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Bad Faith as the Basis for the Cancellation of Registered Trademarks in the 100% Trademark Dispute (Case Study No. 797 K/Pdt.Sus-HKI/2022)

Hilyah Az Zahra[1] & Andriyanto Adhi Nugroho[2]
[1]Faculty of Law, Universitas Pembangunan Nasional "Veteran" Jakarta, E-mail: 2210611040@mahasiswa.upnvj.ac.id
[2]Faculty of Law, Universitas Pembangunan Nasional "Veteran" Jakarta, E-mail: andriyanto.adhi.n@upnvj.ac.id

Abstract. *Trademarks play a strategic role in commerce as both a product identity and a reflection of a business operator's economic value and reputation. In Indonesia's trademark legal system, which adheres to the "first to file" principle, trademark registration serves as the basis for the creation of exclusive rights. However, the application of this principle must be balanced with the principle of good faith to prevent abuse by parties who register trademarks in bad faith. This study aims to analyze the application of the principle of bad faith as the basis for the cancellation of registered trademarks, as well as the position of the "first to file" principle in the "100%" trademark dispute under Law No. 20 of 2016 on Trademarks and Geographical Indications. The method used is normative legal analysis employing a statutory approach and a case-based approach, referencing Supreme Court Decision No. 797 K/Pdt.Sus-HKI/2022. The research findings indicate that bad faith is evidenced by the overall similarity of the trademarks, the similarity of the goods classes, as well as the prior use and registration of the trademark by SAULE, LLC in several countries. The "first to file" principle remains recognized, but it is not absolute and may be set aside if the registration is proven to lack good faith. The legal framework governing the criteria for good faith needs to be strengthened to ensure more consistent legal certainty.*

Keywords: *Bad Faith; First to File; Trademark Cancellation.*

1. Introduction

A trademark plays an important role in commercial activities because it not only serves as an identifying sign for a product but also reflects the economic value, reputation, and identity of the goods or services being marketed. In business practice, trademarks are used to distinguish products originating from one business actor from those owned by other business actors. This role indicates that trademarks hold an important position in business activities; therefore, trademarks constitute part of intellectual property that requires legal protection, particularly because they possess significant economic value (Gunawan, 2022).

In addition to serving as a product identity, trademarks also have a strategic role in shaping the relationship between business actors and consumers. Through trademarks, consumers are able to identify the origin of goods or services, obtain an impression of product quality, and distinguish such products from other products circulating in the market. In commercial activities, trademarks also function as a promotional medium that can strengthen the attractiveness of goods or services (Rizkia & Ferdiansyah, 2022).

The existence of trademarks is not only related to legal protection but is also closely associated with business interests and consumer trust. Trademarks may even be regarded as the spearhead of trade in goods and services, as through trademarks, business actors can maintain the quality of their products while preventing unfair competition by other parties.

Legal protection for trademarks is increasingly necessary alongside the development of the business sector, which also creates opportunities for various forms of infringement, such as trademark imitation, unauthorized use of trademarks, and the registration of trademarks that are similar to those owned by other parties. Under such circumstances, the law plays an important role in determining the party entitled to a trademark and regulating the protection mechanisms that may be used. Law enforcement concerning trademarks is an essential part of ensuring that intellectual property protection in Indonesia can be implemented effectively (Hasima, 2026).

The need for such law enforcement becomes increasingly evident as commercial activities continue to expand and trademark disputes develop into increasingly complex issues. Competition among business actors is determined not only by product quality but also by the use of trade identity attached to a trademark. In practice, trademarks with high market value often become objects of imitation, counterfeiting, or unauthorized exploitation by other parties. The commercial value attached to such trademarks makes them vulnerable to misuse in business competition.

In the Indonesian trademark legal system, registration serves as the primary basis for the emergence of rights over a trademark. Legal protection for trademarks cannot rely solely on the use of a trademark in commercial activities but must be strengthened through the registration process with the competent authority. Through such registration, trademark owners obtain a more certain legal position, as trademark rights arise when the trademark certificate is issued by the Directorate General of Intellectual Property (Valentino & Putra, 2025).

In the registration process, a trademark is not merely recorded as an administrative matter but must also fulfill the requirements and procedural stages stipulated under trademark law. Compliance with these requirements is important to ensure that a registered trademark has a valid legal basis for protection and does not give rise to disputes in the future. Trademark registration provides clarity regarding legal status and helps minimize the potential overlap of ownership claims. Legal protection for a trademark is granted when the trademark has been registered by fulfilling the requirements and procedures as regulated under Law Number 20 of 2016 concerning Trademarks and Geographical Indications (Shavira, J. E., & Nugroho, 2021).

