

The Application Analysis of Article 1365-Civil Code Towards The Responsibility of E-Commerce Platforms for Products Sale with Changed Brandings Without Permission

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Abstract. *The background of this research is based on the rapid development of e-commerce which has led to an increase in the circulation of branded products that have been altered without permission. This action has the potential to harm brand owners and create an unhealthy trading climate in the digital world. This study aims to analyze the application of Article 1365 of the Civil Code (KUHPer) to e-commerce platforms that facilitate the sale of branded products that have been altered without permission, as well as to examine the role of platforms in protecting intellectual property rights in the world of e-commerce. The method used is a normative legal approach that emphasizes the analysis of legal regulations and related literature. The results of the study indicate that e-commerce platforms can be held liable for unlawful acts related to the sale of branded products that have been altered without permission, especially if there is evidence of negligence or an active role in allowing the practice. This study also found that the protection of intellectual property rights in e-commerce still requires strengthening regulations and more effective supervision to prevent violations that are detrimental to the parties involved.*

Keywords: *E-commerce; Intellectual; Negligence; Property; Trademarks.*

1. Introduction

In the past few years, e-commerce platforms in Indonesia have experienced a surge in development, along with the advancement of digital technology and the increasing openness of internet access in various parts of the country. This platform has become the main place for business people, be they individuals, small companies, or large companies, to sell their products to consumers without geographical limitations. Amidst the convenience offered by e-commerce platforms, there are a number of legal issues that need to be considered, one of

which is the issue related to the platform's responsibility for the sale of products that have brands that have been changed without permission (Meri Kartika Sari, 2024). This problem becomes increasingly complex considering the tendency of some business actors to carry out actions that violate intellectual property rights, especially brand rights, by changing the brand of a product without the permission of the legitimate brand owner (Ricki Aditya Putra Ricki Aditya Putra, 2023).

E-commerce platforms act not only as intermediaries between sellers and buyers; they also have an obligation to ensure that the products marketed through their systems are subject to legal provisions, especially those concerning the protection of intellectual property rights, including regulations regarding trademarks. Given this context, it is imperative for e-commerce providers to have a thorough understanding of their legal obligations regarding goods marketed by third-party merchants on their platforms. E-commerce platforms, as regulated by various laws, are not exempt from these legal obligations, even though they are not always directly involved in the manufacture, packaging, or branding of products (Hari Sutra Disemadi, et.al, 2024).

Trademarks are a type of intellectual property that is legally protected. In Indonesia, the legal basis for protecting trademarks is stated in Law No. 20 of 2016 concerning Trademarks and Geographical Indications. According to the provisions set out in this regulation, "a trademark refers to any distinctive sign that may be an image, symbol, word, name, letter, number, color scheme, or a combination thereof that serves to distinguish the products or services of a business entity from those of other business entities". By officially registering a trademark, the owner obtains exclusive and legally recognized rights to use their symbol in commercial activities, with the protection of these rights enforced under national law (Dinar Aisyah Pratiwi and Rina, 2024).

One of the most visible modes of violation in the e-commerce sector is the exploitation or reproduction of official trademarks by people who do not have legal rights. In practice, some sellers on e-commerce platforms may intentionally change the name or logo of a particular product to appear as if they are the owner of the brand or so that the products they sell are not detected as counterfeit products (Lei Zhu, 2023). This action is clearly detrimental to legitimate brand owners, as the brands they have registered and built over the years become indistinguishable from products sold without authorization. In scenarios involving such infringements, e-commerce platforms play a crucial role as intermediaries in transactions, with the expectation that they actively monitor and assess the authenticity of the goods listed on their platforms (Simon Geiregat, 2022).

The duties of these digital platforms are explicitly outlined in the regulations governing intellectual property and e-commerce. Specifically, Article 113 of Law No. 20 of 2016 outlines that "any party who intentionally or unintentionally violates registered trademark rights will be subject to legal sanctions (Imaniyati,

NS, & SH, M., 2024)." Furthermore, Article 71 paragraph (1) of Law No. 11 of 2008 concerning Electronic Information and Transactions, as revised by Law No. 19 of 2016, further explains that "electronic system organizers (including e-commerce platforms) are responsible for ensuring that electronic information in their systems does not violate intellectual property rights, including trademark rights." Thus, e-commerce platforms must take preventive measures, such as ensuring that products marketed on their platforms do not have any legal issues related to registered trademark rights (Faisal Ali Romadhon, 2024).

