

## Marketplace Responsibility in the Sales of Super KW Bag Products Based on MUI Fatwa No. 1/5/2005 and Law No. 20 of 2016 concerning Trademarks

Aflia Ramadhani Srg<sup>1</sup>, Zulkifli Nas<sup>2</sup>

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

Email: [aflia0204211028@uinsu.ac.id](mailto:aflia0204211028@uinsu.ac.id)<sup>1</sup>, [zulkiflinas@uinsu.ac.id](mailto:zulkiflinas@uinsu.ac.id)<sup>2</sup>

---

### **Keywords:**

Marketplace Responsibility,  
Super KW Bags, MUI Fatwa,  
Brand Law

### **Abstract**

*The phenomenon of increasing circulation of counterfeit products such as super KW bags on marketplace platforms has caused new problems. This problem not only has an impact on the infringement of the intellectual property rights of brand owners, but also harms consumers and causes unfair business competition and even violations of religious norms. This study aims to analyze the form of marketplace responsibility in the sale of KW bag products based on legal, moral, social and religious products. This research includes doctrinal research, namely deductive normative juridical with a conceptual approach and statute approach. Primary data sources are laws and regulations related to this title, while secondary data sources are books and journals related to this research. Data is collected through document studies that include primary and secondary legal materials, then all data is analyzed qualitatively with deductive reasoning. The results of the study show that marketplaces have legal, moral, social and religious responsibilities to prevent the circulation of counterfeit goods. Marketplaces have legal, moral, social and religious responsibilities to prevent and overcome the circulation of counterfeit products such as super KW bags that are widely sold on digital platforms. Juridically, the marketplace's responsibility is not to market counterfeit products, including super KW bags. Its moral responsibilities are to maintain honesty and transparency, supervise and control sellers, provide consumer protection, educate consumers and business ethics, avoid fraudulent practices and comply with sharia principles. Its social responsibility is the verification and screening of sellers and products, providing certainty and transparency of information to consumers, providing education and prevention efforts, cooperation with authorities, brand owners, and the public. Furthermore, his religious responsibility is that he is responsible to Allah SWT for the actions of *tadlis*, *ghasab*, and *gharar* that he has done by repentance and not repeating the sale of KW products, including KW bag products.*

---

## INTRODUCTION

The advancement of information technology in the digital era has brought significant changes in various aspects of life, including in the fields of economics and trade. The development of the internet and the increasing trend of *online shopping* have encouraged the birth of various e-commerce platforms or marketplaces, such as Shopee, Tokopedia, Bukalapak, and Lazada. The presence of the marketplace makes it easy for people to make transactions quickly and efficiently without space and time limits (Lefiani et al., 2021), while opening up wide opportunities for business actors, including Micro, Small, and Medium Enterprises (MSMEs), to market their products digitally without having to have a physical store (Lihua, 2025).

The development of the marketplace also raises new problems in the field of trade law and ethics, one of which is the rampant counterfeiting of brands and the circulation of counterfeit or counterfeit (KW) products on various marketplace platforms (Saudira, 2024). KW products, especially counterfeit branded bags or super KW bags, are widely traded at much lower prices than

the original products. This phenomenon causes various problems, including violations of intellectual property rights (IPR), misleading consumers, and the creation of unfair business competition.

Intellectual Property Rights (IPR) is a legal instrument that aims to protect a person's rights to the results of their creativity and intellectual works and gives exclusive rights to their owners to obtain economic benefits. The scope of IPR includes copyrights and industrial property rights, such as patents, trademarks, industrial designs, trade secrets, and others. Therefore, infringement of trademark rights through the sale of counterfeit goods in the marketplace can be categorized as an infringement of intellectual property because it uses the rights of others without permission (Hasanah & Tarigan, 2025).

Data from the Directorate General of Intellectual Property (DJKI) of the Ministry of Law and Human Rights shows that during the 2021–2023 period there were thousands of reports of trademark infringement due to the sale of counterfeit products in the marketplace. Tokopedia, for example, has removed more than 1.4 million illegal products and closed around 25,000 seller accounts that infringe on IPR (DJKI, 2023). Meanwhile, the Ministry of Commerce in 2022 reported that it had taken down more than 37,000 links for the sale of counterfeit goods from various digital platforms. The data shows that the circulation of counterfeit products, including super KW bags, is still a serious problem in Indonesia.

Normatively, the responsibility of marketplaces for the circulation of counterfeit products has been regulated in various laws and regulations, including Law Number 20 of 2016 concerning Trademarks and Geographical Indications, Law Number 8 of 1999 concerning Consumer Protection, Law Number 11 of 2008 concerning Information and Electronic Transactions as amended by Law Number 19 of 2016, Government Regulation Number 71 of 2019, and Regulation of the Minister of Communication and Information Technology Number 5 of 2020 jo. Number 5 of 2021. Although a legal framework is available, practice on the ground shows that law enforcement still tends to be reactive and not optimal.

This problem is also relevant to be analyzed from the perspective of Islamic law, namely through the Fatwa of the Indonesian Ulema Council (MUI) Number 1/MUNAS VII/MUI/2005 concerning the Protection of Intellectual Property Rights emphasizes that producing, trading, and disseminating counterfeit goods is haram because it contains elements of fraud (*tadlis*), unauthorized taking of rights (*ghasab*), and ambiguity (*gharar*) (Al-Misri, 2025). Thus, the trade in counterfeit products not only violates positive laws, but also goes against the principles of honesty and justice in Islam.

Several previous studies are relevant to this study. Bernadetta Lakshita Pradipta Utomo, Sudaryat, and Aam Suryamah (2021) examined the legal protection for trademark owners for the sale of counterfeit goods in the marketplace. Furthermore, research conducted by Ferdi Ansa, Haerul Umam, and Muhammad Taufik Asrianto (2023) highlights the responsibility of the Shopee marketplace for the circulation of counterfeit products. In addition, Maria Bertha (2022) examines the responsibility of marketplaces for the sale of counterfeit products. The results of these studies show that even though marketplaces have legal responsibilities, preventive actions are still not optimal due to technological limitations, lack of cooperation with brand owners, and lack of socialization to consumers.

Based on the previous research, it can be seen that studies on marketplace responsibility generally still focus on the repressive aspect after the occurrence of violations. Therefore, this research has a novelty by focusing on the preventive responsibility of marketplaces in preventing

the circulation of super KW bags from the beginning, as well as integrating positive legal analysis with the perspective of Islamic law.

The urgency of this research lies in the importance of a legal approach that is not only normative, but also considers social, moral, and religious dimensions. The rise of the circulation of super KW bags causes losses for brand owners, misleads consumers, and weakens the healthy business competition climate. Therefore, a comprehensive study is needed on the extent of the responsibility of the marketplace in preventing and overcoming the sale of super KW bags based on MUI Fatwa Number 1/MUNAS VII/MUI/2005 and Law Number 20 of 2016 concerning Trademarks and Geographical Indications.

