

# Legal Protection for Consumers and Brand Owners Against the Circulation of Counterfeit Goods: A Case Study of Djitoe Bold Cigarettes in Pangkalpinang

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## Abstract

For both registered trademark owners and consumers, the market's circulation of fake goods especially cigarettes under the DJITOE BOLD brand presents significant challenges. The purpose of this study is to examine the types of legal protection available to registered trademark owners who have been harmed by trademark counterfeiting, as well as to consumers who have been harmed by buying subpar counterfeit goods. With a statutory approach and a case study methodology, this study uses a normative legal research type and focuses on Pangkalpinang District Court Decision Number 17/Pid.B/2022/PN Pgp. The results of the study show that while Law Number 8 of 1999 concerning Consumer Protection provides consumer protection, Law Number 20 of 2016 concerning Trademarks and Geographical Indications regulates legal protection for trademark owners. Although the court ruling against the trademark counterfeiter is thought to have satisfied the criminal requirements, consumer protection is still not being implemented as well as it could be, particularly in terms of redress or compensation procedures. To stop the more efficient spread of fake goods in the future, this study suggests that consumer protection organizations, brand owners, and law enforcement organizations coordinate more closely.

**Key Words:** *Legal Protection, Trademark Counterfeiting, Consumer Protection, Counterfeit Goods.*



## A. INTRODUCTION

The proliferation of counterfeit goods within the Indonesian market has emerged as a significant legal and economic challenge, particularly in relation to consumer products such as cigarettes (Ahsan, Wiyono, Setyonaluri, Denniston, & So, 2014). Illicit cigarette trade, encompassing unauthorized manufacturing and distribution, has been identified as a pervasive issue undermining both consumer trust and regulatory integrity (TRACIT, 2023). In one such instance, the Pangkalpinang District Court adjudicated in Case No. 17/Pid.B/2022/PN Pgp, finding that the defendant produced and traded cigarettes under the "DJITOE BOLD" brand, impersonating the legitimate trademark of PT Djitoe Indonesia Tobako without authorization. This illicit activity not only inflicted tangible financial losses upon the brand owner, but also jeopardized consumer well-being, as individuals unknowingly acquire counterfeit goods of indeterminate quality, potentially exposing themselves to health and safety risks (Ahsan et al., 2014).

Trademark counterfeiting constitutes a criminal offense under Indonesia's Law No. 20 of 2016 concerning Trademarks and Geographical Indications. Specifically,

Article 100 (1) stipulates that any party who uses another party's registered trademark without authorization for similar goods or services may be subject to criminal sanctions, including imprisonment and/or substantial fines (Lexology, 2024). In the instance of counterfeit DJITOE BOLD cigarettes, the criminal element is clearly satisfied by the unauthorized manufacture and distribution of the trademarked product, which led to both material and intangible losses for the legitimate brand owner.

In addition to the criminal ramifications for perpetrators, an often-neglected facet is the legal protection extended to consumers who inadvertently purchase counterfeit goods. According to Law No.8 of 1999 on Consumer Protection, consumers are expressly entitled to receive goods that are of high quality, safe, and conform to their labeling (Flevin, n.d.). This protection is critical, as consumers occupy a vulnerable position—they become unwitting victims of counterfeit circulation and frequently fail to receive adequate post-purchase redress due to ineffective protection mechanisms (Hafirman Said, 2024). For example, counterfeit DJITOE BOLD cigarettes mimic the packaging and physical appearance of legitimate products, rendering them nearly indistinguishable to average buyers. However, lacking oversight from official production standards, the actual quality and contents of these products vary widely and may even pose substantial health risks. Such deceptive practices signify a direct violation of consumer rights guaranteed under the Consumer Protection Law, including the right to comfort, safety, and security when using goods.

In addition to targeting counterfeiters under criminal law, this research underscores the importance of comprehensive legal protection for both brand owners and consumers as aggrieved parties. Registered trademark owners benefit from criminal enforcement through court proceedings, which may result in convictions of counterfeiters and associated sanctions (Rouse, 2022). However, critical questions persist: Is such protection truly effective, or are there legal gaps that hinder brand owners from securing redress—be it financial compensation, restoration of brand reputation, or preventing future circulation of counterfeit goods?