The responsibility of e-commerce platforms also includes the obligation to provide access to parties who feel aggrieved by trademark infringement to report such infringement (Khairandy, R, 2013). Thus, e-commerce platforms should provide strict procedures to accommodate complaints regarding intellectual property rights violations and promptly take necessary actions, such as removing content that violates intellectual property rights or freezing accounts related to the sale of counterfeit goods without permission. In addition, e-commerce platforms should educate sellers on their platforms about the importance of respecting trademark rights and protecting intellectual property rights, and provide clear information about the sanctions that may be imposed if they engage in trademark violations (Cucu Santika, 2024).

Despite the legal mandate, the implementation and enforcement of these regulations face significant practical challenges. The surge in e-commerce trading activity makes it difficult to monitor the goods offered. E-commerce platforms must have an effective system to monitor the products sold, identify trademark infringements, and follow up on reports from injured parties. In addition, there are also issues related to cooperation between e-commerce platforms and sellers. Some sellers may have bad intentions to commit illegal acts, while e-commerce platforms may not always have full control over the activities of sellers using their platforms (Mochamad Arafah & I Gusti Ayu, 2024).

In relation to legal liability, it is also important to note the existence of a "safe harbor" principle contained in the ITE Law. Furthermore, certain legal doctrines may limit the extent to which e-commerce platforms can be held liable for trademark infringement committed by third-party vendors, these limitations generally apply as long as the platform does not play an active role in the infringement and promptly responds by removing or blocking access to the infringing content after receiving official notice. While such provisions may reduce the level of legal exposure for e-commerce platforms, they do not completely absolve them from liability (Yohanes Don Bosco Watu, 2023).

The responsibility of e-commerce platforms for selling products with altered brands without permission is very important and must be carried out carefully. By implementing existing legal obligations, such as those stipulated in Law No. 20 of 2016 concerning Trademarks and Geographical Indications and Law No. 11 of 2008

concerning Electronic Information and Transactions, “e-commerce platforms can help maintain the integrity of the electronic trading system and protect the intellectual property rights of brand owners”. Moving forward, it is important for e-commerce platforms to continue to develop effective monitoring systems, as well as provide education to sellers to avoid practices that are detrimental to brand owners and consumers (Naily Amalia & Dwi Aryanti Ramadhani, 2024).

The main problem in this study lies in the lack of clear legal certainty regarding the extent of the responsibility of e-commerce platforms for the activity of selling products with brands that have been changed without permission. The complexity of this legal problem is exacerbated by the fact that large-scale e-commerce platforms such as Tokopedia, Shopee, and Lazada often position themselves as neutral facilitators rather than direct sellers, even though they continue to generate revenue from commercial activities that occur on their sites. On the other hand, the circulation of products with illegally modified brands is a form of violation of intellectual property rights guaranteed by national and international laws. The circulation of counterfeit products not only results in significant financial losses for the affected trademark owners but also weakens brand identity and erodes public trust in the market. However, there are no explicit rules that stipulate the legal responsibility of digital platforms for violations committed by third parties (sellers). Therefore, it is important to examine the relevance and application of Article 1365 of the Civil Code as a potential legal basis for dealing with unlawful acts that occur in the realm of digital commerce.

This study aims to conduct a comprehensive legal study on whether Article 1365 of the Civil Code can be used to determine the responsibility of online market players who directly or indirectly allow the sale of unauthorized branded goods. In addition, this study seeks to identify and categorize acts of digital violations and determine whether the passive behavior of the platform can be interpreted as legal negligence (*culpa in omittendo*). In addition, this study aims to provide a construction of legal arguments that can be the basis for protection for brand owners as well as a normative reference for the formation of e-commerce regulations in the future.

Gap research what this research aims to fill is the lack of studies that explicitly link the norms of Article 1365 of the Civil Code with the phenomenon of trademark infringement in the digital space. Most of the existing literature focuses more on aspects of trademark protection in general, or discusses the responsibilities of conventional business actors, without touching in depth on how the concept of legal responsibility can be imposed on non-productive digital entities such as e-commerce platforms. In addition, the available legal studies tend to be fragmented and have not been able to fully answer the aspects of legal responsibility in a decentralized and user-based system.