This study aims to explain the responsibility of marketplaces to market products or goods based on MUI Fatwa No. 1/5/2005 Law No. 20/2016 concerning Brands, both legally, socially and religiously. This research will answer the question of how the responsibility of the marketplace to prevent the sale of KW Super bag products based on MUI Fatwa No. 1/5/2005 and Law No. 20/2016 is reviewed from legal, social and moral perspectives.

## METHODS

This type of research is doctrinal law research or better known as normative juridical research (Efendi & Rijadi, 2022), which is a process to find legal principles and legal doctrines in answering legal problems that are being faced based on natural law schools, legal positivism and legal functionalism realism (Soetandyo, 2002), with a *conceptual approach* and *statute approach*. The *conceptual approach* is used to understand the meaning of legal, social and moral responsibility of religion, while *the statute approach* is used to examine the laws and regulations that regulate the sale of KW bag products.

There are two types of data sources in this study, namely primary data and secondary data. The primary data is data in Law No. 20/2016 concerning Trademarks and Geographical Indications, Law No. 11/2008 concerning Electronic Information and Transactions as amended by Law No. 19/2016, and Government Regulation No. 71/2019 concerning the Implementation of Electronic Systems and Transactions, Regulation of the Ministry of Communication and Informatics No. 5/2020 jo. No. 5/2021 concerning Private Scope Electronic System Operators and MUI Fatwa No. 1/5/2005, while secondary data is data collected through the study of other documents, be it other relevant laws and regulations and also legal books, legal journals and legal opinions relevant to this research. Then, the data is processed qualitatively and analyzed using deductive reasoning. The results of this study will be reported in the form of descriptive analytics.

## RESULTS AND DISCUSSION

### A. Concept of Brand Counterfeiting, KW Bags and Marketplace

Normatively, legal protection of trademark rights in Indonesia is regulated in Law Number 20 of 2016 concerning Trademarks and Geographical Indications. This law affirms that registered trademark owners have the exclusive right to use their trademarks commercially as well as prohibit others from using the trademark without permission. These exclusive rights are the basis for legal protection against every form of trademark infringement, including the circulation of counterfeit goods in the marketplace (Rizkiansyah & Santoso, 2025).

Based on Article 1 paragraph (1) of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, a trademark is defined as a sign that can be displayed graphically in the form of images, logos, names, words, letters, numbers, color arrangements, two-dimensional and/or three-dimensional shapes, sounds, holograms, or combinations of these elements to distinguish goods and/or services produced by persons or legal entities in trade activities. Based

on this definition, a brand functions as an identity as well as a guarantee of the quality of a product. Trademarks that have been legally registered become the property of their owners and cannot be used by other parties in the unlawful intent. Article 22 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications stipulates that for registered trademarks that later become generic names, anyone can apply for a trademark using the generic name as long as there are distinguishing elements. This provision shows that a physical resemblance cannot necessarily be categorized as a trademark forgery, but must be substantive.

One form of brand infringement that is widely found in the marketplace is the circulation of fake products or known as KW. According to the Great Indonesian Dictionary, KW stands for "quality" attached to imitation products that resemble real goods but are sold at a lower price. KW products generally have a design similarity to the original product, but differ in terms of materials, manufacturing process, and durability. Pratama (2021) classifies KW products into several levels, namely KW Super AAA, KW Super, KW Semi Super, KW 1, and KW 2. In this study, the focus is directed to super KW bags, which are bags that visually resemble the original product, but use cheaper materials and have lower quality. The use of certain trademarks accompanied by KW descriptions basically indicates indications of trademark counterfeiting. However, the determination of whether the act constitutes trademark counterfeiting must still go through legal mechanisms and substantive examination based on Law Number 20 of 2016 concerning Trademarks and Geographical Indications.

Marketplace is a digital platform that brings together sellers and consumers to make online transactions and provides payment facilities, product storefronts, and delivery services (Kusumaningsih & Sutopo, 2021). The marketplace is not the producer or owner of the goods being traded, but acts as an intermediary for transactions. However, if the marketplace allows or facilitates the sale of super KW bags, it has the potential to cause legal liability because it also allows for trademark rights violations.

## **B. The Law of Marketing KW Products or Goods and Facilitating Them Based on MUI Fatwa No. 1/5/2005**

The Indonesian Ulema Council (MUI) has issued Fatwa No. 1/MUNAS VII/MUI/5/2005 concerning the Protection of Intellectual Property Rights (IPR) and states the following legal provisions: First, Intellectual Property Rights (IPR) is one of *the huquq maliyyah* (property rights) that receives legal protection like mal (wealth). Second, IPR that receives legal protection as referred to in number 1 is IPR that does not conflict with Islamic law. Third, IPR can be used as the object of an agreement (*al ma'qud alaihi*) either a *mu'awadah* contract (exchange, commercial), or a *tabaru'at* contract (non-commercial), and can be waqf and inherited. Fourth, every form of violation of IPR, including but not limited to using, disclosing, making, using, selling, importing, exporting, distributing, handing over, providing, announcing, reproducing, plagiarizing, falsifying, and pirating IPR belonging to others without rights is tyrannical and unlawful.

The fatwa emphasizes that IPR is included in the category of assets (*bad*) that must be protected. All forms of violations against IPR, such as multiplying, imitating, and trading counterfeit products or KW goods, including haram acts because they harm other parties and violate the principles of justice in Islam. There are several arguments and postulates used by scholars to support his fatwa. The first postulate is based on *Qawaid Fiqh* which affirms:

النَّصْرُفُ عَلَى مَلِكِ الْغَيْرِ بِغَيْرِ إِذْنِهِ لَا يَجُوزُ

*It means: "It is not permissible to commit a legal act on (using) another person's property without his permission." (Azzam, 2005)*

This rule emphasizes that the act of imitating, selling, or marketing KW products without permission from the trademark owner is a violation of the property rights of others and is prohibited by sharia. Thus, the sale of KW products in the *marketplace* is not only problematic from a positive legal aspect, but also contrary to Islamic law. In Islamic law, it is not permissible to conduct economic or business transactions on an object unless it obtains permission from the rightful owner of the object or is allowed by the sharia (An-Nadwi, 1986). *Marketplace as an online transaction platform provider* also cannot escape responsibility for the circulation of KW products in the brand system. The MUI fatwa hints that the party who facilitates the haram act also bears the legal and moral consequences. Marketplace as a facilitator is obliged to supervise the goods marketed on their platform and prevent intellectual property rights violations by closing accounts or blocking sellers who offer fake products.

The second evidence in support of this is as follows:

للسائل حكم المقاصد

*Meaning: "The law for facilities is in accordance with the law intended (Abdul Hakim, n.d.)."*

Abu Zahrah explained that the law for something to go to haram is haram, and the law for something to go to halal is halal, and the law for something that is mubah is mubah. In Islam, such evidence is called *ẓari'ah* (Abu Zahrah, n.d.). Whoever aims to deceive then all facilities that help to deceive are the same as deceitful. The law of deception is haram, so all facilities for deception are haram. The maker of KW products with the intention to deceive is haram, and all those who participate in facilitating the fraud are haram. This is in accordance with the Hadith of the Prophet which states that whoever opens the way of goodness will receive a reward from the one who follows the good, but whoever opens the way to evil will receive sin from the one who follows the evil (Muslim, 1995).