From the consumer standpoint, a pressing issue arises: what legal protection exists for individuals who purchase counterfeit products unknowingly? Law No. 8 of 1999 on Consumer Protection grants consumers rights to redress—including compensation, repair, replacement, or refund—when goods are defective or not as promised, as well as rights to safety and accurate product information (Law Gratis, 2025). Despite these provisions, consumers often find themselves inadequately protected post-purchase due to weak enforcement and limited awareness, especially when distinguishing between genuine and counterfeit goods is challenging (Panjaitan et al., 2025). This study will critically examine the extent to which current consumer protection law effectively safeguards consumers in cases of trademark counterfeiting and explore practical obstacles encountered in implementation.

The urgency of investigating counterfeit goods in Indonesia stems from their widespread circulation across critical sectors—including food, beverages, cosmetics, pharmaceuticals, and tobacco products such as cigarettes (OECD & EUIPO, 2020).

Reports suggest that systemic weaknesses in enforcement and inadequate coordination among oversight agencies enable counterfeit goods to flourish in the market, resulting in significant national economic losses, undermined business integrity, damage to both domestic and international brand reputations, and heightened risks to consumer safety and health (TRACIT, 2023; Rouse, 2020). Consequently, rigorous academic inquiry is needed to delineate the legal standing of brand owners and consumers within the counterfeit goods landscape, and to assess the effectiveness of existing regulatory frameworks.

This research is particularly time-sensitive given its potential to inform and strengthen legal policies on intellectual property and consumer protection, with a focus on trademarks. The findings are expected to yield both practical and theoretical insights—such as enhancing the roles of supervisory bodies including the National Consumer Protection Agency (BPKN) and the Directorate General of Intellectual Property (DJKI), as well as recommending regulatory updates and fortified oversight mechanisms (Antara News, 2024; BPKN, 2025).

By examining statutory provisions, judicial decisions, and legal treatises on consumer and trademark protection, this study adopts a normative legal approach to frame its analysis (Fahrozi, 2022; Silitonga, Panjaitan, & Saragi, 2025). This research primarily aims to scrutinize Pangkalpinang District Court Decision No. 17/Pid.B/2022/PN Pgp as a case study, showcasing a tangible judicial response to trademark infringement in Indonesia and its implications for consumers. Through this approach, the study will offer a comprehensive legal analysis of the challenges encountered by brand owners and consumers and propose strategic improvements to enhance existing protections.

The legal intricacies of counterfeit goods such as DJITOE BOLD cigarettes extend beyond economic harm to encompass issues of legal rights, obligations, liability, and enforcement efficacy. Consequently, this research carries dual significance: delivering rigorous academic contributions while also providing actionable recommendations for policymakers, business stakeholders, consumers, and law enforcement authorities in Indonesia.

The principal objective of this research is to offer an in-depth understanding of legal protection mechanisms in the context of counterfeit cigarette distribution. Specifically, the study will identify and assess the legal safeguards available for registered trademark owners whose rights are violated due to counterfeit circulation. Additionally, it will examine the legal remedies available to consumers affected by counterfeit goods, with a focus on the DJITOE BOLD cigarette case. By addressing these dual focal points, the study is poised to enrich academic discourse on intellectual property rights and consumer protection and offer practical guidance to strengthen legal mechanisms against counterfeit practices.

## **B. METHOD**

This study employs normative legal research methodologies, utilizing both a statutory framework and a case analysis to examine the legal safeguards for

consumers and brand proprietors against the proliferation of counterfeit goods, specifically focusing on the case study of DJITOE BOLD cigarettes. The primary sources of data for this study include legal materials, specifically the laws relevant to the topic, such as Law Number 20 of 2016 concerning Trademarks and Geographical Indications and Law Number 8 of 1999 concerning Consumer Protection. There are also secondary legal materials, like legal literature, scientific journals, and the results of previous research. The methods used to collect data were document studies (library research) of court decisions, legal documents, and relevant academic references. Next, the analysis method used is qualitative analysis, which involves describing and interpreting the legal data obtained to address the research problems comprehensively.

