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# Upholding National Business Justice: The Urgency of the Good Faith Principle in Protecting Trademark Rights of Indonesian Business Actors

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## Abstract

*The principle of good faith is a fundamental element of Indonesia's trademark registration system, ensuring legal protection for trademark owners while preventing unfair competition. Nevertheless, disputes continue to arise from the registration of trademarks that are substantially similar to previously registered marks, as illustrated by the dispute between the SARI and SAIR trademarks in Decision Number 4/Pdt.Sus-HKI/2025/PN Niaga Smg. This study aims to analyze legal responsibility for trademark cancellation based on the principle of good faith and to examine the legal consequences of the court's decision for the parties involved. The research employs a normative juridical method using statutory and case approaches. Legal materials were collected through library research, including legislation, court decisions, books, and scientific journal articles, and analyzed using a descriptive qualitative approach. The results show that the panel of judges annulled the SAIR trademark registration because it was substantially similar to the previously registered SARI trademark and failed to satisfy the principle of good faith under Law Number 20 of 2016 concerning Trademarks and Geographical Indications. The decision resulted in the cancellation of the Defendant's trademark rights, the removal of the SAIR trademark from the General Register of Trademarks by the Directorate General of Intellectual Property, and strengthened legal protection for trademark owners acting in good faith. The study further demonstrates that the first-to-file principle is not absolute and must be balanced with an assessment of good faith to ensure legal certainty, justice, and effective trademark protection in Indonesia.*

***Keywords :*** *Good Faith; Legal Consequences; Legal Liability; Legal Protection; Trademark Cancellation.*

# I. Introduction

Rapid technological advancement has driven development across various sectors, including the business sector. In today's modern era, technology not only provides greater convenience but also creates broader opportunities for individuals to engage in business activities, both directly and indirectly. Every individual has the opportunity to expand their business at both the national and international levels, which ultimately contributes to the growth of the global economy. As a country with an open economic system, Indonesia cannot be separated from the increasing flow of trade. This condition is consistent with the continuous improvement in the standard of living of its people, which supports the achievement of national development goals.[1]

On the other hand, the increasing number of business actors in Indonesia has intensified business competition, requiring entrepreneurs to continuously innovate in developing their businesses. Such intense competition often gives rise to unfair business practices, including unjust attempts to dominate the market. These practices can hinder creativity and entrepreneurial motivation while potentially reducing consumer confidence in the overall trading environment.[2] Therefore, such conditions should be avoided because they may have adverse effects on economic development, particularly in developing countries such as Indonesia. Protecting intellectual creations requires recognizing the significance of Intellectual Property Rights (IPR), which provide creators and inventors with elusive legal rights over the products of their intellectual effort and innovation. These rights are intended to safeguard original creations that demonstrate novelty and reflect the value of human creativity.[3]

In principle, Intellectual Property Rights (IPR) encompass a broad scope of utilization, making it necessary to implement concrete measures to protect them from irresponsible acts. As a country closely connected to the issue of legal protection for intellectual property, Indonesia must ensure legal certainty for owners and creators of intellectual works. To demonstrate its commitment to the global protection of intellectual property, Indonesia ratified international agreements through its

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[1] Nadya Enjelin Kusuma dan R. Rahaditya, *"Tinjauan Prinsip Itikad Baik dalam Upaya Perlindungan Hukum Sengketa Merek (Studi Putusan Nomor 3/Pdt.Sus.Hki/Merek/ 2022/PN Niaga Mdn),"* UNES *Law Review,* Vol. 6, No. 2, 2023. Hlm. 4517.

[2] Fahim Anugrah, "*Perlindungan Hukum bag Pemegang Hak Merek dikaitkan dengan Prinsip Itikad Baik dalam Proses Pendaftaran Merek*." Sosial Humaniora Komunikasi, Vol. 1, No.1, 2020, hlm 49

[3] *Ibid*, hlm. 4517

membership in the World Trade Organization (WTO), which also plays a significant role in promoting the development of international tradeTo strengthen its commitment to protecting intellectual property, Indonesia has established a comprehensive legal framework in this field. A key milestone in this development was the enactment of Law Number 20 of 2016 concerning Trademarks, which was introduced as a legislative reform following Indonesia's ratification of the Agreement Establishing the World Trade Organization (WTO).[4]

Indonesia possesses enormous intellectual property potential, particularly within its rapidly growing creative industry, which is driven by the innovative contributions of the younger generation. These creative ideas constitute intangible assets with unlimited potential and significant economic value, making the protection of intellectual property a matter of great importance.[5] The Indonesian government has consistently undertaken initiatives to streamline the registration of intellectual property, particularly for trademarks, copyrights, and industrial designs, in order to promote greater public awareness of the importance of Intellectual Property Rights (IPR). Broadly defined, IPR comprises a set of legal protections granted to safeguard the outcomes of human intellectual creativity in accordance with applicable legislation. These protections extend to various forms of intellectual property, including patents, trademarks, copyrights, industrial designs, geographical indications, trade secrets, and Integrated Circuit Layout Designs (ICLDs).[6]

A trademark is one of the most important forms of intellectual property, particularly for its rightful owner. A trademark not only provides economic benefits to its creator or owner but also serves to protect consumers by preventing the circulation of counterfeit products that may compromise product quality.[7] In this regard, the government provides legal protection for trademarks by requiring their registration. Before a trademark can be registered, the applicant must undergo a series of procedures and substantive examinations to ensure that the proposed trademark complies with the applicable legal requirements in Indonesia. Pursuant to Article 4 paragraph (1) of the Trademark Law, an application for trademark registration may be submitted by the applicant or the

[4] *Ibid* hlm. 4518

[5] Abd Thalib dan Muchlisin, 2018, *Hak Kekayaan Intelektual Indonesia*, Depok: PT. Raja Grafindo Persada, hlm. 20.

[6] Nur Adawiyah Harahap, dkk. *"Tantangan Pendaftaran Hak Kekayaan Intelektual bagi UMKM sebagai Pelaku Ekonomi Kreatif Di Kecamatan pancing, Medan, Sumatera Utara."* EduTech: Jurnal Ilmu Pendidikan dan Ilmu Sosial, Vol. 10, No. 1, 2024. Hlm. 90

[7] Sulasi Rongoyati, *"Perlindungan Hukum Hak Kekayaan Intelektual Pada Produk Ekonomi Kreatif (Protection of Intellectual Property Rights on Creative Economic Products)",* Negara Hukum, Vol. 9, No. 1, 2018, hlm. 42.

applicant's authorized representative to the Minister, either through an electronic or non-electronic filing system, using the Indonesian language.[8]

The urgency of this research lies in examining legal responsibility in trademark cancellation based on the principle of good faith, given the increasingly dynamic nature of business competition in Indonesia. Amid rapid technological advancement and the expansion of the business sector, trademark registration no longer serves merely as a means of business identification but has also become a strategic economic asset with substantial commercial value. This situation creates opportunities for the misuse of the trademark registration system, including applications filed in bad faith with the intention of imitating, exploiting, or causing harm to the legitimate rights of others.[9]

In practice, the economic value of a product is determined not only by its quality but also by the strength and reputation of the trademark associated with it.[10] A trademark that has gained widespread public recognition possesses significant economic value and can substantially enhance the market value of a product. However, it is common to encounter parties acting in bad faith who deliberately register trademarks that closely resemble well-known trademarks. Such actions are intended to capitalize on the reputation established by the legitimate trademark owner while facilitating product marketing and accelerating consumer acceptance.

In Indonesia, trademark protection is regulated under Law Number 20 of 2016 concerning Trademarks and Geographical Indications. The legislation applies the first-to-file principle, whereby elusive trademark rights are awarded to the party that first submits a valid registration application. Consequently, legal ownership and elusive protection over a trademark arise only after the mark has been registered with the Directorate General of Intellectual Property (DGIP) by the earliest applicant.[11] The adoption of this principle aims to provide legal certainty for trademark owners whose marks have been officially registered, while also motivating business entities to register their trademarks in order to obtain formal legal recognition and protection under the applicable legal framework.

One case that illustrates the importance of the principle of good faith in trademark registration is the dispute between Rusly, the owner of the SARI trademark, and Wahyu Anggoro Ningsih, the owner of the SAIR

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[8] Tutu Herningtyas dkk., "*Pembatalan Merek Itikat Tidak Baik Dari Si Pemohon Menurut Undang-Undang No. 20 Tahun 2016 Tentang Merek dan Indikasi Geografis*." Jurnal Kolaboratif Sains, Vol. 8, No. 10, 2025. Hlm. 6558

[9] Abdulkadir Muhammad, 2001, *Kajian Hukum Ekonomi Hak Kekayaan Intelektual*, Bandung: PT Citra Aditya Bakti, hlm. 1.

[10] O.K. Saidin, 2015, *Aspek Hukum Hak Kekayaan Intelektual (Intellectual Property Rights),* Jakarta, Rajagrafindo Persada, hlm. 329.

[11] Lidya Shinta Audina, *"Perlindungan Hukum Terhadap Merek Dagang Nature Republic Terhadap Pemalsuan Merek Di Indonesia",* Lentera Hukum, Vol. 3, No. 3, 2016. hlm. 200.

trademark, as set forth in Commercial Court Decision No. 4/Pdt.Sus-HKI/2025/PN Niaga Smg. The dispute arose from the alleged similarity in the essential elements of the SAIR trademark to the well-known SARI trademark, which was considered likely to cause consumer confusion and potentially harm the owner of the earlier registered and well-established trademark.

The SARI trademark was registered on 21 September 2006 for goods in Class 16 by Sulaiman Effendy, as evidenced by Trademark Certificate No. IDM000162752. The protection for the trademark was subsequently renewed on 15 March 2016 for the same class of goods by Sulaiman Effendy. In contrast, the SAIR trademark was not registered until 17 March 2025 by Wahyu Anggoro Ningsih for the same category of products and Class 16 goods under Trademark Certificate No. IDM001305841.

In the lawsuit, the Plaintiff argued that there were significant similarities between the SARI and SAIR trademarks in terms of pronunciation, phonetic characteristics, and visual appearance. Accordingly, the registration of the SAIR trademark was alleged to have been carried out in bad faith because it indicated an intention to imitate the SARI trademark, which had been lawfully registered and widely recognized earlier. Such conduct was considered likely to mislead consumers and prejudice the Plaintiff's legal interests as the owner of the SARI trademark, particularly with respect to its reputation, consumer trust, and market share.

The issue concerning the similarity between the SARI and SAIR trademarks, as asserted by the Plaintiff, must be analyzed in accordance with the applicable legal provisions. This is important because one of the primary objectives of trademark protection is to safeguard the legal interests of legitimate trademark owners while ensuring legal certainty for consumers so that they are not confused regarding the commercial origin of a product. Pursuant to Article 21 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, a trademark application must be refused if it is identical or substantially similar to a previously registered trademark for similar goods and/or services. Therefore, if the SAIR trademark is proven to possess substantial similarity to the previously registered SARI trademark, its registration may be deemed to violate these legal provisions and may constitute valid grounds for trademark cancellation.

The claim was submitted on the basis of Article 76 paragraphs (1) and (3) of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, which authorize any interested party to file a trademark cancellation action before the Commercial Court against a registered trademark. These provisions provide the legal foundation for trademark owners whose rights have been adversely affected to request the cancellation of a registration obtained in bad faith, particularly where the disputed trademark appears to imitate or capitalize unfairly on the reputation and commercial goodwill of an earlier registered mark.[12]

In Commercial Court Decision No. 4/Pdt.Sus-HKI/2025/PN Niaga Smg., the panel of judges substantially granted the Plaintiffs' petition by declaring the registration of the SAIR trademark invalid and ordering its cancellation. The court concluded that the Defendant had registered the SAIR trademark without complying with the principle of good faith and that the mark shared substantial similarities with the earlier registered SARI trademark. As a result, the registration was deemed capable of creating consumer confusion and undermining the legal rights and commercial interests of the Plaintiffs as the lawful proprietors of the SARI trademark.