The third argument is based on *qawa'id fiqh* which affirms:

الضَّرَرُ يُزَالُ

*Meaning: "Danger (loss) must be eliminated." (Azzam, 2005)*

Trademark counterfeiting is very harmful to legitimate brand owners, consumers and other business actors as members of society. This rule affirms the basic principle that any form of loss that befalls other parties, both brand owners, consumers and the public, must be abolished or prevented. In this context, a marketplace that allows the sale of counterfeit products also allows *dharar* (losses) to occur to the original brand owner and also consumers who are deceived by the quality of counterfeit goods.

The fourth argument is based on *qawa'id fiqh* which explains as follows:

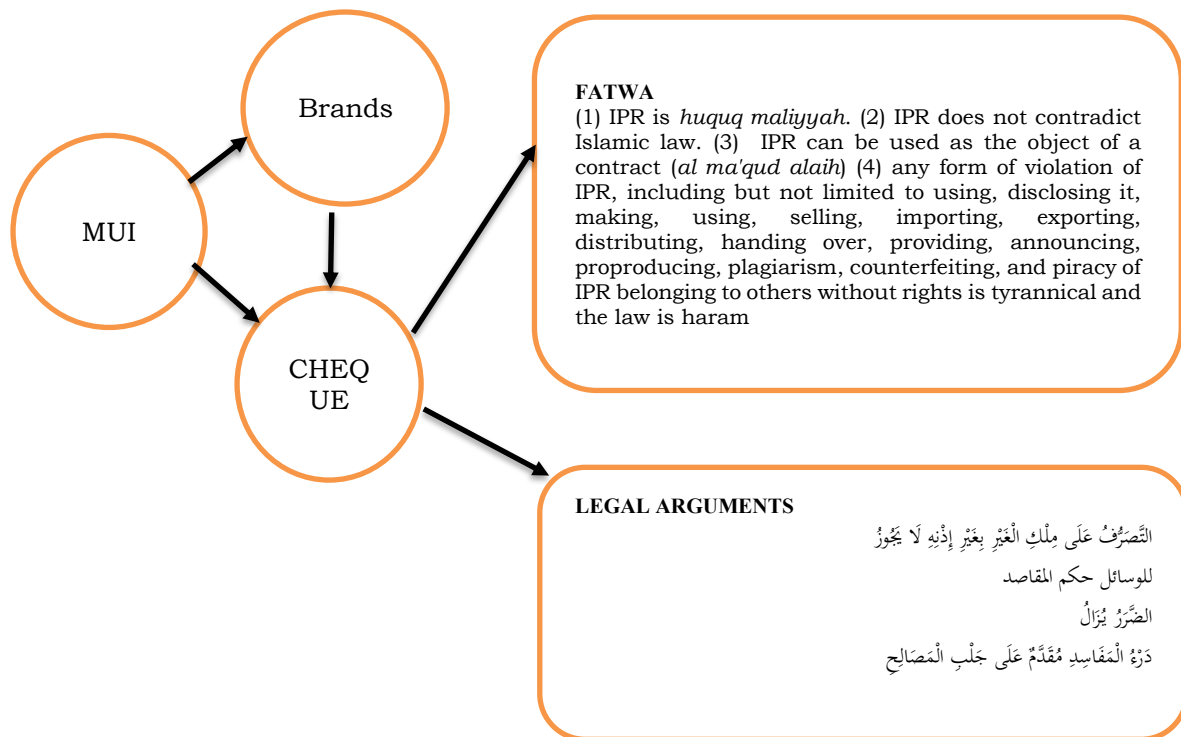
دَرْءُ الْمَفَاسِدِ مُقَدَّمٌ عَلَى جَلْبِ الْمَصَالِحِ

*Meaning: "Avoiding mafsadat takes precedence over bringing benefits." (Azzam, 2005)*

This rule shows that prevention of acts that cause *harm* must be prioritized even though it provides economic benefits. In the context of *the marketplace*, allowing the sale of KW products provides financial benefits for some parties, but morally and Islamic law it actually causes greater harm to consumers, original brand owners and the community.

Based on the above arguments and arguments, from the perspective of Islamic law, marketing KW products is haram in accordance with MUI Fatwa No. 1/5/2005 and marketing KW products, because it clearly violates the principles of *prohibition of gharar* (ambiguity) and *dharar* (loss) in transactions. *Marketplaces* that do not enforce supervision and allow such practices can be considered negligent in maintaining the benefits (*maslahah*) of consumers, brand owners and the community and do not fulfill their social responsibilities. In addition, the practice of selling

counterfeit goods also contains elements of *tadlis* (fraud) because it disguises the quality of the product so that it is detrimental to the buyer and owner of the original brand. Therefore, marketplaces are obliged to carry out the principles of fairness and honesty in every transaction by ensuring that all products circulating on their platform are legitimate products and do not violate the intellectual property rights of other parties.



Legal Argumentation Scheme for Marketing KW Products or Goods and Facilitating It Based on MUI Fatwa No. 1/5/2005

### C. The Law of Marketing KW Products or Goods Based on Law No. 20/2016 on Trademarks

Marketing Marketing of KW goods is related to three forms of legal acts, namely producing KW goods, trading KW goods, and facilitating the circulation of KW goods. The production of goods for personal gain cannot be categorized as a criminal offense because it does not involve the use of the mark in commercial activities. On the other hand, the production of goods for the purpose of being marketed using another party's trademark without permission is an unlawful act that gives rise to civil or criminal liability.

Based on Article 83 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, registered trademark owners and/or licensees have the right to file a lawsuit for compensation and/or termination of all acts against parties who do not have the right to use a trademark that has similarities in principle or in whole for similar goods and/or services. Criminal provisions are regulated in Article 100 paragraph (1) and paragraph (2), which states that every person who does not have the right to use the same trademark or has the same in principle with a registered trademark for similar goods produced and/or traded shall be sentenced to imprisonment for a maximum of 5 (five) years and/or a maximum fine of Rp2,000,000,000.00 (two billion rupiah), and imprisonment for a maximum of 4 (four) years and/or a maximum fine of IDR 2,000,000,000.00 (two billion rupiah). This provision emphasizes that trading or facilitating

the circulation of counterfeit branded goods is a criminal offense of trademark infringement (Giantama & Kholil, 2020).

