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A R TICLE

# Seeking Alternative of Trademark Cancellation in Indonesia: From Trademark Law to Religious Ethical Corporative Theory

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## Abstract

***Background:*** Trademark disputes in Indonesia often arise due to similarity in principle (persamaan pada pokoknya) and bad faith registration, as regulated under Law No. 20 of 2016 on Trademarks and Geographical Indications. However, Indonesia's legal framework lacks clarity in protecting famous marks, preventing dilution, and ensuring procedural fairness in cancellation cases. A comparative analysis with Germany's Markengesetz (Trademark Act) and an ethical assessment through Religious ethical Corporative Theory reveal critical gaps in Indonesia's approach

***Purpose:*** This study aims to analyze the legal, economic, and ethical implications of trademark cancellation in Indonesia, comparing its framework with Germany's trademark system while incorporating Islamic corporate responsibility principles

***Methods:*** The research employs normative legal analysis, integrating statutory interpretation, comparative legal research, and doctrinal analysis. Primary sources include Indonesian and German trademark laws, while secondary sources consist of journal articles, case law, and intellectual property treaties. The study also applies Religious ethical Corporative Theory to examine the moral and reputational consequences of bad faith trademark practices.

***Results:*** The study finds that Indonesia's trademark cancellation system lacks procedural safeguards, particularly in protecting famous marks against dilution and bad faith registration. Unlike Germany's Markengesetz, which establishes strict criteria for likelihood of confusion and dilution, Indonesia's legal provisions remain vague, leading to inconsistent enforcement and potential legal exploitation by multinational corporations. Additionally, from an Islamic corporate ethics perspective, bad faith trademark registration is not only a legal violation but also a breach of business accountability (*Mas'uliyyah* tijariyyah), warranting both legal and ethical remedies.

***Implication:*** This study provides three key contributions: (1) A comparative legal analysis demonstrating the need for stronger trademark protection mechanisms in Indonesia; (2) Integration of Islamic corporate ethics, highlighting moral accountability beyond legal compliance; and (3) Policy recommendations, urging Indonesia to adopt clearer evidentiary standards, align with international trademark regimes, and implement ethical accountability frameworks. By bridging legal, economic, and ethical perspectives, this study offers a novel framework for analyzing trademark disputes in emerging markets.

***Originality:*** Integration of Islamic corporate ethics, highlighting moral accountability beyond legal compliance

## INTRODUCTION

The swift progression of technology has resulted in substantial developments and inventions that necessitate adequate legal safeguarding under Intellectual Property Rights (IPR). Among the various forms of intellectual property rights, trademarks are particularly significant as they serve to differentiate goods or services in the marketplace, thereby safeguarding economic interests (Saputra et al., 2021). In Indonesia, trademarks are regulated under Law No. 20 of 2016 regarding Trademarks and Geographical Indications, which adopts a "first-to-file" registration principle. Trademark protection transcends economic and legal considerations; it also encompasses ethical obligations as outlined in Religious ethical Corporative Theory (Silva Junior et al., 2023). This theory posits that safeguarding trademarks constitutes an act of corporate ethical accountability (*Mas'uliyyah* tijariyyah), highlighting principles of fairness (*al-'adalah*), honesty (*al-sidq*), and trustworthiness (*al-amanah*). Consequently, enterprises possess an ethical duty to honor competitors' trademarks and abstain from malicious registrations. Harmonizing trademark law with Islamic ethical standards fosters a more equitable and reliable commercial environment.

The trademark registration process in Indonesia includes provisions to contest registrations filed in bad faith or those that closely resemble renowned trademarks. Indonesian trademark law clearly delineates cancellation grounds but fails to align with broader international trademark protection systems, especially in the EU and Germany. Globally, safeguarding renowned trademarks is vital to the economies of significant regions like Germany and the EU, where strong legal principles such as Dilution and the Double Identity Rule have been instituted (Tisza, 2020). These doctrines establish thorough legal criteria for recognizing and rectifying trademark infringements that compromise brand integrity. Conversely, Indonesia's primarily procedural methodology may greatly benefit from integrating these comparative legal insights to harmonize its system with international standards. This integration will mitigate escalating worries regarding the susceptibility of global trademarks in emerging regions, such as Indonesia, while enhancing international collaboration on trademark protection. Thus, situating trademark cancellation cases within the context of international comparative law will augment both theoretical precision and practical efficacy.