Trademark registration functions to provide legal certainty, its implementation must still be based on the principle of good faith. This principle is important because trademark registration may give rise to legal issues if it is filed with the intention of imitating, riding on the reputation of, or exploiting another party's trademark for personal gain. In trademark law, good faith is regarded as one of the principles underlying the protection of registered trademarks in Indonesia (Muliasari et al., 2021). Trademark registration should not be understood merely as an administrative process, but must also take into account the elements of honesty and propriety on the part of the applicant.

The trademark registration system applicable in Indonesia is based on the first-to-file principle, under which trademark rights are granted to the party that first applies for and obtains trademark registration. However, the application of this principle must still be limited by the principle of good faith. If a trademark is registered with dishonest intent, such registration may give rise to disputes and cause harm to the party that is in fact more entitled to the trademark. The constitutive system, or first-to-file system, cannot be applied independently but must be accompanied by the principle of good faith in its implementation (Komaldi et al., 2024).

The position of the principle of good faith serves to balance the application of the first-to-file system, which tends to be formal in nature. If the element of good faith is not taken into account, certain parties may exploit the registration system by applying for a trademark that is similar or identical to another party's trademark merely because they registered it earlier. The application of the principle of good faith is also necessary to protect business actors from the misuse of the first-to-file principle in trademark registration (Amelia Puspita Sari, 2025).

One example of a trademark cancellation case based on an alleged registration in bad faith can be seen in the "100%" trademark dispute between Saule, LLC and Jefrie Permana, as stated in the Decision of the Commercial Court at the Central Jakarta District Court Number 22/Pdt.Sus-HKI/Merek/2021/PN.Niaga.Jkt.Pst and the Decision of the Supreme Court Number 797 K/Pdt.Sus-HKI/2022. In this case, Saule, LLC acted as the Plaintiff, Jefrie Permana as the Defendant, and the Directorate General of Intellectual Property as the Co-Defendant. The dispute arose from the registration of the "100%" trademark by Jefrie Permana in Indonesia, which was considered to be substantially similar to the trademark owned by Saule, LLC. As a result, the registration was challenged because it was alleged to have been made in bad faith.

At the first-instance level, the judge considered the similarities between the two trademarks, both in appearance and in the relatedness of the goods involved. Based on these considerations, the Commercial Court granted the lawsuit filed by Saule, LLC, canceled the "100%" trademark owned by Jefrie Permana, and ordered its removal from the trademark register. At the cassation level, the Supreme Court rejected Jefrie Permana's appeal, thereby upholding the first-instance decision.

Studies regarding trademark cancellation due to bad faith have been discussed in several previous investigations. Prior research indicates that the principle of good faith plays an important role in the trademark registration system in Indonesia. The study by Diannita Anjar Prasomya and Budi Santoso in 2022, entitled "A Legal Review of Trademark Cancellation Related to the Principle of Good Faith in the Trademark Registration System," examined the regulation of the good faith principle in trademark cancellation under Law Number 20 of 2016, particularly Article 21 paragraph (3) and Article 77 paragraph (2) (Prasomya & Santoso, 2022). The research by Ricky Rahman Kholika in 2024, entitled "A Legal Analysis of the Good Faith Aspect as the Basis for Trademark Cancellation under Law Number 20 of 2016," emphasized that good faith functions as a filter against trademark imitation that may mislead consumers (Ricky Rahman Kholika, 2024).

Meanwhile, the study by Hendri and Markoni in 2023, entitled "A Legal Analysis of the Cancellation of the 'Zhe Nung Zhu' Trademark," examined legal protection for the first registrant under the first-to-file system, as well as the cancellation of trademarks that are similar to previously registered marks (Hendri & Markoni, 2023). Unlike these three studies, the present research specifically analyzes the "100%" trademark dispute in the Supreme Court Decision Number 797 K/Pdt.Sus-HKI/2022, focusing on the application of the bad faith principle as the basis for the cancellation of a registered trademark and the role of the first-to-file principle in relation to the legal protection of trademarks proven to have been registered dishonestly.

In trademark disputes, protecting parties who have a legitimate legal interest in the trademark and act in good faith is essential so that trademark rights are not determined solely on a formal basis according to who registered first. The first-to-file system must still be limited when trademark registration is conducted to imitate, exploit, or harm another party. Therefore, the discussion of bad faith in Decision No. 797 K/Pdt.Sus-HKI/2022 is necessary to examine how Law Number 20 of 2016 concerning Trademarks and Geographical Indications is applied by the court to provide legal certainty and resolve trademark disputes fairly.