Marketplace is basically an electronic system as referred to in Article 1 number 5 of Law Number 11 of 2008 jo. Law Number 19 of 2016 concerning Electronic Information and Transactions, which is a series of electronic devices and procedures that function to prepare, collect, process, analyze, store, display, announce, send, and/or disseminate electronic information (Vionita & Nasution, 2025). The marketplace includes private-scope Electronic System Operators (PSE) based on Government Regulation Number 71 of 2019 and is categorized as PSE based on *User Generated Content* (UGC) according to Permenkominfo Number 5 of 2020 jo. Number 5 of 2021, so it is mandatory to provide a management system and reporting facilities for content or products that violate the law. If the marketplace is negligent in supervising so as to allow the circulation of super KW bags, then the marketplace can be held civil liable based on Article 1365 of the Civil Code regarding unlawful acts. In addition, if it is proven that there is an element of intentionality or cooperation with the perpetrators of trademark counterfeiting, the marketplace may be subject to criminal liability as a party that participates in committing a criminal act (*medelpleger*) as stipulated in Article 55 and Article 56 of the Criminal Code.

In addition to civil and criminal sanctions, marketplaces can also be subject to administrative sanctions based on the Regulation of the Minister of Trade of the Republic of Indonesia Number 31 of 2023 in the form of written warnings, inclusion in the list of supervisory priorities, blacklists, temporary blocking of services, and/or revocation of business licenses. Here are some examples of pictures of super KW bag products sold in the marketplace:



Figure 2.

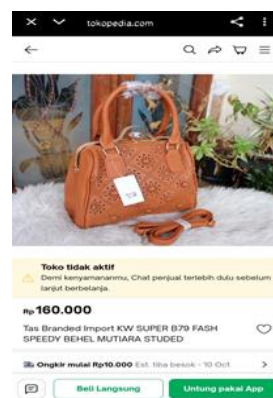


Figure 3.

KW Products on *the Shopee Online Marketplace* KW Products on *the Tokopedia Online Marketplace*

Figure 2. shows one example of a product display on the Shopee online marketplace, where the seller openly offers a "KW super branded bag" at a price of IDR 120,000. The products displayed imitated well-known brands such as Christian Dior and Louis Vuitton, and included the caption "KW Super" in the product description. Figure 3. shows one example of selling products on the Tokopedia marketplace, where the seller openly offers "Imported Branded Bag KW Super B79 Fash Speedy Bebra Mutiara Studed" at a price of IDR 160,000.

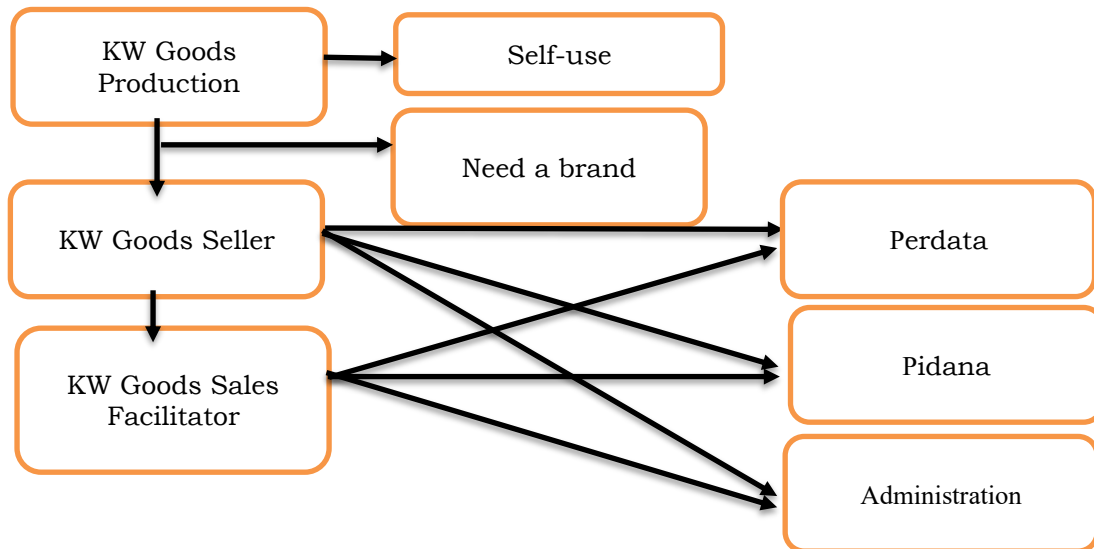


Figure 4.

Legal Argumentation Scheme for Marketing KW Products or Goods and Facilitating It Based on Laws and Regulations

#### D. Marketplace Responsibility in the Sale of Super KW Bags

##### 1) Marketplace Legal Responsibility in the Sale of Super KW Bags

According to the Great Dictionary of the Indonesian Language (KBBI), responsibility is the obligation to bear everything if anything happens can be sued, blamed, and litigated. In the legal dictionary, responsibility is a necessity for a person to carry out what has been required of him. According to the law, responsibility is a consequence of a person's freedom of action related to ethics or morals in doing an act (Purwito, 2023). According to Hans Kelsen as an adherent of the school of legal positivism, in his theory of legal responsibility it is explained that a person will be legally responsible for a certain act or he bears legal responsibility related to the subject. A person can be sanctioned or punished if he or she commits an act that is contrary to the applicable legal norms (Nuralisha & Mahmudah, 2023). Legal liability *Marketplace* is a legal obligation that must be fulfilled by the platform operator *Marketplace* in managing, supervising, and ensuring the security and validity of transactions between sellers and buyers on their platforms (Rizky et al., 2025).

As a PSE scope *Private, Marketplace* have a legal responsibility to prevent and take action against such violations. The Government through the Circular Letter of the Minister of Communication and Information No. /5 of 2016 concerning Limitations and Responsibilities of Platform Providers and Traders (*Merchant*) in Trading Through Electronic Systems based *User Generated Content* (SE Safe Harbour Policy) explains that *Marketplace* responsible for the maintenance of reliable and secure electronic systems. However, he cannot be held directly liable if the violation occurs due to the negligence or intentionality of the seller (*Merchant*). Nonetheless, *Marketplace* still have preventive and repressive obligations. Preventive efforts can be made by automatically filtering keywords such as "KW", "replica", or "*supercopy*", as well as conducting active and periodic monitoring of the goods sold, as regulated in Roman numeral V letter C number 1 letter e SE *Safe Harbour Policy*. Meanwhile, repressive efforts can be done by lowering (*Take It Down*) infringing products, or also by closing the account of sellers who sell counterfeit goods, as well as coordinating with brand owners and law enforcement officials to crack down on trademark rights violations (Yuliansyah, et al., 2024).

Based on the researchers' search of several *Marketplace* in Indonesia has taken action to attract thousands of products *Illegal* and closing the Seller's account that infringes intellectual property rights. However, there are still sales of super KW bags on online platforms which shows

that marketplace supervision has not been running optimally. Therefore, there is a need for strategic steps that can be taken to strengthen brand protection and suppress the circulation of super KW bags in the marketplace, including the following: *First, the marketplace* need to strengthen the product verification mechanism, *Second* expanding the trademark infringement detection algorithm, *third* provide education and capacity building for marketplaces, sellers, and consumers by gaining an adequate understanding of intellectual property rights, the importance of brand protection, and the social and economic impacts arising from the circulation of counterfeit goods, and *Fourth* Cooperation between the government, brand owners, marketplace operators, and the community is needed to create comprehensive and sustainable solutions (Saudira, 2024).

