

# Marketplace Responsibility for the Trade in Counterfeit Formula Milk from the Perspective of MUI FATWA NO. I/MUNAS VII/MUI/5/2005 Concerning Intellectual Property Rights

Audi Mutia Adrivia Nasution<sup>1</sup>, Rahmad Efendi<sup>2</sup>

<sup>1,2</sup>Universitas Islam Negeri Sumatera Utara, Indonesia

Email: audi0204211026@uinsu.ac.id

---

## ***Abstract***

### ***Keywords:***

*Trademark Infringement, Liability, Marketplace, Counterfeit Formula Milk, MUI Fatwa*

*Marketplaces make it easier for consumers to search and compare products to be purchased on the marketplace platform. Consumers have the opportunity to get products at relatively low prices through various offers listed in the product description. However, it is undeniable that this convenience raises issues regarding product authenticity, especially if the product is sold at a low price from an unauthorized store, one of which is the trade of counterfeit formula milk on Shopee and Tokopedia. This study aims to determine and analyze what trademark violations are, and how the marketplace's responsibility is towards the trade of counterfeit formula milk products from the perspective of the MUI fatwa Number I/MUNAS VII/MUI/5/2005. This type of research uses normative juridical with a descriptive analytical research nature, the data source used is secondary data as the main source. Data were collected through library research. The documents collected include laws and regulations, the MUI Fatwa Number I/MUNAS VII/MUI/5/2005, and include various literature related to the research such as books, relevant scientific journals, and other academic references that support the research analysis. The research results show that there are trademark violations committed by individuals with bad intentions and are not responsible for their actions, namely piracy, counterfeiting, and imitation of brand labels. And the marketplace's responsibility for the trade in counterfeit formula milk covers several aspects, namely: quality control, safety, and the validity of product information.*

---

## **INTRODUCTION**

The term "marketplace" is already familiar to many. As the name suggests, a marketplace is a market-like place where many people can shop and sell goods online. Furthermore, a marketplace is defined as a platform that connects various sellers offering similar products with buyers who share similar interests and needs.(As'ad & Fattah, 2023).

*Marketplace*A digital communication medium used as a platform for conducting transactions in online trading activities. A marketplace can also be defined as a platform, either in the form of a website or an application, that allows sellers and buyers to buy and sell goods or services online. Marketplaces can be accessed at any time without operational time restrictions, including on holidays. Marketplaces in Indonesia are now a promising business sector. Some examples of marketplaces in Indonesia that exist as a medium for online buying and selling transactions include Shopee, Tokopedia, and other similar platforms. The presence of these marketplaces makes it easier for people to buy and sell online. The development of marketplaces in Indonesia is driven by various factors such as the rapid growth of e-commerce, increased internet access, and changes in consumer behavior that are shifting to online shopping.(Totimage et al., 2022).

*Marketplace*It makes it easier for consumers to search and compare products to purchase on marketplace platforms. Consumers have the opportunity to obtain products at affordable prices through various offers listed in product descriptions. However, this convenience inevitably raises issues regarding product authenticity, especially when products are sold at low prices from unofficial stores, one example being the sale of counterfeit formula milk on Shopee and Tokopedia. This is because genuine products with the best quality generally have standard prices, neither too cheap nor too expensive. Despite this, some consumers still choose to purchase counterfeit products. Therefore, not all consumers complain about counterfeit products, as consumers generally have the initial intention of purchasing a non-original product. Thus, in addition to being influenced by the presence of sellers selling counterfeit products, the high circulation of counterfeit products is also driven by consumer behavior, which consciously chooses to purchase non-authentic products.(Nanda, 2023).

The widespread sale of allegedly counterfeit formula milk by the kilo circulating on online shopping sites indicates unfair trade practices. The product is generally sold by the kilo, packaged in clear plastic sealed with staples and only displays the original brand name on the packaging. The product is offered in sizes from 500g to 1kg. The product is very easy to find on marketplace platforms, which are rejected products from factories, namely products that are unfit for consumption due to production defects and should be destroyed. However, some irresponsible individuals resell the product to consumers, claiming that the product is repackaged from the original product and is safe for consumption. This unfair competition not only misleads consumers but is very detrimental to brand owners because it reduces the reputation and level of consumer trust in the quality of the original product.

