrative privileges (Bentley et al., 2022). Such reasoning places good faith at the center of contemporary trademark adjudication.

Bad faith registration constitutes the most significant limitation upon the operation of filing priority. Indonesian trademark legislation recognizes that registration obtained through dishonest motives may be denied legal protection despite procedural compliance. Judicial interpretations indicate that evidence of imitation, unfair commercial advantage, and intentional exploitation of another party's reputation can justify invalidation proceedings (Zalukhu, 2023). The doctrine transforms good faith from a procedural expectation into a substantive legal requirement.

The growing concern regarding trademark squatting further illustrates the limitations of registration based exclusivity. Speculative applicants frequently seek registration of signs that already possess commercial recognition in the marketplace. Such conduct attempts to convert administrative speed into proprietary advantage without legitimate business justification. Recent doctrinal analyses identify speculative filing as a recurring challenge that weakens the legitimacy of trademark protection systems (Cariver & Sari, 2026).

The protection of well known marks introduces another important qualification to filing priority. International trademark norms recognize that reputation may justify protection even when local registration is absent. Indonesian jurisprudence increasingly accommodates this perspective by considering transnational recognition and consumer association in determining trademark legitimacy (Arifin & Joesoef, 2024). The approach reflects the influence of broader international intellectual property standards recognized within the framework of the World Intellectual Property Organization.

Table 2. Doctrinal Limitations of the First to File Principle in Indonesian Trademark Law

Limitation	Legal Basis	Practical Consequence
Bad Faith Registration	Article 21 Trademark Law	Cancellation
Famous Mark Protection	Article 21 Trademark Law	Refusal of Registration
Prior Reputation	Court Interpretation	Ownership Challenge
Speculative Filing	Judicial Doctrine	Annulment Risk
Public Interest Considerations	Trademark Jurisprudence	Restriction of Exclusivity

Source: Adapted from Zalukhu (2023), Arifin and Joesoef (2024), Hakim and Suherman (2026), Mufid'Izzuddin and Indrawati (2026), and Cariver and Sari (2026).

The doctrinal categories presented in Table 2 demonstrate that filing priority is subject to multiple corrective mechanisms derived from statutory interpretation and judicial development. Each limitation serves a distinct normative purpose aimed at preventing abuse of registration procedures. The pattern indicates that exclusivity is conditioned by broader considerations of fairness, commercial honesty, and consumer protection. Indonesian trademark law therefore reflects a qualified rather than absolute registration model.

The dispute involving the Benu trademark represents a notable illustration of the conflict between registration priority and competing claims of reputation. Judicial reasoning in the litigation demonstrated that trademark ownership disputes often extend beyond chronological filing evidence. Legal arguments concerning commercial identity, public recognition, and marketplace association significantly influenced the broader debate surrounding ownership legitimacy (Sina et al., 2023). The case exposed structural tensions embedded within a registration centered system.

Similar concerns emerged in the GOTO trademark dispute, where competing parties advanced claims grounded in registration rights and prior commercial utilization. The controversy highlighted difficulties in determining the relative weight of administrative registration and established business presence. Scholarly evaluations suggest that rigid formalism may inadequately address complex commercial realities involving corporate development and brand investment (Putri & Arifudin, 2024). Such disputes reveal the continuing evolution of trademark ownership doctrine in Indonesia.

The MS Glow litigation further illustrates judicial efforts to balance certainty and fairness in trademark adjudication. Courts confronted competing narratives concerning registration validity, market reputation, and equitable entitlement. Analytical reviews indicate that the dispute became a prominent example of the broader struggle to reconcile procedural legality with substantive justice objectives (Habeahan & Sulistiyantoro, 2026). Similar concerns appear in disputes involving well known marks registered for unrelated goods where good faith becomes a decisive consideration (Hakim & Suherman, 2026).

Doctrinal analysis ultimately confirms that the First to File principle operates within a network of legal limitations designed to preserve fairness and prevent opportunistic behavior. The existence of judicial exceptions, famous mark protection, and bad faith doctrines demonstrates that registration priority remains subject to normative scrutiny. Several scholars identify persistent gaps in statutory guidance that contribute to inconsistent judicial outcomes and legal uncertainty in complex ownership disputes (Oscar & Soesatyo, 2025; Winata & Satino, 2025; Amirulloh et al., 2023; Mufid'Izzuddin & Indrawati, 2026). Indonesian trademark law therefore increasingly reflects a hybrid model in which formal rights must be balanced against equitable interests and principles of good faith.