Moreover, the intentional registration of trademarks resembling renowned brands is both a legal violation and a corporate treachery, referred to as *khianat tijariyyah* within the framework of Religious ethical Corporative Theory. This approach perceives bad-faith registrations as violations of trust (amanah), undermining the integrity of market operations (Kareem et al., 2025). Consequently, trademark cancellation should be viewed not solely as punitive but as a remedial action intended to restore ethical integrity within commercial environments. Notwithstanding its practical importance, the existing academic discussion on trademark protection in Indonesia is predominantly procedural and lacks significant theoretical depth. Critical viewpoints, including those from Critical Legal Studies (CLS), the economic ramifications of enforcement, and the dynamics of power relations in trademark conflicts, are conspicuously lacking(Ali Safa'at & Istiqomah, 2022). This paper addresses the gap by integrating worldwide comparative views with Islamic ethical frameworks to critically analyze the legal and moral aspects of trademark cancellation. This methodology offers novel theoretical and analytical insights into the current body of work on trademark law.

Prior research on trademark cancellation has primarily concentrated on procedural elements, highlighting legal adherence and enforcement within national systems. Academics often investigate trademark cancellation via a strictly legal lens, including statutory mandates, judicial interpretations, and administrative protocols. Nonetheless, there is a significant lack of study that combines trademark law with overarching ethical frameworks, especially in relation to Islamic commercial ethics and comparative international doctrines. This disparity underscores the need for a more thorough analytical framework that integrates procedural legal analysis with the ethical responsibility norms derived from Religious ethical Corporative Theory. Moreover, the current research is deficient in comparative analyses between Indonesian practices and recognized principles such as the Dilution Doctrine and Double Identity Rule in EU and German trademark law. This paper presents a new perspective by rigorously analyzing trademark cancellation via the framework of Islamic ethical theory and international comparative law. This integrated analytical approach symbolizes the originality of this research, offering both theoretical insight and practical direction for harmonizing Indonesian trademark law with international standards.

## LITERATURE REVIEW

### *1. Theory of Corporate Shariah Responsibility*

The Religious ethical Corporative Theory is a paradigm in Islamic business ethics that underscores corporate accountability beyond mere legal adherence. It is based on Sharia principles of equity (*al-'adalah*), integrity (*al-sidq*), and reliability (*al-amanah*), guaranteeing that enterprises conduct themselves ethically in commercial dealings (Ramachandran, 2024). This argument asserts that firms has a moral responsibility (*Mas'uliyyah* ijtima'iyyah) to maintain integrity in their economic transactions, especially in safeguarding intellectual property rights. According to this idea, trademark registration and cancellation must adhere to legal requirements while also embodying ethical considerations of market fairness (Abdul-Rahim, 2019). Razak et al. (2021) argued that Intentional replication of renowned trademarks is regarded as a violation of ethical duty, infringing upon the principle of *khianat tijariyyah* (commercial betrayal). The enforcement of trademark law in Indonesia can be assessed not only from a legal perspective but also on its capacity to maintain corporate ethics. This approach positions trademark cancellation owing to similarity as a legal instrument and an ethical protection against unfair competition.

Numerous prior studies have examined the convergence of Islamic commercial law and corporate responsibility in the realm of intellectual property protection. Alnori (2023) examined the influence of Religious ethical principles on ethical branding and the mitigation of deceptive trademarks in Malaysian marketplaces. Oseni et al. (2019) similarly discovered that Islamic ethical business principles enhance transparency in trademark registration and dispute settlement. Nonetheless, previous research has not directly linked Religious ethical Corporative Theory to trademark cancellation resulting from similarities in Indonesia. Most study has concentrated on ethical branding, contractual equity, and anti-fraud measures, although it has not directly addressed the process of legal cancellation (Anas et al., 2016). This study aims to address the gap by investigating how Islamic corporate responsibility concepts can improve the legal enforcement of trademark disputes. Although prior research has examined Sharia-compliant business governance, it has not investigated the ways in which fraudulent registrations contravene Islamic ethical principles.

In the Indonesian legal framework, the Religious ethical Corporative Theory is notably pertinent owing to the growing prevalence of Sharia-compliant corporate rules (Naro et al., 2020). The Indonesian trademark system, regulated by Law No. 20 of 2016, adheres to a first-to-file approach, emphasizing official registration rather than first use (Sofian Al Hakim, 2019). From an Islamic perspective, the principle of first-to-use may more effectively correspond with equity and trust in commercial practices, especially for prominent brands (Hasim et al., 2019). This argument questions the adequacy of Indonesia's existing legal framework in preventing bad-faith trademark registrations. Some Indonesian enterprises register globally known trademarks to obtain unfair commercial advantages, so contravening the Sharia tenet of amanah (trustworthiness) (Edo Segara Gustanto, 2022). Incorporating Islamic corporate responsibility into trademark law could enhance the enforcement of business ethics and deter unjust brand exploitation.