Counterfeit or imitation goods are increasingly in demand by the public. Generally, counterfeited goods are not only branded or luxury goods, but also food products, which are a basic human need. The circulation of counterfeit products, often categorized as illegal, has developed into a serious problem in the economic, health, and social sectors. The existence of counterfeit products not only causes losses for consumers, but also negatively impacts the reputation and competitiveness of genuine products and disrupts the country's economic stability. In addition to creating unfair business competition, this practice also hinders innovation and disrupts legitimate producers who are committed to maintaining product quality and safety. Therefore, the buying and selling of counterfeit products also poses a real threat to the protection of Intellectual Property Rights, especially trademark rights.(Harris & Yustitianingtyas, 2024).

The act of counterfeiting a product without permission for personal gain, according to Islamic law, falls under the category of Tadlis (merchandise manipulation). The Quran prohibits people from exploiting others' property in ways that are unlawful (batil), committing injustice, and doing things that harm others. The following is a verse about trade, as stated in Surah An-Nisa'/4:29.

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ ۝ وَلَا تَفْتَأِلُوا  
أَنفُسَكُمْ ۝ إِنَّ اللَّهَ كَانَ بِكُمْ رَّحِيمًا

Meaning: O you who believe, do not consume your neighbor's wealth in a false (false) manner, unless it is in the form of commerce based on mutual consent between you. Don't kill yourself. Indeed, Allah is Most Merciful towards you.

Based on the explanation that has been presented, it can be ascertained that to understand the existing legal regulations, regarding the responsibility of platform providers for products that violate counterfeit brands in online trading, it is necessary to examine various regulations that are appropriate based on the provisions of Islamic law and positive law. The following legal basis is used in this discussion including the provisions contained in Law Number 8 of 1999 concerning Consumer Protection, Law Number 20 of 2016 concerning Trademarks and Geographical Indications, as well as the principles of Islamic law regulated in the Fatwa of

the Indonesian Ulema Council (MUI) Number I / MUNAS VII / MUI / 5/2005 concerning the Protection of Intellectual Property Rights (IPR). The fatwa expressly prohibits all forms of violations of trademark rights including plagiarism, counterfeiting, duplication, and the use or use of trademarks without obtaining official permission are prohibited actions because they are not in accordance with the ethics of ownership in Islamic law.

The purpose of this writing is to remember the ease in the process of carrying out online trading transaction activities through a platform, in this case the researcher hopes that in the future they will know and analyze what violations of brand rights are, and what the marketplace's responsibility is for the trade in fake formula milk products from the perspective of the Indonesian Ulema Council (MUI) Fatwa Number I/MUNAS VII/MUI/5/2005.

## METHOD

The type of research used is normative juridical, with a descriptive analytical approach, using a statutory approach and a conceptual approach. The statutory approach is applied to examine various regulations and positive legal provisions relevant to the legal issues being researched. Meanwhile, the conceptual approach is applied because there are no legal provisions specifically governing the issues.

The data source in this study is secondary data as the main source, which includes both primary and secondary legal materials. The data was obtained through library research, by collecting various documents, including laws and regulations, the MUI Fatwa Number I/MUNAS VII/MUI/5/2005, and covering various relevant literature such as books, scientific journals, and other supporting academic references. All of the data was then analyzed using qualitative analysis methods to produce a deep understanding of the forms of accountability in Islamic law and positive law.

## RESULTS AND DISCUSSION

### A. Analysis of Trademark Rights Infringements on the Trade of Counterfeit Formula Milk

Branding has a significant impact on business, both for producers and consumers. For producers, a strong brand can enhance their reputation and build their image, while also serving as a promotional tool. However, due to intense competition in the business world, companies often engage in unhealthy practices related to the products they manufacture. This is because the primary goal of companies is to generate profits, leading them to strive to win the competition, even if it means harming others.(Al Khanis & Adly, 2024).

Intellectual Property Rights (IPR) of brands play an important role because they have the quality and consumer desire for a product through the existence of a brand, consumers can determine their interest in purchasing a particular item or service. The non-material value of a brand plays a role in building consumer loyalty to the product so that the brand is seen as part of the immaterial Intellectual Property. According to the Big Indonesian Dictionary (KBBI), a brand is a sign used by a producer or factory on goods made as an identification mark. Brands play a role in helping to differentiate in the trade of goods and services, and as a guarantee of the quality of the product compared to similar products produced by other parties.(Prahara, 2021).

Formula milk is a highly processed product widely used by mothers as a breast milk substitute. This formula milk has an expiration date that must be observed to ensure safe consumption. Therefore, labeling a formula milk product with an expiration date is mandatory for businesses and industries to ensure consumer rights are guaranteed through regulations as stipulated in Law Number 8 of 1999 concerning Consumer Protection (UUPK).(Widnyani & Sawitri, 2025).

