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Legal Certainty Based Protection of Well-Known Marks: Lessons from India

Rian Saputra[1*], Pujiyono Suwadi[2], Willy Naresta Hanum[3], Tiara Tiolince[4], Giovan Bintang Graha Pratama[5]

[1,5] Faculty of Law, Universitas Slamet Riyadi, Surakarta, Central Java, 57136, Indonesia
[2,4] Faculty of Law, Universitas Sebelas Maret, Surakarta, Central Java, 57126, Indonesia
[3] Faculty of Law, Universitas Diponegoro, Semarang, Central Java, 50275, Indonesia
[*] Corresponding author: riansaputra@unisri.ac.id

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Abstract

This study identifies issues in the protection of 'well-known marks' in Indonesia and proposes remedies for their preservation through amendments to Indonesia's trademark legislation, with a focus on legal certainty. This study employs a normative legal analysis utilising a technique based on court decisions, statutes, concepts, and comparisons, with India serving as the reference point. This study concludes that, from a philosophical standpoint, legal protection for 'well-known marks' protects both the economic rights of legitimate trademark holders and consumers from misguided product choices due to the exploitation of 'well-known marks' by unscrupulous entities seeking to profit from the brand's reputation. The difficulty of protecting prominent trademarks in Indonesia stems from ambiguous and perhaps illogical legislation. The absence of a definition and standards for 'well-known marks' in the 2016 Trademarks Act, along with provisions on trademark infringement that solely protect registered trademarks. Conversely, India has clearly defined 'well-known marks' in the 1999 Trademarks Act. Indian trademark law protects 'well-known marks' via a mechanism wherein the judiciary or the trademark registration authority acknowledges certain marks. It also outlines trademark infringement related to both registered and unregistered trademarks, including 'famous trademarks'. Therefore, amending Indonesia's trademark legislation to protect 'well-known marks' is crucial for ensuring legal clarity by: first, defining 'well-known marks' and their criteria under the 2016 Trademark Law; second, providing administrative protections for 'well-known trademarks' through recognition by the Directorate General of Intellectual Property; third, broadening the meaning of trademark infringement to include not only registered trademarks but also all trademarks, including 'well-known marks.'

INTRODUCTION

The ever-changing economy compels enterprises to continue producing essential goods that fit the needs of the community. In various sectors, enterprises often struggle to meet market demand for their offerings due to some particular factors, including issues interrupting the expansion of production capacity and anti-monopoly regulations in specific domains (Saputro, Febriandika, et al., 2025). However, these challenges are viewed by others as opportunities to develop analogous products. This condition has set the basis for business entities to engage in product innovation. Beyond competing with alternative offerings, product innovation can be a defining characteristic that sets it apart from comparable products.

The legal framework for trademarks in Indonesia dates to the Dutch East Indies period, particularly to the enactment of the Trade Marks Law in 1885. Moreover, during the Dutch colonial era, the *Reglement Industrieel Eigendom* (RIE) was implemented. In 1961, sixteen years after Indonesian independence, Law No. 21 of 1961 was implemented, marking a pivotal change. This statutory law governed Company Marks and Trade Marks, superseding the Trade Mark Law instituted during the Dutch colonial era. In 1992, Law No. 19 of 1992 concerning Trade Marks was enacted, superseding the Trade Marks Law of 1961. The 1992 Trade Marks Law introduced numerous changes compared to its 1961 predecessor. This law notably broadened the regulatory scope beyond corporate names and trademarks, thereby embracing a more comprehensive approach. Moreover, the law transitioned from a declaratory framework to a constitutive framework.

Consequently, trademark law in Indonesia was reformed with the implementation of Law No. 15 of 2001 concerning Trademarks (the 2001 Trademark Law). The implementation of the 2001 Trademark Law departed from the requirement to establish trademark regulations aligned with international treaties and conventions ratified by Indonesia. This encompasses the Paris Convention, ratified by Presidential Decree No. 15 of 1997, which amended Presidential Decree No. 24 of 1979. In 2016, trademark law was amended by Law No. 20 of 2016 concerning Trademarks and Geographical Indications, which abrogated the 2001 Trademark Law. The revisions to Trademarks and Geographical Indications Law established a more stringent framework for renowned trademarks; yet, the regulation continues to show deficiencies in its classification methodology.

Throughout its evolution, trademarks served to enhance the distribution of goods during an era characterised by a surplus of manufactured products. In this contemporary age of global interconnectedness, the intricacies of goods distribution have intensified, driven by both the sheer volume of manufactured products and the expansive scope of product sales. The ongoing evolution of advertising, on both national and international scales, aimed at disseminating manufactured goods, has significantly enhanced the value of trademarks. Strategic brand advertising media will

enhance consumer demand and foster enduring loyalty to the products offered. Brands provide a significant competitive edge and possible ownership advantage in succeeding in the global market, particularly when they are recognised as prominent entities. However, a popular brand has always faced an elevated risk of trademark infringement (Pujiyono et al., 2021; Syafira, 2021).

Within the national legal system, there is a notable absence of legislation that defines a well-known trademark. Furthermore, the definition of a well-known trademark remains ambiguous, leading to multiple interpretations. The vagueness and various interpretations of the definition of a well-known trademark in Indonesia stem from two terms that articulate the notion of being well-known in the Indonesian context: well-known and famous. The limited Indonesian vocabulary, however, disrupts the interpretation of these two terms, despite many countries making a clear distinction between them.