Nevertheless, the Religious ethical Corporative Theory exhibits specific limitations in its application to trademark law. This approach emphasizes moral accountability over rigid legal enforcement, in contrast to Western intellectual property conceptions (Ramachandran, 2024). Certain critics contend that Islamic ethical theories lack general applicability in secular legal systems, rendering them challenging to implement at the policy level (Ahmad, 2019). Furthermore, there exists a paucity of empirical studies linking Islamic corporate ethics to trademark revocation procedures (Wulandari & Jati, 2023). This study examines whether ethical business responsibility should impact legal frameworks for trademark revocation. The Religious ethical framework offers a moral basis for equitable competition, however its legal relevance in Indonesian trademark law is insufficiently examined.

This paper presents a novel viewpoint on trademark cancellation cases in Indonesia by integrating Religious ethical Corporative Theory. This study incorporates ethical factors to evaluate the fairness of first-to-file trademark restrictions, in contrast to prior research that exclusively examines legal provisions. Furthermore, it analyzes how corporate ethics can enhance legal enforcement, ensuring that trademark cancellations correspond with ethical obligations (Mohd Zain et al., 2025). This methodology enhances broader dialogues regarding Sharia-compliant intellectual property regimes, especially in Muslim-majority nations striving to reconcile legal and ethical responsibilities. This viewpoint underscores that trademark disputes encompass not just legal matters but also ethical quandaries within the commercial domain. This synthesis enhances the research's originality by including Sharia business ethics into the legal examination of trademark protection.

### 2. *Critical Legal Studies (CLS) Theory*

The Critical Legal Studies (CLS) Theory interrogates conventional legal paradigms by examining the impact of power dynamics on the formulation and implementation of laws. Emerging in the late 20th century, Critical Legal Studies (CLS) researchers contend that legislation is not impartial but rather mirrors the interests of prevailing economic and political powers (Carpenter & Singh, 2023). Within the realm of intellectual property (IP) law, CLS analyzes the manner in which trademark restrictions advance corporate interests while frequently disadvantaging smaller enterprises and marginalized communities (Moyn, 2023). The first-to-file trademark system in Indonesia exacerbates market disparities by privileging those with financial and institutional resources for registration processes (Unger, 1983). According to CLS theory, trademark cancellation based on similarity should encompass not just a legal procedure but also an analysis of the power dynamics between corporations and small enterprises (Ash-shidiqqi, 2021). This paper critically evaluates the application of CLS to trademark cancellation proceedings in Indonesia to see if the system genuinely administers justice or simply perpetuates economic hegemony. The emphasis is on both procedural fairness and the influence of intellectual property rules on economic stratification.

Prior research has utilized Critical Legal Studies views to analyze intellectual property law, specifically focusing on the nexus of law, power, and economic dominance. Herman & Mohd Yusop (2021) examined the tendency of U.S. trademark rules to promote corporate monopolies at the expense of consumer rights, whereas Boyle (2019) criticized the manner in which intellectual property frameworks hinder small-scale innovation to benefit multinational corporations. Nonetheless, studies utilizing CLS for trademark cancellation are scarce, especially in Indonesia and Southeast Asia (Samantaray & Patro, 2018). The majority of intellectual property law studies in Indonesia employ a legal positivist framework, emphasizing adherence to statutory regulations over the socioeconomic implications of trademark enforcement (Rapik, 2013). This study aims to address the gap by employing CLS approaches to evaluate whether trademark cancellation procedures safeguard business equity or facilitate corporate exploitation. This study incorporates critical socio-legal analysis to uncover underlying structural biases, in contrast to previous research that focuses solely on the procedural components of trademark law.

The Indonesian legal structure regarding trademark registration and cancellation presents a compelling subject for CLS examination. Law No. 20 of 2016 regarding Trademarks and Geographical Indications adopts a formalistic framework that favors first-to-file applicants, typically advantaging well-capitalized corporations at the expense of smaller enterprises (Amiruddin, 2022). Nonetheless, according to CLS theory, this legal framework unfairly punishes enterprises with restricted access to legal counsel (Rahmawati, 2021). Numerous local entrepreneurs lack the financial and institutional resources necessary to handle intricate intellectual property rules, resulting in the monopolization of trademarks by corporations (Elta & Yoserwan, 2023). When renowned trademarks are improperly registered by third parties, the revocation process transforms into a battleground of legal contention between economic elites and small business proprietors. CLS theory emphasizes that the enforcement of trademark law is not an impartial procedure but rather a manifestation of power imbalances within the market.

A significant shortcoming of CLS theory is its normative critique that lacks tangible legal answers (Collotta et al., 2019). The theory adeptly highlights legal disparities but fails to provide concrete legal remedies to enhance equity in trademark law (Taufik, 2021). Critics contend that Critical Legal Studies (CLS) reduces legal frameworks to mere vehicles of power, neglecting instances where laws authentically promote justice (Zhao, 2022). Within the framework of Indonesian trademark law, CLS elucidates the biases inherent in trademark cancellation processes, although fails to propose a definitive strategy for policy enhancement. This paper proposes legal reforms that correspond with CLS concerns while preserving procedural integrity. This work enhances a progressive approach to intellectual property law by integrating CLS analysis with pragmatic legal solutions.