## C. RESULTS AND DISCUSSION

### 1. Forms of Legal Protection for Registered Trademark Owners in Cases of Counterfeit Branded Cigarette Circulation in Indonesia

Law No. 20 of 2016, commonly referred to as the Trademark Law in Indonesia, establishes the legal framework for safeguarding registered trademark owners. The legislation confers upon the owner an exclusive right to the trademark, prohibiting unauthorized use of identical or confusingly similar marks on goods or services that could mislead consumers (Hukumonline, 2023; Swarajustisia, 2021). This exclusivity empowers the trademark proprietor with a solid legal foundation to challenge unauthorized use, such as in instances of counterfeit production.

This research specifically addresses the case of counterfeit DJITOE BOLD cigarettes, wherein legal protection for the trademark owner was activated via criminal enforcement in accordance with Article 100(1) of the Trademark Law. The provision mandates imprisonment of up to five years and/or a fine of up to Rp 2 billion for unauthorized use of a registered trademark (Siplawfirm, 2023). The Pangkalpinang District Court's ruling in Decision No. 17/Pid.B/2022/PN Pgp affirmed the defendant's guilt in trademark infringement, underscoring that the law is not merely symbolic but effectively enforced.

Additionally, Article 83 of the Trademark Law permits trademark owners to pursue civil remedies, including claims for both material and immaterial damages, as well as injunctions to halt infringing activities (Puspita et al., 2023). While the criminal route is often favored for its deterrent value, civil litigation remains indispensable for securing compensation and addressing reputational damage.

Legal protection also encompasses administrative measures, notably the registration of a trademark with the Directorate General of Intellectual Property (DJKI) under the Ministry of Law and Human Rights. Trademark registration represents the foundational and most pivotal step toward securing legal rights, as only the registered owner is legally entitled to exclusivity over the mark (ASLGate, 2024; Widjojo Law Firm, 2025). In this context, PT Djitoe Indonesia Tobako, as the registered proprietor of the DJITOE BOLD trademark, is empowered to initiate legal action should any unauthorized imitation occur.

Despite this framework, trademark owners in Indonesia face significant obstacles. First, the distribution channels for counterfeit goods often consist of intricate, cross-regional networks, complicating law enforcement efforts to dismantle them (Saputro et al., 2025). In the DJITOE BOLD case, while the primary defendant was prosecuted successfully, prosecuting other actors within the distribution chain remained highly difficult. Second, judicial penalties are frequently perceived as disproportionately mild relative to the extensive social and economic damage suffered by brand owners—the defendant in the cited case received only 10 months' imprisonment and a fine of Rp 20 million, likely incongruent with the scope of reputational harm and customer attrition endured by the brand.

Moreover, pursuing civil litigation for trademark violations—such as claims for damages—is often deemed impractical by trademark owners due to its protracted duration, high costs, and the limited expertise in intellectual property law among police and judges. Consequently, many proprietors opt to rely solely on criminal enforcement mechanisms, foregoing the civil route despite its potential to secure financial redress.

One of the most essential dimensions of legal protection for brand owners lies in preventative measures, including proactive market surveillance, consumer education, and cross-sector collaboration among brand owners, law enforcement bodies, and regulatory agencies such as the Food and Drug Agency (BPOM) and Customs. Unfortunately, these strategies are often neglected or implemented inconsistently, contributing to the persistent circulation of counterfeit products. In the case of DJITOE BOLD cigarettes, law enforcement responses were predominantly reactive—initiated only after reports were filed—despite prior warnings from official distributors (Panjaitan et al., 2025).

This analysis illustrates that effective legal protection demands a holistic model that integrates criminal, civil, administrative, and preventive strategies. Such a comprehensive framework should facilitate compensation for brand owner losses, deter counterfeit dissemination, and foster consumer awareness regarding the importance of purchasing genuine products (Panjaitan et al., 2025).