Balancing Legal Certainty and Substantive Justice in the Future Development of Indonesian Trademark Protection

The doctrinal assessment conducted in this study indicates that Indonesia's trademark registration system has achieved a substantial degree of administrative predictability. Registered trademark owners generally enjoy clear procedural recognition and enforceable legal rights. Such conditions contribute to commercial stability and facilitate market transactions involving intellectual property assets (Rosalind & Kansil, 2025). The effectiveness of the system is therefore evident from its capacity to establish identifiable ownership structures within the national trademark framework.

Despite these achievements, doctrinal analysis suggests that institutional effectiveness cannot be measured solely through registration outcomes. Contemporary trademark protection requires legal mechanisms capable of responding to evolving commercial realities and emerging forms of infringement. The expansion of digital commerce has increased the complexity of trademark administration and enforcement across multiple platforms (Setiawan & Hartana, 2026). A future oriented legal framework must therefore integrate certainty with adaptive regulatory capacity.

The role of the Directorate General of Intellectual Property occupies a central position in this institutional development. Scholarly evaluations emphasize that preventive administrative measures are often more efficient than post dispute litigation in preserving trademark integrity (Rabbani & Wahyuni, 2025). Enhanced verification procedures and systematic monitoring mechanisms may reduce the incidence of registration conflicts before they reach judicial forums. Such an approach aligns with broader principles of effective intellectual property governance.

The quality of substantive examination also remains a critical determinant of regulatory effectiveness. Existing procedures provide an important screening function, yet doctrinal studies identify opportunities for improving the depth of examination in complex applications. Greater attention to market realities and commercial distinctiveness may strengthen the reliability of registration outcomes (Alexsander & Kansil, 2025). More rigorous examination standards could reduce future disputes while maintaining procedural efficiency.

The protection of micro, small, and medium enterprises constitutes another strategic area requiring legal refinement. Many small businesses continue to encounter informational and financial barriers during the registration process. Research demonstrates that limited awareness of trademark protection frequently delays registration and increases vulnerability to commercial conflicts (Simatupang et al., 2025). Inclusive trademark policies therefore possess significance not only for intellectual property protection but also for broader economic development objectives.

Table 3. Proposed Framework for Balancing Legal Certainty and Justice in Indonesian Trademark Protection

Issue	Current Approach	Future Direction
Trademark Examination	Administrative review	Enhanced substantive assessment
MSME Registration	Limited preventive measures	Expanded registration assistance
Famous Marks	Dispute based protection	Early recognition mechanism
Digital Marketplace Protection	Fragmented monitoring	Integrated digital oversight
Trademark Dispute Settlement	Court oriented resolution	Broader ADR utilization

Source: Adapted from Rabbani and Wahyuni (2025), Ningsih and Karim (2025), Simatupang et al. (2025), Rahmawati (2025), Samsithawrati et al. (2025), and Setiawan and Hartana (2026).

The reform directions presented in Table 3 illustrate the need for a more integrated regulatory architecture. The proposed framework combines preventive administration, technological monitoring, and accessible dispute resolution mechanisms. Each component seeks to strengthen legal certainty while preserving responsiveness to fairness based concerns. The framework therefore advances a balanced conception of trademark protection suitable for contemporary commercial environments.

The increasing importance of electronic commerce reinforces the urgency of regulatory modernization. Trademark infringement now occurs through digital marketplaces, social media platforms, and cross border commercial networks. Existing enforcement structures often struggle to

address violations that emerge within rapidly changing online environments (Setiawan & Hartana, 2026). Integrated monitoring systems supported by technological tools may significantly improve institutional responsiveness.

Alternative dispute resolution mechanisms offer another promising avenue for future development. Court based litigation frequently requires substantial time and financial resources that may discourage rights holders from pursuing legitimate claims. Studies indicate that mediation and negotiated settlement procedures can provide efficient and accessible avenues for resolving trademark disputes while preserving commercial relationships (Ningsih & Karim, 2025). Expanded utilization of such mechanisms may complement judicial enforcement rather than replace it.