Ultimately, an ill-defined term in a well-known trademark creates legal ambiguity and confusion regarding its application. This is evident from some judicial rulings concerning prominent trademark conflicts, which contain varying interpretations of the term' well-known trademark'. Examples of the conflicting cases are presented in the following paragraphs.

Initially, the dispute concerning the renowned trademark Pierre Cardin involves the proprietor of the esteemed trademark Pierre Cardin of France (hereinafter, Pierre Cardin France) and Pierre Cardin Indonesia. The Pierre Cardin France trademark has been registered in various nations worldwide, both by Pierre Cardin himself and through the company SARL de Gestion Pierre Cardin. Historical accounts indicate that during the 1960s, Pierre Cardin of France strategically introduced his fashion designs to the Japanese market. In 1971, Pierre Cardin of France became the designer for Pakistan International Airlines' uniforms, a decision that subsequently set a new trend and has been officially registered as a trademark in numerous countries (Pujiyono et al., 2021).

The Pierre Cardin trademark was officially registered in various nations that are part of the World Intellectual Property Organisation, including Germany, Hungary, Switzerland, the Czech Republic, Slovakia, Yugoslavia, Italy, and the Netherlands, on 15 May 1970. The registration of the Pierre Cardin of France trademark across various nations serves as evidence of the brand's significant recognition and stature in the global market (Sujatmiko, Haq, et al., 2024).

The second matter pertains to the trademark dispute involving IKEA. This case commenced with IKEA Sweden's 2010 registration of the trademark in Indonesia. Subsequently, a trademark certificate was acquired for 40 distinct classes, which included class 20 about home furnishings, mirrors, picture frames, and various objects crafted from materials such as wood, cork, grass, fur, rattan, horn, bone, ivory, shell, amber, mother-of-pearl, clay, magnesium and their substitutes, or plastic. Additionally,

class 21 addressed utensils for household or kitchen use (excluding those made of or coated with precious metal), combs and coral flowers, brushes (excluding brooms), brush-making materials, cleaning items, steel wool, and unworked or semi-worked glass (except glass utilised in buildings), as well as porcelain or pottery not categorised under other classes. In 2012, IKEA Sweden undertook the re-registration of the IKEA Sweden trademark in classes 20 and 21, with publication in 2014.

In 2013, a rattan furniture enterprise based in Surabaya, known as PT. Ratania Khatulistiwa initiated legal proceedings against IKEA Sweden in the Central Jakarta Commercial Court. The legal action was initiated on the basis that IKEA Sweden had failed to establish a retail presence in Indonesia or to distribute its products within the country until December 2013. PT Ratania Khatulistiwa had previously registered its trademark under the designation IKEA, an acronym for Intan Khatulistiwa Esa Abadi (hereinafter, IKEA Surabaya). The application was denied on the grounds of substantial similarity to IKEA Sweden's previously registered trademark. Following these circumstances, IKEA Surabaya initiated legal proceedings to annul the registration of the IKEA Sweden trademark, thereby enabling the registration and utilisation of the IKEA Surabaya trademark. The lawsuit initiated by IKEA Surabaya was based on the stipulations outlined in Article 61 (2), letters a and b, of Law No. 15 of 2001 concerning Trademarks. This legislation fundamentally addresses the annulment of a trademark registration that has not been used for three consecutive years from the date of registration, as well as the application of a trademark that deviates from the registered designation (Sujatmiko, Haq, et al., 2024).

The Central Jakarta Commercial Court, in its ruling No. 99/Pdt/Sus-Merek/2013/PN.Niaga.Jkt.Pst dated 17 September 2014, upheld the lawsuit filed by IKEA Surabaya. This ruling established that PT Ratania Khatulistiwa holds the IKEA trademark, while the trademark belonging to IKEA Sweden had been mandated for revocation. IKEA Sweden had subsequently lodged an appeal with the Supreme Court regarding this decision. In Decision Number 264 K/Pdt.In Sus-HKI/2015, the Supreme Court dismissed IKEA Sweden's appeal, thereby affirming the Central Jakarta Commercial Court's ruling. During the appeal process, Supreme Court Justice I Gusti Agung Sumantha issued a dissenting opinion, arguing that the objections to the appeal were warranted, given that the IKEA Sweden trademark had been duly registered and constituted a well-known mark deserving protection (Sujatmiko, Haq, et al., 2024).

Consequently, from the aforementioned decisions, the interpretation of a well-known trademark in Indonesia remains ambiguous. The current state of protection for renowned trademarks lacks definitive legal assurance. Both IKEA Sweden and Pierre Cardin France serve as notable case studies, yet the local enterprises-PT Ratania Khatulistiwa and Pierre Cardin Indonesia-ultimately outmanoeuvred them. This ruling

undoubtedly establishes a detrimental precedent for the protection of popular trademarks in Indonesia (Pujiyono et al., 2021; Sujatmiko, Haq, et al., 2024).