A gap exists between the normative provisions of Law Number 20 of 2016 concerning Trademarks and Geographical Indications and their implementation in practice. Article 21 paragraph (3) of the Law provides that a trademark application must be rejected if it is filed by an applicant acting in bad faith. Nevertheless, in practice, trademarks filed in bad faith have, in some instances, still succeeded in obtaining registration certificates from the Directorate General of Intellectual Property (DGIP). This situation demonstrates that the application of the principle of good faith during the substantive examination of trademark applications continues to face significant challenges, thereby potentially undermining legal certainty for owners of long-established registered trademarks.

The relatively limited body of research addressing the interplay between the **first-to-file** principle and the principle of good faith in trademark cancellation disputes highlights an important gap in the existing scholarship. Although Indonesia's trademark system confers elusive rights on the party that first registers a trademark, such protection should not be interpreted as unconditional when the registration is undertaken to imitate, capitalize on, or unfairly benefit from the reputation and commercial goodwill of an earlier trademark.[13] Accordingly, a more in-depth analysis of the relationship and potential tension between these principles is necessary to develop clearer legal benchmarks for evaluating good faith in trademark registration. In the author's view, the principle of good faith remains a significant subject for legal research because it serves as a cornerstone of Indonesia's trademark regime, particularly in assessing the applicant's intent during the registration process and in safeguarding the rights of owners of previously registered trademarks.[14]

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[12] Abdulkadir Muhammad, 2010, *Hukum Perusahaan Indonesia*, PT Citra Aditya Bakti, hlm. 503.

[13] Dwi Atmoko, dkk, "*Hukum Hak Kekayaan Intelektual*", Malang: Literasi Nusantara Abadi Grup, Vol.1, No 34, 2023, hlm. 39.

[14] Meli Hertati Gultom, "Perlindungan Hukum bagi Pemegang Hak Merek Terdaftar Terhadap Pelanggaran Merek", Jurnal Ilmiah Warta Dhamawangsa, Vol. 01, No. 56, 2018. Hal. 4

Furthermore, the significance of this research also lies in its contribution to strengthening legal certainty and promoting a fair and competitive business environment. Protecting the rights of legitimate trademark owners not only ensures justice for individual rights holders but also enhances public confidence and supports broader economic stability. Accordingly, an analysis of Commercial Court Decision No. 4/Pdt.Sus-HKI/2025/PN Niaga Smg. is relevant to understanding how trademark law is applied in practice and the extent to which the principle of good faith is upheld within the Indonesian judicial system.

Based on the foregoing, this study aims to analyze the enforcement of fairness in Indonesia's business environment through the application of the principle of good faith in protecting the trademark rights of Indonesian business actors by examining Commercial Court Decision No. 4/Pdt.Sus-HKI/2025/PN Niaga Smg. It also seeks to analyze the legal consequences arising for the parties following the issuance of the decision. It is expected that this research will contribute to the development of legal scholarship in the field of intellectual property law, particularly with respect to the application of the principle of good faith in trademark cancellation disputes, while also serving as a useful reference for academics, legal practitioners, business actors, and policymakers in strengthening Indonesia's trademark protection system.

Based on the background of the problem described above, the research questions in this study are as follows:

1. How is legal responsibility in the trademark registration process addressed in Commercial Court Decision No. 4/Pdt.Sus-HKI/2025/PN Niaga Smg. based on the principle of good faith?
2. What are the legal consequences of Commercial Court Decision No. 4/Pdt.Sus-HKI/2025/PN Niaga Smg. for the parties involved?

Based on these research questions, the objectives of this study are as follows:

1. To analyze legal responsibility in the trademark registration process as reflected in Commercial Court Decision No. 4/Pdt.Sus-HKI/2025/PN Niaga Smg. based on the principle of good faith.
2. To identify and analyze the legal consequences of Commercial Court Decision No. 4/Pdt.Sus-HKI/2025/PN Niaga Smg. for the disputing parties.

Although trademark infringement disputes occur frequently, there remains a relatively limited body of scholarly studies and legal research specifically addressing this issue.

Based on the foregoing, this study aims to analyze the judges' legal reasoning in applying the principle of good faith in Commercial Court Decision No. 4/Pdt.Sus-HKI/2025/PN Niaga Smg. and to examine the legal consequences arising from the decision for the parties involved. Theoretically, the findings are expected to enrich the development of intellectual property law, particularly regarding the application of the principle of good faith in trademark cancellation disputes. Practically, this research is expected to provide guidance for judges, legal practitioners, business actors, and policymakers in strengthening legal certainty and improving the implementation of trademark law in Indonesia.

The significance of this research may be categorized into theoretical and practical contributions. From a theoretical perspective, this study is expected to contribute to the development of legal scholarship, particularly in the field of Intellectual Property Rights (IPR), with a specific focus on the principle of good faith in trademark registration and cancellation. In addition, this research is intended to serve as an academic reference for future studies addressing similar legal issues.

From a practical perspective, this research may provide useful guidance for legal practitioners in handling trademark disputes, particularly those involving trademark cancellation on the grounds of bad faith. For business actors, this study is expected to enhance understanding of the importance of the principle of good faith in trademark registration as a means of preventing future legal disputes. For the government and policymakers, the findings of this research may serve as valuable input in improving trademark regulations and strengthening law enforcement to ensure greater legal certainty. Furthermore, this study is expected to enrich the existing body of legal literature and provide additional reference material for students and researchers seeking to understand the application of the principle of good faith in trademark law through judicial decision analysis.

The originality of a scientific work is a fundamental aspect of academic research, particularly in the preparation of undergraduate theses, master's theses, and doctoral dissertations. Therefore, this study refers to two previous studies that are relevant to the issues under examination as comparative materials, enabling the novelty and originality of the present research to be more clearly demonstrated.

The first previous study was conducted by Muhammad Zidane Pradana, a law student at the Faculty of Law, University of Lampung, entitled "The Application of the Principle of Good Faith within the First-to-File Principle in the NICE and MICE Trademark Dispute (A Study of Commercial Court Decision No. 39/Pdt.Sus-HKI/Merek/2024/PN Niaga Jkt.Pst in conjunction with Supreme Court Decision No. 170 K/Pdt.Sus-HKI/2025)." The study concluded that the Commercial Court found the registration of the MICE trademark to have been carried out in bad faith because it possessed substantial similarity to the previously registered NICE trademark. At the cassation level, however, the Supreme Court held that the Plaintiff's claim was obscuur libel (vague and ambiguous) because it improperly combined a trademark cancellation claim with a trademark infringement claim in a single lawsuit. Consequently, the claim was declared inadmissible (niet ontvankelijke verklaard), and the merits of the case were not examined. As a legal consequence, the NICE trademark remained registered, the MICE trademark remained administratively valid, and the Directorate General of Intellectual Property (DGIP) had no legal basis to remove the registration. This decision emphasizes the importance of clarity and precision in drafting legal claims as a fundamental requirement of procedural law so that substantive issues, including the principle of good faith, may be properly examined by the court. The similarity between Muhammad Zidane Pradana's research and the present study lies in their shared focus on the application of the principle of good faith in trademark disputes. However, while Muhammad Zidane Pradana's research analyzed Commercial Court Decision No. 39/Pdt.Sus-HKI/Merek/2024/PN Niaga Jkt.Pst in conjunction with Supreme Court Decision No. 170 K/Pdt.Sus-HKI/2025, the present study examines Commercial Court Decision No. 4/Pdt.Sus-HKI/2025/PN Niaga Smg.[15]

The second undergraduate thesis was conducted by Fadila Hana Nur Andini, a student of the Law Study Program, Faculty of Law, Universitas Muhammadiyah Surakarta, entitled "Cancellation of a Registered Trademark Due to Bad Faith Against a Well-Known Trademark: A Case Study of Commercial Court Decision No. 71/Pdt.Sus-Merek/2020/PN.Niaga.Jkt.Pst. Concerning the Trademark Dispute between 7 DAYS and 5 DAYS." The study found that, when the provisions of Article 21 of Law No. 20 of 2016 and its elucidation are applied to the trademark dispute between 7 DAYS and 5 DAYS, it is evident that the registered trademark 5 DAYS bears a substantial similarity to the 7 DAYS trademark, which had been registered earlier. Such substantial similarity constitutes one of the indicators of bad faith in trademark registration. The Commercial Court established that the owner of the 5 DAYS trademark had acted in bad faith, resulting in the cancellation of the trademark registration. Furthermore, the study concluded that legal protection for well-known trademarks under Law No. 20 of 2016 in Indonesia may be provided through both preventive and repressive measures against trademark infringement. The similarity between Fadila Hana Nur Andini's research and the present study lies in the fact that both examine the cancellation of registered trademarks based on the principle of bad faith. The difference, however, concerns the object of the study. Fadila Hana Nur Andini's research focuses on Commercial Court Decision No. 71/Pdt.Sus-Merek/2020/PN.Niaga.Jkt.Pst., whereas

[15] Muhammad Zidane Pradana, 2025, *Skripsi: Penerapan Asas Itikad Baik Dalam Prinsip First to File Pada Sengketa Merek NICE Dan MICE (Studi Putusan No. 39/Pdt.Sus-HKI/Merek/2024/PN Niaga Jkt.Pst jo Putusan No. 170 K/Pdt.Sus-HKI/2025),* Bandar Lampung: Fakultas Hukum Universitas Lampung, hlm. 2.

the present research examines Decision No. 4/Pdt.Sus-HKI/2025/PN Niaga Smg.[16]

A prior study was conducted by Nurudin Yusuf, a law student at the Faculty of Law, Sultan Agung Islamic University (UNISSULA), titled "Legal Liability of Business Actors for Trademark Infringement under Law Number 20 of 2016 concerning Trademarks and Geographical Indications (Case Study: Nganjuk Commercial Court Decision Number 150/Pid.B/2019/PN Njk)." The study concluded that trademark infringement encompasses the unauthorized use of a mark, the imitation of a registered mark, and the exploitation of mark similarities for illicit gain actions that violate Articles 100 through 102 of Law Number 20 of 2016. Law enforcement regarding trademark infringement faces several obstacles, including business actors' limited understanding of the importance of trademark registration, insufficient supervision and enforcement by authorities, difficulties in proving elements such as bad faith and mark similarity in court, and weak coordination among relevant agencies. Proposed solutions include legal education for business actors, capacity building for law enforcement officials, optimizing the role of the Directorate General of Intellectual Property in facilitating registration and infringement reporting, and imposing stricter administrative sanctions and fines to create a deterrent effect. The case study of Nganjuk District Court Decision No. 150/Pid.B/2019/PN Njk underscores the importance of robust evidence and proper legal procedures in addressing trademark infringement, while also demonstrating the judiciary's commitment to protecting intellectual property rights. From an Islamic legal perspective, trademark infringement is viewed as a form of injustice (zulm) and the unauthorized appropriation of another's rights; this contravenes the principles of Maqasid al-Shari'ah specifically the preservation of wealth (hifz al-mal) meaning that the prevention of and enforcement actions against such violations are integral to establishing justice ('adl) in economic interactions. The similarity between Nurudin Yusuf's research and the present study lies in their shared focus on the legal liability of business actors regarding trademark infringement. However, whereas Nurudin Yusuf's research analyzed the Nganjuk Commercial Court Decision No. 150/Pid.B/2019/PN Njk, this study examines the Commercial Court Decision No. 4/Pdt.Sus-HKI/2025/PN Niaga Smg.[17]

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[16] Fadila Hana Nur Andini, 2022, Skripsi: *Pembatalan Merek Terdaftar Akibat Itikad Tidak Baik Terhadap Merek Dagang Terkenal : Studi Kasus Putusan Pengadilan Niaga Nomor 71/Pdt.Sus-Merek/2020/PN.Niaga.Jkt.Pst. Mengenai Sengketa Merek Dagang antara 7 DAYS dan 5 DAYS*, Surakarta: Fakultas Hukum Universitas Muhammadiyah Surakara. Hlm. 2

[17] Nurudin Yusuf, 2025, *"Pertanggungjawaban Hukum Pelaku Usaha Atas Pelanggaran Merek Dagang Berdasarkan Undang-Undang Nomor 20 Tahun 2016 Tentang Hak Merek dan Indikasi Geografis (Studi Kasus Putusan Pengadilan Niaga Nganjuk Nomor : 150/Pid.B/2019/PN Njk)"* Semarang : Fakultas Hukm, Universitas Islam Sultan Agung UNISSULA. Hlm. 10.