The urgency of this research is very high, considering the increasing use of e-commerce as the main means of distributing goods and services. Without an adequate legal basis, the practice of distributing illegal products that exploit gaps in the marketplace system will continue to harm brand owners and create an unhealthy business climate. The e-commerce platform has the potential to become a safe haven for perpetrators of law violations if there are no clear legal instruments to ensnare their involvement or negligence. Based on these objectives, this study aims to provide a valuable contribution to improving the legal framework governing e-commerce and intellectual property rights in Indonesia, while helping to align existing regulations with ongoing technological advances.

2. Research Methods

This research used a normative juridical approach, focusing on the analysis of legal norms, established principles and relevant court decisions (Peter Mahmud Marzuki, 2010). The main objective is to identify, examine and interpret the main legal provisions in the Indonesian regulatory framework relating to the liability of e-commerce involved in the sale of altered trademarked goods. Through this approach, the researcher will explore the relevant legal provisions, based on the review of the legal documents. This study used a qualitative methodology that allows for an in-depth exploration of the legal obligations imposed on e-commerce entities and the challenges they face in enforcing trademark protection laws. The study will examine existing legal norms and how they are applied in practice, focusing on the analysis of relevant legal documents and court decisions (Lexy J. Moleong, 2018).

The data analysis approach in this study is a legal document review, which aims to examine how Article 1365 of the Civil Code can be applied to assess the obligations of e-commerce platforms involved in the distribution of goods that violate trademark rights. This study includes an in-depth analysis of legal instruments such as Law No. 11 of 2008 concerning Electronic Information and Transactions (UU ITE), Government Regulation Number 80 of 2019 concerning Trading Through Electronic Systems (PMSE), and relevant court decisions to assess the effectiveness of these regulations in protecting intellectual property rights and providing protection to consumers against counterfeit products.

Through this document-based legal analysis, this study identifies the strengths and weaknesses of the current law, highlighting loopholes that can be exploited by unscrupulous commercial actors. This study will also link cases of trademark infringement that occur on e-commerce platforms with applicable regulations, with the aim of measuring whether consumer and brand owner protection mechanisms have been implemented effectively in these cases (Soerjono Soekanto, 2015). Furthermore, this analysis will help evaluate the extent to which regulation and law enforcement have succeeded in preventing future cases of

trademark infringement. Ultimately, this study aims to formulate more appropriate recommendations to improve governance and monitoring of online commercial activities, while raising awareness of the importance of protecting intellectual property in the digital era (Burhan Bungin, 2017).

3. Results and Discussion

3.1. Application of Article 1365 of the Civil Code in Assessing the Legal Responsibility of E-commerce Platforms for the Sale of Products with Altered Brands Without Permission

In today's technology-driven world, e-commerce platforms have become the primary medium for conducting international trade, changing the way goods and services are exchanged on a global scale. Their existence makes it easier for consumers and businesses to connect and transact without geographical boundaries. In the Indonesian market, platforms such as Tokopedia, Bukalapak, Lazada, and Shopee have established themselves as leading online retailers, offering a wide range of products from everyday items to specialty items. While the convenience of online shopping has been very beneficial to consumers, it has also posed complex legal challenges, especially regarding the protection and enforcement of intellectual property rights (Muhammad Arkan & R Rahaditya, 2023).

One form of violation that is often found in e-commerce platforms is the distribution of branded products that have been rebranded without permission from the brand owner. The sale of counterfeit goods not only causes significant economic losses to the brand owner but also damages the authenticity of the brand and undermines consumer trust. This raises urgent concerns about the level of responsibility that digital platforms must bear in facilitating the distribution of such goods, particularly in relation to the enforcement of Article 1365 of the Civil Code, which regulates unlawful acts and mandates compensation for losses caused by such acts.

Article 1365 of the Criminal Code raises the issue of actions that are deemed unlawful and result in losses for individuals who are not involved, thus placing a special focus on e-commerce platforms in this regard. The main issue revolves around whether an e-commerce platform can be held liable when products listed on its site violate trademark law without prior consent, and whether such an occurrence constitutes an illegal activity that requires compensation. Therefore, this discussion is intended to examine in more depth the application of Article 1365 of the Indonesian Civil Code in determining whether an e-commerce platform can be held legally liable for the sale of products that display unauthorized trademark changes (M Riski Maarif, et.al, 2024).