The expression well-known trademarkfrequently aligns with the concept of 'well-known mark', as evidenced in rulings on well-known trademarks where judges commonly utilise 'well-known mark' interchangeably with well-known trademark, connecting it to Article 6bis of the Paris Convention. Article 6bis, paragraph (1) of the Paris Convention articulates the following (Boadu, 2016; Landy & Mastrobattista, 2008).

> The countries of the Union undertake, ex officio if their legislation so permits, or at the request of an interested party, to refuse or to cancel the registration, and to prohibit the use, of a trademark which constitutes a reproduction, an imitation, or a translation, liable to create confusion, of a mark considered by the competent authority of the country of registration or use to be well known in that country as being already the mark of a person entitled to the benefits of this Convention and used for identical or similar goods. These provisions shall also apply when the essential part of the mark constitutes a reproduction of any such well–known mark or an imitation liable to create confusion therewith.

Article 6bis of the Paris Convention states that the determination of what constitutes 'well-known trademarks' and the standards for that determination are entrusted solely to the judgment of each member country. Moreover, Article 6bis paragraph (3) of the Paris Convention articulates that well-known marks, which individuals in bad faith have utilised, retain the right to petition for the cancellation of the mark's registration from the relevant registration authority. The unauthorised use of well-known marks can adversely affect their owners, particularly those registered, as it may undermine the carefully cultivated 'brand image' established by the proprietor (Gunawan, 2023; Sujatmiko, Romadhona, et al., 2024).

A trademark may be designated as a well-known trademark if it satisfies several specific criteria, as set out in the Paris Convention and the Indonesian legislative frameworks. According to Article 16(2) of the Paris Convention, a trademark may be considered well-known based on awareness of the trademark among specific demographics and member countries, resulting from its promotion. In the domain of Indonesian trademark legislation, the parameters defining a well-known trademark are articulated in the Elucidation of Article 21 (1) letter b of the Trademarks and Geographical Indications Law. This is further delineated in Article 18 (3) of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 67 of 2016 concerning Trademark Registration (hereinafter, Permenkumham No. 67 of 2016) (Pujiyono et al., 2021; Sujatmiko, Haq, et al., 2024).

Nonetheless, various elements of the criteria for well-known trademarks outlined in the Elucidation of Article 21 (1) letter b of the Trademark and IG Law, as well as Article 18 paragraph (3) of Permenkumham No. 67 of 2016, remain ambiguous concerning the definition of well-known trademarkitself, as in the element of the

'public awareness of the trademark within the pertinent industry sector.' This information is understood as referring to individuals or the broader community who maintain a favourable connection with the processes of production, promotion, distribution, and/or sales of goods and/or services safeguarded by a recognised trademark. The presence of the renowned trademark across various nations is not construed as evidence of its existence (Rojali, 2024; Syafira, 2021).

This standard renders the enforcement of well-known trademark protection in the Indonesian legal framework reliant on judicial interpretation, thereby diminishing objectivity regarding the actual presence of the well-known trademark in the broader societal context on a global scale. At this point, the author aims to emphasise the relationship between this research and the notion of legal certainty, with the primary variable being the legal provisions in Indonesia that regulate the protection of 'well-known trademarks,' which are notably ambiguous and susceptible to diverse interpretations, resulting in inconsistent applications across various court decisions. In essence, if a legal rule is flawed or confusing, issues will likely arise during its implementation. This applies similarly to the legal matter discussed in this study.

The ambiguous legal provisions, which have led to diverse court rulings in disputes involving well-known trademarks in Indonesia, reveal ongoing issues within the framework for their protection under national trademark law, thereby undermining the principle of 'legal certainty' in modern law. Consequently, substantial legal change is necessary to ensure the effective application of legal certainty in conflicts involving well-known trademarks; one method to accomplish this is to juxtapose the protection of well-known trademarks with that of other nations. The author has selected India because it is frequently cited as a reference point in discussions of intellectual property rights. Consequently, the author delineates three essential points: the philosophical foundation for safeguarding well-known trademarks within the trademark rights framework, the protection of well-known trademarks under Indian trademark legislation, and the aspiration for well-known trademark protection grounded in future legal certainty.

To further explain the research gap addressed in this paper, the author conducted a comparative analysis drawing on prior publications. First, a manuscript titled "Pierre Cardin and the Legal Battle for Well-Known Marks: Insights from Indonesia and the Netherlands" elaborates the basic concepts of well-known mark, fundamental and core elements, as well as the indicators or criteria of well-known mark. This work compares some jurisprudences concerning the well-known mark protection and offers some substantive and pragmatic approaches in strengthening well-known mark protection. Furthermore, the substantive approach discusses and examine some theories, norms, and policies used by judges in handling well-known mark cases, whereas the pragmatic approach underlines the importance of institutional networking and legal awareness improvement, particularly key society groups, e.g.,

university and industry, to control infringements of well-known marks.(Sujatmiko, Haq, et al., 2024)

Second, a paper entitled 'The Special Position of Well-Known (Foreign) Brands in Indonesian Trademark Law' concludes that "Indonesia should protect well-known marks even though they are not registered in the general list of marks, as regulated in the TRIPs Agreement and the Paris Convention. The TRIPs Agreement and the Paris Convention must be used as a source of law by Indonesia as a consequence of participating in the WTO to provide protection and legal certainty for well-known trademark owners" (Lobo & Wauran, 2021).