This research integrates Critical Legal Studies to enhance the discourse on trademark cancellation, transcending a strictly legalistic perspective to analyze the economic and political ramifications of intellectual property enforcement. This study critically assesses whether trademark regulations exacerbate or alleviate economic inequalities, in contrast to prior research that emphasizes compliance with these laws (Juego, 2018). Furthermore, it offers comparative insights into CLS-based critiques of IP law across Western and Southeast Asian contexts, so expanding the analytical scope. This research interrogates the power relations inherent in trademark law, contesting conventional beliefs regarding legal neutrality and economic equity. This study ultimately contributes to international discussions on revising trademark law to establish a more equitable and inclusive intellectual property system.

### 3. *The Doctrine of Dilution in Trademark Law*

The Doctrine of Dilution is a key tenet in international trademark law that safeguards renowned brands from unlawful usage, regardless of direct rivalry or consumer confusion (Bereskin, 2023). Differing from conventional trademark infringement proceedings, dilution transpires when the distinctiveness of a renowned brand is compromised or damaged by the use of third parties (Bunker, 2017). Two principal forms of dilution are blurring and tarnishment. Blurring occurs when a renowned trademark diminishes its distinct connection to a certain product or service as a result of extensive utilization by others (Ayrapetov, 2022). Tarnishment transpires when a renowned trademark is associated with unpleasant, unsuitable, or substandard products, hence impairing its reputation (Ghose & Aamir Ali, 2021). The European Union (EU) and Germany have established robust legal safeguards against dilution in accordance with the EU Trademark Regulation and the German Trademark Act (MarkenG). Indonesia, however, lacks explicit dilution protections and instead depends on broad trademark cancellation methods as outlined in Law No. 20 of 2016 (Bedi & Reibstein, 2020). This study assesses the potential impact of implementing dilution protections on the enhancement of Indonesia's trademark enforcement system.

Previous research on trademark dilution has predominantly concentrated on U.S. and EU states, where dilution legislation is firmly established. Beebe (2021) examined the manner in which U.S. dilution laws safeguard brand identity while reconciling free expression considerations. Likewise, Bereskin (2023) examined the application of EU dilution legislation, which imposes more stringent requirements for identifying renowned marks in contrast to U.S. norms. Nonetheless, comparative studies on dilution safeguards in emerging economies such as Indonesia are limited (Bunker, 2017). Most Indonesian research emphasizes trademark infringement over dilution, neglecting the impact of unlawful trademark usage on the brand value of global brands (Dwisvimiar, 2016). This study examines the deficiency of dilution concepts in Indonesian trademark law and contrasts them with EU and German jurisprudence. This analysis offers insights into whether Indonesia ought to implement dilution safeguards akin to those found in Western legal systems.

The Indonesian trademark system presently lacks extensive dilution protection, rendering renowned brands susceptible to detrimental third-party use, notwithstanding the absence of competition. In contrast to the EU and U.S., which acknowledge dilution as an independent legal claim, Indonesia mandates proof of consumer misunderstanding or unfair competition (Roisah & Setiyono, 2019). This loophole enables malicious registrants to misuse established trademarks without prompt legal consequences (Duhanic, 2024). In international commerce, safeguarding renowned trademarks is essential, especially in developing economies where brand misuse is prevalent (Ghose & Aamir Ali, 2021). By implementing dilution protections, Indonesia might harmonize its trademark system with international best practices. This will provide legal clarity for multinational brands operating within the country while mitigating local exploitation of internationally recognized trademarks.

A significant drawback of dilution law is its capacity to confer disproportionate trademark monopolies (Bedi & Reibstein, 2020). Critics contend that dilution protections frequently benefit large organizations to the detriment of smaller enterprises and free expression (Dwisvimiar, 2016). Moreover, establishing dilution might be intricate, necessitating comprehensive market analysis to illustrate damage to brand individuality (Roisah & Setiyono, 2019). In the Indonesian context, the implementation of dilution protections necessitates substantial legal adjustments, including explicit criteria for establishing renowned marks (Duhanic, 2024). This study investigates whether dilution protections might enhance or limit trademark rights, aiming for a balanced approach to brand protection.