Article 1365 of the Indonesian Civil Code discusses wrongful acts and the obligation to provide compensation for losses resulting from such behavior. The provision states as follows:

"Every act that violates the law and causes loss to another person, requires the person whose fault it is that caused the loss, to compensate for the loss."

To analyze the application of this article to the case of e-commerce platforms, we need to examine the elements contained in the article, namely (Afrineldi Afrineldi, 2021):

1. Unlawful Actions

One of the most important elements required to prove unlawful behavior under Indonesian civil law is the existence of behavior that is contrary to applicable legal principles. In this regard, the use or modification of a trademark without permission is clearly a violation of the law, as regulated in various provisions of laws and regulations in Indonesia. One such provision is Law No. 20 of 2016 concerning Trademarks and Geographical Indications which grants exclusive rights to trademark holders and prohibits the use of registered trademarks without permission.

A trademark serves as a unique intellectual asset that legally protects the name, emblem, or symbol used by a company or organization to distinguish its products or services from those offered by others (Kurnianingrum, TP, Rongiyati, S., & Hikmawati, P., 2018). Unauthorized alteration of a trademark is recognized as a violation of the exclusive rights of its owner. The law on trademarks and geographical indications empowers the holder of a registered trademark to prevent others from using a mark that is sufficiently similar to cause confusion among consumers or damages the reputation of the trademark (Mustafa, ME, & SH, M., 2022). Altering a trademark without permission not only negatively impacts the rightful owner but also puts consumers at risk of accidentally purchasing counterfeit or substandard goods.

In the Indonesian legal system, trademark rights are protected, allowing their owners to take legal action against counterfeiting and misuse. Unauthorized use or modification of a logo may result in administrative sanctions and criminal penalties under relevant laws. For example, if an e-commerce platform allows sellers to modify or change a brand without permission, the platform may be considered an accomplice in the unlawful act. Therefore, the act of changing a brand without permission is clearly a violation of the law regulated by Indonesian law (Hery Firmansyah, SH, 2013).

2. Losses Suffered by Other Parties

Another important factor in showing unlawful conduct is the existence of loss or injury suffered by a third party as a direct result of the wrongful act. In the case of unauthorized trademark alteration, the legitimate trademark owner will clearly suffer both economic and reputational losses. These losses can be very significant and have a long-term impact on the trademark owner's position in the market (Rizkia, ND, & Fardiansyah, H., 2022).

The economic losses that may arise include loss of market share, decreased brand value, and financial losses arising from the circulation of altered branded products. Products sold under modified or counterfeit brands usually do not meet the quality standards set by the brand owner. Consumers who buy these products in the hope of getting a quality product from a brand they trust can feel cheated when the product they receive does not meet their expectations. This causes a decrease in consumer trust in the brand, which ultimately has an impact on decreasing demand for genuine products. As a result, legitimate brand owners will experience huge losses, both in terms of decreased sales and damage to their brand reputation.

In addition, there is a negative impact on the value of the brand itself. Registered and publicly recognized brands have high economic value, especially for companies that rely on brand image to market their products. When a trademark is exploited without permission or changed unlawfully, its commercial value can be significantly reduced, preventing the rightful owner from gaining economic benefits from its intellectual property. The decline in brand reputation also causes consumers to switch to competitors' products, which in turn harms the brand owner in the long run.

3. Causal Relationship between Act and Loss

The third element required to establish an unlawful act is a causal relationship between the unlawful conduct and the loss suffered by the injured individual. In this context, in order to file a claim for damages under Article 1365 of the Civil Code, there must be a clear and direct relationship between the unlawful act and the loss suffered by the legitimate trademark owner (Hamid, AH, & SH, M., 2017).

If an e-commerce platform becomes the main channel for the sale of products with altered or counterfeit brands, then a direct causal relationship can be established between the platform's negligence or intention to facilitate copyright-infringing products and the losses

suffered by the legitimate copyright holder. In this case, even though the e-commerce platform is not the party that directly alters the brand, they still have the responsibility to supervise the transactions that occur on their platform. If the platform does not carry out adequate supervision or allows infringing products to be sold without taking appropriate action. Therefore, the platform can be held jointly liable for the consequences of such unlawful actions.