Commercial Court Decision No. 4/Pdt.Sus-HKI/2025/PN Niaga Smg. presents an important example of a legal problem concerning the implementation of the principle of good faith in Indonesia's trademark registration system. Although Law Number 20 of 2016 concerning Trademarks and Geographical Indications explicitly prohibits trademark registration conducted in bad faith, disputes concerning the interpretation and application of this principle continue to arise in judicial practice. The dispute between the SARI and SAIR trademarks demonstrates that the registration of a trademark may formally comply with administrative procedures while still violating substantive legal principles because of its similarity to a previously registered trademark and the registrant's intention to benefit from the reputation of that earlier mark. This condition raises important legal questions regarding the consistency of judicial reasoning in balancing the first-to-file principle with the principle of good faith.

Several previous studies have discussed trademark cancellation based on bad faith. First, Muhammad Zidane Pradana analyzed the application of the principle of good faith in the dispute between the NICE and MICE trademarks. The study concluded that procedural deficiencies in the statement of claim prevented the Supreme Court from examining the substantive issue of bad faith, thereby emphasizing procedural rather than substantive legal analysis. Second, Fadila Hana Nur Andini examined the cancellation of the 5 DAYS trademark against the well-known 7 DAYS trademark and focused on the indicators of substantial similarity and legal protection for well-known trademarks. Third, existing studies generally emphasize the legal basis for trademark cancellation or the protection of well-known trademarks, while giving limited attention to the legal consequences of judicial decisions for all parties involved, including trademark owners and the Directorate General of Intellectual Property (DGIP). The third reference is a prior study conducted by Nurudin Yusuf The study concluded that trademark infringement encompasses the unauthorized use of a trademark, the imitation of a registered trademark, and the exploitation of trademark similarity for illicit gain actions that violate Articles 100 through 102 of Law Number 20 of 2016.

These previous studies reveal a research gap. Existing scholarship has predominantly examined the existence of bad faith or the interpretation of Article 21 of Law Number 20 of 2016, but has not comprehensively analyzed how judges construct legal reasoning in determining bad faith and how such reasoning produces legal consequences for the disputing parties after a cancellation decision has been rendered.[18] Furthermore, no previous study specifically analyzes Commercial Court Decision No. 4/Pdt.Sus-HKI/2025/PN Niaga Smg., which concerns the dispute between the SARI and SAIR trademarks.

The novelty of this research therefore lies in its comprehensive legal analysis of Commercial Court Decision No. 4/Pdt.Sus-HKI/2025/PN Niaga Smg. Rather than merely discussing the existence of bad faith in trademark registration, this study examines the judges' legal reasoning in applying the principle of good faith, evaluates its interaction with the first-to-file principle, and analyzes the legal consequences of the decision for the plaintiff, the defendant, and the Directorate General of Intellectual Property. Accordingly, this research offers a more comprehensive understanding of how the principle of good faith is implemented in judicial practice and contributes to strengthening legal certainty in Indonesia's trademark protection system.

# II. Research Method

This research adopted a normative juridical design by integrating both the statutory and case approaches. The statutory approach involved examining Law Number 20 of 2016 concerning Trademarks and Geographical Indications together with other relevant legal provisions regulating trademark registration, trademark cancellation, and the application of the principle of good faith. The case approach centered on a comprehensive analysis of Commercial Court Decision Number 4/Pdt.Sus-HKI/2025/PN Niaga Smg., which served as the principal subject of the study.[19] The study relied on three categories of legal materials: primary, secondary, and tertiary sources. Primary legal materials consisted of legislation and judicial decisions, with Commercial Court Decision Number 4/Pdt.Sus-HKI/2025/PN Niaga Smg. serving as the principal case analyzed. Secondary legal materials included legal textbooks, peer-reviewed journal articles, prior research, and other scholarly works addressing trademark law, the principle of good faith, and legal liability.[20] Tertiary legal materials comprised legal dictionaries, encyclopedias, and additional reference sources utilized to clarify and support the interpretation of the legal concepts examined in this research.[21] The legal materials were gathered through library research by examining relevant legislation, judicial decisions, legal literature, and scholarly publications

[18] Christabella Augustine dan R. Rahaditya, *"Penerapan Prinsip Itikad Baik Dan Penyelesaian Sengketa Dalam Pendaftaran Merek (Studi Putusan Pengadilan Niaga Nomor 28/Pdt.Sus-Hki/Merek/2022/Pn Niaga Jkt.Pst)",* Nusantara: Jurnal Ilmu Pengetahuan Sosial, Vol. 11, No. 2, 2024, hlm. 693-707.

[19] Widi Nugrahaningsih dan Marginingsih, "*Kekuatan Hukum Dari Perjanjian Bisnis Dengan Akta Notaris Antara Warga Negara Indonesia Dan Warga Negara Asing*" Jurnal Administrasi Niaga, Politeknk Negeri Jakarta, Vol 11, No 1, 2022. Hlm. 379

[20] Muhaimin,2020, *Metode Penelitian Hukum*, NTB.: Mataram University Press, hlm.26

[21] Peter Muhmud Marzuki, 2017, *Penelitian Hukum,* Jakarta: Kencana, hlm. 181

related to the research topic. After collection, these materials were systematically categorized in accordance with the research objectives and subsequently analyzed using a descriptive qualitative approach.[22] The analysis focused on assessing the relationship between statutory provisions, legal doctrines, and the judges' legal reasoning in applying the principle of good faith. The results were then evaluated through the perspectives of legal liability, legal protection, and justice theories to assess both the court's reasoning and the legal implications of the decision for the parties concerned.[23]

# III. Result & Discussion

The development of the global economy in the modern era cannot be separated from the existence of the Intellectual Property Rights (IPR) system. In contemporary society, it is increasingly recognized that human intellectual capacity plays a crucial role in advancing civilization. Various forms of creativity and innovation generated through human intellect have resulted in numerous products that facilitate everyday life. This is reflected in the wide range of items surrounding us, including household appliances, clothing, electronic devices, communication technologies, transportation equipment, and office supplies, all of which are manifestations of human intellectual achievement. Therefore, to continuously encourage innovation and creativity that benefit society, it is essential to provide recognition and incentives to creators as well as to those who invest their resources in the development of intellectual works. Awareness of the importance of such incentives has long been established in developed countries through the creation of legal systems that recognize new and original intellectual creations as a form of property known as intellectual property.[24]

Intellectual property plays a significant role in promoting a nation's economic growth. Legal protection of intellectual creations provides legal certainty for both creators and investors involved in the innovation process. Such protection not only encourages the production of higher-quality intellectual works but also accelerates technology transfer and the dissemination of knowledge. In developed countries, Intellectual Property Rights (IPR) are regarded not merely as a legal mechanism for safeguarding the rights of creators but also as a business strategy for enhancing the economic value and commercial potential of innovations.

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[22] Rina Arum Prastyanti dan Adnan Terry Suseno, *"Perlindungan Hukum dan Etika Bagi Pengguna Fintech Peer To Peer Lending di Indonesia"* Jurnal RechtIdee, Vol. 16, No. 2, 2021, Hlm. 162-163

[23] David Tan, "*Metode Penelitian Hukum: Mengupas dan Mengulas Metodologi dalam Menyelenggarakan Penelitian Hukum",* NUSANTARA: Jurnal Ilmu Pengetahuan Sosial. Vol. 8 No. 8, 2021, hlm. 2475

[24] Krisnani Setyowati Efridani Lubis *et all*, 2005 *Hak Kekayaan Intelektual dan Tantangan Implementasinya di Perguruan Tinggi*, Kantor HKI-IPB, Kantor Hak Kekayaan Intelektual Institute Pertanian Bogor, Bogor, hlm.3

Accordingly, the elusive rights granted by the state to intellectual property holders enable them to derive economic benefits through the exploitation and commercialization of their intellectual assets. The rights attached to creators or intellectual property holders encompass not only economic rights, which allow them to obtain financial benefits from their works, but also moral rights, which recognize and preserve the personal relationship between creators and their creations. Furthermore, the Intellectual Property Rights (IPR) system benefits society by facilitating the dissemination of knowledge, promoting innovation, and supporting government efforts to establish a sustainable intellectual property ecosystem. The existence of an effective IPR system is expected to transform society from being merely consumers of innovation into creative and innovative individuals, thereby encouraging the emergence of new creators, inventors, and designers. Within the industrial sector, an understanding of the IPR system is essential not only for protecting a company's intellectual assets but also for preventing infringements of the intellectual property rights of others.[25]

As international trade continues to expand, the global regulatory framework governing intellectual property has also undergone significant development. Following the entry into force of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) on 1 January 1995 as part of the World Trade Organization (WTO) framework, all WTO member states became obligated to comply with the minimum standards of intellectual property protection established by the Agreement. Consequently, businesses seeking to compete in international markets must understand and comply with international trade regulations, including the intellectual property laws applicable in the destination countries for their exports. In several jurisdictions, customs authorities even require intellectual property-related documentation as part of export-import administrative procedures. A lack of understanding of these regulations may hinder the access of Indonesian products to foreign markets. Moreover, even if products successfully enter overseas markets without complying with the applicable intellectual property regulations, exporters face a substantial risk of legal action initiated by intellectual property rights holders in the destination country.[26]

Legal protection for trademarks in Indonesia was first introduced in 1961, while copyright protection was implemented in 1982. The patent protection system was subsequently introduced in 1991. In 1997, Indonesia introduced substantial amendments to its three principal intellectual property laws as part of its commitment to adapting the national legal framework to emerging legal and economic developments while ensuring compliance with its obligations under the Agreement on

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[25] *Ibid*, Hlm 4
[26] *Ibid*, Hlm 5

Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). A more comprehensive reform was later undertaken through the enactment of new intellectual property legislation in 2001.