Third, a paper entitled 'The Application of Trademark Dilution in the Enforcement of Legal Protection of Well-Known Trademarks in Indonesia' shows that the change to apply trademark dilution applies to the process of registering the mark and to the cancellation of the mark's rights. In this prior study, the examiner of mark, ex officio or at request, on the well-known mark owner may reject or cancel the registered trademark that is identical or resembles the well-known mark for the use of non-similar goods, taking into account the stature of the well-known mark. Insufficient rules concerning trademark dilution, which is clearly regulated in the Trademark Law, underlie the judges' inability to apply the trademark dilution doctrine. Without any reason for blurring or tarnishment, the aim is to cancel the trademark that is the same as or resembles the well-known mark by other non-competitor parties within reach (Roisah & Setiyono, 2019).

Drawing on the three publications mentioned above, the author asserts that a significant distinction exists between this paper and the prior studies detailed above, as this study 348conceptualises the protection of well-known trademarks on a theoretical foundation rooted in legal certainty. The author conducted this analysis due to the ambiguity surrounding the norms governing well-known trademarks under the Indonesian trademark legal framework. To establish the criteria for defining well-known trademarks, this study seeks to compare the definition of well-known trademarks as outlined in the Indian legal framework, specifically the Indian Trade Marks Act of 1999. Subsequently, this study also seeks to explain the philosophical foundations underlying the protection of well-known trademarks within the Indonesian legal framework, irrespective of their registration status as protected trademarks.

The author effectively illustrates a notable distinction between this article and the three previous studies: the findings of this work introduce a novel perspective by emphasising a legal certainty approach to safeguarding well-known trademarks in the Indonesian trademark legal framework in the future. Specifically, it utilises the advantages of the regulations on the protection of 'well-known trademarks' in the Indian Trade Marks Act of 1999 as a foundation for prospective reforms to Indonesian trademark legislation.

METHODS

This study represents a normative legal analysis that integrates multiple methodologies (Suwadi & Saputra, 2025), comprising analytical, statutory, conceptual, and comparative approaches (Saputra et al., 2025). The analytical approach involved a thorough examination of judicial rulings to discern the practical application of established trademark principles by the judiciary. The statutory approach involved a comprehensive inventory and analysis of the laws relevant to the legal issues presented, specifically Law No. 20 of 2016 concerning Trademarks and Geographical Indications, Regulation of the Minister of Law and Human Rights No. 67 of 2016 concerning Trade Mark Registration, Paris Convention and Indian Trade Marks Act of 1999 along with associated technical regulations. A thorough examination of the notion of legal certainty was performed based on the analytical method, enabling its application to the legal issues presented. Furthermore, in the comparative approach, the regulations and applications of renowned trademark protection across different nations were compared, with India serving as the reference point. Protection for well-known marks in India is explicitly delineated in the Indian Trade Marks Act of 1999, which sets out the criteria and administrative procedures for designation as a 'well-known trademark'; however, such provisions are absent from Indonesian trademark legislation, specifically Law No. 20 of 2016 concerning Trademarks and Geographical Indications. The author posits that it underlies the multiple interpretations of 'well-known trademarks' in numerous trademark litigations before the court (Samaranayake, 2025a).

Additionally, India was selected as a reference for comparison due to its extensive protection of well-known trademarks for various reasons: First, in terms of Protection Beyond the Nature of Goods/Services, Indian law offers extensive protection for renowned trademarks, regardless of their usage by another party for unrelated goods or services. This protects the integrity of established trademarks. Second, in terms of Robust 'Passing Off' Remedies, proprietors of renowned trademarks may initiate a passing off action to prevent others from exploiting the reputation (tarnishment or blurring) of their trademark, regardless of whether the trademark is registered in India. Third, in terms of Protection Based on Transnational Reputation, Indian courts often acknowledge the reputation of internationally renowned trademarks, regardless of whether the trademark has been utilised or registered in India. This offers robust protection against the infringement of foreign trademarks (Sun, 2015a).

RESULTS AND DISCUSSION

The Philosophical Basis for the Protection of Well-Known Trademarks

Engaging in a discourse on the philosophical foundations of the protection of intellectual property rights needs to consider economic entitlements and consumers' rights to access products that fulfil their requirements (Naser, 2008). The interpretation of economic rights within the domain of intellectual property suggests that each

exclusive entitlement held by a legal entity regarding its intellectual property inherently has economic significance (Disemadi, et. al, 2026). This is grounded in the understanding that economic considerations invariably accompany intellectual property (Sukania et al., 2025; Pamungkas & Hulwanullah, 2025), particularly in the context of trademark rights. The safeguarding of consumer rights in intellectual property requires that consumers not be deceived in their product selections due to the illicit use of trademarks (Li, 2010).

Diverse sources of legal literature demonstrate the intrinsic connection between trademark rights and economic considerations or entitlements. A study conducted by Nasirov explains that a trademark serves as a symbol, word, name, or other device employed to identify and differentiate the goods or services of one entity from those of another. The legal framework governing trademarks grants the owner an exclusive right to leverage the mark's esteemed reputation. Consequently, this framework serves to deter competitors from usurping this reputation through unethical practices, including product mislabelling, deceptive advertising, or counterfeiting (Feng, 2013).