E-commerce platforms generally play a critical role in enabling commercial exchanges between merchants and customers. Therefore, if they fail to take adequate preventive measures, such as verifying the authenticity of products or responding promptly to reports of infringement, in some cases they may be deemed to have knowingly contributed to the harm suffered by legitimate copyright owners. E-commerce platforms may also face liability if they fail to act on notices of copyright infringement by failing to remove infringing items from their listings.

4. Error or Omission (Culpa)

The final element in Article 1365 of the Civil Code is the existence of an error or negligence (*culpa*) on the part of the party causing the loss (Achmad Ali, SH, 2012). In unlawful acts related to trademark infringement, these errors or omissions can occur if the e-commerce platform does not carry out their obligations to properly supervise and manage the products sold through their system. This is especially relevant in cases of unauthorized brand changes traded on e-commerce platforms.

Negligence can occur if the platform does not monitor the products sold by third parties or sellers on their platform. For example, if the platform allows sellers to sell products with altered trademarks without permission and does not immediately act on reports of trademark infringement from the rightful owner, in such cases, the platform's inaction can be considered a failure to uphold its responsibility to protect the rights of the rightful copyright owner. In this case, the platform has an obligation to remove the infringing product or take necessary action after being notified of the infringement.

Legal liability may arise when an e-commerce platform does not have adequate systems in place to verify the legitimacy of products or ensure that listings do not infringe on the intellectual property rights of others. In other words, an e-commerce platform that is not proactive in protecting intellectual property rights may be considered negligent, potentially causing further harm to the legitimate brand owner.

Under current regulations, such omissions provide a strong legal basis for trademark holders to seek damages or other legal remedies against e-commerce platforms that distribute infringing goods. As intermediaries that facilitate transactions and connect buyers with sellers, e-commerce companies have a significant duty to ensure that transactions comply with the existing legal framework and do not harm third parties—in particular trademark holders (Khairandy, R., 2013).

Typically, e-commerce websites operate as third-party facilitators that mediate sales between consumers and vendors (Romadhiyah, FT, Hartati, S., & Widyastuti, TV, 2024). While these platforms are not directly involved in designing or changing the trademarks on the products they list, they are still required to ensure that transactions taking place through their services comply with intellectual property laws.

E-commerce platforms cannot completely avoid legal liability when a breach occurs in their system, especially if they are aware of the breach and fail to take corrective action. As service providers, they have an obligation to provide a system that can mitigate the risk of legal violations, including intellectual property rights violations. The platform's obligation to protect intellectual property rights can be seen as an obligation to supervise and prevent (Dewa Ayu Dian Sawitri & Ni Ketut Supasti Dharmawan, 2021).

In some countries, e-commerce platforms can be held liable for trademark infringement that occurs on their platforms if they are found to have failed to act to prevent it after being notified. For example, in the European Union, e-commerce platforms can be held liable if they fail to promptly remove infringing content after receiving a valid notice. Similarly, in the United States, the Digital Millennium Copyright Act (DMCA) requires platform providers to act after being notified of copyright or trademark infringement (Hidayati & Aripin, 2024).

In the case of the sale of products with a brand that has been altered without permission, e-commerce platforms may be held liable if they do not take appropriate steps to follow up on reports of infringement received or do not ensure that sellers comply with applicable provisions. This liability may be imposed on platforms if they have knowledge or should have had knowledge of the infringement that has occurred, but do not take the necessary measures to address the infringement. If e-commerce platforms fail to act on infringement reported by the brand owner or other interested parties. As such, they may be considered complicit in illegal activity that results in losses for the affected trademark owner.

The application of Article 1365 of the Civil Code to e-commerce platforms that facilitate the sale of products with altered brands without permission opens up the possibility that the platform can be held legally liable for unlawful acts. This

liability can arise if there is negligence or an active role of the platform in enabling the circulation of illegal branded products. As service providers, e-commerce platforms have an obligation to monitor and prevent violations of intellectual property rights, including trademark rights. Therefore, e-commerce companies must improve the verification process and collaborate with trademark owners to ensure that products listed on their platforms do not violate anyone's legal rights. Thus, the application of Article 1365 of the Civil Code can be an important instrument in providing legal protection for brand owners and creating a fairer and more transparent online trading ecosystem.