2. Research Methods

This study employs a normative juridical method, which is legal research based on a literature review by examining legislation, legal principles, doctrines, and relevant court decisions. The approach used includes the statute approach and the case approach (Widiarty, 2024). The statute approach involves the examination of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, particularly the provisions regarding trademark registration, bad faith, and the cancellation of registered trademarks. Meanwhile, the case approach is conducted through an analysis of the Supreme Court Decision Number 797 K/Pdt.Sus-HKI/2022 in the "100%" trademark dispute.

The data sources used in this study are secondary data, consisting of primary, secondary, and tertiary legal materials. Primary legal materials include legislation and court decisions, while secondary legal materials comprise books, scientific journals, legal articles, and relevant expert opinions. Tertiary legal materials include legal dictionaries, legal encyclopedias, and other supporting sources. Data collection was carried out through library research, focusing on tracing and reviewing various relevant legal sources, which were then analyzed qualitatively using content analysis (Solikin, 2021). The results of the analysis are presented descriptively to explain the application of legal norms concerning bad faith, judicial considerations in the cancellation of registered trademarks, and the legal consequences for the protection of trademark rights in the "100%" trademark dispute.

3. Results and Discussion

3.1. Application of the Principle of Bad Faith as the Basis for the Cancellation of Registered Trademarks in the "100%" Trademark Dispute Based on Law Number 20 of 2016 concerning Trademarks and Geographical Indications

Trademark registration constitutes the basis for the emergence of trademark rights under the Indonesian trademark legal system. However, the status of a registered trademark does not automatically confer absolute legal protection. Trademark registration is assessed not only based on compliance with administrative procedures but must also be founded on good faith. Legal protection attaches to trademarks that are registered honestly and in good faith, whereas trademarks proven to have been applied for dishonestly may lose such protection (Lestari & Lie, 2025).

The principle of good faith holds a crucial position because it serves as a standard for assessing whether a trademark application is filed legitimately or is intended to imitate, ride on, or exploit the reputation of another party's trademark. Article 21 paragraph (3) of Law Number 20 of 2016 concerning Trademarks and Geographical Indications stipulates that a trademark application must be rejected if filed by an applicant acting in bad faith (Indonesia, 2016). Nevertheless, the regulation regarding bad faith still allows room for interpretation because the law does not provide detailed criteria for bad faith, and its assessment often depends on the judgment of law enforcement authorities and judges in resolving disputes (Noor et al., 2025).

If a trademark registered in bad faith has already been accepted and has obtained a certificate, Law Number 20 of 2016 concerning Trademarks and Geographical Indications still provides a cancellation mechanism. Pursuant to Article 76 in conjunction with Article 21 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, a cancellation lawsuit may be filed against a registered trademark whose registration contains grounds for refusal as stipulated by the law (Indonesia, 2016). In this context, the cancellation of a registered trademark can be understood as a legal mechanism to correct trademark registration obtained through dishonest or bad faith conduct (Phiau et al., 2021) In other words, bad faith is not only relevant as a reason for rejecting a trademark application but can also serve as the basis for canceling a registered trademark.

The application of the bad faith principle as the basis for canceling a registered trademark is evident in the "100%" trademark dispute between SAULE, LLC as the Plaintiff and Jefrie Permana as the Defendant. In this case, Jefrie Permana registered the "100%" trademark in Indonesia under Registration Number IDM000640781 in Class 09. On the other hand, SAULE, LLC had previously used and registered the "100%" trademark in the United States since 2013, as well as in several other countries, prior to the Defendant's registration in Indonesia.

The indication of bad faith in this case is apparent from the similarities between SAULE, LLC's "100%" trademark and the "100%" trademark registered by Jefrie Permana, in terms of spelling, pronunciation, and class of goods. These similarities demonstrate that the evaluation of a trademark registration should not rely solely on its formal status as a registered trademark, but must also consider honesty, the purpose of registration, and its impact on the party with superior rights. The fact that SAULE, LLC had already used and registered the “100%” trademark outside Indonesia renders the Defendant’s registration reasonably susceptible to a finding of bad faith. Furthermore, the registration of the identical trademark also has the potential to create the impression of a connection between the Defendant’s products and the Plaintiff’s products.

In addition to harming the rightful trademark owner, the registration of a trademark in bad faith also affects consumer interests. Under trademark law, consumers need to be protected from the use of trademarks that may be misleading, deceptive, or create confusion regarding the origin of goods (Hani Subagio et al., 2024). In the “100%” trademark dispute, the similarity of the trademarks within the same class of goods could cause the public to misidentify the source of the products (Dahris Siregar, 2022). The cancellation of the trademark in this case can be understood as a correction of a dishonest registration while simultaneously serving to prevent consumer misperception.

