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Legal protection of consumers for transactions in counterfeit goods

Nadia Septiatiarini[*], Faculty of Law, Universitas Swadaya Gunung Jati, Cirebon, West Java, Indonesia
Puput Aulia, Faculty of Law, Universitas Swadaya Gunung Jati, Cirebon, West Java, Indonesia
Sindy Dwi Rahmawati, Faculty of Law, Universitas Swadaya Gunung Jati, Cirebon, West Java, Indonesia
Alip Rahman, Faculty of Law, Universitas Swadaya Gunung Jati, Cirebon, West Java, Indonesia
Diky Dikrurahman, Faculty of Law, Universitas Swadaya Gunung Jati, Cirebon, West Java, Indonesia

[*]Email for Correspondence: nadiaseptiarini4@gmail.com puputaulia233@gmail.com sindywiirh15@gmail.com alip.rahman@ugj.ac.id diky.dikrurrahman@ugj.ac.id

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ABSTRACT

This study examines the legal protection against consumers in Indonesia for the transaction of counterfeit goods. It uses normative legal research and everyday life studies to analyze the contemporary situation. The study reveals that legal protection against counterfeit goods is regulated by Law Number 15 of 2001, which criminalizes business actors selling counterfeit goods, and Government Regulation Number 82 of 2012, which emphasizes the need for accurate information about producers, goods supplied, and contract terms. Additionally, Article 8 of Law Number 8 of 1999 prohibits business actors from trading goods or services that do not meet the requirements for labels, information, advertising, or sales promotion.

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INTRODUCTION

Law 8 of 1999 contains regulations relating to consumer protection. The topic is discussed in the explanation of Law 8 of 1999 Article 1 Number 2 concerning Customer Protection, namely those who are referred to as intermediary consumers and end consumers in economic literature (Prawesti, 2017). End consumers are those who use a product for the last time, while intermediate consumers are those who use a product during the manufacture of another product (Putra, 2023). To meet its demands and coordinate efforts to ensure legal protection of the interests of consumers, producers and consumers have rights and obligations stipulated in laws and regulations. This is known as consumer protection.

The World Wide Web offers the "digital economy" is the direction the world economy is heading. It is characterized by increasing activities that utilize the internet as a low-cost means of communication. For example, the use of electronic commerce, or e-commerce, as a transactional medium is becoming increasingly important in commerce (Apandy et al., 2021). The modern era has witnessed a tremendous increase in the need for legal protection for brands due to impersonation. The commodity marketing space is again expanded, especially in line with the advancement of global trade, improved transportation, and corresponding promotion. This condition accumulates. Imitation is also prevented by the importance of branding, which is to identify the place of origin and quality of baraang. This expansion of the market, in turn, requires modifications to legal protection of the marks used on the goods sold (Putri et al., 2022).

In reality, a brand is one type of intellectual property that plays an important role in facilitating and increasing investment and trade in goods and services. They are able to satisfy the consumer's need for recognition. Own effort is a result that needs to be protected in terms of protection (Cakrawibawa & Roisah, 2019). Everything that comes from generating intelligence and thinking capacity is considered intellectual property (Bajpai, 2020). The ability to create intellectual property gives a person rights known as intellectual property rights. Not everyone is able to use their brain in the most efficient, reasonable, or intellectual way, which means not everyone is able to create intellectual property rights. This is also the reason why intellectual property rights are the result of brain activity. Intellectual Property Rights must be maintained because they are exclusive (Chow, 2020),

Based on Law Number 8 of 1999 concerning Consumer Protection which is the basis of laws and regulations in this case consumer protection, Indonesian consumers are considered sufficiently protected. Similarly, the functions of the Food and Drug Control Agency (BPOM), the District/City and Provincial Industry and Trade Offices, the Government, and the Indonesian Consumer Institute Foundation (YLKI).(et al., 2022). In the modern era of electronic commerce (e-commerce), due to the relatively high level of consumerism, opportunities are open for business owners to buy and sell online media (e-commerce) (Salamiah, 2014). This prospect allows achieving huge profits simply by presenting goods for sale online. Shopee, Lazada, Tokopedia, and other online stores are some examples of media from this type of online store called the marketplace (online market). Marketplace is a website that connects consumers and sellers and makes it easier for them to transact online. There are three (three) parties involved in the online legal relationship between the seller and the buyer. The buyer is the first party, followed by sellers, third parties, and internet retailers such as Shopee, Tokopedia, Bukalapak, and others (Pangestu et al., 2022). However, because this website only serves as a vehicle for business people to do business, it is not directly involved in transactions between buyers and sellers. Business actors are free to sell various goods through online shopping channels. Cosmetics, for example, are widely available online and are available in a variety of brands, prices, and qualities.

In fact, there are still market participants and corporate actors who violate consumer protection laws (Law Number 8 of 1999) and electronic information and transaction laws (Law Number 11 of 2008), especially those related to cosmetics (Negara & Satria, 2021). Like the incident that happened in May 2023 in Surabaya, East Java, when it was discovered that goods sold on media marketplaces such as Shope did not have a distribution permit. It is known that the suspect's mode of operation is to exploit online retailers to circulate illegally imported cosmetics, which are then delivered to customers via courier.

BPOM Regulation Number 25 of 2019 has guidelines for making good cosmetics in Article 2 Paragraphs 1 and 2. Furthermore, cosmetic items sold must be registered and authorized by the Food and Drug Supervisory Agency (BPOM), a state organization that oversees and permits the distribution of products intended for consumption (Nanda & Tarina, 2022). Furthermore, business actors are not allowed to make and/or trade goods and/or services that do not meet the criteria and provisions of laws and regulations. This is stipulated in the Law-

Law Number 8 of 1999 Article 8 paragraph 1 letter a. (Natih & Made, 2019). In relation to the above definition, greater attention needs to be paid to the legal protection of users given the increasing prevalence of counterfeit goods in society. Because consumers have a strong right to be protected from violations committed by corporate actors, the provisions in question aim to improve consumer protection. In addition, increasing business actors' understanding of the importance of consumer protection will encourage sincerity and accountability in the industry.