The TRIPS Agreement is an international legal instrument that comprehensively regulates intellectual property rights by incorporating the fundamental principles of the General Agreement on Tariffs and Trade (GATT), particularly the principles of national treatment and most-favoured-nation treatment, together with substantive provisions derived from major international intellectual property conventions, including the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works.[27]

At present, Indonesia has established a relatively comprehensive body of intellectual property legislation that is largely harmonized with the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). These regulations satisfy the minimum standards prescribed by the Agreement and provide legal protection across various categories of intellectual property rights, including the following:[28]

1. Law No. 12 of 1997 concerning the Amendment to Law No. 6 of 1982 on Copyright, as previously amended by Law No. 7 of 1987 (Copyright Law). This legislation was subsequently revised to accommodate developments in the field of copyright protection.
2. Law No. 29 of 2000 concerning the Protection of Plant Varieties.
3. Law No. 30 of 2000 concerning Trade Secrets.
4. Law No. 31 of 2000 concerning Industrial Designs.
5. Law No. 32 of 2000 concerning Layout Designs of Integrated Circuits.
6. Law No. 14 of 2001 concerning Patents (Patent Law).
7. Law No. 15 of 2001 concerning Trademarks (Trademark Law).

### 1) Brief Profile of the Parties

Case No. 4/Pdt.Sus-HKI/2025/PN Niaga Smg. involves three parties: the Plaintiff, the Defendant, and the Co-Defendant. The Plaintiff is Rusly, the owner of the SARI trademark, which has been registered with the Directorate General of Intellectual Property (DGIP) since 1996 for Class 22 and was subsequently registered for Class 16, covering various plastic products, including plastic bags, shopping bags, garbage bags, and other plastic packaging products.

[27] Nanda Dwi Rizkia, dan Hardi Ferdiansyah, 2022, *Hak Kekayaan Intelektual Suatu Pengantar,* Bandung : Widina Bhakti Persada, Hlm 21.

[28] Direktorat Jendral Industri Kecil Menengah Departemen Perindustrian, 2007, *Kebijakan pemerintah dalam perlindungan hak kekayaan intelektual dan liberalisasi perdagangan jasa provesi di bidang hukum,* Jakarta, Hlm. 5

The trademark has also been renewed, and its legal protection remains valid.

The Defendant is Wahyu Anggoro Ningsih, the owner of the SAIR + Logo trademark, who obtained Trademark Certificate No. IDM001305841 on 17 March 2025 for Class 16, covering plastic bags, HD plastic bags, and plastic packaging products. The trademark registration was carried out in accordance with the procedures prescribed under Law No. 20 of 2016 concerning Trademarks and Geographical Indications.

The Co-Defendant is the Directorate of Trademarks and Geographical Indications under the Directorate General of Intellectual Property, Ministry of Law of the Republic of Indonesia, which acted as the government authority responsible for receiving, examining, and issuing the Defendant's trademark certificate after completing the formality examination, publication period, and substantive examination.

**2) Chronology of the SARI and SAIR Trademark Dispute**

The dispute originated from the Plaintiff's long-standing use and registration of the SARI trademark in connection with various plastic products. The trademark was initially registered in 1996, subsequently maintained in accordance with the applicable trademark registration system, and its protection was renewed in 2016.

In 2024, the Defendant filed an application to register the SAIR + Logo trademark with the Directorate General of Intellectual Property. After successfully passing the administrative examination, formality review, publication period, and substantive examination, the application was approved, and Trademark Certificate No. IDM001305841 was issued on 17 March 2025.

Upon becoming aware of the registration, the Plaintiff argued that the SAIR + Logo trademark was substantially similar to the previously registered SARI trademark. According to the Plaintiff, the similarity between the two marks was likely to cause consumer confusion because both were used in relation to plastic products classified under Class 16. The Plaintiff further alleged that the Defendant had registered the trademark in bad faith with the intention of taking unfair advantage of the goodwill and reputation associated with the SARI trademark.

Based on these allegations, the Plaintiff did not pursue an opposition proceeding during the registration process but instead filed a trademark cancellation lawsuit before the Commercial Court at the Semarang District Court, seeking the cancellation of the SAIR + Logo trademark registration and its removal from the General Register of Trademarks.

### 3) Plaintiff’s Claims

The Plaintiff contended that the SAIR + Logo trademark is substantially similar to, and likely to be associated in trade with, the previously registered SARI trademark. According to the Plaintiff, this similarity is evident from the visual appearance of the marks, the arrangement of their letters, the packaging design, the nature of the goods, and the overall commercial impression, all of which are likely to mislead or confuse consumers.

The Plaintiff further argued that the SAIR + Logo trademark had been registered in bad faith, as prohibited under Article 21(3) of Law No. 20 of 2016 concerning Trademarks and Geographical Indications. As a consequence of the Defendant's use of the disputed trademark, the Plaintiff claimed to have suffered financial losses, particularly in the form of declining sales revenue, while consumers had begun to believe that SAIR products were associated with or originated from the SARI trademark. Accordingly, the Plaintiff requested the Court to prohibit the Defendant from registering the disputed mark in any class, to grant the application for cancellation of the trademark registration, and to order the removal of the Defendant's Trademark Certificate from the General Register of Trademarks.

### 4) Defendant’s Response

The Defendant denied all of the Plaintiff's allegations. As a preliminary objection, the Defendant argued that the Plaintiff's claim was obscuur libel (vague and unclear) and suffered from error in persona (misidentification of the parties). The Defendant further asserted that the Plaintiff had misinterpreted the concept of bad faith and had failed to establish any likelihood of confusion between the SARI trademark and the SAIR + Logo trademark.

With respect to the merits of the case, the Defendant maintained that the two trademarks were clearly distinguishable in terms of spelling, letter arrangement, pronunciation, color scheme, logo design, and semantic meaning, based on the General Guidelines for Indonesian Spelling (Pedoman Umum Ejaan Bahasa Indonesia) and the Great Dictionary of the Indonesian Language (Kamus Besar Bahasa Indonesia). The Defendant also argued that the trademark application had been submitted in accordance with all applicable legal procedures, including the mandatory two-month publication period during which no objections were filed by any interested party. Accordingly, the Defendant requested that the Court dismiss the Plaintiff's claims in their entirety and declare that the registration of the SAIR + Logo trademark was legally valid.

### 5) Judges' Legal Considerations

The Panel of Judges first examined the preliminary objections raised by the Defendant during the initial stage of the proceedings. The Court held that the objections concerning the alleged vagueness of the claim and the alleged misidentification of the parties were closely connected with the substantive issues of the dispute. Consequently, these objections could not be decided separately from the merits of the case. The Panel therefore declared all of the Defendant's preliminary objections inadmissible and proceeded to examine the substantive issues.

In assessing the merits, the Panel of Judges evaluated the legal facts based on documentary evidence, witness testimony, and the trademark registration documents submitted by both parties. The Court also conducted a comparative assessment of the SARI trademark and the SAIR + Logo trademark to determine whether they shared similarities from visual, phonetic, and conceptual perspectives. Furthermore, the Court considered the nature of the goods marketed under the respective trademarks and assessed the likelihood that consumers would be confused regarding the commercial origin of those goods. These considerations were undertaken to determine whether the two trademarks possessed substantial similarities capable of causing consumer confusion and thereby violating the applicable provisions of Indonesian trademark law.

The Panel of Judges also considered whether the registration of the SAIR + Logo trademark had been made in good faith. This assessment was conducted with reference to the provisions of Law No. 20 of 2016 concerning Trademarks and Geographical Indications. Based on those provisions, the Court examined whether sufficient legal grounds existed to cancel the Defendant's trademark registration. Accordingly, the determination of whether the SAIR + Logo trademark had been registered in good faith constituted one of the principal considerations underlying the Court's decision.

### 6) Operative Part of the Judgment

The Panel of Judges rendered its decision in the trademark dispute between the Plaintiff and the Defendant after carefully considering all the legal facts and evidence presented during the trial. The operative part of the judgment sets out the Court's findings regarding the Defendant's preliminary objections, the substantive issues of the case, and the legal consequences arising from the trademark that constituted the subject matter of the dispute.

The operative part of the judgment is of significant legal importance because it serves as the basis for determining the rights and obligations of both the Plaintiff and the Defendant once the judgment becomes legally binding. Furthermore, it constitutes the primary focus of this study in analyzing the application of the principle of good faith and legal liability, as well as the legal consequences of trademark cancellation under Decision No. 4/Pdt.Sus-HKI/2025/PN Niaga Smg. This research aims to examine the impact of the Court's decision on the resolution of the trademark dispute between the Plaintiff and the Defendant.

## A. Legal Liability in the Trademark Registration Process under Decision No. 4/Pdt.Sus-HKI/2025/PN Niaga Smg. Based on the Principle of Good Faith

Trademark protection in Indonesia is intended to provide legal certainty to trademark owners who have lawfully registered their marks. Its primary objective is to safeguard the rights of registered trademark owners. Such protection serves not only to protect trademark proprietors but also to promote fair business competition and to protect consumers from being misled when selecting products. Accordingly, every trademark application must satisfy both administrative and substantive requirements, as stipulated under Law No. 20 of 2016 concerning Trademarks and Geographical Indications.

In Case No. 4/Pdt.Sus-HKI/2025/PN Niaga Smg., the dispute arose from the Plaintiff's objection to the registration of the SAIR + Logo trademark owned by the Defendant. The Plaintiff argued that the disputed trademark bore substantial similarity to the SARI trademark, which had been registered earlier. According to the Plaintiff, the Defendant registered the trademark in bad faith, and therefore the registration should be cancelled. Conversely, the Defendant rejected the Plaintiff's allegations, asserting that the SAIR + Logo trademark and the SARI trademark were clearly distinguishable in terms of their visual appearance, pronunciation, and conceptual meaning. On that basis, the Defendant maintained that the two trademarks could not be regarded as substantially similar. The Defendant further argued that the registration of the SAIR + Logo trademark had been carried out in full compliance with the applicable legal procedures. The application was approved by the Directorate General of Intellectual Property after successfully completing the formality examination, publication period, and substantive examination required under Indonesian trademark law.

In light of these legal facts, an analysis of the legal liability arising from the cancellation of the trademark registration must be undertaken by examining the provisions of Article 21(3) and Article 76 of Law No. 20 of 2016 concerning Trademarks and Geographical Indications, together with the first-to-file principle and the theory of legal liability as the analytical framework.

**a. Facts of the Case**

On 24 April 2025, Rusly, the owner of the SARI trademark, filed a lawsuit with the Registrar of the Commercial Court at the Semarang District Court, which was registered under Case No. 4/Pdt.Sus-HKI/2025/PN Niaga Smg. The Plaintiff's claims were, in substance, as follows:

1. To declare that the registration of the SAIR + Logo trademark under Registration No. IDM001305841, dated 17 March 2025, owned by the Defendant, is substantially similar and/or identical to the SARI trademark owned by the Plaintiff, which is registered under Registration No. IDM000162752, with an application filing date of 21 September 2006, and subsequently renewed under the same registration number on 15 March 2016.
2. To declare that the application for registration of the SAIR + Logo trademark under Registration No. IDM001305841, dated 17 March 2025, was filed by the Defendant in bad faith.
3. To declare null and void the registration of the SAIR + Logo trademark under Registration No. IDM001305841, dated 17 March 2025, in Class 16, together with all legal consequences arising from such registration.
4. To order the Co-Defendant, namely the Directorate of Trademarks and Geographical Indications of the Directorate General of Intellectual Property, to cancel the registration of the SAIR + Logo trademark under Registration No. IDM001305841, dated 17 March 2025, in Class 16, by removing the trademark from the General Register of Trademarks and publishing the cancellation in the Official Trademark Gazette.
5. To order the Co-Defendant to reject, or at least suspend, any process relating to the registration of the SAIR + Logo trademark under Registration No. IDM001305841, dated 17 March 2025, in Class 16, until a final and legally binding court judgment has been rendered.

These claims demonstrate that there are still business actors who fail to observe the principle of good faith before applying for trademark registration with the Directorate General of Intellectual Property. Such conduct may cause substantial harm to trademark owners whose marks are imitated or unfairly appropriated by other parties.