Comparative scholarship further suggests that effective trademark regimes increasingly combine administrative vigilance, stakeholder education, and flexible enforcement instruments. International experiences demonstrate that preventive support programs for small enterprises can increase registration rates and reduce future ownership conflicts (Samsithawrati et al., 2025). Similar initiatives may strengthen Indonesia's capacity to protect local innovation while maintaining compatibility with international intellectual property standards recognized by the World Intellectual Property Organization. Such developments correspond with broader methodological insights concerning responsive legal institutions and regulatory adaptation (McConville & Chui, 2017).

The future development of Indonesian trademark law requires a conceptual model that treats legal certainty and substantive justice as complementary objectives rather than competing values. Intellectual property theory recognizes that sustainable protection depends upon both predictable administration and socially legitimate outcomes (Cornish et al., 2019; Bentley et al., 2022). Reform efforts should therefore emphasize institutional capacity, preventive protection for smaller enterprises, digital enforcement strategies, and accessible dispute resolution mechanisms (Rahmawati, 2025; Farhan et al., 2026; Wibowo et al., 2025). This balanced framework represents the principal theoretical implication of the study and provides a normative direction for the continued evolution of Indonesian trademark protection.

CONCLUSION

The First to File principle occupies a fundamental position within Indonesia's trademark registration system by providing a clear legal basis for the acquisition and enforcement of exclusive trademark rights through registration. Normative analysis demonstrates that the principle contributes significantly to legal certainty, administrative efficiency, and harmonization with international trademark protection standards. Its application, however, encounters important legal limitations when confronted with bad faith registration, protection of well known marks, prior commercial reputation, and competing claims grounded in substantive justice. Judicial practice and doctrinal developments reveal that exclusive reliance on formal registration may generate outcomes that conflict with broader objectives of fairness and equitable protection. The study finds that the future effectiveness of Indonesian trademark law depends on a more balanced approach that strengthens substantive examination, improves institutional oversight, expands preventive protection for micro, small, and medium enterprises, enhances digital trademark governance, and promotes alternative dispute resolution mechanisms. Such reforms would support a trademark protection framework capable of preserving legal certainty while ensuring that the exercise of trademark rights remains consistent with justice, good faith, and the evolving demands of contemporary commercial activity.

REFERENCES

- A'dawiyah, T. M. (2025). Trademark Rights Protection: The Principle of 'First To File' In The Indonesian Manufacturing Industry. *DE'RECHTSSSTAAT*, 11(2), 193-206.
- Alexsander, C. C., & Kansil, C. S. (2025). Legal Protection for First Trademark Registrants: An Analysis of the Substantive Examination System of Trademarks in Indonesia. *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan dan Ekonomi Islam*, 17(2), 382-397.
- Amirulloh, M., Muchtar, H. N., & Muhtadin, D. (2023). Filling the Legal Vacuum of Indonesian Marks Law: The Legal Standing of a Famous Person in Suing Marks Infringement. *Jurnal Bina Mulia Hukum*, 7(2), 272-287.