Moreover, trademark protection in Indonesia must align with global standards. Under the TRIPS Agreement (Trade-Related Aspects of Intellectual Property Rights), member states—Indonesia included—are mandated to provide effective legal safeguards for intellectual property, including trademarks. As such, Indonesia is obligated to continuously enhance its legal systems in enforcement, judicial practices, and dispute resolution to comply with international obligations (Manurung, Sidauruk, & Situmorang, 2025).

On the basis of the foregoing discussion, it can be concluded that the legal protection available to registered trademark owners in Indonesia encompasses administrative, civil, and criminal avenues, as well as preventive strategies (Widjojo Law Firm, 2025). Nonetheless, several challenges hinder the effectiveness of this protection, including inadequate law enforcement, limited mechanisms for loss

recovery, and insufficient on-site market surveillance (Saputro, Febriandika, Hertanto, & Rahmawati, 2025). These persistent obstacles underscore the urgent need for concrete measures to strengthen trademark protection. Such measures include enhancing the institutional capacity and expertise of law enforcement officers, refining and updating the regulatory framework, and raising consumer awareness about the risks associated with counterfeit goods circulation (OECD & EUIPO, 2020). Achieving an optimal level of legal protection for trademark owners requires a comprehensive, multi-dimensional approach that integrates enforcement, prevention, and education.

## **2. Legal Protection Provided to Consumers Due to the Circulation of Counterfeit Goods**

The circulation of counterfeit goods such as DJITOE BOLD cigarettes not only inflicts economic harm on trademark owners but also poses direct risks to consumers, who unknowingly consume counterfeit products. Consumer protection in Indonesia is regulated under Law No. 8 of 1999 Concerning Consumer Protection, which safeguards fundamental consumer rights. These include the right to comfort, safety, and security in consuming goods or services; the right to accurate, clear, and honest information regarding the condition and warranty of goods or services; and the right to voice opinions and complaints regarding the products they use (Flevin, n.d.; Hafirman Said, 2024).

Consumers are the primary victims in the case of counterfeit DJITOE BOLD cigarettes because they may purchase products under the impression of a trusted brand, only to discover that the quality and guarantees are not equivalent to authentic items. Given that counterfeit cigarettes bypass health and safety supervision, they directly violate consumers' rights to safe and consumable products, thereby necessitating legal protection through compensation, reporting mechanisms, and ongoing safeguards against harm (Astuti, 2021).

Nevertheless, the implementation of such protections often remains inadequate. One of the central challenges is consumers' limited awareness of their legal rights and available complaint mechanisms. While organizations such as the National Consumer Protection Agency (BPKN) and the Consumer Protection Foundation (LPKSM) provide formal avenues for complaints, these channels are often ineffective, bureaucratic, and difficult for consumers to access in practice (BPKN, 2022). Article 19 of the Consumer Protection Law explicitly mandates that business actors must compensate consumers for damages, pollution, or losses resulting from defective or unsafe goods and services, yet in practice, enforcement remains inconsistent (Astuti, 2021).

In the case of counterfeit DJITOE BOLD cigarettes, it is evident that the individuals responsible for the counterfeiting do not fall within the category of registered official business actors. Consequently, consumers encounter significant challenges in directly suing these individuals for damages. A fundamental flaw in the Indonesian consumer protection system is that consumers frequently fail to receive compensation when perpetrators are not legal entities or are difficult to trace,

reflecting structural weaknesses in consumer redress mechanisms (Hafirman Said, 2024). In advocating for consumer interests, protection agencies such as the National Consumer Protection Agency (BPKN) or the Consumer Protection Foundation (LPKSM) should play a more active role by enhancing public education, strengthening legal advocacy, and promoting collective mechanisms such as class actions, which can provide broader remedial effects (BPKN, 2022).

It is also the responsibility of the state to guarantee consumer protection through stricter supervision and enforcement against the circulation of counterfeit goods. However, Indonesia's market surveillance remains relatively limited and largely reactive, responding only to reports or complaints rather than engaging in preventive measures such as routine inspections or proactive monitoring (TRACIT, 2023). As a result, counterfeit products like DJITOE BOLD cigarettes continue to enter the market with relative ease, thereby inflicting both economic and health-related harm upon consumers.