With the implementation of these measures, it is hoped that the problem of the legal responsibility of marketplace providers for the circulation of products that violate the trademark can be minimized, so that legal protection for brands in the digital era can be realized more optimally and fairly. Repressive and preventive efforts are also expected to be able to support the development of the digital trade ecosystem while providing optimal protection for consumers and other interested parties.

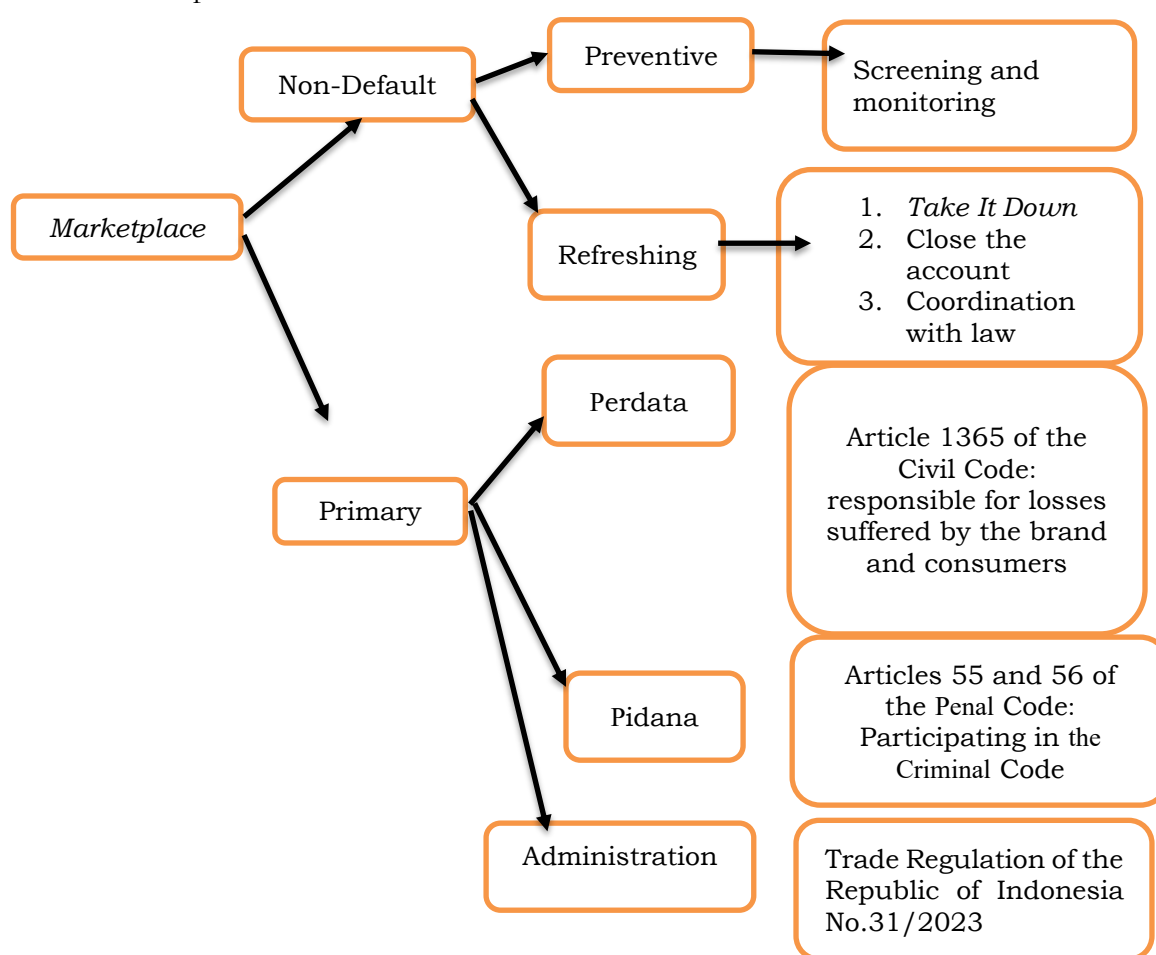


Figure 5.  
KW Product Marketplace Legal Liability Scheme

## 2) Marketplace's Moral Responsibility in the Sale of Super KW Bags

Moral responsibility is a person's obligation to show personal quality in carrying out his work based on ethical values. Marketplace moral responsibility is an ethical obligation inherent in marketplace platform operators to maintain integrity, consumer trust, and ensure that transactions run fairly and transparently. *Marketplaces* must provide accurate and accurate information about products, supervise the quality of goods sold by merchants, and ensure consumer protection from

counterfeit products (Pattipeilohy & Akyuwen, 2025). Based on the Islamic perspective, such moral responsibility is rooted in the principle of justice. Justice in the Qur'an is divided into two forms, namely al-qistu as individual and moral justice related to the fulfillment of the rights of each individual, and al-'adlu as social justice related to the fulfillment of rights in social life (Nurdaliani & Zulkifli, 2024). Therefore, *marketplaces* have a moral responsibility to prevent the sale of super KW bags in order to maintain business ethics and platform integrity. It is obliged to maintain business integrity and ethics by not allowing counterfeit goods, such as super KW bags, to circulate on their platform. The sale of counterfeit goods undermines consumer confidence and market image globally, and goes against the principles of honesty and fairness in business (Jyani & Bansal, 2022). Proactive action to identify and remove counterfeit products is a form of moral responsibility to maintain a healthy trade ecosystem. Although Law No. 20/2016 does not directly mention the term "*marketplace*", it has a moral and legal responsibility to: 1) Keep its platform from being used for trademark infringement, 2) Close the accounts of sellers who sell counterfeit products, 3) Take action against reports from brand owners. This principle is also in line with the provisions in Article 83 paragraph (1): "The registered Trademark Owner may file a lawsuit against a party who without the right to use a Trademark that has similarities in substance or in whole with his/her registered Trademark". The form of marketplace moral responsibility in the sale of KW Super bags includes the following:

a. Maintaining Honesty and Transparency

The marketplace must ensure that the product information displayed is accurate and does not mislead consumers. They are obliged to supervise so that sellers do not sell KW products secretly and provide correct information regarding the authenticity of the goods. This honesty is important to maintain consumer trust and the platform's reputation.

b. Supervising and Controlling Sellers

Marketplaces must act proactively in supervising sellers and removing products indicated as KW bags so as not to harm consumers and original business actors. By taking *down* content immediately after receiving reports or findings of fake products on the platform in accordance with the provisions of Government Regulation No. 80 of 2019 concerning Trade Through Electronic Systems.

c. Providing Consumer Protection

Marketplaces are morally responsible to protect consumers from losses by providing a complaint and compensation mechanism related to KW products. Consumers are entitled to receive goods in accordance with the promised exchange rate and quality, as well as the right to compensation if the goods are not in accordance with the agreement.

d. Providing Consumer Education and Business Ethics

Marketplaces also have a moral responsibility to educate consumers about the risks and negative impacts of buying KW bags, such as intellectual property rights violations and economic losses. They need to encourage ethical consumer behavior and support the principles of honesty and business responsibility among businesses on their platforms.

e. Avoiding Fraudulent Practices and Adhering to Sharia Principles

Marketplaces must avoid practices such as *tadlis* (fraud) and *ghisyysy* (*hiding* defects in goods) according to the DSN-MUI's fatwa which emphasizes honesty and fairness in transactions. The marketplace is responsible for ensuring that transactions occur in accordance with moral and sharia principles.