Regarding reputation riding, this action can be understood as an attempt to gain benefits by exploiting the image and appeal of another party’s trademark (Khotimah & Apriani, 2022). In this case, the Defendant’s registration of the “100%” trademark can be seen as potentially riding on the reputation of SAULE, LLC, since the trademark had already been previously used and its reputation established by the Plaintiff. The Defendant’s action not only raises issues in terms of trademark registration but also has the potential to harm the party that first established rights and reputation over the trademark.

In this case, the Commercial Court at the Central Jakarta District Court canceled the “100%” trademark owned by Jefrie Permana because its registration was deemed to involve bad faith. This consideration was subsequently upheld by the Supreme Court in Decision Number 797 K/Pdt.Sus-HKI/2022, which rejected Jefrie Permana’s appeal. Thus, at both the first-instance and cassation levels, bad faith was applied as the basis for declaring that the registered trademark was not entitled to legal protection.

This consideration aligns with the jurisprudence of the Supreme Court, which regards acts of imitation, copying, or following another party’s well-known trademark as an indication of bad faith, particularly when such actions have the potential to mislead or deceive consumers. In the “100%” trademark dispute, the similarity between the trademark registered by the Defendant and the trademark owned by SAULE, LLC was not viewed as an ordinary similarity, but rather as a circumstance indicating that the Defendant was following another party’s trademark that had previously established a reputation. The judge’s assessment of bad faith in this case relied on the relationship between the similarity of the trademarks, the reputation of the other party’s trademark, and the potential harm caused.

In this case, Jefrie Permana’s status as the registrant of the “100%” trademark in Indonesia was insufficient to maintain his position as the owner of the registered trademark. Although trademark registration constitutes the basis for the emergence of rights, such rights must still be acquired through a process that is honest and does not harm other parties. A trademark certificate cannot serve as a tool to maintain rights if the registration is proven to have been filed in bad faith.

Once the element of bad faith is established, the cancellation of the "100%" trademark produces legal consequences for the parties involved. The first legal consequence is the loss of legal protection over Jefrie Permana's "100%" trademark. The trademark certificate, which previously formed the basis of the Defendant's exclusive rights, no longer has legal force; therefore, the cancellation of the trademark not only removes its administrative status but also eliminates the legal basis for a trademark obtained through dishonest registration.

Practically, Jefrie Permana no longer has a legal basis to use the "100%" trademark commercially, to prohibit others from using it, or to transfer or license it to third parties. This consequence demonstrates that trademark cancellation affects not only the registration status but also the loss of legal authority that was previously attached to the registered trademark owner.

The next legal consequence is the obligation of the Directorate General of Intellectual Property to delete the "100%" trademark under Jefrie Permana's name from the General Trademark Register and to publish the deletion in the Official Trademark Gazette. Such deletion is essential to ensure that the state's administrative records comply with the court decision. Failure to carry out the deletion may create legal uncertainty, as the cancelled trademark would still appear to have legal protection.

The deletion also impacts the restoration of the legal position of SAULE, LLC as the party with superior rights. Previously, the existence of the "100%" trademark registered under Jefrie Permana's name could impede the interests of SAULE, LLC in Indonesia. After the trademark was canceled and removed from the General Trademark Register, the legal obstacle for SAULE, LLC was eliminated, and its trademark status was no longer affected by a registration made by another party proven to have acted in bad faith.

From the perspective of legal certainty, this decision confirms that a registered trademark is not an inviolable right. Article 77 paragraph (2) of the Law on Trademarks and Geographical Indications provides room for a cancellation lawsuit based on bad faith to be filed without any time limitation (Indonesia, 2016). This provision offers a legal basis to challenge trademark registrations conducted dishonestly, even if the trademarks have been administratively registered for a certain period.

The regulation regarding bad faith in the Law on Trademarks and Geographical Indications still requires reinforcement, as the criteria for assessment have not been explicitly formulated (Lumban Gaol, 2022). In practice, the evaluation of bad faith may vary when no clear parameters exist. Stronger regulation is necessary to ensure that assessments of bad faith have more definite standards and do not rely entirely on case-by-case judicial interpretation.

Such reinforcement can be achieved through amendments to the Law on Trademarks and Geographical Indications by clarifying the criteria for good faith in trademark registration, as well as the requirements and procedural rules for cancellation lawsuits filed in the Commercial

Court. Clearer regulation can provide more measurable guidance in resolving trademark disputes, ensuring that evaluations do not depend solely on judicial discretion in each case.