Brands not only serve as product identity but also play a crucial role in preventing unfair competition. This study examines a well-known brand recognized for its quality, Dancow

Fortigro Full Cream. However, in practice, irresponsible actions by certain business actors are still found, seeking economic gain through mechanisms that violate statutory regulations. These actions involve violating registered trademark rights, which are the rights of others to imitate widely recognized brands. Such violations not only cause material losses but also immaterial losses for the official distributors of these well-known brands.(Sinaga, 2020).

PT Nestlé Indonesia, the producer of Dancow branded formula milk, and consumers are real-life examples of those who have suffered losses due to some vendors intentionally using the Dancow Fortigro full cream brand. This formula milk product is a full-cream powdered milk containing protein and calcium to support children's nutritional needs. This milk is recommended as a nutritional supplement to support children's growth and development, especially as they enter school age. Although it is classified as a relatively affordable product, some people still consider this formula milk price higher than other local milk products.

This is exploited by a number of local traders seeking to profit on marketplace platforms, exploiting the opportunity by producing low-quality repackaged products marketed at a lower selling price than the original product, which is freely sold on marketplace platforms such as Shopee, Tokopedia, and similar platforms. In practice, irresponsible traders deliberately imitate the appearance of the original product to trick consumers into purchasing counterfeit products offered at a lower price. Furthermore, this action not only results in material losses but also in immaterial losses in the form of a decline in the reputation and consumer trust in the Dancow formula milk brand, known as one of the leading products in Indonesia.(Ansya et al., 2023). The following is the practice of buying and selling fake formula milk products on the marketplace platform.

**Figure 1. Original Dancow Fortigro Full Cream Formula Milk Product**



Source :<https://www.instagram.com/reel/Ckx3wk8jouz/?igsh=OTZlamtpaDgxcWF>

Dancow Fortigro Full Cream is the official product packaging, promoted directly by the manufacturer, the brand holder. The packaging displays various important information in accordance with the Food and Drug Monitoring Agency (BPOM) regulations, including: product name, production code, expiration date, halal certification from the Indonesian Ulema Council (MUI), and distribution permit number.

**Figure 2. Shops That Counterfeit Dancow Formula Milk Products**



Source: Shopee “LC BAGS Tokopedia (TokoRimbaraya id)” Shopee “Thelappak

The practice of buying and selling counterfeit formula milk products is circulating on various marketplace platforms. One such case occurred with PT Nestlé Indonesia's Dancow Fortigro brand, where the product was used without permission by several unscrupulous traders selling on Shopee and Tokopedia. This is a counterfeit product sales that experienced an increase

from 2022 to 2025, with total sales reaching 437 products in 2025. Business actors sold repackaged products at unreasonable prices ranging from Rp. 19,500 to Rp. 83,600 for 500g to 1kg packages. Meanwhile, the price of the original Dancow Fortigo Full Cream Vanilla variant ranges from Rp. 90,000 to Rp. 130,000 for the 780g size. This significant price difference attracts consumers to buy even though the product is counterfeit. It is clear that irresponsible individuals are trading counterfeit formula milk in the marketplace.

**Figure 3. Clarification from PT Nestle Indonesia**



Source: Tiktok @Dancow\_Indonesia, and Instagram @dancow

It can be seen that there is an official clarification display from PT Nestlé Indonesia uploaded through social media accounts, Tiktok @dancow\_indonesia or Instagram @dancow, this statement is a denial from PT Nestlé Indonesia that it has never produced or distributed milk products without official packaging by the factory. Therefore, all forms of product sales under the Dancow brand name without official permission from the company are not original products issued by PT Nestlé Indonesia itself, which is beyond the company's responsibility. The company itself urges consumers to be careful not to be easily tempted by cheap prices and to ensure that they regularly check official offline or online outlets that sell Dancow products, both minimarkets and nearby supermarkets.