Within the scope of criminal law, consumers are recognized as victims of trademark counterfeiting, but the justice system places greater emphasis on punishing offenders than on compensating victims. Therefore, it is crucial to reinforce civil and administrative mechanisms that allow consumers to obtain compensation and restore their rights (Astuti, 2021). Compensation mechanisms should not rely exclusively on official business actors; rather, state institutions or designated agencies should also be mandated to provide remedies in cases where direct accountability of perpetrators is impractical.

After further analysis, it becomes clear that a multi-stakeholder approach is indispensable for ensuring consumer protection against the circulation of counterfeit goods. This responsibility should not rest solely on business actors or brand owners but must also involve the active participation of the state through stricter market supervision, efficient complaint channels, and law enforcement practices that prioritize consumers as victims (BPKN, 2022; Hafirman Said, 2024). Furthermore, public education aimed at improving consumer legal literacy is necessary to ensure that consumers are aware of their rights and capable of asserting them when harmed (Astuti, 2021).

In the case of DJITOE BOLD cigarettes, this study found that the incident was reported to authorities by the brand owner or distributor, rather than by consumers themselves. This situation reflects the persistently low level of consumer participation in asserting rights, largely attributable to a lack of awareness and limited trust in the effectiveness of existing complaint mechanisms (TRACIT, 2023). Yet consumer participation is a vital element of public oversight that can aid in the early detection of counterfeit product distribution.

At the international level, Indonesia is bound by the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement and other multilateral treaties mandating consumer protection, including in the sphere of counterfeit goods. These international obligations reinforce the necessity for Indonesia to align its national legal framework with global standards, not only in substantive regulation but also in

enforcement mechanisms (Manurung, Sidauruk, & Situmorang, 2025). Accordingly, reforms to Indonesia's consumer protection system must focus on streamlining complaint procedures, empowering consumer protection agencies, and fostering cross-sectoral collaboration among government authorities, business entities, and civil society organizations.

In conclusion, although consumer protection against the circulation of counterfeit goods in Indonesia—such as in the case of DJITOE BOLD cigarettes—is normatively established under the Consumer Protection Law, its implementation continues to face substantial obstacles. These include the absence of effective loss recovery mechanisms, inadequate preventive oversight, and low levels of public legal literacy (Flevin, n.d.; Hafirman Said, 2024). Consequently, the findings of this study highlight the urgent need for comprehensive reform of the consumer protection framework. Such reforms should address not only the legal and institutional dimensions but also incorporate public education initiatives designed to empower consumers. Strengthening legal literacy would ensure that consumers are not merely passive victims but active stakeholders in safeguarding their rights, thereby contributing to the creation of a healthier and more equitable market (Astuti, 2021; BPKN, 2022).

#### **D. CONCLUSION**

Law Number 20 of 2016 concerning Trademarks and Geographical Indications comprehensively regulates the legal protection for registered trademark owners against counterfeit branded cigarette circulation in Indonesia. This law provides exclusive rights to trademark owners, enabling them to forbid unauthorized use and pursue legal action against counterfeiters in both civil and criminal contexts. On the other hand, the implementation of this protection is still confronted with challenges such as inadequate law enforcement, ineffective sanctions, and limited recovery of losses that trademark owners can obtain through civil channels.

The law that protects consumers from the circulation of counterfeit goods, specifically DJITOE BOLD cigarettes, is regulated by Law Number 8 of 1999 concerning Consumer Protection. This law guarantees consumers' fundamental rights, including the right to safety, comfort, and compensation. The lack of awareness among consumers regarding their rights, ineffective complaint mechanisms, inadequate state supervision, and the difficulty of suing counterfeiters who are not legal entities are all factors that contribute to the fact that this protection is still inadequate in practice. As a result, the findings of this study highlight the importance of enhancing the coordination between different government agencies, enhancing the efficiency of law enforcement, and educating the general public to establish a legal protection system that is more optimal for brand owners and consumers in Indonesia.

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