**b. Analysis of the Criteria for the Element of "Bad Faith" in Commercial Court Decision No. 4/Pdt.Sus-HKI/2025/PN Niaga Smg.**

Evidence Submitted by the Plaintiff to substantiate the allegation that the SAIR trademark had been registered in bad faith, the Plaintiff submitted the following evidence before the Court:

1. The SARI Trademark Certificate, Registration No. IDM000162754, owned by the Plaintiff.
2. A photocopy of the SAIR + Logo trademark owned by the Defendant, obtained from the official website of the Directorate General of Intellectual Property, Ministry of Law of the Republic of Indonesia.
3. A photocopy of plastic products marketed under the SARI trademark.
4. A photocopy of plastic products marketed under the SAIR trademark.

**c. Analysis of Article 21(3) of Law No. 20 of 2016**

Article 21(3) of Law No. 20 of 2016 concerning Trademarks and Geographical Indications provides that a trademark application must be rejected if it is filed in bad faith. The elucidation of this provision explains that bad faith exists where an applicant intends to imitate or follow another party's trademark in order to obtain unfair commercial benefits, including by deceiving or misleading consumers. This demonstrates that the principle of good faith constitutes a fundamental requirement in Indonesia's trademark registration system. Accordingly, although an applicant may be the first to file a trademark application, trademark rights cannot be granted if it is established that the application was intended to exploit the reputation of another party's trademark or to create confusion among consumers.

In the present case, the Plaintiff argued that the SAIR + Logo trademark bears substantial similarity to the previously registered SARI trademark for plastic products in Class 16. According to the Plaintiff, this similarity is reflected in the packaging design, overall layout, logo, and the general appearance of the products, thereby creating a likelihood of consumer confusion. The Plaintiff further alleged that the Defendant's use of the SAIR trademark had resulted in a decline in sales revenue, as many consumers had questioned whether the two products originated from the same source.

The testimony of Andi Irawan supported the Plaintiff's position. He stated that the packaging of the two products was highly similar, despite the differences between the words "SARI" and "SAIR." He further testified that consumers were more familiar with the SARI trademark because it had been available on the market for a considerably longer period. Similarly, Indhah Noor Ita Sari testified that several consumers had asked whether SAIR products were manufactured by PT SARI Persada, as the packaging of the two products appeared substantially alike.

Conversely, the Defendant argued that the words "SARI" and "SAIR" differ in their spelling, letter arrangement, pronunciation, meaning, symbols, and overall visual presentation. According to the Defendant, these differences demonstrate that the two trademarks are not substantially similar. The Defendant therefore maintained that the trademark application had been filed independently and did not constitute an attempt to capitalize on or exploit the Plaintiff's trademark.

In the author's view, the application of Article 21(3) should not be limited to a comparison of differences in lettering or logo design in isolation. Rather, the assessment of bad faith should be conducted by considering the overall commercial impression created by the trademarks, including their visual similarity, phonetic similarity, conceptual similarity, the nature of the goods marketed, the relevant consumer segment, and the likelihood of consumer confusion in the marketplace. Where these factors collectively demonstrate an intention to obtain commercial advantage by exploiting the reputation of a trademark that has already become well known to the public, the element of bad faith, as contemplated under Article 21(3) of Law No. 20 of 2016, should be regarded as having been established.

**d. Analysis of Article 76 of Law No. 20 of 2016**

Article 76 of Law No. 20 of 2016 concerning Trademarks and Geographical Indications grants the owner of a registered trademark the right to file a lawsuit seeking the cancellation of another trademark that is alleged to violate the provisions of trademark law. This mechanism constitutes one of the legal safeguards provided by the State to protect the elusive rights of registered trademark owners. In the present case, the Plaintiff established that the SARI trademark had been registered since 1996 and that its registration had subsequently been renewed and extended in accordance with the applicable legal provisions. These facts demonstrate that the Plaintiff possessed a strong legal basis for filing a cancellation action against a trademark alleged to infringe upon its elusive rights.

The Plaintiff therefore had legal standing to initiate the present action. The long-standing registration of the SARI trademark confirms that the Plaintiff holds valid and legally protected elusive rights. Consequently, the Plaintiff is entitled to protect those rights against another trademark that is alleged to infringe upon them. In the author's opinion, pursuing a trademark cancellation action pursuant to Article 76 was the appropriate legal remedy. This is because the dispute no longer concerned the administrative examination process conducted by the Directorate General of Intellectual Property, but rather involved allegations of substantial similarity and registration in bad faith. Accordingly, resolution of the dispute through the Commercial Court was the legal mechanism expressly prescribed by the applicable legislation.

On the other hand, the Co-Defendant argued that, during the substantive examination, no substantial similarity or indication of bad faith had been identified. Consequently, the SAIR trademark application was considered eligible for registration. The Co-Defendant also emphasized that no objections had been submitted by any interested party during the statutory publication period. Nevertheless, in the author's view, the absence of objections during the publication period does not extinguish the right of the owner of an earlier registered trademark to file a cancellation action after the trademark certificate has been issued. Rather, this reflects the function of Article 76 as a mechanism of judicial review over the outcome of the administrative registration process, particularly where subsequent legal facts demonstrate that the registration has infringed the rights of another party.

### e. Analysis of the First-to-File Principle

The increasingly competitive business environment, driven by rapid digital transformation, has created a dynamic and continuously evolving commercial landscape. Under these circumstances, business actors are required not only to produce high-quality products but also to establish a strong brand identity, gain consumer trust, and foster customer loyalty. Consequently, business competition is no longer determined solely by price but also by the strength of a trademark as a distinctive identifier that differentiates goods or services from those of competitors.

A trademark serves not merely as a distinguishing sign for goods or services but also represents the quality, credibility, and reputation of a business in the marketplace. From the perspective of business law, a trademark constitutes an intangible asset with significant economic value because it enhances a company's competitiveness and long-term commercial value. For this reason, business entities generally devote considerable resources including time, effort, and capital to developing, promoting, and maintaining their trademarks.

However, the intense level of commercial competition has also created opportunities for practices that are inconsistent with the principle of good faith. One such practice is the use or registration of trademarks that closely resemble trademarks previously known or registered by other parties. Such conduct is generally intended to obtain commercial benefits by exploiting the reputation and consumer goodwill that have already been established by the prior trademark owner, without undertaking the substantial effort required to build an independent brand identity.

Indonesia applies the first-to-file principle in its trademark protection regime, meaning that elusive rights are acquired through trademark registration rather than through prior commercial use. Consequently, legal protection is granted to the party that first submits a trademark application to the Directorate General of Intellectual Property (DGIP). This principle is explicitly recognized in Article 3 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, which provides as follows:

*"The right to a trademark shall be acquired upon the registration of the trademark."*

Accordingly, the party that first files and successfully registers a trademark is recognized as the holder of the elusive rights to that trademark. The application of this principle is intended to ensure legal certainty for business actors while promoting orderly administration within Indonesia's trademark protection system.

In the present dispute, the Plaintiff's SARI trademark had been registered earlier and was granted Trademark Certificate No. 361092 on 30 May 1996 for Class 22 goods. The trademark protection was subsequently renewed on 15 March 2016 for Class 16 goods. By contrast, the Defendant's SAIR trademark was not registered until 17 March 2025 under Registration No. IDM001305841, likewise covering goods in the same class.

These facts demonstrate that both trademarks had been formally registered with the Directorate General of Intellectual Property (DGIP). However, the determination of the party entitled to legal protection must be based on the first-to-file principle, which forms the foundation of Indonesia's trademark registration system. Under this principle, priority rights belong to the applicant who first submits a valid trademark registration. As the SARI trademark was registered considerably earlier than the SAIR trademark, it possesses priority status and, consequently, is afforded stronger legal protection under Indonesian trademark law.

Although the timing of registration is an important consideration, the validity of a trademark and its entitlement to legal protection cannot be determined solely by the order in which it was registered. It is equally necessary to consider the principle of good faith (bona fide) as one of the determining factors in assessing whether a trademark is eligible for legal protection.[29] Good faith is a fundamental principle in both law and business, encompassing ethical values such as honesty, loyalty, and the consistent fulfillment of commitments.[30]

In trademark law, the principle of good faith occupies a central position as the standard for determining whether a trademark application

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[29] Henry Campbell Black, 1979, *Black's Law Dictionary*, St. Paul, Minn.: West Publishing Company, hlm. 161.

[30] Febriana Anggit Sasmita, 2016, *Skripsi: Tinjauan Yuridis Asas Itikad Baik dalam Pelaksanaan Kontrak Kerjasama Investasi antara Pengusaha dan Investor (Studi Kasus Angkringan Jogja Management Jl. Bimosari Tahunan UH 3/253 Yogyakarta 55167)*, Yogyakarta: Fakultas Syari'ah dan Hukum, Universitas Islam Sunan Kalijaga, hlm. 21.

deserves legal protection. Law No. 20 of 2016 concerning Trademarks and Geographical Indications expressly provides that a trademark application may only be submitted by a party acting in good faith. Consequently, good faith constitutes one of the essential requirements within Indonesia's trademark protection system.

The application of this principle is particularly relevant to the trademark dispute between SARI and SAIR. In this case, the determination of whether the Defendant acted in good faith became the principal factor in assessing the validity of the Defendant's trademark registration. Although the SAIR trademark had been granted a registration certificate by the Directorate General of Intellectual Property (DGIP), the existence of such a certificate did not automatically establish that the registration had been made in good faith.

The principle of good faith, as embodied in Article 21(1) of Law No. 20 of 2016 concerning Trademarks and Geographical Indications, functions as both a moral and a legal standard for evaluating the intention and purpose of a trademark applicant. According to Gatot Supramono, a trademark owner who acts in good faith is one who honestly acquires rights over the trademark. Such honesty is demonstrated by the absence of any intention to prejudice the rights of other trademark owners, including by imitating another trademark, free-riding on the reputation or goodwill of a well-known mark, or exploiting the reputation of an earlier trademark for commercial gain.

In the present case, the similarity between the SARI and SAIR trademarks can be observed from several aspects, including their phonetic similarity (similarity of sound), pronunciation, and overall visual impression (similarity of appearance). These similarities are capable of creating consumer confusion and may indicate that the trademark application was not filed in accordance with the principle of good faith, as required under Indonesian trademark law.

Furthermore, the fact that the SAIR trademark was only registered in 2025, whereas the SARI trademark had been registered much earlier and had even been renewed, further reinforces the allegation that the Defendant sought to capitalize on the reputation and consumer goodwill that had already been established by the owner of the SARI trademark. Consequently, the validity of the SAIR trademark registration should be reassessed in light of the principle of good faith, which constitutes one of the fundamental principles governing Indonesia's trademark protection system.

If it is established during judicial examination that the SAIR trademark was registered with the intention of imitating or exploiting the reputation of a previously well-known and registered trademark, such conduct may properly be characterized as a registration made in bad faith. Under such circumstances, the purpose of the registration cannot be regarded as the independent development of a distinctive trademark, but rather as an attempt to derive commercial benefit from the reputation and goodwill already enjoyed by another party.

Such conduct is inconsistent with the principles of honesty, fairness, and loyalty, which constitute fundamental values in both civil law and trademark law. This view is consistent with the doctrine developed by the Hoge Raad through the principle of *volgens de eisen van redelijkheid en billijkheid*, which requires that every legal act performed in good faith must conform to the standards of reasonableness, fairness, and equity.[31]

Indonesia's trademark protection system is based upon the first-to-file principle, under which elusive trademark rights are granted to the party that first files a trademark application and whose application is subsequently approved by the State. This principle provides legal certainty regarding the party entitled to trademark protection. In the present dispute, the Plaintiff has demonstrated that the SARI trademark had been registered before the Defendant filed the application for the SAIR + Logo trademark. Accordingly, from the standpoint of the chronological order of registration, the Plaintiff is the party entitled to prior legal protection.