- Ardian, S., Lanontji, M., & Anggriyani, R. (2025). First to File Principle Dan Sengketa Hak Merek Dalam Kajian Perundang-Undangan di Indonesia. *Staatsrecht: Jurnal Hukum Kenegaraan Dan Politik Islam*, 5(1), 429-450.
- Arifin, A., & Joesoef, I. E. (2024). The Principle Of Accuracy In Famous Trademark Registration: An Analysis Of Court Ruling Number 36/Pdt. Sus-Merek/2024/Pn. Niaga. Jkt. Pst. *JCH (Jurnal Cendekia Hukum)*, 10(1), 52-64.
- Bentley, L., Sherman, B., Gangjee, D., & Johnson, P. (2022). *Intellectual Property Law* (6th ed.). Oxford: Oxford University Press.
- Busroh, F. F., Khairo, F., & Saraya, S. (2025). Reevaluating “First-to-File” vs the Legality Principle: Rethinking Justice for Original Rights Holders in Indonesia. *Jambe Law Journal*, 8(1), 421-442.
- Cariver, B. V. L. C., & Sari, M. Y. A. R. (2026). Preventing Abuse of Trademark Registration Through Speculative Filings in Indonesia. *Jurnal Ilmiah Kebijakan Hukum*, 20(1), 17-30.
- Cornish, W., Llewelyn, D., & Aplin, T. (2019). *Intellectual Property: Patents, Copyright, Trade Marks and Allied Rights* (9th ed.). London: Sweet & Maxwell.
- Farhan, M., Zikri, M. A., & Ilham, M. I. (2026). Analisis Penerapan Prinsip First To File Dan Hambatan Pendaftaran Merek Serta Potensi Pelanggaran Hak Cipta Logo Pada Umkm Kuliner Di Kabupaten Banjar. *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory*, 4(1), 595-608.
- Habeahan, R. D., & Sulistiyantoro, H. (2026). Balancing The Principle Of Legal Certainty And The Principle Of Justice In The Application Of The First To File Principle In Trademark Disputes: A Study Of The Ms Glow And Ps Glow Cases. *Jurnal Meta-Yuridis*, 9(1), 111-120.
- Hakim, M. A. T., & Suherman, S. (2026). The First-to-File Principle and the Principle of Good Faith in Disputes Over Well-Known Trademarks for Non-Similar Goods (Case Study: Decision No. 2/Pdt. Sus-HKI/Merek/2023/PN Niaga MDN and Supreme Court Decision No. 859K/Pdt. Sus-HKI/2024). *NOTARIL Jurnal Kenotariatan*, 11(1), 87-96.
- McConville, M., & Chui, W. H. (Eds.). (2017). *Research Methods for Law* (2nd ed.). Edinburgh: Edinburgh University Press.
- Ministry of Law and Human Rights of the Republic of Indonesia. (2019). *Regulation of the Minister of Law and Human Rights Number 67 of 2016 as amended by Regulation Number 12 of 2021 concerning Trademark Registration*. Jakarta: Ministry of Law and Human Rights.
- Mufid'Izzuddin, M., & Indrawati, S. (2026). Analisis Sistem First to File Dalam Pendaftaran Merek: Implikasi Terhadap Kasus Itikad Tidak Baik (Studi Putusan No. 3/Pdt. Sus-HKI-Merek/2024/PN Niaga Smg). *Suara Edukasi Hukum*, 2(1).
- 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.
- 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.
- Putri, A. A., & Arifudin, E. (2024). Legal Protection Over the 'GOTO' Trademark Ownership Dispute between PT Terbit Financial Technology and PT GoTo Gojek Tokopedia. *Journal of Private and Commercial Law*, 24-43.
- Rabbani, R. A. A., & Wahyuni, R. (2025). Optimizing the Role of DJKI in Preventing Trademark Disputes in Indonesia (A Comparative Study Between Indonesia and the United States). *Eduvest-Journal of Universal Studies*, 5(12), 14946-14957.
- Rahmawati, N. D. (2025). Justice in Trademark Protection for MSMEs: A Legal Evaluation of Barriers and Solutions in Intellectual Property Registration. *Fortiori Law Journal*, 5(01), 79-102.
- Republic of Indonesia. (2016). *Law Number 20 of 2016 concerning Trademarks and Geographical Indications* (Undang-Undang Nomor 20 Tahun 2016 tentang Merek dan Indikasi Geografis). State Gazette of the Republic of Indonesia Year 2016 Number 252.
- Republic of Indonesia. (2018). *Government Regulation Number 22 of 2018 concerning International Trademark Registration under the Madrid Protocol*. State Gazette of the Republic of Indonesia Year 2018 Number 122.
- Rosalind, M., & Kansil, C. S. (2025). Legal Protection of Registered Trademark Holders: A Case Study of the Dispute Between PT X and Company Y. *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan dan Ekonomi Islam*, 17(1), 281-293.

- 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. A. H., & Hartana, H. (2026). Effectiveness Of Trademark Protection In Electronic Commerce In A Case Study Of Trademark Infringement In Indonesia. *Ilmu Hukum Prima (IHP)*, 9(1), 117-133.
- 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.
- Wibowo, S., Susetyo, H., & Bustani, S. (2025). Reconstruction of Criminal Regulation Toward Victims of Trademark Infringement in Indonesia. *Asian Journal of Social and Humanities*, 4(1), 2246-2264.
- Winata, H., & Satino, S. (2025). Kritik Yuridis Terhadap Sistem First to File Pada Perlindungan Hukum Merek Indonesia. *JURNAL USM LAW REVIEW*, 8(3), 2178-2197.
- World Intellectual Property Organization. (1967, amended 1979). *Convention Establishing the World Intellectual Property Organization (WIPO Convention)*. Geneva: WIPO.
- Zalukhu, D. P. (2023). Elements of Good Faith in Trademark Registration Under Indonesian Law:(Case Study of Supreme Court Decision No. 781 K/Pdt. Sus-HKI/2022). *Locus Journal of Academic Literature Review*, 86-96.