Based on the foregoing, the application of the bad faith principle in the "100%" trademark dispute served as the primary basis for the cancellation of the registered trademark owned by Jefrie Permana. This cancellation demonstrates that legal protection for a trademark is determined not only by the formal registration status but also by the presence or absence of good faith in the registration process. Accordingly, the Law on Trademarks and Geographical Indications provides a basis for canceling a registered trademark if it is obtained through dishonest actions, imitation, reputation riding, or actions that may potentially mislead consumers.

3.2. The Position of the First-to-File Principle in the Legal Protection of Registered Trademarks Proven to Have Been Registered in Bad Faith in the "100%" Trademark Dispute Based on Law Number 20 of 2016 concerning Trademarks and Geographical Indications

The first-to-file principle occupies a primary position in the Indonesian trademark legal system because trademark rights essentially arise through registration. This is reflected in Article 3 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, which states that trademark rights are obtained once the trademark is registered (Undang-Undang Republik Indonesia Nomor 20 Tahun 2016 Tentang Merek Dan Indikasi Geografis, 2016). Registration not only functions as an administrative record but also serves as the legal basis through which the state recognizes ownership of a trademark.

State recognition through registration grants exclusive rights to the trademark owner. These rights authorize the owner to use the trademark, grant permission to others to use it, and prohibit others from using the same or substantially similar trademarks without consent. Within the framework of Law Number 20 of 2016, legal protection at the initial stage is provided to parties whose trademarks have been legally registered (Yulia, 2021).

This system demonstrates that Indonesia adheres to a constitutive system, in which registration is a requirement for the emergence of trademark rights. Under this system, the use of a trademark in commercial activities does not automatically confer legal rights unless it is accompanied by registration. This differs from a declarative system, which emphasizes protection for the party that first uses the trademark. The constitutive system provides a clearer basis for the state to determine which party is legally entitled to a trademark (Prasetyo Kamila, 2022).

The position of the first registrant in a constitutive system can be explained through the doctrine of prior in filing and the principle of presumption of ownership. The prior in filing doctrine gives priority to the party that first submits a trademark registration application. Meanwhile, the presumption of ownership principle establishes a legal assumption that the party whose name is recorded in the trademark register is the legitimate owner. The first registrant holds a strong initial legal position because registration serves as the source from which trademark rights arise (M. Citra Ramadhan, Fitri Yanni Dewi Siregar, 2023).

The transition from a declarative system to a constitutive system demonstrates that Indonesian trademark law seeks to establish registration as an instrument of legal certainty. Under this system, the determination of trademark ownership relies not solely on claims of use but on official data recorded in the state administration. Through this mechanism, the first-to-file principle functions to prevent uncertainty regarding which party is entitled to recognition and protection of a trademark.

The adoption of a constitutive system does not guarantee that every trademark registration will be free from legal issues. Disputes may still arise if a trademark is registered in a manner that does not meet the requirements of honesty. The first-to-file principle should not be understood merely as a rule determining who registers first, but must also be considered in relation to the validity of the registration process itself.

The position of the party that first registers a trademark cannot be regarded as entirely immune from legal challenge. Legal protection within the constitutive system is fundamentally granted to registrations that are performed lawfully and in good faith (Annisa Nur Hasana & Liza Marina, 2022). If a registration is carried out with the intent to imitate, exploit, or unlawfully appropriate another party's trademark, that registration may lose its legal protection, even if it has been formally recorded in the trademark register.

These limitations are important because the first-to-file system has both formal and substantive aspects. Formally, the system provides certainty through the state's recording of trademarks. Substantively, however, registration must reflect propriety and honesty. Formal registration carried out by a party that is not legitimately entitled can turn the registration system into a means of abusing trademark rights.

The first-to-file principle needs to be understood proportionally. While it remains the primary basis for the establishment of trademark rights, its application cannot be separated from the assessment of the registrant's good faith (Selni Ardian, Muryanto Lanontji & Rima Anggriyani, 2025). Such assessment is necessary to ensure that the trademark system not only provides administrative legal certainty but also affords fair protection to parties harmed by dishonest registrations.

Protection of registered trademarks under the first-to-file principle should also be understood in conjunction with the corrective mechanisms within the trademark registration system. Trademark applications filed in bad faith can, in principle, be rejected during the examination stage by the competent authority. However, if the trademark has already been registered, Law Number 20 of 2016 still provides legal remedies through cancellation or deletion lawsuits in the Commercial Court. These mechanisms serve to prevent the misuse of trademark registration, such as imitating or following another party's trademark for business advantage.