The Defendant argued that the first-to-file principle should not apply because, in its view, the two trademarks are substantially different and therefore there was no legal basis for refusing the registration of the SAIR + Logo trademark. In the author's opinion, however, the Defendant's argument would only be persuasive if it were conclusively established that no substantial similarity existed between the two trademarks and that the application had not been filed in bad faith.

The first-to-file principle should not be interpreted in isolation. The protection afforded to the first registrant must always be considered together with the principle of good faith. Consequently, where a subsequently registered trademark is substantially similar to an earlier trademark and is clearly intended to capitalize on the reputation of that earlier mark, legal protection for the later registrant cannot be maintained. In the present case, therefore, the first-to-file principle further strengthens the Plaintiff's legal position as the owner of the earlier registered trademark and the holder of the elusive trademark rights. Conversely, the Defendant bears the burden of demonstrating that the registration of the SAIR trademark was undertaken independently and without infringing the rights of another trademark owner.

In the author's view, determining whether a trademark application has been filed in good faith or bad faith remains one of the most complex issues within the intellectual property protection system. This complexity arises because, in practice, some applicants are primarily concerned with obtaining administrative registration while disregarding the ethical

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[31] Fitria Hudaningrum, "*Hubungan antara Asas Kebebasan Berkontrak, Pacta Sunt Servanda, dan Itikad Baik*", Sebelas Maret University, Vol. 1, No.1, 2014, hlm. 47.

considerations and legal principles that should govern the trademark registration process.

In the SARI–SAIR trademark dispute, although the SAIR trademark had been formally registered, the Panel of Judges at the first instance concluded that the registration had not been made in good faith. This conclusion was based on the finding that the SAIR trademark bore substantial similarity to the previously registered and well-known SARI trademark. The Court's reasoning demonstrates that the existence of a trademark registration certificate does not automatically entitle its holder to legal protection where there is convincing evidence of imitation or an intention to obtain an unfair commercial advantage from the reputation of another party's trademark. Accordingly, the application of the principle of good faith may override the formal effect of the first-to-file principle where evidence establishes that the trademark registration was made in bad faith.

**f. The Conformity of the Semarang Commercial Court's Decision to Cancel the SAIR Trademark Based on the Principle of Good Faith within the First-to-File System**

This trademark dispute originated from an objection filed by Rusly (hereinafter referred to as the Plaintiff) against the registration of the SAIR trademark by Wahyu Anggoro Ningsih (hereinafter referred to as the Defendant), who is likewise engaged in the manufacture of plastic products.

The Plaintiff is the lawful owner of the SARI trademark, which has enjoyed legal protection through its official registration with the Directorate General of Intellectual Property (DGIP) since 1996 under Trademark Certificate No. 361092. The period of protection for the trademark has subsequently been renewed and remains valid until 2036. In addition, the Plaintiff renewed and maintained the registration of the SARI trademark in 2006 and 2016. These successive registrations demonstrate that the SARI trademark has been continuously used in the Plaintiff's business activities and has consistently received legal protection in accordance with the applicable laws and regulations.

The dispute arose when the Defendant applied for the registration of the SAIR trademark on 17 March 2025 and obtained Registration No. IDM001305841 for plastic products classified under Class 16, the same class of goods covered by the Plaintiff's trademark registration. According to the Plaintiff, the SAIR trademark is particularly similar to the SARI trademark in terms of pronunciation, thereby creating a likelihood of confusion or misunderstanding among consumers. This risk is further heightened because both trademarks are used for similar products and target the same market segment.

Evidence demonstrating the absence of good faith in the registration of the SAIR trademark is reflected in Commercial Court Decision No. 4/Pdt.Sus-Merek/2025/PN Niaga Smg. In its judgment, the Panel of Judges concluded that the Defendant had registered the SAIR trademark in bad faith, as it bore substantial similarity to the SARI trademark, which had previously been owned and registered by the Plaintiff.

According to the Panel of Judges, the Defendant's application for registration of the SAIR trademark was contrary to Article 21(3) of Law No. 20 of 2016 concerning Trademarks and Geographical Indications, which provides:

*"A trademark application shall be refused if it is filed by an applicant acting in bad faith."*

In rendering its judgment, the Panel of Judges did not rely solely upon its assessment of the principle of good faith. The Court also examined whether there was substantial similarity between the Plaintiff's SARI trademark and the Defendant's SAIR trademark. The findings of this examination constituted one of the principal legal grounds underlying the Court's decision.

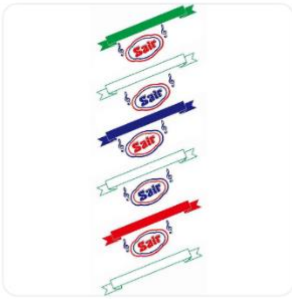
The principal legal basis applied in this analysis is Article 21(1)(a) of Law No. 20 of 2016 concerning Trademarks and Geographical Indications, which provides:

*"An application shall be refused if the trademark is substantially similar or identical to a previously registered trademark for similar goods and/or services."*

According to the elucidation of this provision, substantial similarity refers to a resemblance arising from the existence of dominant elements that are similar between two trademarks. Such similarity may be reflected in the shape, arrangement, style of writing, or combination of the elements forming the trademark. In addition, similarity may also arise from comparable pronunciation or phonetic characteristics, thereby creating the impression among the public that the two trademarks originate from the same commercial source.

Based on the legal considerations set out in the judgment, the Panel of Judges concluded that the SARI and SAIR trademarks possess substantial similarity. This conclusion was reached after evaluating the evidence presented during the proceedings and applying the relevant statutory provisions governing trademark protection as the legal basis for resolving the dispute.

**Figurel 1 Photographs of thel SARI and SAIR Products**

| The Plaintiff's SARI Trademark | The Defendant's SAIR Trademark |
|---|---|
|   |  |
|   |   |

Source: Decision No. 4/Pdt.Sus-Merek/2025/PN Niaga Smg.

In its legal reasoning, the Panel of Judges held that, although the SARI and SAIR trademarks differ in the placement of two letters, they nevertheless exhibit a high degree of similarity. Both trademarks begin with the same syllable, "SA," and share an almost identical letter arrangement. The Court found that the difference in the position of the two letters was insufficient to eliminate the likelihood of consumer confusion, particularly when the trademarks are pronounced orally. From a phonetic perspective, the pronunciation of the two trademarks was considered highly similar, creating the potential for consumers to assume that they originate from the same commercial source. The likelihood of confusion is further increased because both trademarks consist of only four letters, possess similar phonetic patterns, and are used in fast-paced commercial transactions, such as online retail sales and audio-visual advertising. This reasoning is also consistent with the application of the entireties similar and nearly resembles doctrines, which serve as legal benchmarks for determining whether two trademarks are substantially similar.[32]

[32] Emmy Yuhassarie, 2004, *Hak Kekayaaan Intelektual dan Perkembangannya*, Jakarta: Pusat Pengkajian Hukum, hlm. 206-207.

The entireties similar doctrine emphasizes that a trademark may be regarded as substantially similar where, when viewed as a whole, it constitutes a reproduction or imitation of an earlier trademark. Meanwhile, the nearly resembles doctrine provides that substantial similarity exists where the principal or dominant elements of two trademarks are sufficiently alike, including their visual appearance, word arrangement, color combinations, or pronunciation. Similarities in these essential elements may create a likelihood of consumer confusion or even mislead the public regarding the commercial origin of the goods offered under the trademarks. Under this doctrine, if a trademark creates the impression that it originates from the same producer or commercial source as an earlier well-known trademark, such circumstances may constitute evidence of bad faith in the registration process, particularly where the applicant seeks to exploit the reputation, goodwill, and public recognition already associated with the earlier trademark.[33]

In the present case, the Panel of Judges found that the SARI and SAIR trademarks exhibit a high degree of similarity due to their comparable pronunciation, letter arrangement, and word structure. Both trademarks consist of four letters and two syllables and are used for identical categories of goods. These characteristics satisfy the criteria described under the nearly resembles doctrine, namely that similarity in the essential elements of a trademark may give rise to a likelihood of consumer confusion. Accordingly, the Court's conclusion that the two trademarks are substantially similar is supported not only by the applicable statutory provisions but also by well-established principles of trademark law.

This conclusion is further reinforced by the fact that both trademarks are registered for goods in Class 16, namely tissue products. Their identical classification indicates that the products serve the same function and purpose, leaving no meaningful distinction between their respective markets. Furthermore, both SARI and SAIR products are directed at the same group of consumers and distributed through similar marketing channels, including supermarkets, grocery stores, and online marketplaces. Consequently, there are no sufficient distinguishing factors capable of reducing the likelihood of consumer confusion or misidentification between the two trademarks.

Tissue products are everyday consumer goods that are widely marketed to the general public. In practice, consumers often purchase such products quickly without carefully examining the trademark or brand identity displayed on the packaging. This purchasing behavior significantly increases the possibility of confusion regarding the commercial origin of the products. As a result, the owner of the SARI trademark, which had

[33] *Ibid* hlm. 207

been registered earlier and had already established a favorable reputation among consumers, may suffer economic loss arising from consumer misunderstanding.

Moreover, tissue products are generally inexpensive consumer goods, and purchasing decisions are frequently made without careful consideration of the differences between trademarks. This circumstance further increases the likelihood of consumer confusion in the marketplace.

Fundamentally, the primary function of a trademark is to distinguish the goods or services of one undertaking from those of another and to enable consumers to identify the commercial origin of a product. Where two trademarks are similar in pronunciation and are used for identical or closely related goods, this distinguishing function is substantially weakened. Consequently, consumers may mistakenly identify or misattribute the source of the products they purchase.

In its legal reasoning, the Panel of Judges also found that the SARI trademark had acquired substantial public recognition and a strong commercial reputation. This finding was supported by evidence including the trademark registration certificate, the lawful renewals of its protection, and proof that the trademark had been continuously used and extensively marketed throughout Indonesia. Accordingly, the phonetic similarity between the SARI and SAIR trademarks was not regarded as a mere coincidence but rather as a circumstance capable of diluting the distinctive identity of the earlier trademark. The Court further considered that such similarity indicated an attempt to benefit from the commercial reputation and goodwill that had already been established by the SARI trademark.

Based on these considerations, the Panel of Judges concluded that the requirement of substantial similarity, as provided under Article 21(1) of Law No. 20 of 2016 concerning Trademarks and Geographical Indications, had been satisfied. Consequently, the registration of the SAIR trademark was held to be inconsistent with the principles governing trademark protection and detrimental to the legal certainty that should be afforded to the owner of an earlier registered trademark.

The Panel of Judges further considered that the SARI trademark fulfilled the characteristics of a well-known trademark, thereby entitling it to broader legal protection under international trademark law. Such protection is consistent with Article 6bis of the Paris Convention for the Protection of Industrial Property, to which Indonesia is a party, which affords protection to well-known trademarks, including in circumstances where such trademarks have not yet been registered in a particular jurisdiction. In the present case, this protection was even stronger because the SARI trademark had been registered since 1996, had been renewed periodically in accordance with the applicable legal provisions, and had gained widespread recognition and consumer trust throughout Indonesia.