**Figure 4. Comparison of Fake and Original Dancow Formula Milk Products**



Source: TikTok @KoStevedan @Cuterthanurex

Starting from an influencer with the username @KoSteve and @Cuterthanurexmeriview comparison of original and fake Dancow formula milk circulating on one of Indonesia's largest marketplace platforms. In his upload, he said that the color of the original Dancow Fortigro milk with a price of Rp. 112,000, weighing 780 / gram is like the color of real milk in general, while the fake Dancow milk has a brighter color, weighing 1 kg at a price of Rp. 36,000. In terms of texture, Dancow repack is smoother, the taste of the fake product is 5 times sweeter like chemical sugar. He also gave a message that don't let just because of cheap goods we sacrifice children's health. He said that easily buying the product on the Shopee and Tokopedia marketplace platforms under the guise of being written as rejected goods from the factory, that

the individual dared to write the Dancow brand. Here is a comparison of original milk with fake milk:

**Comparison table of real milk and artificial milk**

Real Milk	Fake Milk
1. Check the packaging when purchasing Original powdered milk is generally packaged in aluminum foil boxes.	The product is simply wrapped in plastic and hexed, and has distinctive sharp creases on both sides.
2. Observe the color of the milk Real milk has a natural white color, not clear, and not yellowish.	Meanwhile, if artificial milk shows an unusual color, such as dark yellow, red, or blue, this indicates that there are unnatural ingredients in the milk.
3. Perform a heating test (reduction test) Heat the milk over low heat, stirring constantly, until it thickens. Then, turn off the heat and let it sit for 2-3 hours. If the resulting sediment is oily, the milk is genuine and of good quality.	If the sediment does not show oil, it is likely that the milk is fake.
4. Pay attention to the aroma Real milk has a distinctive aroma that is soft and not pungent.	If the milk gives off an unusual odor, this indicates that the milk has been contaminated or is a counterfeit product.
5. Taste Real milk has a balanced combination of sweet and slightly bland taste.	Unusual tastes such as salty (which comes from old animals), bitter tastes come from the growth of certain types of microbes, and also like flour that contains 5 times the usual sugar, or is too fatty, and smells fishy.

Source:[https://www.orami.co.id/magazine/susu-palsu#google\\_vignette](https://www.orami.co.id/magazine/susu-palsu#google_vignette)

The occurrence of trademark infringement by individuals who have bad ethics and do not have responsibility for the existence of a well-known label has the potential to cause major losses for the producer or holder of the trademark rights.(Fitriani et al., 2022). Forms of violation of trademark rights, as follows:

- 1) Registering a trademark without the proper authorization from the user constitutes a violation of another's rights and misleads consumers regarding the origin and quality of the product bearing the trademark. This practice harms the rights holder by damaging their brand's image and reputation, as well as harming buyers. In addition to registering trademarks to which they do not have the right, perpetrators also use other parties' well-known trademarks on their own products to gain unlawful profits.
- 2) Unauthorized trademark use is a form of infringement in which the perpetrator attempts to imitate the original product. This imitation is intended to create the impression that the product is similar to the original. This practice harms both the legitimate trademark owner and consumers, as it not only damages the brand's reputation but also misleads consumers in determining the product's authenticity and quality.

According to another opinion, there are several forms of violations that need to be known, namely:

- 1) Trademark piracy: This is when someone unauthorizedly registers a known but unregistered foreign trademark. As a result, the legitimate trademark owner cannot register their trademark because it is deemed similar to a previously registered trademark.
- 2) Counterfeiting. This is a violation that occurs when counterfeit or low-quality products use well-known brands to imitate the original. This act is categorized as an economic crime because it harms consumers and damages the image and reputation of the legitimate owner.

- 3) Counterfeiting product packaging (imitation of labels and packaging). This involves imitating the appearance of the original product with similar labels. This usually involves competitors with bad intentions trying to mislead consumers.
- 4) The existence of users who cause a decline, fading, or blurring of brand reputation (Dilution, tarnishment, or blurring reputation without due cause). This occurs when a brand is used by a party who does not have the right, thereby reducing the image and identity of the actual brand. This action has an impact on reducing the brand's reputation in the eyes of consumers.(Purwaningsih, 2023).

Marketplace platform providers play a crucial role in creating a safe and fair digital commerce ecosystem. Platforms are responsible for detecting and addressing products that potentially infringe on trademarks or intellectual property rights. Efforts undertaken by platforms like Shopee and Tokopedia include the following:

- 1) Detection algorithm  
The platform utilizes artificial intelligence (AI) and machine learning to recognize patterns and compare product images uploaded by sellers to an official product database. The system is designed to detect indications of counterfeiting or trademark infringement through a set of rules that are regularly updated based on data developments and sales trends, continuously improving identification accuracy.
- 2) Reporting system  
A reporting feature allows consumers and brand owners to report suspicious or potentially violating products. Reports will be reviewed, and if found to be in violation, the product will be removed from the platform.
- 3) Seller verification  
To prevent the circulation of counterfeit or trademark-infringing products, marketplace platforms implement seller verification processes that require the upload of documents such as official identification, proof of business, and other supporting information. This aims to ensure that only legitimate and authorized products are sold. Some platforms even conduct additional inspections of traded products to minimize the risk of the circulation of counterfeit or illegal products.
- 4) Collaboration with brand owners  
*Marketplace*Collaborate with brand owners to monitor and prosecute violations. Many well-known brands have dedicated teams working with platforms like Shopee and Tokopedia to monitor product distribution. This collaboration allows for more effective identification and handling of counterfeit products.