3.2. Analysis of the Role of E-commerce Platforms in Protecting Intellectual Property Rights (IPR) and Preventing the Circulation of Illegal Branded Products

The significant transformation in the world of e-commerce has changed the way consumers and merchants interact in the global market environment. Online services such as Tokopedia, Bukalapak, Shopee, and Lazada have developed into the main channels for buying and selling various goods. This not only benefits companies and consumers, but also poses new challenges in the protection and enforcement of intellectual property rights, especially as trademark and copyright infringement are increasingly rampant in the digital era (Adinda Ayu Puspita Kuncoro & M Syamsudin, 2024).

One of the major issues that arise in online commerce is the circulation of illegal branded products, which are often goods whose brands have been altered without the permission of the legitimate brand owner (Putri Hasian Silalahi & Gatot P Soemartono, 2024). In the midst of this situation, the question that arises is to what extent e-commerce platforms have legal responsibility and role in protecting intellectual property rights, and how they prevent the circulation of illegal branded products (Dewi Noviyanti & Zulfikar Ali Butho, 2025)

E-commerce platforms act as intermediaries that enable transactions between sellers and buyers without geographical limitations. As online trading service providers, these platforms not only provide a means for transactions, but are also responsible for ensuring that these transactions are recognized as legitimate and carried out in accordance with the applicable legal framework, including provisions relating to the protection of intellectual property. Although e-commerce platforms are not directly involved in the manufacture or sale of products, they play a central role in ensuring that all parties involved in the e-commerce ecosystem comply with existing laws (Firly Andrisetiani Permata & Syarifah Nadia, 2024).

As a party that provides facilities for sellers and buyers, e-commerce platforms have an obligation to manage and supervise trading activities on their platforms (Meinarni, NPS, et.al, 2021). The regulation in question covers the protection of officially registered intellectual property assets, including, but not limited to,

trademarks, patents, and copyrights. By providing access to sellers to market their products, e-commerce platforms also open up the possibility of intellectual property rights violations, both intentional and unintentional.

Intellectual property rights refer to a set of rights granted to individuals or entities over their innovative and economically valuable creations, ensuring they receive legal recognition and protection. Trademarks play a vital role in branding and product promotion, making their protection a vital component of online business. When a trademark is officially registered, its owner obtains exclusive rights to use it in commerce, while also being legally empowered to prevent others from using identical or similar symbols that could mislead consumers.

Ensuring trademark security in e-commerce platforms is crucial, especially since transactions occur virtually, and buyers cannot physically inspect the goods before making a purchase. This makes them more vulnerable to purchasing products that have counterfeit or altered brands without permission. Therefore, e-commerce platforms play a vital role in verifying the authenticity of products and ensuring that only legitimate and registered products can be traded.

In addition to brands, copyright and patents are also part of IPR protection that e-commerce platforms need to pay attention to. Copyright law protects creative expressions such as musical compositions, literary works, cinematic productions, and computer applications, while patents secure the rights to technological inventions that have the potential to be exploited commercially (Tarmizi, SH, & Muhammad Ikhwan, 2021). In the world of e-commerce, copyright and patents are often violated in more subtle ways, such as by selling products that infringe copyright or patents without permission. Therefore, it is imperative for digital commerce operators to not only detect and address trademark infringement, but also to remain vigilant against unauthorized use of copyrighted materials and patented inventions (Sheril Firdausy & Anajeng, 2021).

As a platform provider for transactions, e-commerce platforms have a legal obligation to protect intellectual property rights. Although in many cases they act as a third party facilitating transactions, they are still responsible for preventing the circulation of illegal goods that violate the law, including violations of trademarks, patents, and copyrights.

In many countries, the rules governing e-commerce platforms are changing as IPR infringements in the digital world increase. For example, in the European Union, the Electronic Commerce Directive outlines the responsibilities of digital platform providers and stipulates that such operators are generally not liable for content uploaded by users, provided they are genuinely unaware of the infringement and have no reasonable grounds to suspect that it is. However, when a digital platform becomes aware of an infringement, it is obliged to act quickly by removing the infringing content or restricting access to it to mitigate further harm.