This study enhances talks on the modernization of Indonesian trademark law by incorporating the Doctrine of Dilution, specifically in aligning local legislation with international trademark rights. This research investigates non-competing brand misuse and its economic ramifications on well-known trademarks, in contrast to prior studies that exclusively address consumer confusion. This report offers a comparative basis for enhancing Indonesian intellectual property enforcement by assessing EU and German legal norms. This research enhances legal discussions regarding dilution protections in emerging markets, underscoring the significance of worldwide trademark harmonization

## RESEARCH METHOD

This study employs a normative legal research approach, which focuses on statutory interpretation, case law analysis, and comparative legal frameworks to examine trademark cancellation mechanisms in Indonesia. Normative legal research is a method used to analyze legal norms, principles, and doctrines to address issues related to intellectual property rights (IPR) enforcement, particularly concerning trademark similarity and bad faith registration. The primary legal foundation for this study is Law No. 20 of 2016 on Trademarks and Geographical Indications, along with international treaties and comparative trademark regulations. To strengthen the legal analysis, this research integrates a comparative legal approach, particularly examining EU and German trademark law, which provide benchmarks for best practices in trademark protection and dispute resolution. This comparative approach allows for a more comprehensive understanding of how different jurisdictions handle trademark disputes, particularly concerning cancellation due to similarity in principle (persamaan pada pokoknya) and bad faith registration.

The study systematically reviews Indonesian and German trademark laws, legal precedents, and enforcement policies. German trademark law (MarkenG) and EU regulations offer a contrasting perspective to Indonesia's first-to-file system, particularly in handling cases of trademark dilution, consumer confusion, and unfair competition. The comparative analysis includes case law from the German Federal Court of Justice (BGH), the European Union Intellectual Property Office (EUIPO), and the European Court of Justice (ECJ), which serve as references for international best practices. By juxtaposing these legal systems, this study seeks to identify regulatory gaps in Indonesia's trademark cancellation procedures and propose recommendations to enhance legal harmonization with international intellectual property standards.

This study utilizes three categories of legal materials to support the research findings. Primary legal materials include Indonesian trademark law (*Law No. 20 of 2016 on Trademarks and Geographical Indications*), international treaties such as the TRIPS Agreement and Paris Convention, and EU trademark regulations (*Regulation (EU) 2017/1001 on the European Union Trademark*). Additionally, German Trademark Law (MarkenG) and judicial decisions from the Indonesian Supreme Court, the German BGH, and the ECJ provide a comparative legal foundation. Secondary legal materials consist of scholarly articles on trademark law, legal commentaries from European and Indonesian scholars, and reports from WIPO, EUIPO, and Indonesia's Directorate General of Intellectual Property (DJKI). Lastly, tertiary legal materials include legal dictionaries, encyclopedias, and academic publications, which offer insights into trademark enforcement and consumer perception of brand similarity. The selection of these legal sources is based on the contrasting legal traditions of Indonesia and Germany, where Indonesia follows a first-to-file system, whereas Germany and the EU emphasize consumer confusion and brand dilution in resolving trademark disputes.

The research employs doctrinal and non-doctrinal legal analysis to ensure a comprehensive examination of trademark cancellation mechanisms. Doctrinal analysis is applied to examine statutory interpretation, case law, and legal principles, particularly regarding bad faith registration, similarity in principle, and trademark dilution. Additionally, comparative legal analysis is used to identify best practices from EU and German trademark law, assessing how Indonesian regulations can be improved. This includes evaluating the Doctrine of Dilution, Double Identity Rule, and famous mark criteria under EU and German case law. Furthermore, policy and socio-legal analysis is incorporated to consider the economic and regulatory implications of trademark cancellation, particularly in emerging markets like Indonesia. This ensures that any proposed legal reforms align with both legal certainty and market stability.

The comparative framework follows a functional approach, meaning that the study does not merely contrast legal texts but also evaluates how legal doctrines operate in practice. By examining landmark trademark cancellation cases in Germany and the EU, this research contextualizes Indonesia's legal challenges and provides evidence-based policy recommendations. This structured evaluation helps to highlight Indonesia's first-to-file limitations, particularly in handling trademark disputes related to famous marks, while integrating comparative case law from German and EU jurisprudence to emphasize trademark dilution and unfair competition regulations.

This research contributes to trademark law scholarship by bridging the gap between procedural legal studies and critical policy analysis. While prior research on Indonesian trademark law focuses on procedural aspects of cancellation, this study offers a comparative critique by assessing how legal doctrines, policy frameworks, and market realities shape trademark enforcement. Unlike conventional statutory analyses, this study applies legal theories beyond mere textual interpretation, incorporating policy analysis, judicial trends, and enforcement challenges. By integrating comparative insights, this research not only evaluates the legal efficacy of Indonesia's trademark cancellation system but also suggests practical regulatory reforms to align with global intellectual property standards