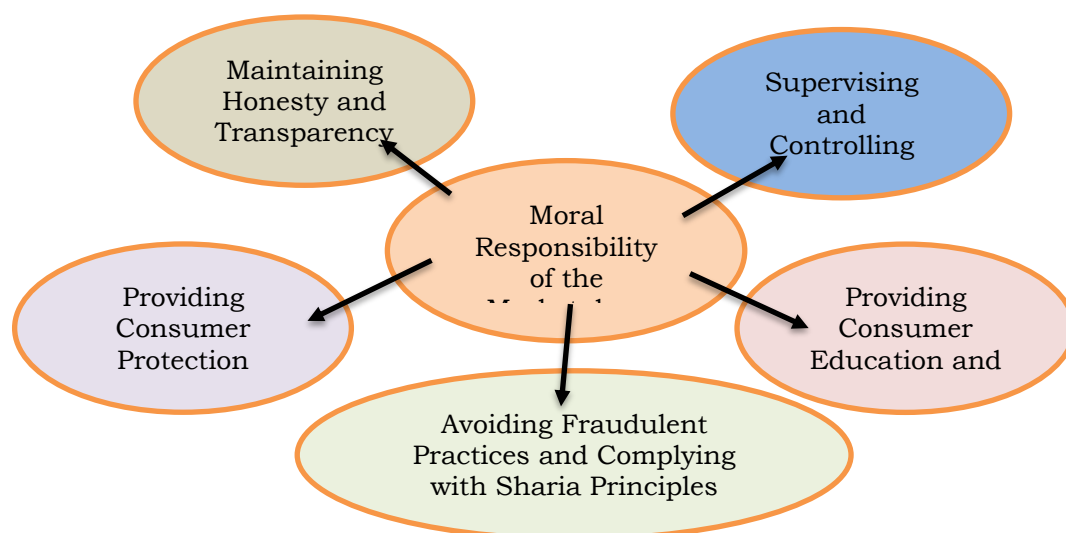


Figure 6

### KW Product Marketplace Moral Responsibility Scheme

#### 3) Marketplace Social Responsibility in the Sale of Super KW Bags

The practice of selling super KW bags in the *marketplace* causes a lot of harm to brand owners, business actors, and consumers. This not only causes economic losses for brand owners, but also negatively impacts consumers and other law-abiding business actors. Brand owners lose their exclusive rights and brand reputation, while consumers are harmed by acquiring goods that do not meet the expectations and quality promised. In addition, these practices cause unfair business competition, hinder innovation, and have the potential to reduce public trust in the digital trade ecosystem.

Social Responsibility is the obligation of a company or organization to carry out a social role that focuses on sustainability, community welfare, and the environment (Gupita, 2025). Marketplaces as *e-commerce* platform managers are socially responsible by being obliged to ensure the safety, fairness, and welfare of users, both consumers and sellers and other business actors through the implementation of secure electronic systems, supervisory mechanisms, service transparency, and compliance with applicable regulations (Xu et al., 2022). It not only pursues profits, but also contributes to the welfare of society and the environment in a voluntary and sustainable and equitable manner (Barauskaite & Štreimikienė, 2020).

Socially, the sale of super KW bags can trigger an increase in a culture of dishonesty and weaken social trust so that it can damage the good name of other business actors. This impact shows the need for public awareness of the importance of buying genuine products and the need to strengthen legal supervision of the circulation of counterfeit goods in Indonesia (Rizkiansyah & Santoso, 2025). As a solution, if the price is expensive and unaffordable for some people, it can be done by making other brands by displaying specifications that are close to the same quality so that the community, brand owners and consumers are not harmed and business competition in the market is healthier and fairer. The following are the forms of social responsibility of the *marketplace* in the sale of super KW bags:

a. Verification and Screening of Sellers and Products

*Marketplaces* should select sellers and products that are traded, for example, verifying the identity of the seller, ensuring that the branded goods sold are genuine or have official permits, and monitoring the listing of goods so that they do not contain counterfeit or counterfeit goods.

b. Providing Certainty and Transparency of Information to Consumers

*The marketplace* must provide clear information to consumers regarding the authenticity of goods, brands, product conditions, and the risks of counterfeit goods. This includes a social

responsibility to protect consumers from losses due to buying counterfeit products that may be of poor quality or unsafe (Tamba et al., 2025).

c. Providing Education and Prevention Efforts

As part of social responsibility, the marketplace can provide education to sellers and buyers about the negative impact of counterfeit goods such as harming the owner of the original brand, lowering consumer trust, and even posing a safety risk.

d. Cooperation with Authorities, Brand Owners, and the Community

*Marketplaces* should actively work with the government, regulatory bodies, brand rights owners, and the public to supervise, audit, and take action against the sale of counterfeit goods on their platforms.

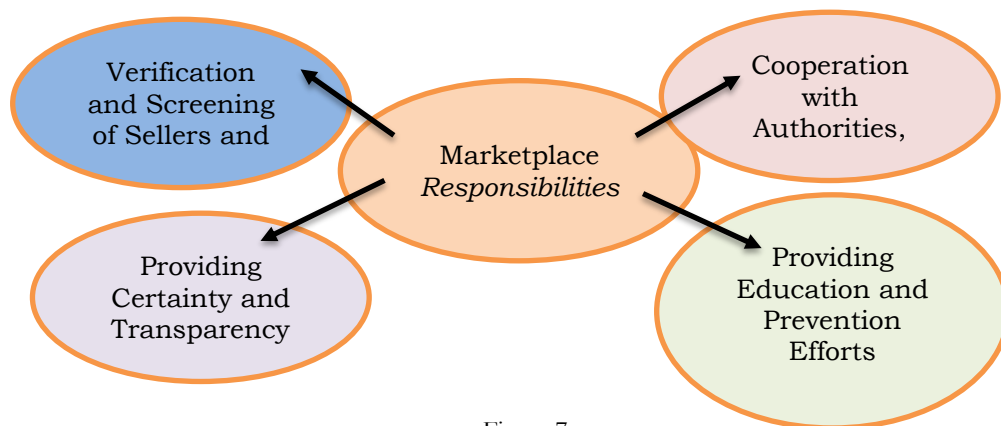


Figure 7.