The criteria for determining whether a trademark qualifies as a well-known trademark are also set forth in Article 18 of the Regulation of the Minister of Law and Human Rights No. 67 of 2016, which provides that the assessment may be based on factors such as the duration of the trademark's use, its level of public recognition, and the geographical scope of the distribution of the goods bearing the trademark. In this case, the Panel of Judges concluded that the SARI trademark satisfied the requirements of a well-known trademark. This conclusion was supported by the fact that the trademark had been registered since 1996, had been extensively marketed throughout Indonesia, and had achieved a high degree of consumer recognition and confidence.

Furthermore, the Panel of Judges emphasized that the function of a trademark extends beyond serving merely as a distinguishing sign between the goods or services produced by different business entities. For a trademark that has attained the status of a well-known trademark, it also possesses significant economic and strategic value, as it constitutes an intangible corporate asset reflecting the trademark owner's reputation, consumer trust, and competitive position in the marketplace.[34]

The reputation associated with a well-known trademark often becomes the target of parties acting in bad faith, who seek to obtain immediate commercial benefits through imitation, piracy, or counterfeiting. In the present case, the Defendant acknowledged having been aware of the existence of the SARI trademark before adopting and using the SAIR trademark. Nevertheless, the Defendant continued to use the SAIR trademark and did not withdraw or seek the cancellation of its registration. These circumstances indicate that the trademark registration was not intended to establish an independent brand identity but rather to exploit the reputation, goodwill, and commercial value that had already become associated with the Plaintiff's trademark without lawful justification.[35]

If the SAIR trademark were allowed to remain in use in the marketplace, such circumstances would likely cause harm to the owner of the SARI trademark while simultaneously creating consumer confusion regarding the origin of the products. The similarity between the two trademarks may lead the public to misidentify the commercial source of the goods (misleading origin), thereby undermining the primary function of a trademark as a distinctive sign that differentiates one undertaking's goods or services from those of another. Such a situation is inconsistent with Article 1(1) of the Trademark Law, which expressly provides that a trademark functions as a distinguishing sign.

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[34] O.K. Saidin. 2013. *Aspek Hukum Hak Kekayaan Intelektual (Intellectual Property Rights)*, Jakarta, Rajawali Pers, hlm. 359.

[35] Darmadi Durianto, dkk. 2011, *Strategi Menaklukkan Pasar Melalui Riset Ekuitas Perilaku Merek*, Jakarta: Gramedia Utama Pustaka, hlm. 22.

Based on the analysis of the Panel of Judges' legal reasoning in the SARI–SAIR trademark dispute, it can be concluded that the judgment rests upon two principal legal grounds. First, the registration of the SAIR trademark was found to have been made in violation of the principle of good faith. Second, the Panel of Judges determined that the SAIR trademark bore substantial similarity to the previously registered SARI trademark owned by the Plaintiff, thereby rendering its use inconsistent with the applicable provisions of Indonesian trademark law.

After evaluating all the evidence presented during the proceedings and the relevant legal provisions, the Panel of Judges concluded that the registration of the SAIR trademark not only violated the administrative requirements governing trademark registration but also contravened the fundamental principles underlying trademark protection, namely honesty, good faith, and respect for the elusive rights of legitimate trademark owners. On this basis, the Court's ratio decidendi established that the SAIR trademark had been registered in bad faith and possessed substantial similarity to the SARI trademark, creating a likelihood of consumer confusion. Accordingly, the cancellation of the SAIR trademark registration was considered necessary to protect consumers, safeguard the rights of business actors acting in good faith, and preserve the integrity and credibility of Indonesia's trademark protection system.

In light of these considerations, the Panel of Judges granted all of the Plaintiff's claims as the lawful owner of the SARI trademark. The Court also ordered the Directorate General of Intellectual Property (DGIP), acting as the Co-Defendant, to cancel the registration of the SAIR trademark and remove it from the General Register of Trademarks in accordance with the applicable laws and regulations.

Although the author agrees with the operative part of the judgment ordering the cancellation of the SAIR trademark, the author does not fully agree with the legal reasoning adopted by the Panel of Judges. The judgment correctly protects the elusive rights of the owner of the earlier registered trademark; however, the reasoning places greater emphasis on the substantial similarity between the SARI and SAIR trademarks than on establishing the legal elements of bad faith as required under Article 21 paragraph (3) of Law Number 20 of 2016 concerning Trademarks and Geographical Indications. The existence of similarity alone should not automatically lead to the conclusion that a trademark application was filed in bad faith. Rather, the court should comprehensively examine the applicant's intention, including whether the applicant knowingly sought to exploit the goodwill, commercial reputation, or market recognition of the earlier trademark.

From the perspective of intellectual property law, bad faith is primarily determined by the applicant's intention at the time of filing the trademark application. Therefore, evidence demonstrating prior knowledge of the earlier trademark, the commercial relationship between the parties, the market reputation of the earlier trademark, and the applicant's purpose in adopting a confusingly similar mark should constitute the principal basis for determining bad faith. In the present case, although the judgment refers to consumer confusion and the reputation of the SARI trademark, it does not formulate clear legal indicators explaining how those facts establish the Defendant's intention to act in bad faith. Consequently, the judgment provides limited guidance for future courts and trademark examiners in applying Article 21 paragraph (3).

The author further considers that this weakness affects the realization of substantive justice in intellectual property disputes. According to Aristotle's theory of justice, justice is achieved not merely by protecting the party holding prior rights but also by ensuring that judicial reasoning is objective, transparent, and consistently applicable to similar cases. A judgment that relies predominantly on trademark similarity without clearly distinguishing the analysis of similarity from the analysis of bad faith risks creating inconsistent interpretations in future trademark disputes.[36]

Accordingly, the author proposes that future trademark adjudication should distinguish more clearly between the assessment of substantial similarity under Article 21 paragraph (1) and the assessment of bad faith under Article 21 paragraph (3). Courts should formulate measurable indicators of bad faith, including evidence of intentional imitation, exploitation of commercial goodwill, prior knowledge of the earlier trademark, and unfair commercial advantage. Such an approach would strengthen legal certainty, improve the quality of judicial reasoning, and provide clearer guidance for the Directorate General of Intellectual Property (DGIP) during the substantive examination of trademark applications.

The importance of strengthening legal protection in the present case becomes even more apparent when examined in light of the concept of bad faith in trademark law. The scope of this concept extends beyond fraudulent conduct to encompass various forms of misleading behavior and actions that disregard legal obligations for the purpose of obtaining improper benefits or commercial advantages. Accordingly, bad faith may be understood as conduct undertaken knowingly and intentionally to achieve objectives that are inconsistent with the principle of honesty, thereby conflicting with the fundamental values underlying trademark protection.[37]

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[36] Riky Sembiring. *"Keadilan Pancasila dalam Persepektif Teori Keadilan Aristoteles"*. Jurnal Aktual Justice, Vol. 3, No. 2. 2018

[37] Agus Mardianto, *"Penghapusan Pendaftaran Merek Berdasarkan Gugatan Pihak Ketiga"*, Jurnal Dinamika Hukum, Vol. 10 No. 1, 2010 hlm. 47.

Within the trademark protection regime, any act intended to imitate, reproduce, pirate, or exploit the reputation of another party's trademark without the authorization of the rightful owner (unauthorized use) is, by its very nature, regarded as dishonest conduct. Such actions constitute a form of unfair competition, as they are undertaken with the objective of obtaining commercial benefits from the reputation and goodwill that have already been established by another trademark owner. From a legal perspective, such conduct may also be characterized as unjust enrichment, since it enables a party to obtain benefits or profits through improper means and, therefore, does not merit legal protection.[38]

In the author's view, the legal reasoning adopted by the Semarang Commercial Court in deciding this case demonstrates the application of the principle of substantive justice in resolving trademark disputes. The Panel of Judges did not rely solely upon the first-to-file principle as the basis for its decision but also examined the purpose underlying the trademark registration and its impact on consumer interests and fair business competition. This approach plays an essential role in preventing the misuse of the trademark registration system as a means of legitimizing conduct carried out in bad faith.

**g. Analysis Based on the Theory of Legal Liability**

The theory of legal liability provides that every individual or legal entity is accountable for actions that give rise to legal consequences affecting the rights or interests of others. In the field of intellectual property law, liability arises not only when a person violates statutory provisions but also when intellectual property rights are exercised or acquired in a manner that constitutes an abuse of rights and causes harm to another rightful owner. Where a person registers a trademark with the intention of obtaining commercial advantage by exploiting its similarity to another party's trademark, such conduct may be regarded as an abuse of rights. Consequently, the applicant may be held legally liable. Such liability may include the cancellation of the trademark registration, removal of the trademark from the General Register of Trademarks, prohibition against further use of the trademark, or other legal consequences as determined by the court.

In the present case, the Plaintiff sought to establish that the Defendant's use of the SAIR trademark, which closely resembled the SARI trademark, had caused consumer confusion and resulted in a decline in the Plaintiff's sales. Conversely, the Defendant argued that all registration procedures had been properly completed and that the trademark application had been approved by the Directorate General of Intellectual Property (DGIP). Accordingly, the Defendant maintained that no irregularity had occurred during the registration process.

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[38] Ibid. Hlm 47.

In the author's opinion, determining legal liability in a trademark dispute requires more than merely assessing whether the administrative requirements for trademark registration have been fulfilled. The decisive consideration is whether the registration and use of the trademark respect the rights of prior trademark owners and are carried out in good faith. Accordingly, even where a trademark has been formally registered and a registration certificate has been issued, its owner may still be held legally liable if it is subsequently established that the registration violated Article 21(3) of Law No. 20 of 2016 concerning Trademarks and Geographical Indications and caused harm to the owner of an earlier registered trademark entitled to legal protection.

## B. Legal Consequences of Decision No. 4/Pdt.Sus-HKI/2025/PN Niaga Smg. for the Parties

The Commercial Court's decision in a trademark cancellation case has broad legal consequences. It not only affects the parties directly involved in the dispute but also has implications for the trademark protection system in Indonesia as a whole. Although the dispute initially arose between the owner of the SARI trademark and the owner of the SAIR + Logo trademark, the court's decision ultimately determines the validity and enforceability of the elusive rights attached to the disputed trademark. Furthermore, the decision serves as a reference for the Directorate General of Intellectual Property (DGIP) in carrying out trademark registration and administrative recordation.

In this study, the legal consequences arising from the court's decision are analyzed based on Law Number 20 of 2016 concerning Trademarks and Geographical Indications, as well as several legal theories, including the theory of legal protection, the theory of legal certainty, and the theory of justice. The analysis also takes into account all legal facts revealed during the trial, including documentary evidence, witness testimony, and the legal arguments presented by the Plaintiff, Defendant, and Co-Defendant.

### a. Legal Standing of the Parties

Legal standing constitutes one of the fundamental prerequisites that must be satisfied by any individual or legal entity before filing a lawsuit before a court. Under Indonesian civil law, the concept of legal standing refers to the authority or legal legitimacy of a legal subject to act as a party in legal proceedings because they possess rights and legal interests that are directly connected to the subject matter of the dispute. Such legitimacy arises from the existence of a genuine legal relationship between the plaintiff and the disputed object. Accordingly, if the element of legal standing cannot be established, the court has the authority to declare the claim inadmissible (*niet ontvankelijke verklaard*) without first examining the substantive merits of the case.[39]

In the field of intellectual property law, particularly in trademark disputes, legal standing is granted to individuals or legal entities that can demonstrate the existence of legal harm directly resulting from the actions of another party. Such harm may arise from the registration of a trademark that is identical or substantially similar to a trademark that has previously obtained legal protection through registration. The right to file a trademark cancellation action is expressly provided under Article 76 paragraph (1) of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, which states:

*"An action for the cancellation of a registered trademark may be filed by an interested party."*

The term "interested party" includes prior registered trademark owners, license holders, and other parties possessing both legal and economic interests in the use of a particular trademark. In trademark disputes, legal standing is determined by two principal elements: first, the existence of lawful ownership rights over the trademark that forms the subject of the dispute; and second, the existence of actual or potential losses resulting from the registration or use of the trademark by another party.[40]

In the trademark dispute between SARI (the Plaintiff) and SAIR (the Defendant), the Plaintiffs' legal standing is evident and well established. Rusly and Sulaiman Effendy are the lawful owners of the SARI trademark, which has been registered since 1996 and renewed several times, including under the most recent certificate issued in 2017. They have also continuously used the trademark in the production and distribution of plastic products throughout Indonesia, demonstrating their substantial legal and economic interest in protecting the trademark.