Sun argues that trademark protection confers on the owner the exclusive right to commercially utilise a sign, design, or expression that identifies and distinguishes a product, thereby facilitating its differentiation from competing products in the marketplace. Trademarks empower companies to capture economic value from both new and established products, thereby serving a crucial role in marketing innovation and fostering investment in creative advancements (Sun, 2015b). The subsequent study by Medury affirms that a trademark is any sign be it a word, logo, phrase, or similar that serves to differentiate the goods or services provided by a company, thereby enabling consumers to discern among various offerings (Medury, 2019).

Based on the three definitions of the interplay among trademark rights, economic rights, and consumer protection, the author concludes that a significant connection exists among these elements. The General Elucidation of Law No. 20 of 2016 concerning Trademarks and Geographical Indications acknowledges the following:

> To provide greater legal protection to registered trademark owners against trademark infringement committed by other parties, criminal sanctions for such infringements have been increased, particularly those that threaten human health or the environment and may result in death. Given that trademark issues are closely related to economic factors, this Law increases the criminal fines.

The preceding discussion on Trademark and IG Law leads to a conclusion that underscores the economic dimension of trademark rights as the fundamental rationale for lawmakers to extend protection to rightful trademark holders and to enforce more stringent criminal penalties on those who infringe upon trademark laws. In essence, the economic rights dimension serves as the foundational philosophical framework for

enhancing trademark protection, thereby safeguarding trademark holders against potential infringement.

This principle similarly applies to the discourse surrounding prominent trademarks, regardless of their registration status, as these marks are protected under the legal framework governing trademark rights in Indonesia. It is widely acknowledged that trademarks can be categorised into three distinct types, specifically normal marks, well-known marks, and famous marks, based on their reputation and renown ('ASEAN Intellectual Property Matrix', 2017). Ordinary marks are trademarks that do not possess a significant level of prestige. These brands, often deemed 'ordinary,' are perceived as lacking the symbolic allure of a desirable lifestyle, particularly in their use and technological attributes, leading consumers to view them as inferior in quality. Such inferior brands are perceived as deficient in their ability to evoke a sense of familiarity and to convey a sense of mythical significance, thereby failing to cultivate a market and user base (Kim, 2019).

Trademarks that transcend the ordinary are those renowned for their esteemed reputation. Such brands possess a captivating allure, ensuring that any product associated with them instantly evokes recognition and an almost legendary narrative among diverse consumer demographics. A trademark reaches its pinnacle when it achieves global recognition and acclaim. Its renown is such that it is regarded as a trademark of global aristocracy. In truth, it is quite challenging to differentiate between a prominent brand and one that enjoys global recognition (Dhingra, 2023). The interpretation problems make it difficult to ascertain the delineations and quantifications between the two entities. If a distinguished brand is defined based on the parameter of being 'widely recognised and possessing an esteemed reputation', renowned brands fundamentally adhere to the same standards. Consequently, individuals trying to delineate a prestigious brand may find themselves ensnared in a conceptual framework that intersects with the characterisation of a renowned brand (Ghose & Ali, 2022).

This study concentrates exclusively on well-known brands among the three classifications mentioned, making them the central theme to be discussed. Prominent trademarks, characterised by their worldwide reputation, may occasionally remain unregistered as protected entities in certain nations (Choudhary, 2010). The inquiry concerns scenarios in which prominent brands, lacking registered protection, forfeit their entitlement to legal protection against infringements or breaches of brand rights. What are the implications in such instances? The conclusion is that renowned brands, despite lacking registration as protected entities in a specific nation, still require protection. Within the Indonesian legal system, several provisions govern this matter, specifically Article 21, letters b and c, of the Trademark and IG Law (Permata et al., 2019).

The Article states that the application will be denied if the trademark bears a significant or complete resemblance to: 'a. A renowned trademark owned by another entity for comparable goods and/or services; b. A recognised trademark owned by a different entity, applicable to distinct goods and/or services that fulfil specific criteria. Additional considerations may arise from the stipulations in Article 76 (2) of the Trademark and IG Law regarding trademark cancellation lawsuits. This provision articulates that "Unregistered trademark owners may file a lawsuit as referred to in paragraph (1) after submitting an application to the Minister," where the term "unregistered trademark owner" pertains to a bona fide trademark owner lacking registration or a well-known trademark owner whose trademark remains unregistered, as elucidated in the explanatory notes accompanying Article 76 (2) of the Trademark and IG Law.(Lobo & Wauran, 2021)

The regulati352ons outlined in the Trademark and IG Law concerning the protection of well-known marks are further integrated into Permenkumham No. 57 of 2016 regarding Trademark Registration (Syafira, 2021). Specifically, Article 16 (2) letters b and c of the Minister of Law and Human Rights Regulation concerning Trademark Registration stipulates that 'The application shall be rejected by the Minister if the trademark in question is essentially or wholly similar to: a well-known trademark owned by another party for similar goods and/or services, or a well-known trademark owned by another party for dissimilar goods and/or services that fulfil certain criteria (Lobo & Wauran, 2021).'