Although various efforts have been implemented, there are still a number of challenges in enforcing trademark rights on digital platforms, including:

- 1) Regulatory limitations  
Existing regulations have not fully kept pace with the development and complexity of digital transactions, as most are oriented towards conventional trade.
- 2) The speed of spread of counterfeit products  
Digital technology allows for the rapid and widespread distribution of counterfeit products, making the process of identifying and eliminating them more difficult.
- 3) Consumer awareness  
Some consumers do not yet understand the importance of buying original products and the negative impacts of buying fake products, both in terms of product quality and the legal implications that arise.(Syaifulloh, 2024).

## **B. Marketplace Responsibility for the Trade in Counterfeit Formula Milk from the Perspective of MUI Fatwa Number I/MUNAS VII/MUI/5/2005**

Responsibility is a person's obligation to carry out a task or mandate entrusted to them. Furthermore, responsibility plays a crucial role in encouraging compliance with legal provisions

and reducing the potential risk of violations. In a legal context, responsibility is defined as the legal consequences arising from an individual's freedom to act. This concept is closely linked to ethical and moral values, as every individual's actions carry consequences for which they must be held accountable, both legally and morally.(Silalahi & Soemartono, 2024).

Broadly speaking, marketplace accountability extends beyond simply acting as a transaction intermediary, but also includes actively ensuring the authenticity of products traded through the platform. This responsibility encompasses various aspects, including the following.

### **1. Quality Control**

Quality control is a structured activity designed to ensure that products or services meet established quality standards or applicable regulations. This process involves inspection, testing, and verification of various aspects of a product or service to ensure consistency and compliance with quality criteria. The primary objective of quality control is to detect and correct any discrepancies or defects before the product is distributed to consumers, ensuring that only high-quality products are marketed.(Willa, 2024).

### **2. Security**

Marketplace platforms' responsibilities also include security, particularly in preventing fraud, counterfeiting, and other illegal activities that could potentially harm consumers. To ensure the accuracy and validity of product information, marketplace platforms must also support transparency and clarity. This can be achieved through verifying product descriptions, presenting accurate images, and monitoring consumer reviews to ensure the information provided is accurate and reflects the actual situation.(Djamaludin & Fuad, 2024).

### **3. Validity of Product Information**

The validity of product information refers to the validity, reliability, and legality of data presented to consumers regarding a product. This includes verifying the accuracy of information regarding technical specifications, composition, instructions for use, price, and claims related to the product's quality or safety. Presenting accurate information plays a crucial role in building consumer trust and supporting informed decision-making.

In principle, marketplace platforms are not directly responsible for transactions between merchants and consumers, as the legal relationship in the form of a sales agreement is established based on mutual agreement. However, marketplaces remain obligated to operate a reliable, secure, and optimally functioning electronic system. If a merchant makes an error, the marketplace provider remains responsible for the services it provides, including the management of applications, websites, digital storefronts, payment systems, and online transaction security. However, this responsibility is excluded if it is proven that the error or negligence stems from the actions or conduct of the user or consumer. Therefore, the scope of the marketplace's responsibility is limited to the operational aspects of its electronic system.(Halim, 2023).

A marketplace provider's most important responsibility is to verify the sellers operating within its system. This process includes checking the seller's identity, product authenticity, and reputation. Marketplace providers are responsible for monitoring transactions taking place on the platform and providing an efficient complaint system so consumers can report sellers who may be selling counterfeit products. Marketplaces need to play an active role in educating consumers about their rights and how to transact safely. This education includes understanding how to recognize counterfeit products, understanding transaction terms and conditions, and utilizing the available complaint system by providing clear and useful information. Marketplaces can help consumers make wiser and safer decisions when shopping online.(Br Sitepu et al., 2024).

Marketplace platform providers have a responsibility to implement various mechanisms to combat the circulation of counterfeit products, one of which is through a filtering process for products that do not meet qualifications or standards and are therefore not permitted to be sold on the platform. The initial step is to implement an evaluation system for each product uploaded by sellers to ensure that the product does not violate applicable regulations or brand provisions,

and to ensure sellers comply with intellectual property rights. Standards regarding products that can be sold on the platform have been set out in the marketplace's internal policies, but not all sellers comply with these provisions. Without an adequate filtering process, traders can still use the platform to offer products that fall into prohibited categories, potentially harming consumers and brand owners.(Pratama et al., 2020).