Moreover, the Defendant's SAIR + Logo trademark and the Plaintiffs' SARI trademark are registered for goods belonging to the same product category. The determination of product similarity is based on Article 17 paragraph (2) of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 67 of 2016 concerning Trademark Registration. This provision establishes that the similarity of goods or services may be assessed by comparing goods with goods, goods with services, or services with services using several criteria, including the nature of the goods or services, their intended purpose and method of use, the degree of complementarity, the level of market competition,

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[39] Asma Karim "*Legal Standing Pemegang Hak Merek Terdaftar Yang Belum Dimohonkan Perpanjangan Kajian Putusan Nomor 139 K/Pdt.Sus HKI/2018*", Jurnal Yudisial, Vol. 13 No. 1. 2020. Hlm. 110.

[40] Yolanda Bella Puspita dkk, "*Ganti Rugi Atas Penggunaan Merek Yang Memiliki Persamaan Pada Pokoknya*", Locus: Jurnal Konsep Ilmu Hukum, Vol. 3, No. 3, 2023. Hlm. 137

distribution channels, the relevant consumer groups, and the origin or source of production.

In the present case, the Defendant's SAIR + Logo trademark and the Plaintiffs' SARI trademark share similar characteristics because both are used for plastic bag products with identical functions and methods of use. Moreover, the appearance of the trademarks and their respective logos creates a highly similar visual impression, which is likely to cause confusion among consumers. Accordingly, both trademarks may be considered to possess substantial similarity (*persamaan pada pokoknya*) in relation to goods of the same kind.

As the owners of the SARI trademark, which has enjoyed legal protection since 1996 and has been renewed in accordance with the applicable regulations, the Plaintiffs are entitled to the elusive right to use the trademark for the registered goods. This elusive right enables the Plaintiffs to use their trademark and to prohibit others from using a mark that is substantially similar for similar goods.

In this case, the Plaintiffs filed a trademark cancellation action seeking the cancellation of the SAIR + Logo trademark on the grounds that its registration infringed their elusive rights. The Plaintiffs argued that the use of the SAIR + Logo trademark had caused consumer confusion and resulted in financial losses due to declining sales. Several witnesses also testified that consumers had asked whether products bearing the SAIR + Logo trademark were manufactured by PT SARI Persada, thereby reinforcing the Plaintiffs' claim that the similarity between the trademarks had created confusion in the marketplace.

If the court grants the cancellation claim, the Plaintiffs will retain their elusive rights to the SARI trademark. Consequently, the SARI trademark will continue to enjoy legal protection as the earlier registered trademark. The cancellation of the SAIR + Logo trademark will also eliminate the possibility of unfair business competition arising from the coexistence of confusingly similar trademarks. In addition, consumers will have greater certainty regarding the commercial origin of the products they purchase.

Conversely, if the claim is dismissed, the Plaintiffs will continue to hold rights to the SARI trademark. However, they will have to accept that the SAIR + Logo trademark will likewise remain legally protected. As a result, although the Plaintiffs will retain ownership of their trademark, they will be required to compete in the marketplace with another trademark that bears a substantial resemblance to their own. Therefore, the court's decision is crucial in determining the extent of legal protection afforded to the Plaintiffs.

In the author's opinion, the legal consequences for the Plaintiffs extend beyond the preservation of their elusive trademark rights. They also concern the protection of the business reputation that has been developed over many years. Such protection is essential because a trademark constitutes an intangible asset with significant economic value and serves as a distinctive identifier of a product in the minds of consumers.

b. **Legal Consequences for the Defendant**

For the Defendant, the legal consequences of the judgment depend entirely on the court's final determination regarding the validity of the registration of the SAIR + Logo trademark. During the proceedings, the Defendant consistently maintained that the trademark registration had been carried out in accordance with the applicable legal procedures, had successfully undergone a thorough substantive examination, and had received no objections from any party during the publication period. The Defendant further argued that the SAIR + Logo trademark differs significantly from the SARI trademark in terms of its visual, phonetic, and conceptual characteristics and therefore does not satisfy the legal criterion of substantial similarity.

If the claim is granted, the Defendant will lose the elusive rights attached to the previously registered trademark. Consequently, the Defendant's trademark certificate will no longer have legal effect, and the Defendant will no longer be entitled to use the trademark in commercial activities. Furthermore, the Defendant will be required to adopt a new product identity and trademark to avoid infringing upon the rights of the lawful owner of the registered trademark.

Conversely, if the claim is dismissed, the SAIR + Logo trademark certificate will remain legally valid. Accordingly, the Defendant will continue to enjoy legal protection as the owner of a registered trademark and will retain the right to use the mark in commercial activities within the scope of the registered class of goods. In the author's opinion, the legal consequences for the Defendant demonstrate that a trademark certificate is not absolute in nature. A registered trademark may still be cancelled if subsequent legal facts reveal that its registration violates the provisions of Law Number 20 of 2016 concerning Trademarks and Geographical Indications. Therefore, every trademark applicant must ensure that the proposed mark is genuinely distinctive and does not infringe upon the rights of others.

c. **Legal Consequences for the Directorate General of Intellectual Property (DGIP)**

In this case, the Directorate General of Intellectual Property (DGIP) acted as the Co-Defendant because it issued the trademark certificate for SAIR + Logo. The certificate was granted after the completion of the prescribed registration procedures, including formal examination, publication, and substantive examination. DGIP explained that during its examination, it found no substantial similarity between the disputed trademarks nor any indication of bad faith. Accordingly, the application for the registration of SAIR + Logo was deemed to have satisfied all legal requirements for registration.

If the court determines that the registration of the SAIR + Logo trademark must be cancelled, DGIP is legally obligated to implement the judgment by removing the trademark from the General Register of Trademarks in accordance with the applicable laws and regulations. Conversely, if the claim is dismissed, DGIP is not required to amend the registration records, and the SAIR + Logo trademark certificate will remain valid.

In the author's view, this case highlights the crucial importance of the substantive examination process conducted by DGIP in preventing trademark disputes. A more comprehensive assessment of visual, phonetic, and conceptual similarities, as well as indicators of bad faith, is essential to prevent disputes from arising after a trademark certificate has been issued. Accordingly, judicial decisions also serve as an important mechanism for reviewing and supervising the outcomes of DGIP's administrative examination process.

**d. Analysis Based on the Theory of Legal Certainty**

The theory of legal certainty requires that the rights and obligations of every citizen be clearly protected under the applicable law. In the field of trademark law, legal certainty is embodied in the trademark registration system, which grants elusive rights to registered trademark owners.

Both the Plaintiff and the Defendant relied on trademark certificates issued by DGIP as the principal basis for their legal arguments. The Plaintiff asserted that its trademark had been registered earlier, while the Defendant argued that its trademark certificate had been issued through lawful procedures. This demonstrates that legal certainty concerns not only the existence of a trademark certificate but also whether its issuance complies with the requirements set forth in Article 21 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications.

According to Gustav Radbruch's theory of legal certainty, the law must be clear, consistent, and predictable. Consequently, judicial decisions in trademark disputes should clearly determine which party is entitled to use the disputed trademark, thereby preventing uncertainty among business actors and consumers.

In the author's opinion, legal certainty in this case can only be achieved if the court objectively evaluates all available evidence, comprehensively compares the disputed trademarks, and consistently applies Articles 21 and 76 of Law Number 20 of 2016. Such an approach ensures that the judgment not only protects the legitimate rights of the parties but also provides clear guidance to other business actors regarding the legal standards for assessing trademark similarity and bad faith.

From the perspective of Aristotle's theory of justice, the court's decision should not only determine which party deserves legal protection but should also establish legal standards capable of ensuring fairness in future cases. Although the cancellation of the SAIR trademark protects the elusive rights of the Plaintiff as the earlier trademark owner, the judgment does not comprehensively explain the legal criteria for determining bad faith. As a result, similar disputes may be resolved differently by other courts due to the absence of objective parameters for assessing an applicant's intention.

The author therefore argues that substantive justice in intellectual property law requires more than merely resolving an individual dispute. It also requires judicial decisions to provide clear legal guidance that ensures consistency, predictability, and equal treatment in future trademark disputes. In this respect, the present judgment has not fully realized the broader objective of justice because it emphasizes trademark similarity more than the legal analysis of intentional bad-faith registration.

Based on the statutory approach, case approach, and the theories of legal liability, legal protection, legal certainty, and justice, the author concludes that the cancellation of the SAIR trademark is legally justified because it protects the rights of the earlier registered trademark owner. Nevertheless, the reasoning adopted by the Panel of Judges remains open to criticism because it does not sufficiently distinguish the legal analysis of substantial similarity from the legal analysis of bad faith. This distinction is essential because similarity between trademarks constitutes objective evidence, whereas bad faith concerns the applicant's subjective intention. Conflating these two legal concepts may weaken legal certainty and create inconsistent judicial interpretation in future trademark disputes.

For this reason, the author recommends that future judicial decisions formulate more explicit legal indicators of bad-faith trademark registration and require a more comprehensive examination of the applicant's intention to exploit another party's commercial reputation. Furthermore, the Directorate General of Intellectual Property should strengthen its substantive examination by adopting more detailed guidelines for identifying bad-faith applications before trademark certificates are issued. These measures would enhance legal certainty while ensuring that Indonesia's trademark protection system better reflects substantive justice and fair competition.

# IV. Conclusion

Based on the findings of this study, it can be concluded that the cancellation of the SAIR trademark in Commercial Court Decision Number 4/Pdt.Sus-HKI/2025/PN Niaga Smg. was legally justified because the registration infringed the elusive rights of the owner of the earlier registered SARI trademark and was inconsistent with the principle of good faith as required under Article 21 paragraph (3) of Law Number 20 of 2016 concerning Trademarks and Geographical Indications. However, this study finds that the judges' legal reasoning placed greater emphasis on the substantial similarity between the trademarks than on a comprehensive assessment of the legal elements of bad faith, particularly the applicant's intention to exploit the goodwill and commercial reputation of the earlier trademark. As a result, although the decision provides legal protection for the Plaintiff and results in the cancellation of the Defendant's trademark registration, it does not yet establish clear and objective legal parameters for determining bad-faith trademark registration, which may reduce consistency in future trademark disputes. Therefore, stronger judicial reasoning and more comprehensive substantive examination by the Directorate General of Intellectual Property are necessary to ensure greater legal certainty, substantive justice, and effective protection of intellectual property rights in Indonesia.

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## Generative AI Statement

Artificial Intelligence (AI) ChatGPT was used solely to improve the quality, clarity, and correctness of the language used in this manuscript. The author subsequently reviewed and edited all AI-generated output to ensure its accuracy, scientific integrity, and consistency with the research objectives. The author assumes full responsibility for the final content of the manuscript. AI was employed elusively as a supporting tool and not as an author. All analyses, interpretations of the data, and research conclusions remain under the author's supervision and responsibility.