In the Indonesian context, there is a growing trend to hold e-commerce platform providers accountable for overseeing the legality of goods and services exchanged through their platforms. This principle is reflected in the Electronic Information and Transactions Law (UU ITE) and Law No. 20 of 2016 concerning Trademarks and Geographical Indications, both of which provide explicit rights to trademark holders to prevent the unauthorized use of identical or similar marks. If platforms fail to act upon learning of a trademark infringement, they may be subject to legal liability, both for damages and other actions.

To effectively combat the spread of counterfeit products, e-commerce platforms need to adopt proactive and comprehensive strategies aimed at blocking the circulation of illegal goods. Here are some strategies that e-commerce platforms can adopt to protect intellectual property rights and prevent infringements that harm brand owners (Ferdinand Ansa, Haerul Umam & Muhammad Taufik Asrianto, 2023):

1. Brand Verification and Product Licensing

E-commerce platforms can work with brand owners to verify the authenticity of the products being sold. This can be done by asking sellers to show an official license or document that proves they have the right to sell products under a certain brand. This system can also be implemented through the use of blockchain-based technology or other digital verification systems to ensure the authenticity of the brand and the products being sold.

2. Notice and Takedown System

As stipulated in some international regulations, e-commerce platforms can implement a notice and takedown system, where brand owners can file a complaint or report if they find a product that infringes their brand. After receiving the notification, the platform must immediately follow up by removing the infringing product or disabling access to the product to prevent further harm.

3. Enhanced Surveillance and Detection Technology

One way e-commerce platforms can improve their monitoring of merchandise is by incorporating automated systems that can detect listings that may be in violation of established intellectual property protections. Artificial intelligence (AI)-based technology can be used to detect brand or product infringements that appear suspicious, even before they are reported by other parties.

4. Education and Training for Sellers

E-commerce platforms should also educate sellers listed on their platforms about the importance of complying with intellectual property laws. Sellers should be trained on how to verify their products and avoid selling goods that infringe copyrights or trademarks. In addition, platforms should advise sellers to only sell products that are legitimate and have the appropriate permits.

5. Cooperation with Legal Authorities and Brand Owners

E-commerce platforms should also work with brand owners and legal authorities to combat IPR violations. This could be in the form of coordinating product audits or sharing information about sellers who frequently commit violations. This cooperation will also ensure that legal action can be taken against violators, whether in the form of warnings, fines, or other sanctions.

The role of e-commerce platforms in protecting intellectual property rights and preventing the circulation of illegal branded products is crucial to maintaining the integrity of the online trading ecosystem. Although e-commerce platforms act as intermediaries, they remain legally obligated to ensure that the goods offered through their systems comply with relevant laws, including those related to intellectual property rights. To this end, e-commerce platforms need to implement various strategic steps, such as product verification, notification and removal systems, increased supervision, seller education, and cooperation with legal authorities and brand owners (Sugeng Rahardja, 2021). By fulfilling these obligations, e-commerce providers contribute to the establishment of a safe, transparent and fair trading environment for all parties involved in the transaction process.

4. Conclusion

Article 1365 of the Civil Code also applies to e-commerce platforms that knowingly or unknowingly facilitate the distribution of products with altered or unauthorized trademarks, thus potentially giving rise to legal accountability for the platform. Unlawful acts are not only limited to direct actions by the seller, but also include the platform's negligence or failure to supervise and follow up on intellectual property rights violations that occur in their online trading system. Although these platforms primarily function as intermediaries between buyers and sellers, they still have an obligation to ensure that the transactions they facilitate do not cause harm to third parties, especially in cases of trademark misuse, which can result in financial losses and damage to brand reputation. This study further highlights the importance of enforcing intellectual property protection in e-commerce platforms, especially considering the rapid expansion of online commerce, which has increased the risk of the spread of unauthorized products. Therefore, stricter regulatory oversight and stronger monitoring mechanisms are needed to prevent

such violations from occurring. Without firm and clear action from the platform, both in terms of prevention and handling of violations, the losses experienced by brand owners will continue, and the integrity and trust of consumers in e-commerce may be compromised. Therefore, there is a need to increase legal awareness for e-commerce platforms, as well as collaborative efforts with brand owners in creating a safe, transparent, and fair online trading ecosystem. In the future, this research is expected to contribute to the development of clearer and more consistent regulations regarding the responsibilities of e-commerce operators in enforcing intellectual property rights, which ultimately encourages the creation of greater justice for all parties involved in the e-commerce environment.

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