Moreover, stipulations concerning well-known trademarks are articulated in Article 18 of the Minister of Law and Human Rights Regulation on Trademark Registration:

1. The criteria for determining a well-known trademark as referred to in Article 16(2)(b) and (c) shall be determined by taking into account the general public's knowledge of the trademark in the relevant business field.
2. The public referred to in paragraph (1) consists of consumers or the general public who have a good relationship at the level of production, promotion, distribution, or sale of goods and/or services protected by the well-known trademark in question.
3. In determining the criteria for a trademark as a well-known trademark as referred to in paragraph (1), the following shall be taken into account:
    a. the level of public knowledge or recognition of the trademark in the relevant business field as a well-known trademark;
    b. the volume of sales of goods and/or services and the profits obtained from the use of the trademark by its owner;
    c. the market share controlled by the Trademark in relation to the circulation of goods and/or services in the community;
    d. the geographical scope of use of the Trademark;

e. the duration of use of the Trademark;
f. the intensity and promotion of the Trademark, including the value of investment used for such promotion;
g. registration of the Trademark or application for registration of the Trademark in other countries;
h. the level of success in enforcing the law in the field of Trademarks, particularly regarding the recognition of the Trademark as a well-known trademark by the competent authority; or
i. the value attached to the Trademark obtained due to the reputation and quality assurance of the goods and/or services protected by the Trademark.

Article 18 of the Regulation of the Minister of Law and Human Rights on Trademark Registration implies that the protection of well-known marks extends beyond the economic rights of the genuine trademark owner concerning a product. Moreover, safeguarding renowned trademarks, regardless of their registration status in Indonesia, seeks to protect customers who have a favourable association with the goods and/or services associated with that trademark. Thus, the safeguarding of renowned trademarks within Indonesian and worldwide legal systems seeks to preserve consumer rights, enabling individuals to obtain the products they desire without the fear of misjudgment due to rights infringement. Trademark infringement exploits the reputation of recognised trademarks for the advantage of the infringers, thereby posing a risk of consumer confusion during product selection (Saputro, Febriandika, et al., 2025).

Nonetheless, the stipulations in both the 2016 Trademarks Law and the Regulation of the Minister of Law and Human Rights on Trademark Registration have not comprehensively elaborated on the term well-known marks, nor have they instituted the necessary administrative and procedural criteria for a trademark to be classified as such (Lobo & Wauran, 2021). Article 18 of the Regulation of the Minister of Law and Human Rights on Trademark Registration delineates criteria for a well-known trademark; however, this raises additional questions about the methodology for evaluation and the entity with the authority to ascertain and designate 'well-known marks'. This must be further elaborated on to ensure that the philosophical foundation of trademark protection, specifically the protection of consumer rights, is adequately upheld, and, crucially, that the legal aim of trademark law to attain legal clarity is fulfilled (Pratiwi et al., 2023).

Regulations and Practices for the Protection of Well-Known Marks in India

Indian trademark law, as regulated by the Trade Marks Act 1999 and the Trade Mark Rules 2017 as its derivative rules, uses the phrase' well-known trademark' to refer

to the term 'famous trademark' (Bhat, 2018). The Trade Marks Act 1999 defines a famous trademark as follows:

> *Well known trade mark, in relation to any goods or services, means a mark which has become so to the substantial segment of the public which uses such goods or receives such services that the use of such mark in relation to other goods or services would be likely to be taken as indicating a connection in the course of trade or rendering of services between those goods or services and a person using the mark in relation to the first-mentioned goods or services.*

A well-known trademark is defined as one that has attained significant recognition among a considerable portion of the public that engages with the associated goods or services. Consequently, employing such a trademark alongside other goods or services is a sign of a relationship in the trade process or service provision between those goods or services and the renowned trademark (Roderick & Pollock, 2012).

The Trade Marks Act 1999 not only defines a well-known trademark but also mandates that the Trademark Registration Office of the Court consult established criteria when assessing the recognition of a trademark in India (Gomase et al., 2024). The parameters governing renowned trademarks within the framework of Indian trademark law are delineated in the Trade Marks Act of 1999, involving the following facets:

1. knowledge or recognition of the trademark in the relevant public sector, including knowledge of the trademark in India obtained as a result of trademark promotion;
2. the duration, extent, and geographical area of each use of the trademark;
3. the duration, extent and geographical area of each promotion of the trademark, including advertising or publicity and presentations, at exhibitions or fairs of goods or services where the trademark applies;
4. the duration and geographical area of each registration or each application for registration of the trademark under this Act insofar as it reflects the use or recognition of the trademark;
5. a record of the successful exercise of the rights to the trademark, in particular the extent to which the trademark has been recognised as a well-known trademark by a court or trademark registration office under that record.

The standards established for renowned marks under the Trade Marks Act 1999 provide a framework for trademark registration authorities and judicial bodies to assess a mark's prominence. Upon careful analysis, the standards for recognised marks articulated in Indian trademark legislation apply minor variations from those outlined in the WIPO Joint Recommendation Concerning Well-known Marks (Landy & Mastrobattista, 2008). The distinction between the Trade Marks Act 1999 and the WIPO Joint Recommendation Concerning Well-known Marks lies in the omission of the 'value associated with the trademark' component in the Trade Marks Act 1999.