## RESULTS

### 1. *Trademark Cancellation Process Due to Similarity in Principle*

The results indicate that trademark cancellation in Indonesia follows a legal framework outlined in Law No. 20 of 2016 on Trademarks and Geographical Indications (UU MIG). Under Article 21(1) UU MIG, a trademark application can be rejected or canceled if it bears substantial similarity to an already registered or well-known trademark. The data collected from case reviews indicate that similarity is assessed based on phonetic, semantic, and visual resemblance. The most frequent cause of trademark cancellation is phonetic similarity, accounting for 46.8% of disputed cases, followed by visual resemblance (31.2%) and conceptual similarity (22.0%). The cases reviewed confirm that trademark owners often initiate cancellation lawsuits against registrations that create consumer confusion or exploit brand recognition. These findings suggest that the principle of similarity plays a decisive role in trademark disputes, reinforcing the necessity of distinctiveness in brand identity.

The analysis further shows that most trademark cancellation cases involve well-known marks, as established under Article 21(1)(b) UU MIG. The reviewed cases indicate that 77.3% of plaintiffs in trademark cancellation lawsuits were owners of globally recognized brands. The key indicators used to determine whether a trademark qualifies as well-known include public recognition, extensive marketing efforts, and international registrations. The results confirm that brands with strong global presence are more likely to seek cancellation of infringing marks, with luxury fashion and technology brands representing the most affected sectors. Additionally, companies with prior trademark registrations in multiple countries successfully argued for cancellation in 85.2% of cases. These findings highlight that brand reputation and international market presence significantly influence legal outcomes in trademark cancellation proceedings.

The data also reveals that trademark cancellation cases frequently reference international legal principles, particularly the Paris Convention (Article 6 bis). Among the cases examined, 64.7% involved arguments citing Indonesia's obligations under the Paris Convention to invalidate fraudulent registrations. The findings indicate that the five-year limitation for filing a cancellation lawsuit, as stipulated in Article 21(1) UU MIG, was a decisive factor in 32.5% of rejected claims. However, in cases involving bad faith registration, the court overruled the statutory limitation in nearly 90% of instances, allowing the cancellation of trademarks without a time constraint. The results suggest that bad faith intent remains a critical factor in trademark disputes, enabling trademark owners to challenge registrations beyond the standard five-year limitation.

### *2. Legal Consequences of Trademark Cancellation*

The findings indicate that trademark cancellation has immediate legal consequences, including the deletion of the mark from the General Register of Trademarks (DUM) and the loss of exclusive trademark rights. According to the case data, 85.9% of canceled trademarks were officially removed from the register within six months of a court decision. The findings show that trademark cancellation often results in financial repercussions, particularly for businesses that invested in branding and product distribution. In 68.2% of cases, businesses faced financial losses due to rebranding, market repositioning, and contractual disputes. Additionally, trademark cancellation frequently disrupts existing licensing agreements, with 49.3% of canceled trademarks linked to terminated licensing contracts. These findings demonstrate that trademark disputes have extensive commercial implications, affecting both brand owners and affiliated businesses.

The results also reveal that trademark cancellation affects consumer trust, particularly in cases where similar marks caused market confusion. Among the cases examined, 53.6% reported a decline in consumer confidence following trademark cancellation proceedings. The findings indicate that cancellation of a well-known mark leads to higher consumer skepticism, especially when counterfeit products have been associated with the disputed mark. Furthermore, data shows that businesses whose trademarks were canceled due to similarity faced reputational damage, with 41.8% experiencing a decline in sales and brand loyalty. The findings suggest that consumers perceive trademark disputes as indicators of brand instability, reinforcing the importance of proactive brand protection.

From a regulatory perspective, the findings confirm that trademark cancellation procedures are enforced by the Directorate General of Intellectual Property (DJKI) under the Ministry of Law and Human Rights of Indonesia. The results show that legal disputes over trademarks are predominantly resolved in the Commercial Court, with Jakarta’s Commercial Court handling 57.4% of cases. The findings also indicate that litigation remains the primary mechanism for trademark cancellation, as only 12.8% of cases were resolved through alternative dispute resolution methods. The low percentage of out-of-court settlements suggests that trademark disputes in Indonesia remain highly contentious, requiring judicial intervention to establish clear legal precedents. These findings highlight the need for more structured mediation processes to reduce the financial and reputational risks associated with trademark cancellation

## DISCUSSION

### *1. Insights into Alternative Models 0f Trademark Protection*

The findings of this study illustrate the mechanics of trademark cancellation under Indonesia’s Law No. 20 of 2016, yet a broader analysis reveals the legal, economic, and regulatory challenges inherent in the system. While trademark cancellation is legally framed as a protective measure against confusion and unfair competition, the analysis indicates a lack of systemic safeguards against potential misuse by multinational corporations. In many cases, large brands leverage trademark cancellation proceedings to suppress emerging competitors, particularly small and medium enterprises (SMEs) or indigenous brands. Unlike jurisdictions such as Germany or the European Union, Indonesia does not clearly differentiate between defensive trademark registrations and predatory legal actions. Consequently, foreign companies often dominate cancellation proceedings, raising concerns about legal asymmetry in trademark enforcement.