In the "100%" trademark case, the first-to-file principle serves as the starting point for assessing Jefrie Permana's position as the party that formally registered the trademark in Indonesia. However, the core issue in this case is not merely who was first recorded in the trademark register. The more significant question is whether the registration remains entitled to legal protection if it is subsequently proven to have been made in bad faith. The position of the first registrant in this case can still be tested through the trademark cancellation mechanism, particularly when the registration is alleged to contain elements of bad faith.

In Supreme Court Decision Number 797 K/Pdt.Sus-HKI/2022, the Supreme Court reaffirmed that the trademark registration system in Indonesia is based on a constitutive system, or the first-to-file principle, rather than on a declarative system, or first-to-use principle. However, the Supreme Court applied this principle proportionally. The Court did not convert Indonesian trademark law into a first-user system, but emphasized that protection for the first registrant can only be maintained if the registration is consistent with the principle of good faith.

Jefrie Permana's position as the party that registered the "100%" trademark in Indonesia initially conferred formal legitimacy as the owner of the registered trademark. However, this legitimacy was subsequently reassessed by the Court. In this case, the Supreme Court determined that the SAULE, LLC trademark bore overall similarity to the trademark registered by Jefrie Permana. Furthermore, the registration was deemed to have been conducted in bad faith, such that the status of first registrant could not serve as the sole basis for maintaining rights to the trademark.

From the perspective of legal protection, this case demonstrates that exclusive rights to a registered trademark remain dependent on the validity of the registration process. A trademark certificate constitutes evidence of rights, but its probative value may be challenged if the registration is proven to contain a legal defect. Under the first-to-file system, legal protection is determined not only by the success of obtaining registration but also by the fulfillment of the good faith principle in the process of acquiring rights (Humaedi Abdurahman, 2020).

Protection of a registered trademark can be understood as a legal status that is not necessarily permanent. Trademark rights arise through registration and provide protection to the owner for a certain period. However, such protection is not absolute or unlimited. Trademark rights may expire upon the end of their term, failure to renew, deletion, or cancellation through available legal procedures. Registration confers a legal position on the owner, but this position must still conform to the legal requirements inherent in the registration process.

This construction illustrates the interrelation between legal certainty and substantive fairness in trademark protection. The first-to-file principle remains necessary to provide the trademark system with a clear benchmark for determining the party entitled to a trademark. However, legal certainty cannot rely solely on the order of registration, as this may afford protection to parties who are substantively undeserving of rights. In the "100%" trademark dispute, the first-to-file principle functions as the initial basis for granting rights, whereas the principle of good faith serves as the measure to assess whether those rights can be upheld (Kristofer Oscar & Soesatyo, 2025).

The position of the first-to-file principle in the "100%" trademark dispute remains strong but is not absolute. This principle constitutes the basis for the emergence of rights in registered trademarks, as stipulated in Law Number 20 of 2016. However, the legal protection arising from registration cannot be maintained if it is proven that the trademark was registered in bad faith.

In this case, Jefrie Permana's trademark registration initially conferred a legal position as the owner of a registered trademark in Indonesia. Nevertheless, this position could not be maintained once the court determined that the registration violated the principle of good faith. The first-to-file principle continues to function as an instrument of legal certainty but cannot be used to protect a trademark registration that contains legal defects.

Understanding the first-to-file principle must also be linked to the function of trademarks in commercial activities. A trademark not only serves as a distinguishing sign but also reflects reputation, consumer trust, and economic value for its owner. Trademark registration conducted by imitating or following another party's trademark can disrupt the function of the trademark as a distinguishing sign and potentially cause public confusion. In the context of trademark cancellation due to bad faith, trademark protection is directed toward maintaining honesty in business activities and preventing the unauthorized exercise of exclusive rights.

In the "100%" trademark case, this principle is evident from the insufficiency of Jefrie Permana's registration status to maintain legal protection over his trademark. Although the constitutive system places registration as the basis for the emergence of rights, the court still assesses the legitimacy of the registration in terms of honesty and propriety. Thus, this case demonstrates that the position of the first-to-file principle in the protection of registered trademarks is strong as an initial basis but cannot be upheld if the registration is conducted unlawfully or contrary to the principle of good faith.