If violations are still found in the sale of prohibited products on the platform, the next step that can be taken is through a complaint system that allows trademark rights holders to report potential violations. After the report is received, the marketplace will conduct verification and internal checks to ensure the existence of the information. If violations are proven, the platform will take down the content. Even though the two previous steps have been taken, if prohibited products are still circulating, the marketplace, as a form of responsibility, can impose stricter sanctions in the form of deleting or closing the seller's account. To take further action in this case, the platform can collaborate with law enforcement to follow up on the violation. The platform also organizes educational and training programs for sellers to respect trademark rights and prevent future violations.(Saudira, 2024).

The responsibility referred to refers to the guarantee of legal certainty regarding losses experienced by consumers, which is based on the principle of fault (liability based on fault). This principle is in line with the regulations regarding compensation stated in Law Number 8 of 1999 concerning Consumer Protection, especially Chapter VI Article 19 Paragraphs (1) and (2) discussing the Responsibilities of Business Actors. In this context, traders have an obligation to provide compensation for errors or damage, pollution, or losses experienced by consumers as a result of using and utilizing products or services produced and traded.(Di Putra & Sukihana, 2018).

Article (1) states that:

"Business actors are responsible for providing compensation for damage, pollution and/or consumer losses resulting from consuming goods and/or services produced or traded."

Article (2) states that:

"Compensation as referred to in paragraph (1) may be in the form of a refund or replacement of goods and/or services of the same type or equivalent value, or health care, and/or the provision of benefits in accordance with the provisions of applicable laws and regulations."

Law No. 20 of 2016 concerning Trademarks and Geographical Indications confirms that registered trademark owners have exclusive rights to prohibit other parties from using their trademarks without permission. Exclusive rights are not only declarative, but also preventive, because they give full authority to trademark owners to control the use of trademarks in commercial activities. In addition, this law regulates provisions that stipulate that business actors will be fined if they counterfeit a particular trademark. This provision is stated in Article 100 paragraph (1) which states that:

"Any person who without the right uses a brand that is identical in its entirety to a registered brand belonging to another party for similar goods and/or services produced and/or traded, shall be punished with imprisonment for a maximum of 5 (five) years and/or a maximum fine of Rp. 2,000,000,000.00 (two billion rupiah)."

The marketplace's responsibility for dealing with counterfeit formula milk involves acting as a liaison between sellers and those responsible for harming consumers. This responsibility aims to ensure the sales process complies with regulations and maintains the authenticity of the Dancow Fortigo Full Cream brand as an official product. This aligns with Islamic law, as outlined in the Indonesian Ulema Council (MUI) Fatwa, which issued legal regulations addressing trademark violations. The principles of legal certainty and protection of economic

rights underpin this legal accountability mechanism. According to Mahadi, legal protection for trademarks is intended to guarantee justice for brand owners and prevent unfair business competition.(Erwin & Sativa, 2025)

MUI Fatwa Number I/MUNASVII/MUI/5/2005 concerning Protection of Intellectual Property Rights states that the right to a brand is an Exclusive Right granted by the Republic of Indonesia to the owner of a brand that has been registered in the General Register of Brands, this is applied for a certain period of time and gives the owner the authority to use the brand or grant permission for its use to other people.(MUI, 2005)This fatwa serves as a reference for stakeholders in understanding Islamic law regarding trademark protection. According to Islamic law, using or listing a registered trademark without the owner's permission is detrimental to many parties and is prohibited. Islam emphasizes that individual property and ownership must be protected, so using something that is not owned without permission is considered unjustified or haram.

Thus, any form of non-compliance with the trademark has disturbed the public. Therefore, the MUI fatwa becomes an important basis to ensure that trademark holders receive applicable legal protection. The fatwa explains that IPR is seen as part of property rights (huquq maliyyah) and has legal standing (mashun) and other maal (wealth). IPR can be made the object of a contract (al-ma'qud'alaih), either in the form of a mu'awadah contract (exchange or commercial) or a tabarru'at contract (non-commercial), and can be waqf or donated. Forms of non-compliance with IPR such as the use, disclosure, creation, use, sale, import, export, distribution, delivery, provision, announcement, plagiarism, counterfeiting, or piracy of IPR belonging to another party without permission are considered acts of injustice and are legally declared haram.(Nurzannah & Tarigan, 2024).