KW Product Marketplace Social Responsibility Scheme

#### 4) Marketplace Responsibility in the Sale of Super KW Bags Based on MUI Fatwa No. 1/5/2005

Religious responsibility is the individual's awareness to carry out his religious teachings, both in worship, ethics, and social relations, and to accept the consequences of his actions. Based on MUI Fatwa No. 1/2005, *marketplaces* have the responsibility to prevent the distribution of goods that violate Intellectual Property Rights such as the sale of KW Super bag products. The relationship between this fatwa and the responsibility of the marketplace is that the marketplace as an organizer and facilitator of electronic buying and selling is obliged to ensure that the products sold on its platform do not violate IPR (Widyastuti, 2020). The MUI Fatwa No. 1/MUNAS VII/MUI/5/2005 concerning the Protection of Intellectual Property Rights provides a moral and ethical basis that complements the legal protection of intellectual property rights. This fatwa views that violations of intellectual property rights, such as impersonation of product brands without permission, are a form of injustice and thus are haram or prohibited from a sharia perspective.

a. Repentance to Allah SWT

The principle contained in the MUI fatwa No. 1/5/2005 implies that marketplaces have a moral responsibility not to facilitate activities that violate intellectual property rights. *The marketplace* needs to ensure that the products marketed on its platform are not the result of imitation or violation of other parties' brand rights and it must ensure that the purchase and sale contract is in accordance with sharia and carries out its responsibility, namely providing honest and transparent information about the product and ensuring that goods reach the buyer according to the contract. The prohibition of doing acts that harm the rights and property of others is also affirmed in the words of Allah SWT:

يَا أَيُّهَا الَّذِينَ ءَامَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ، وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَجِيمًا

*Meaning: "O you who believe! Thou shalt not eat one another's property in an unlawful way, except in the way of business which is done in a greedile manner among yourselves. And thou shalt not kill thyself; Indeed, Allah is Most Merciful to you."(QS. al-Nisa' [4]: 29).*

The verse emphasizes that all forms of transactions that contain elements of falsehood, such as selling counterfeit goods that are detrimental to the owner of the original brand, are included in the category of prohibited acts in Islam. Buying and selling is legal because all the conditions and the principles of buying are met, but the method is wrong so that it becomes haram. The meaning of the word *bil bathil* in the above verse is *lil ilshaq* which is mixing the halal with the haram (Ibn Hayyan, 1993). *Marketplaces* that facilitate the sale of super KW bags indirectly participate in activities that are contrary to the principles of justice and honesty in muamalah.

The form of *marketplace* accountability in the sale of KW Super bags based on MUI Fatwa No. 1/5/2005 is religious responsibility. For a Muslim, the act of counterfeiting a trademark is an economic act that is prohibited as explained above. He must be accountable to Allah SWT for his actions. *Marketplaces* that facilitate the sale of counterfeit products are actions or transactions that violate sharia. Ibn Ajibah explained that the meaning of *bil bathil* in the above verse is a transaction that is not in accordance with the sharia (*bi ghair haqq syar'iy*) (Ibn Ajibah, 1999). The form of responsibility is to repent to Allah SWT for what he has done intentionally or unintentionally.

b. Do not repeat the act of selling KW products

*Marketplaces* that facilitate the sale of counterfeit products (*tadlis*) are the same in the sense that they open the way for people to sin. In the hadith it is explained that whoever opens the way for others to sin then bears his sin and bears the sin of the one who has committed the sin. The form of responsibility is not only in this world, but also in the hereafter. He will also bear the sins of those who sell the counterfeit products. The Prophet PBUH said:

وَمَنْ سَنَّ فِي الْإِسْلَامِ سُنَّةً سَيِّئَةً كَانَ عَلَيْهِ وِزْرُهَا وَوِزْرُ مَنْ عَمِلَ بِهَا مِنْ بَعْدِهِ مِنْ غَيْرِ أَنْ يَنْقُصَ مِنْ ...  
أَوْزَارِهِمْ شَيْئًا...

*Meaning: "Whoever opens the way in Islam the path of evil, he bears his sins and the sins of those who follow him afterwards without reducing their sins in the least." (Muslim, 1995)*

Fatwa No. 1/MUNAS VII/MUI/5/2005 serves not only as a guide for Muslims in Indonesia, but also as an instrument to increase public awareness about the importance of respecting and protecting intellectual property rights. Thus, the protection of trademark rights is not only a positive legal issue, but also a moral and ethical issue that reflects the value of justice and respect for the hard work and creativity of others (Ritonga & Sativa, 2024). Although the MUI Fatwa does not have binding legal force as the law, its existence has an important value as an ethical foundation that can strengthen the awareness and responsibility of *the marketplace* to play an active role in preventing the sale of counterfeit products or super KW bags on its platform.



Figure 8.  
KW Product Marketplace Religious Responsibility Scheme

## CONCLUSION

Based on the results of the research that has been conducted, it can be concluded that *the marketplace* has a legal, moral, social and religious responsibility to prevent and overcome the circulation of counterfeit products such as super KW bags that are widely sold on *digital platforms*. Juridically, *the marketplace's* responsibility is not to market counterfeit products, including KW bags. This has been regulated in the above laws and regulations, including Law Number 20 of 2016 concerning Trademarks and Geographical Indications, Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE Law) as amended by Law Number 19 of 2016, and other regulations. Its social responsibilities are to maintain honesty and transparency, supervise and control sellers, provide consumer protection, provide consumer education and business ethics, and avoid fraudulent practices and comply with sharia principles. Its moral responsibility is to verify and screen Sellers and Products, provide certainty and transparency of Information to Consumers, provide education and prevention efforts. Furthermore, his religious responsibility is that he is responsible to Allah SWT for the actions of *tadlis*, *ghasab*, and *gharar* that he has done by repentance and not repeating the sale of KW products, including KW bag products. Efforts to suppress the circulation of counterfeit products require synergy between the government, brand owners, and platform operators. Marketplaces need to strengthen verification systems and infringement detection algorithms, increase transparency in content management, and provide legal education to sellers and consumers to understand the importance of protecting intellectual property rights. The government needs to strengthen supervision and coordination between institutions to ensure effective law enforcement in the digital realm. In addition, the public is also expected to increase legal and moral awareness by not buying or selling counterfeit products, because such actions not only violate positive laws but also contradict the principles of honesty and justice in Islam. With the implementation of these measures, it is hoped that the protection of brand rights can be realized optimally, public trust in the digital trade ecosystem can increase, and an online trade system that is fair, ethical, and in accordance with the principles of national law and Islamic sharia values.