4. Conclusion

The "100%" trademark dispute between SAULE, LLC and Jefrie Permana underscores that legal protection for registered trademarks under the Indonesian legal system is not absolute, but depends on the fulfillment of the good faith principle in the registration process. Although Law Number 20 of 2016 concerning Trademarks and Geographical Indications adopts a constitutive system, in which registration constitutes the basis for the emergence of trademark rights, the provisions of Article 21 paragraph (3) in conjunction with Article 76 still provide a mechanism for the cancellation of trademarks whose registration is conducted in bad faith. The Supreme Court, through Decision Number 797 K/Pdt.Sus-HKI/2022, affirmed this principle by canceling the "100%" trademark owned by Jefrie Permana, which was deemed to imitate and ride on the reputation of SAULE, LLC's trademark, previously used and registered in various countries. This resulted in the forfeiture of the Defendant's exclusive rights while restoring the Plaintiff's legal position. The decision also clarifies the understanding of the first-to-file principle, namely that the status of first registrant only confers legitimate rights that can be maintained if the process of acquiring such rights is conducted honestly and does not harm other parties. Consequently, there is a need for more detailed statutory criteria for bad faith in order to ensure legal certainty and fairness in resolving trademark disputes in the future.

5. References

Journals:

Amelia Puspita Sari. (2025). SENGKETA MEREK DAGANG AYAM GEPREK BENSU VERSUS I AM GEPREK BENSU. *Rewang Rencang: Jurnal Hukum Lex Generalis,* 6(4), 1–30. https://doi.org/10.56370/jhlg.v6i4.2056

Annisa Nur Hasana, & Liza Marina. (2022). Tinjauan Yuridis Itikad Tidak Baik dalam Pembatalan Merek Terkenal (Studi Kasus Putusan Nomor 167 PK/Pdt.Sus-HKI/2018). *Supremasi: Jurnal Hukum*, 4(2), 160. https://doi.org/10.36441/supremasi.v4i2.699

Gunawan, Y. (2022). Penyelesaian Sengketa Merek Terdaftar Dan Merek Terkenal Dalam Mewujudkan Perlindungan Hukum Registered. *IBLAM Law Review,* 2(02), 141–164. https://doi.org/10.52249/ilr.v2i2.80

Hani Subagio, Muhamad Ridwan, & Vinsensius Yonakolas Fiodian. (2024). Perlindungan Merek Berkeadilan. In Perlindungan Merek Berkeadilan. https://doi.org/10.55981/brin.951

Hasima, R. (2026). Penegakan Hukum Pelanggaran Kekayaan Intelektual di Indonesia. *Jurnal Serambi Hukum,* 19(01), 35–44.

Hendri, H., & Markoni, M. (2023). Analisis Yuridis Mengenai Pembatalan Merek "Zhe Nung Zhu." Jurnal Impresi Indonesia, 2(8), 780–789. https://doi.org/10.58344/jii.v2i8.3313

Humaedi Abdurahman. (2020). Asas First To File Principal dalam Kasus Hak Merek Nama Terkenal Bensu. *Aktualita,* 3(1), 441–442. 4. https://doi.org/10.29313/aktualita.v0i0.6056

Indonesia. (2016). Undang-undang (UU) Nomor 20 Tahun 2016 tentang Merek dan Indikasi Geografis. I, 1–51. https://peraturan.bpk.go.id/Home/Details/37595/uu-no-20-tahun-2016

Khotimah, V. H., & Apriani, R. (2022). Faktor-Faktor Penyebab Terjadinya Pelanggaran Hak Merek Berupa Pemboncengan Reputasi (Passing Off) Merek Terkenal Ditinjau dari Undang-Undang Nomor 20 Tahun 2016 tentang Merek dan Indikasi Geografis. *Jurnal Ilmiah Wahana Pendidikan,* 8(20), 398–420. https://doi.org/10.5281/zenodo.7243144

Komaldi, A., Mayana, R. F., & Permata, R. R. (2024). Asas Itikad Baik dalam Upaya Pelindungan Merek Atas Tindak Perundungan Merek Dagang Berdasarkan Undang-Undang Nomor 20 Tahun 2016 Tentang Merek dan Indikasi Geografis. Media Hukum Indonesia (MHI), 2(4), 47–52. https://ojs.daarulhuda.or.id/index.php/MHI/article/view/794

Kristofer Oscar, & Soesatyo, B. (2025). Legal Void in the First to File Principle in the Trademark Registration System in Indonesia and Its Implications for Trademark Ownership Disputes. *Asian Journal of Social and Humanities,* 3(9), 1669–1670. https://doi.org/10.59888/ajosh.v3i9.569