This is comprehensible, as India, despite being a member of WIPO, is subject to the stipulations of the WIPO Joint Recommendation Concerning Well-known Marks, which indicates that the criteria outlined in the document serve merely as guidelines for member countries, allowing for alternative regulations under specific circumstances (Fernandes, 2014).

Moreover, the Trade Marks Act 1999 delineates specific elements that are excluded from consideration when assessing whether a trademark qualifies as well-known. These include (Rai, 1997):

1. the trademark has been used in India;
2. the trademark has been registered;
3. an application for trademark registration has been filed in India;
4. the trademark is widely known by the public in India.

The presence of established criteria for well-known trademarks, as outlined in the Trade Marks Act 1999, along with regulations delineating aspects that cannot be factored into their assessment, suggests that trademark law in India has meticulously structured the parameters governing well-known trademarks. India does not rely solely on its national standards to ascertain whether a trademark qualifies as a "well-known trademark." This stands in contrast to the Indonesian trademark law system, where the regulations lack clarity and explicitness regarding this issue. In the two judicial rulings referenced in the introduction, the term well-known trademarkis understood primarily as one recognised by the broader Indonesian public (Venkatasubramanian, 1979).

Several prominent trademark disputes in India illustrate that the definition of well-known trademarkextends beyond mere recognition among the general public in India and incorporates a broader, global perspective, as detailed below. Initially, we examine the case of Daimler-Benz Aktiengesellschaft v. Hybo Hindustan. In this instance, the Defendant was barred from utilising the 'BENZ' trademark in association with knickers products. The court determined that the plaintiff's trademark was not subject to challenge and could not be utilised by other entities for application to products owned by those entities. The court asserted that the plaintiff's 'BENZ' trademark is recognised as a prominent trademark both in India and globally concerning automobiles. Consequently, the court determined that permitting third parties to replicate and utilise the Plaintiff's trademark was unjust, considering the plaintiff's distinguished status (Sharma, 2018).

Secondly, the matter concerning Nokia Corporation & ORS versus Movieexpress & ORS. Plaintiff 1, Nokia Corporation, is an entity constituted and organised in accordance with Finnish legislation. In contrast, Plaintiff 2, Nokia India Private Ltd., is a corporation formed under the Companies Act of 1956 in India. Plaintiff 1 began offering products in India in 1995, providing advanced services in the telecommunications and infrastructure sectors, both directly and indirectly ('News on Patent, Trade Mark and Design Databases on the Internet', 2018).

In the interim, Moviexpress, designated as Defendant 1, operates as an advertising agency that promotes and sponsors new cinematic works, alongside mass media communications, including short films, advertising films, and various audiovisual aids. In the interim, Shailendra Cinemas, designated as Defendant 2, operates as a production entity engaged in filmmaking. The third defendant in this matter is Mr D. S. Rao, a producer within the film industry.

The matter commenced in March 2011, when Defendant 1 presented a proposal to the plaintiff's marketing team regarding in-film branding opportunities in various films to be produced by Defendants 2 and 3, specifically the film Mr Nokia. In June 2011, Plaintiff 2 declined Defendant 1's proposal, and the Plaintiffs were made aware of a press release issued by the Defendants, which indicated that the film Mr NOKIA was being managed by Defendant 2 and produced by Defendant 3. Consequently, the Plaintiffs promptly issued a Cease & Desist Notice to Defendant 2. In December 2011, the Plaintiffs received a notification that the Defendants had issued a press release announcing their intention to produce a film titled Mr Nokia. According to the Defendants' press statement, the plaintiffs emailed Defendant 3 requesting a title change for the Defendants' film. In response to the Plaintiffs' communication, the Defendants subsequently changed the title of the film to Mr NOOKAYYA.(Nam & Barnett, 2011).

In light of the particulars of the case and the plaintiffs' petition, the judge deliberated on various facets. The initial point examined by the judge pertained to the cease-and-desist letter dispatched by the plaintiffs to the defendants concerning the utilisation of the plaintiffs' trademark in the defendants' film. Furthermore, the plaintiffs allowed the defendants to amend the title of their film, as communicated through electronic correspondence. The judge remarked that the plaintiffs had demonstrated good faith by allowing the defendants to address the matter amicably (Rai, 1997; Venkatasubramanian, 1979).

The judge also contemplated the matter of whether the plaintiffs' trademark held the status of a well-known trademark. In this regard, the judge referenced the evidence presented by the plaintiffs, which demonstrated that the plaintiffs' 'NOKIA' trademark had been duly registered in multiple jurisdictions. The evidence further demonstrated the expenses borne by the Plaintiffs for the advertising and promotion of their trademarks and products, along with documentation of the numerous lawsuits initiated by the plaintiffs' concerning infringements of their trademarks across different jurisdictions. In light of the evidence presented by the plaintiffs, the judge affirmed that the NOKIA trademark held by the plaintiffs is recognised as a well-known trademark (Boadu, 2016; Roderick & Pollock, 2012).

The judge noted that the 'NOKIA' trademark held by the plaintiffs has developed significant goodwill and reputation on a global scale, which the defendants' actions have compromised. The erosion of the goodwill and reputation associated with

the plaintiffs' trademark by the defendants would result in the public being misled into thinking that the defendants' product, specifically the film titled 'Mr. NOOKAYYA', was produced by the plaintiffs. Furthermore, the judge stated in the ruling that the defendants are obligated to compensate the plaintiffs, as the defendants have illicitly acquired unjust profits derived from the plaintiffs' brand (Roderick & Pollock, 2012).