## REFERENCES

- Ajibah, I. (1999). *Tafsir Ibn Ajibah*. al-Qahirah: Hasan Abbas Zaki, Juz I.
- al-Misri, RY. (2005). *Fiqh al-Muamalat al-Maliyyah*. Damascus: Dar al-Qalam.
- an-Nadwi, A.A. (1986). *al-Qawaid al-Fiqhiyyah*. Damascus: Dar al-Qalam, 1994.
- Ansa, F., et al. (2023). The responsibility of the online buying and selling application (Shopee) management for the sale of counterfeit products of well-known brands. *Journal of Unes Law Review* Vol.6 No.2 of 2023, p.6890. <https://www.review-unes.com/law/article/view/1482/1260>
- Azzam, Abdul Aziz Muhammad. (2005). *al-Qawa'id al-Fiqhiyyah*. al-Qahirah: Dar al-Hadith.
- Barauskaite, G., & Štreimikienė, D. (2020). Corporate Social Responsibility and Corporate Financial Performance: A Puzzle of Concepts, Definitions, and Valuation Methods. *Corporate Social Responsibility and Environmental Management*. <https://doi.org/10.1002/csr.2048>

- Efendi, J., & Rijadi, P. (2022). *Normative and Empirical Legal Research Methods*, Second Edition. Jakarta: Kencana.
- Fatwa of the Indonesian Ulema Council Number: 1/MUNAS VII/MUI/5/2005 concerning the Protection of Intellectual Property Rights (IPR).
- Gama, K. L. S., & Westra, I. K. (2022). The responsibility of business actors for the rampant sale of counterfeit products through e-commerce platforms. *Kertha Semaya: Journal of Legal Science*, 10(6), 1242–1253. <https://ojs.unud.ac.id/index.php/kerthasemaya/issue/view/4264>
- Giantama, A. N., & Kholil, M. (2020). The Platform Provider's legal liability for trademark-infringing goods in the marketplace. *Journal of Private Law*, 8(1).
- Gupita, F. (2025). Corporate Social Responsibility (CSR) and Business Sustainability in the Digital Age: A Study on Start-Ups That Lasted More Than Five Years. *Proceedings of National Conference on Accounting & Finance*, 7.
- Hasanah, A. N., Hasanah, U., & Permata, C. (2024). Juridical Analysis of the Implementation of Ministry of Trade Regulation Number 31 of 2023 concerning PMSE Business Licensing Provisions. *Journal of Science and Social Research*, 7(2), 393–399.
- Payuk, R. R., Sondakh, J., & Mamangkey, R. M. (2023). Juridical review of legal protection for consumers who get products that are not in accordance with agreements with business actors in e-commerce transactions. *Lex Privatum*, 11 (5), <https://ejournal.unsrat.ac.id/v3/index.php/lexprivatum/article/view/49104>
- Regulation of the Ministry of Trade Number 31 of 2023 concerning Provisions for Business Licensing, Advertising, Fostering and Supervision of Business Actors in Trade Through Electronic Systems.
- Regulation of the Minister of Communication and Information Number 5 of 2021 concerning Private Scope Electronic System Operators.
- Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions.
- Pratama, S. (2021,). What is KW goods? and it turns out that there are levels. Kompas TV. <https://www.kompas.tv/klik360/220004/apa-itu-barang-kw-dan-ternyata-ada-tingkatannya>
- Purwito, E. (2023). The Concept of Consumer Legal Protection and Legal Responsibility of Business Actors for Expired Granulated Sugar Products in the City of Surabaya. *DEGREE: Journal of Master of Law*, 13(1), 110-129. <https://ejournal.fh.ubhara.ac.id/index.php/dekrit/article/download/142/157/597>
- Ritonga, L. Y., & Sativa, A. (2024). Legal Protection For T-Shirt Design Owners From The Perspective Of The MUI Fatwa No. 1 Munas VII/MUI/5/2005 (A study of the Shopee marketplace). *Indonesian Interdisciplinary Journal of Sharia Economics (IJSE)*, 7(3), 5703–5709.
- Rizkiansyah, M.D., & Santoso, B. Juridical Review of Marketplace Obligations related to the Circulation of Counterfeit Goods that Infringe Trademarks. *Journal of Multidisciplinary Sciences (JIM)*, 4 (3), 1529–1536. <https://doi.org/10.38035/jim.v4i3>

- Rizky, M., Azizi, F., Nasution, M., Rahman, A., & Dimiyati, A. (2025). Legal Responsibility to the Marketplace for the Promotion of Inappropriate Goods that Harm Consumers. *International Journal of Social Research and Services*. <https://doi.org/10.46799/ijssr.v5i5.1226>
- Saudira, R. A. (2024). The legal liability of the platform provider for goods that infringe the trademark in the online marketplace trade (case study: online trade organizers and the issue of product counterfeiting). *Innovative: Journal of Social Science Research*, 4 (2), 5195–5210. <https://j-innovative.org/index.php/Innovative/article/view/7134>
- Tamba, D. C. O., Simamora, J., & Gultom, M. H. (2025). Legal Protection For Consumers Who Suffer Losses Due To Purchased Goods Which Are Counterfeit Barcode Products According To Law Number 8 Of 1999 Concerning Consumer Protection. *Journal of Legal and Cultural Analytics (JLCA)*, 4(1), 405–424. <https://doi.org/10.55927/jlca.v4i1.13784>
- Law Number 11 of 2008 concerning Information and Electronic Transactions as amended by Law Number 19 of 2016.
- Law Number 19 of 2016 concerning Information and Electronic Transactions.
- Law Number 20 of 2016 concerning Trademarks and Geographical Indications.
- Utomo, P.L.B., et al. (2021). Legal Protection for Trademark Owners for the Sale of Counterfeit Goods on the Marketplace Platform. *Face of the Law*, 5(1), 70-76. [https://scholar.google.com/citations?view\\_op=view\\_citation&hl=id&user=rya7GqwAAAJ&citation\\_for\\_view=rya7GqwAAAAJ:UeHWp8X0CEIC](https://scholar.google.com/citations?view_op=view_citation&hl=id&user=rya7GqwAAAJ&citation_for_view=rya7GqwAAAAJ:UeHWp8X0CEIC)
- Vionita, & Nasution, K. (2025). The Marketplace's responsibility is to ensure the suitability of the products sold by the merchant. *Quantum Juris: Journal of Modern Law*, 7(3), 8–9. <https://journalversa.com/s/index.php/jhm>
- Wignjosoebroto, S. (2002). *Paradigm Law, Methods and Problem Dynamics*. Jakarta: Institute for Community Studies and Advocacy.
- Xu, F., Wang, J., & Li, Y. (2022). The Implications Of Socially Responsible Retailing Platform. *Sustainability*, 14(9), 5691. <https://doi.org/10.3390/su14095691>
- Yuliansyah, M. G., Prasetyo, D. R., Septiyani, E., & Khayatuddin, A. (2024). Consumer Protection: Legal Study of Branded KW Cellphones Registered on the Shopee E-Commerce Platform. *Scientific Journal of Student Research*, 2(6), 353–362. <https://doi.org/10.61272/jipm.v2i6.566>
- Zulham. (2013). *Consumer Protection Law. (Revised Edition)*. Jakarta: Kencana.