Lestari, D., & Lie, G. (2025). Itikad Tidak Baik dalam Pendaftaran Merek Terkenal di Indonesia. Riwayat : Jurnal Arena Hukum, 16(1), 8071–8081. https://doi.org/https://doi.org/10.24815/jr.v8i4.50923

Lumban Gaol, S. (2022). Asas Itikad Baik Sebagai Alasan Penolakan Gugatan Oleh Pengadilan Niaga Dalam Gugatan Pembatalan Merek Terdaftar. *Unes Law Review,* 5(2), 618–627. https://doi.org/10.31933/unesrev.v5i2.1790

Muliasari, R. S., Santoso, B., & Irawati, I. (2021). Pelanggaran Prinsip Itikad Baik dalam

Sengketa Merek Internasional. *Notarius,* 14(2), 972–589. https://doi.org/10.14710/nts.v14i2.43788

Noor, T., Zulkifli, S., & Keliat, V. U. (2025). Analisis Itikad Tidak Baik dalam Pendaftaran Merek: Tinjauan Hukum dan Implikasinya. *Verdict: Journal of Law Science,* 4(2), 87–101. https://doi.org/10.59011/vjlaws.4.2.2025.87-101

Phiau, B. J., Rosa Rakhtyani, Zakiah, Gulo, S., & Husain, T. (2021). Penafsiran Unsur Iktikad Tidak Baik Dalam Pembatalan Merek Dagang Terdaftar Berdasarkan Undang Undang Merek Nomor 20 Tahun 2016 Tentang Merek Dan Indikasi Geografis (Studi Kasus 575 K/Pdt.Sus-HAKI/2020). *Jurnal Lex Spesialis*, 1(1), 77–86.

Prasetyo Kamila. (2022). Kepastian Hukum atas Pemberlakuan Sistem Pendaftaran Merek First To File terhadap Merek Terkenal di Indonesia. *Jurnal Notarius*, 1(2), 303–304. https://doi.org/10.14710/nts.v15i2.27522

Prasomya, D. A., & Santoso, B. (2022). Tinjauan Yuridis Pembatalan Merek Dagang Terkait Prinsip Itikad Baik Dalam Sistem Pendaftaran Merek. *Notarius,* 15(2), 660–675. https://doi.org/10.14710/nts.v15i2.27522

Ricky Rahman Kholika. (2024). Analisa Yuridis Aspek Itikad Baik Sebagai Dasar Pembatalan Merek Menurut Uu No 20 Tahun 2016 (Studi Kasus Putusan Mahkamah Agung Nomor 49 PK/Pdt.Sus- HKI/2018). *Journal Equitable,* 9(2), 55–76. https://doi.org/10.37859/jeq.v9i2.6820

Rizkia, N. D., & Ferdiansyah, H. (2022). Hak Kekayaan Intelektual Suatu Pengantar. In Widina Bhakti Persada (Vol. 3, Issue 1).

Selni Ardian, Muryanto Lanontji, & Rima Anggriyani. (2025). First to File Principle dan Sengketa Hak Merek dalam Kajian Perundang-Undangan di Indonesia. *Staatsrecht: Jurnal Hukum Kenegaraan Dan Politik Islam,* 5(1), 58–59 dan 68–69. https://doi.org/10.14421/jnj4gr96

Shavira, J. E., & Nugroho, A. A. (2021). Perlindungan Hukum Indikasi Geografis Terhadap Produk Masyarakat Adat Di Indonesia (Studi Kasus Masyarakat Adat Baduy). *Jurnal Education And Development,* 9(1), 111. https://doi.org/10.37081/ed.v9i1.2305

Valentino, G. F., & Putra, M. A. P. (2025). Meninjau kepastian hukum kekayaan intelektual ciptaan logo yang terdaftar sebagai merek. *Jurnal Media Akademik,* 3(10), 1–17.

Books:

M. Citra Ramadhan, Fitri Yanni Dewi Siregar, B. F. W. (2023). *Buku Ajar Hak Kekayaan Intelektual.* Universitas Medan Area Press.

Solikin, N. (2021). *Pengantar Metodologi Penelitian Hukum.* Penerbit Qiara Media.

Widiarty, W. S. (2024). *Buku Ajar Metode Penelitian Hukum*. Publika Global Media.

Yulia. (2021). *Hukum Hak Kekayaan Intelektual*. CV Sefa Bumi Persada.

Regulations:

Law No. 20 of 2016 concerning Trademarks and Geographical Indications (2016).

Supreme Court of the Republic of Indonesia. 2022. Decision Number 797 K/Pdt.Sus-HKI/2022. Supreme Court of the Republic of Indonesia Decision Directory.