Due to weak law enforcement and low public awareness, the MUI fatwa has been able to raise public awareness and prevent trademark infringement. The fatwa serves as a preventative measure against intellectual property rights violations in transactions, encouraging the public to refrain from illegally copying products or brands, as this constitutes a violation of the law.

## **CONCLUSION**

Based on the explanation above, it can be concluded that the practice of trading counterfeit formula milk on marketplace platforms is a serious form of trademark infringement, resulting in material and immaterial losses for registered brand owners, such as PT Nestlé Indonesia, the holder of the Dancow Fortigro brand. This violation, which often takes the form of imitation packaging and the sale of low-quality repackaged products at prices far below the original product, directly violates the exclusive rights of brand owners as stipulated in Law Number 20 of 2016 concerning Trademarks and Geographical Indications. Furthermore, this action also harms consumers because it misleads them about the authenticity and quality of the product, which has the potential to harm children's health, thus violating Law Number 8 of 1999 concerning Consumer Protection. Therefore, legal action against unscrupulous business actors is a necessity to uphold justice and protect the rights of all parties. On the other hand, marketplace platforms have responsibilities that go beyond being mere intermediaries, especially in ensuring a safe, fair, and free digital trading ecosystem from illegal products. While direct responsibility for the sale and purchase agreement rests with the seller, the marketplace is obligated to operate a reliable and secure electronic system, including conducting seller verification, implementing violation detection algorithms, and providing an efficient reporting system. In line with the Indonesian Ulema Council (MUI) Fatwa Number I/MUNAS VII/MUI/5/2005 concerning the Protection of Intellectual Property Rights (IPR), this legal basis is strengthened by affirming that trademarks are part of protected property rights (huquq maliyyah), and any form of unauthorized use or plagiarism of IPR is an act of injustice and is prohibited under Islamic law. Thus, the MUI Fatwa not only provides a moral and religious basis, but also serves as a preventative measure to

raise public awareness to avoid involvement in trademark violations, while supporting stronger law enforcement efforts.