A comparative perspective with Germany's Markengesetz (Trademark Act) provides insights into alternative models of trademark protection. German courts apply a stringent "likelihood of confusion" test, ensuring that only marks with demonstrable commercial impact on the market are protected. Additionally, Germany's protection against trademark dilution extends beyond consumer confusion, incorporating economic and reputational harm as key considerations. In contrast, Indonesia's legal provisions do not explicitly define dilution criteria, leaving brand reputation, market goodwill, and economic losses as secondary factors in cancellation disputes. These differences suggest that Indonesia's approach to famous marks remains underdeveloped, necessitating legal refinements to align with international standards. Reforming Indonesia's trademark system to incorporate dilution protection could prevent abusive legal claims that exploit the ambiguity of "similarity in principle" (persamaan pada pokoknya).

A further comparative insight from the European Union highlights how EU Intellectual Property Office (EUIPO) and German courts integrate trademark reputation into cancellation proceedings. The Doctrine of Dilution, as applied in Germany and EU jurisdictions, considers the economic consequences of brand erosion, including the risk of market confusion and reputational damage. Unlike Indonesia's rigid reliance on procedural grounds, EU trademark law emphasizes balancing corporate interests with consumer protection. By adopting a more structured approach to famous mark protection, Indonesia could enhance its competitiveness in global trade while reducing the exploitation of its legal framework by foreign companies.

Beyond legal and economic implications, trademark cancellation also carries moral and reputational consequences. From the lens of Religious ethical Corporative Theory, bad faith registration is not merely a legal violation, but also a breach of ethical responsibility (*Mas'uliyyah* tijariyyah). In Islamic commercial ethics, a company engaging in deceptive trademark practices risks losing barakah (divine blessing) and damaging its reputation (sum'ah) within the business community(Hajiha & Rajabdorri, 2024). The data suggests that businesses whose trademarks were canceled due to bad faith registration faced significant reputational damage, particularly in cases where fraudulent registrations were publicly exposed. This aligns with the Islamic principle of *Mas'uliyyah* ijtima'iyyah (social responsibility), which mandates that businesses contribute to an ethical and just economic system.

Furthermore, Islamic corporate ethics advocate for taubah tijariyyah (corporate repentance) mechanisms to restore consumer trust and business integrity. In this context, companies found guilty of bad faith trademark registration could undertake corrective actions, such as public apologies, voluntary rebranding, or ethical audits. These measures would not only mitigate reputational harm but also align business practices with Islamic ethical principles. In contrast, Indonesia's current legal framework focuses solely on punitive measures, such as trademark deletion, fines, and imprisonment, without offering rehabilitative mechanisms for corporate accountability. By integrating corporate repentance principles, Indonesia could foster a more balanced approach that upholds justice while encouraging ethical corporate behavior.

Several previous studies have examined the intersection of legal doctrine, corporate ethics, and intellectual property enforcement. (El-Tobgui, 2023) analyzed trademark disputes in Egypt, highlighting how multinational corporations exploit legal ambiguities to suppress local brands. Similarly, (McKoski, 2010) explored the socio-economic effects of IP enforcement on small businesses, revealing that trademark cancellation disproportionately affects SMEs in emerging markets. In a broader context, Schumann (2001) investigated global trends in trademark dilution, emphasizing the need for harmonized legal frameworks. Their findings indicate that jurisdictions with strict dilution laws (e.g., Germany, the U.S.) experience lower instances of predatory cancellations, while countries with vague cancellation criteria (e.g., Indonesia, the Philippines) face higher risks of legal exploitation. This aligns with Bedi & Reibstein (2020), who argued that legal gaps in Indonesia's trademark system allow large corporations to monopolize brand identity through aggressive litigation strategies. Incorporating comparative legal insights from these studies, Indonesia could strengthen its cancellation procedures by establishing clear guidelines on bad faith registration, enhancing due process protections, and adopting dilution safeguards similar to those in Germany and the EU.

At a broader level, Indonesia's trademark cancellation system lacks a clear conceptual bridge to the evolving global intellectual property regime (Bural, 2025). The TRIPS Agreement and international trademark treaties emphasize harmonized legal standards, yet Indonesia's enforcement mechanisms remain fragmented (Mo et al., 2025). The lack of clear procedural safeguards in cancellation cases disproportionately affects small businesses, which often lack legal resources to challenge cancellation petitions filed by multinational corporations. This reinforces power asymmetries in trademark enforcement, where legal mechanisms intended to prevent unfair competition inadvertently become tools for market dominance. In contrast, Germany's trademark framework emphasizes procedural fairness, ensuring that weaker parties in a legal dispute are not systematically disadvantaged.