METHOD

This study uses normative legal research studies that can be seen in everyday life to investigate contemporary situations, especially in Indonesia, to compile this paper. The descriptive nature of the study is used to describe situations where there are many examples of goods being sold under fake brands. Legal research derived from secondary data or legal research conducted in libraries is an example of a category/type of normative legal research that includes research related to the topic. The data sources used are secondary data sources sourced from research papers. Observational data collected from sources is the data collection technique used. To find out how many products are sold with fake labels, a sampling technique is used by randomly selecting a sample of this article.

RESULTS AND DISCUSSION

Legal protection is also known as legal bescherming in Dutch and legal protection in English. The terms "protection" and "law" are etymologically synonymous with "legal protection". What is meant by (1) shelter, (2) objects (actions, etc.), and (3) ordinances, techniques, and protection of deeds in the great dictionary Indonesian. (Big Dictionary Indonesian Online edition, KBBI) Professional application is necessary for the legal protection of human interests in order to maintain these interests.

It is undeniable that food production is affected by the increasingly difficult economy of the Indonesian people. Of course, producers or sellers of goods and/or services—also called entrepreneurs—are other entities involved when talking about customers. Business actors are also subject to the rules of UUPK Article 1 Number 3 (Aulia et al., 2016). This definition defines a business actor as any individual or organization that conducts business within the territory of the Unitary State of the Republic of Indonesia, either alone, cooperating with others through a contract, or as a legal entity established and domiciled. Business entities, businesses, state-owned enterprises, importers, traders, wholesalers, and so on are all considered business actors in the legal sense. Based on the analysis described,:

To legally cancel the application of a brand user without permission or counterfeit branded goods, the use of the mark on branded goods without the owner's permission has been regulated based on Law Number 15 of 2001 concerning Trademarks. Articles 90, 91, 92, 93, and 94 of Law Number 15 of 2001 which regulates Trademarks contain criminal provisions for business actors who sell counterfeit goods. These articles state as follows, in Article 90: "A person may be imprisoned for a maximum of five (five) years or a fine of not more than one billion rupiah (one billion rupiah) for intentionally and unfairly using the exact same mark as the registered mark of another party for an item. and/or similar services produced and/or traded."

In addition, it is regulated in Article 49 paragraph (1) of Government Regulation Number 82 of 2012 concerning the Implementation of Electronic Systems and Transactions relating to consumer protection. It is emphasized that business actors who offer products through Electronic Systems are required to provide accurate and complete information about manufacturers, products offered, and contract terms. The next paragraph further emphasizes that business actors have an obligation to be transparent in submitting contracts and promotions. In the event that the goods are received not in accordance with the agreement, Article 49 paragraph (3) expressly regulates It implies that the company must give the customer a deadline to return any goods they received (Zulham, 2023). In addition, if the goods he receives do not match the image in the marketing of the online store, the client has the right to sue the business actor civilly for reasons of default in his transaction with the seller.

Based on Law Number 8 of 1999 concerning Consumer Protection Article 4, consumers have the right to hold corporate actors accountable if they believe they have been deceived. Trade in goods or services that do not meet the established standards is prohibited for business actors. In accordance with Article 8 of Law Number 8 of 1999 concerning Consumer Protection, claims made against labels, information, advertising, or sales promotion of goods and/or services (ARGIYANTO, 2018). This is mostly related to the issue of selling counterfeit goods online. If the business entity does not carry out its obligations based on Law Number 8 of 1999 Article 7 Letter G concerning Consumer Protection.

For sellers who act as business actors, consumer protection laws are very important because they can stop sellers from committing unlawful acts while protecting buyers from harm. Sellers who are aware of consumer protection laws will be more likely to comply with established regulations and not break the law. The buyer is entitled to benefits that do not harm either party, just as the seller is entitled to benefits as an economic actor. Information transparency is also the main criterion applied by commercial actors to win the trust and comfort of customers as users of their goods or products.

It seems that UUPK has a good purpose and emphasizes more on business actors because they are the ones who follow up every step in carrying out all their business activities, this can show that business actors have an obligation to carry it out. Good faith begins with how the goods are made and produced, and ends with sales. Only in making product and/or service purchase transactions, customers must act in good faith. Because goods are created by producers (business actors), it is undeniable that consumers will experience losses. On the other hand, consumers have the potential to incur losses for producers when they make transactions. Preventive legal protection is a type of legal protection provided by the state. Preventive measures provide opportunities for the public to offer them The opposition is expected to be more easily carried out by the government. In addition, the government implemented harsh legal protections through law enforcement for all those found guilty.

CONCLUSION

Based on the analysis that has been explained, the form of legal protection to consumers against counterfeit goods is regulated by the use of brands on branded goods without the owner's permission has been regulated based on: a) Law Number 15 of 2001 has criminal sanctions for business actors who sell counterfeit goods based on Articles 90, 91, 92, 93, and 94. b) Government Regulation Number 82 of 2012, Article 49 Paragraph 1 concerning the Implementation of Electronic Systems and Transactions Related to Consumer Protection. The need for the provision of accurate and comprehensive information about producers, goods supplied, and contract terms cannot be ignored by business actors who offer products through electronic systems. c) According to Article 8 of Law Number 8 of 1999 concerning Consumer Protection, business actors are not allowed to trade goods or services that do not meet the requirements for labels, information, advertising, or sales promotion of these goods and/or services.

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