## REFERENCE

- Al Khanis, NY, & Adly, MA (2024). Protection of Trademark Rights from the Perspective of MUI Fatwa Number: 1/MUNAS/VII/MUI/5/2005 (Case Study of Mie Gacoan and Mie Gacok). *Dynasty International Journal of Educational Management & Social Science*, 5(5).
- Ansa, F., Umam, H., & Asrianto, MT (2023). The Responsibility of Online Buying and Selling Application Managers (Shopee) Regarding the Sale of Counterfeit Products of Famous Brands. *UNES Law Review*, 6(2), 6884–6891. <https://www.review-unes.com/index.php/law/article/view/1482>
- As'ad, I., & Fattah, F. (2023). Monograph: Marketplace and Micro, Small, and Medium Enterprises (MSMEs) (Firdaus Yuni Dharta (Ed.)). Nuta Media.
- Br Sitepu, DP, Manurung, AFR, Zulkifli, S., & Noor, T. (2024). *Darma Agung Journal: LEGAL ANALYSIS OF MARKETPLACE PLATFORM PROVIDERS' RESPONSIBILITY TOWARDS COUNTERFEIT PRODUCTS IN TRANSACTIONS*. *Darma Agung*, 32(November), 464–474. <https://doi.org/https://dx.doi.org/10.46930/ojsuda.v32i6.5095>
- Di Putra, IMD, & Sukihana, IA (2018). Responsibilities of Online Buying and Selling Application Providers to Consumers Based on Law No. 8 of 1999 Concerning Consumer Protection. *Kerta Semaya*, 6(4), 1–15.
- Djamaludin, S., & Fuad, F. (2024). Legal Accountability of Marketplaces in Indonesia for Copyright Infringement: Challenges, Regulations, and Prevention Efforts in the E-Commerce Era. 6(3), 7980–7992. <https://doi.org/https://doi.org/10.31933/unesrev.v6i3.1674>
- Erwin, IN, & Sativa, A. (2025). MISUSE OF THE SARDINE FISH CRACKERS BRAND WITHOUT THE BUSINESS OWNER'S PERMISSION IN TEMBUNG VILLAGE, DSN FACT. *Analytica Islamica*, 14(2). <https://doi.org/http://dx.doi.org/10.30829/jai.v14i2.25830>
- Fitriani, SN, Susanti, DO, & Efendi, A. (2022). Legal protection for trademark rights holders in accordance with the characteristics of trademark rights. *Legal Law*, 11(2), 239–256. <https://doi.org/https://doi.org/10.56013/rechtens.v11i2.1783>
- Halim, A. (2023). RESPONSIBILITIES OF E-COMMERCE PLATFORM PROVIDERS IN PROTECTING BUYING AND SELLING TRANSACTIONS VIA E-COMMERCE PLATFORMS. *Notarius*, 2(1), 1–10. <https://jurnal.umsu.ac.id/index.php/notarius/article/view/15885/9803>
- Haris, A., & Yustitianingtyas, L. (2024). Consumer Legal Protection Against E-commerce Transactions in the Sale of Counterfeit Goods. *Academos Journal of Law and Social Order*, 3(2), 67–87. <https://doi.org/https://doi.org/10.30651/aca.v3i2.22317>
- MUI FATWANumber 1/MUNAS VII/MUI/5/2005 Concerning Protection of Intellectual Property Rights (IPR). <https://mui.or.id/baca/fatwa/perlindungan-haki-hak-kekayaan-intelektual>
- Nanda, WM (2023). Platform Organizers' Responsibilities for the Distribution of Imitation Products in the Marketplace. *Pamator*, 15(2). <https://doi.org/https://doi.org/10.21107/pamator.v15i2.22541>
- Nurzannah, A., & Tarigan, TM (2024). Legal Protection for the Inclusion of Registered Trademarks on Snack Packaging by the Kilo in the Shopee Marketplace: The Perspective of MUI Fatwa Number I/Munas VII/MUI/5/2005 Concerning Intellectual Property Rights. *Journal of Legal Interpretation*, 5(1), 925–933. <https://doi.org/https://doi.org/10.55637/juinhum.5.1.8563.925-933>
- Prahara, S. (2021). Intellectual Property Rights. In *Intellectual Property Rights: Protection of Folklore in the Context of Sui Generis Communal Property Rights*. <https://doi.org/10.14724/2001>
- Pratama, KA, Amirulloh, M., & Somawijaya, S. (2020). Responsibility for the Sale of Counterfeit Stamps on the Tokopedia Digital Marketplace Platform. *Suara Keadilan Journal*, 21(2), 157–169. <https://doi.org/10.24176/sk.v21i2.5690>
- Purwaningsih, E. (2023). Intellectual Property Rights (Kapita Selekta) (RL Tana Sumpena (Ed.)). Cv. Mandar Maju. <https://mandarmaju.com/main/detail/491/HAK-KEKAYAAN-INTELEKTUAL>

- Saudira, RA (2024). Legal Liability of Platform Providers for Goods That Infringe Trademarks in Online Marketplace Trading (Case Study of Online Trading Providers and the Issue of Product Counterfeiting). *Innovative*, 4, 5195–5210.
- Silalahi, PH, & Soemartono, GP (2024). Entrepreneurs' Liability for Counterfeit Brand Skincare Products on the Shopee Marketplace. *Ranah Research: Journal of Multidisciplinary Research and Development*, 6(4), 617–628. <https://doi.org/10.38035/rrj.v6i4.857>
- Sinaga, NA (2020). Trademark Rights Violations by Business Actors in Electronic Transactions (E-Commerce). *Scientific Journal of Aerospace Law*, 10(2), 76–95.
- Syaifulloh, SA (2024). A Legal Analysis of Trademark Rights Protection in the Digital Era: A Case Study of Trademark Rights Infringement on the Shopee Marketplace Platform. *Proceedings Series on Social Sciences & Humanities*, 17, 433–437. <https://doi.org/10.30595/pssh.v17i.1166>
- Totimage, UM, Aziz, H., & Taufik, R. (2022). Accountability of marketplace providers in the event of discrepancies in electronic transaction buying and selling objects. *Jurnal Pemandhu*, 3(2), 63–83.
- Law Number 8 of 1999 concerning Consumer Protection.
- Law Number 20 of 2016 concerning Trademarks and Geographical Indications.
- Widnyani, PI, & Sawitri, DAD (2025). CONSUMER PROTECTION IN THE SALE AND PURCHASE OF EXPIRED FORMULA MILK PRODUCTS IN MINIMARKETS. *Kertha Negara: Journal of Legal Studies*; Vol 12 No 05 (2024). <https://ojs.unud.ac.id/index.php/kerthanegara/article/view/114467>
- Willa. (2024). Understanding Quality Control in Today's Marketplace. Alibaba.Com. <https://reads.alibaba.com/id/understanding-quality-control-in-todays-marketplace/>