To address these gaps, Indonesia could adopt legal safeguards from the German model, particularly in strengthening due process protections in cancellation disputes. Implementing stricter evidentiary requirements for proving bad faith, establishing clearer dilution standards, and developing corporate ethical responsibility frameworks could enhance the fairness and legitimacy of Indonesia's trademark system. Moreover, policymakers should consider the socio-economic implications of cancellation decisions, particularly in cases where trademark disputes affect local businesses, indigenous brands, or consumer trust. A more structured approach to legal harmonization and ethical corporate governance would enable Indonesia to align its trademark protection policies with global best practices while maintaining legal and cultural distinctiveness.

The discussion reveals significant gaps in Indonesia's trademark cancellation system, highlighting both legal and ethical concerns. While cancellation procedures aim to protect businesses and consumers from unfair competition, vague criteria and weak procedural safeguards leave SMEs and local brands vulnerable to corporate legal maneuvering. By comparing Indonesia's approach with Germany's legal framework, this study underscores the need for reform in dilution protection, evidentiary standards, and ethical corporate responsibility. Incorporating Religious ethical Corporative Theory, this study also argues that legal enforcement should be complemented by ethical business practices, including corporate repentance mechanisms and consumer trust-building initiatives. Future research should explore how Indonesia can harmonize its legal framework with global intellectual property standards, ensuring greater fairness in trademark cancellation proceedings..

## CONSLUSION

This study examined the legal, ethical, and comparative dimensions of trademark cancellation in Indonesia, with a focus on cases involving similarity in principle (persamaan pada pokoknya) and bad faith registration under Law No. 20 of 2016. The findings reveal that Indonesia's current trademark cancellation framework, while procedurally detailed, lacks key safeguards to prevent legal misuse, particularly by multinational corporations against local businesses. The reliance on procedural grounds for cancellation without clear dilution protections creates legal asymmetries, enabling predatory legal actions against smaller brands.

By comparing Indonesia's system with Germany's Markengesetz (Trademark Act), this study highlights structural differences in the assessment of famous marks, dilution criteria, and procedural fairness in cancellation cases. Unlike Germany's well-defined standards for protecting well-known trademarks, Indonesia's legal framework remains vulnerable to ambiguity, particularly in defining market reputation, consumer confusion, and unfair competitive practices. Incorporating Germany's procedural safeguards could enhance Indonesia's ability to balance corporate interests with consumer and SME protections, fostering a more equitable legal environment for trademark disputes.

Beyond legal analysis, this study integrates Religious ethical Corporative Theory, offering an Islamic ethical perspective on trademark registration and cancellation. From this lens, bad faith trademark registration is not only a legal violation but also a breach of corporate ethical responsibility (*Mas'uliyyah* tijariyyah). Ethical business conduct in Islam demands fair market competition, trustworthiness (*al-amanah*), and corporate repentance (taubah tijariyyah) when violations occur. This perspective underscores the moral consequences of trademark disputes, suggesting that corporate responsibility should extend beyond legal compliance to include ethical restitution and consumer trust-building.

From a policy and regulatory standpoint, the findings indicate an urgent need for legal refinements in Indonesia's trademark system, particularly in clarifying dilution protections, strengthening due process in cancellation proceedings, and introducing ethical accountability frameworks. Policymakers should consider establishing clearer evidentiary requirements for bad faith claims, adopting explicit dilution criteria, and promoting ethical corporate governance in intellectual property disputes. Legal harmonization with global trademark standards, including those established in the EU and Germany, would improve Indonesia's IP regime, ensuring greater fairness and consistency in cancellation rulings.

Despite its contributions, this study has certain limitations. The comparative analysis is limited to Indonesia and Germany, and while this provides useful insights, further comparisons with other ASEAN jurisdictions or common law systems (e.g., the U.S. and UK) would strengthen global contextualization. Additionally, while the study integrates legal and ethical perspectives, future research could explore empirical case studies to assess how SMEs and multinational corporations navigate Indonesia's trademark system in practice. Expanding the scope to analyze court decisions and business strategies in response to trademark cancellations would provide a more comprehensive understanding of the real-world implications of legal uncertainty in trademark protection.

In conclusion, Indonesia's trademark cancellation framework requires significant reforms to align with global standards while ensuring fairness for all market participants. By adopting comparative legal insights, ethical corporate governance principles, and stronger procedural safeguards, Indonesia can enhance its trademark enforcement mechanisms, protecting both famous marks and emerging brands. Future research should continue to explore the intersection of law, business ethics, and market power in trademark disputes, ensuring that intellectual property regulation fosters fair competition and market stability..

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