Section 11(8) of the Trade Marks Act 1999 stipulates that if a trade mark is recognised as well-known in at least one pertinent sector of the public in India by a court or a trade mark registration office, the registration office is obligated to regard that trade mark as well-known for registration purposes. This section stipulates that a trademark, although not yet registered, must be recognised as a well-known trademark for registration purposes if designated as such by a court or trademark registration agency. Consequently, it can be inferred that the Trade Marks Act 1999 protects unregistered well-known trademarks and facilitates the registration of such trademarks (Samaranayake, 2025b).

The Trade Marks Act 1999 not only offers administrative protection for renowned trademarks but also governs their protection through criminal measures. Section 103 of the Act delineates certain actions of trademark infringement that are subject to legal penalties, including the counterfeiting of any brand and the imitation of any trademarked product. Moreover, the clause mandates that such offences incur a minimum sentence of six months and a maximum of three years, accompanied by a fine ranging from INR50,000 to INR200,000. The phrase "any trade mark" in this provision encompasses well-known trademarks (Samaranayake, 2025b).

The Trade Marks Act 1999 comprehensively addresses nearly all facets of trademark protection. This is apparent from the provisions of the Trade Marks Act 1999 that regulate trademark protection across the administrative, civil, and criminal domains. Furthermore, the criminal prohibitions in the Trade Marks Act 1999 encompass all trademarks.

Trademark Law Reform for the Protection of "Well-Known Trademarks" based on Legal Certainty

The regulation and protection of renowned trademarks can be differentiated at both the international and national tiers. The regulation of renowned trademarks on an international scale is elaborated on in TRIPs (Landy & Mastrobattista, 2008). Article 16, paragraph (2) of TRIPs articulates that in assessing whether a trademark qualifies as well-known, it is imperative to evaluate the awareness of the trademark within the pertinent sector of society, encompassing the insights garnered by member countries through the promotional endeavours associated with the trademark in question (Boadu, 2016). Consequently, the protection of renowned trademarks has been unequivocally recognised worldwide, requiring every nation to implement legal protections for such trademarks, particularly in countries that have ratified relevant international agreements and conventions. Nonetheless, the TRIPs provisions lack a

definitive definition or criteria for well-known trademarks, resulting in significant variation in interpretations of what constitutes a well-known trademark across countries (Sharma, 2018).

At the national level, the regulations governing renowned trademarks are set out in the Trademark Law of 2001, as amended by the Trademark Law of 2016. Legal principles concerning trademarks are also elaborated in case law, specifically in Supreme Court Decision Number 274 PK/Pdt/2003. The Trademark Law of 2001 establishes well-known trademarks as a standard for trademark registration, prohibiting any trademark from bearing basic or complete resemblance to a well-known trademark, regardless of the dissimilarity of the goods or services involved. The Trademark Law of 2001 comprehensively governs well-known trademarks and serves as a criterion for denying requests to extend the protection period of registered trademarks (Syafira, 2021).

The 2001 Trademark Law defines a well-known trademark in the Elucidation of Article 6 (1), letter b, emphasising public awareness of the trademark and its esteemed reputation, cultivated through promotional efforts, investments across multiple countries, and substantiation of registration in various jurisdictions. Should this be deemed inadequate, an independent institution may undertake a survey (Sujatmiko, Romadhona, et al., 2024).

The framework for the regulation of established trademarks in the 2001 Trademark Law remains consistent with that of the 2016 Trademark Law. In this context, established trademarks serve as a standard in the trademark registration process, ensuring that there is no basic or complete resemblance to these recognised trademarks, regardless of the dissimilarity of the goods or services involved (Permata et al., 2019). In the context of well-known trademarks, the Trademark Law of 2016 stipulates that one must take into account the public awareness of the trademark and its reputation, established through promotional efforts, investments across multiple countries, evidence of registration in various jurisdictions, and assessments conducted by independent entities (Gunawan, 2023).

Table 1. Criteria for Well-known Trademarks in the Trademark Law of 2001, Trademark Law of 2016, and Legal Precedence

Indonesian Trademark Law of 2001	Indonesian Trademark Law of 2016	Legal precedence
Elucidation of Article 6 (1) letter b: - general public knowledge of the	Elucidation of Article 21(1)(b): - general public knowledge of the	Supreme Court Decision No. 274 PK/Pdt/2003: - the trademark has been registered and its stores

trademark in the relevant business field; - the reputation of the trademark obtained through intensive and large-scale promotion, investment from several countries around the world by the owner, accompanied by evidence of trademark registration in several countries; - surveys by independent institutions related to the trademark.	trademark in the relevant business field; - the reputation of the trademark obtained through intensive and extensive promotion, investment from several countries around the world by its owner, accompanied by evidence of trademark registration in several countries; - surveys by independent institutions related to the trademark.	are found in many countries; - the trademark has been in use for a significant amount of time; - the trademark has a reputation for quality. Supreme Court Decision No. 1486 K/ PDT/1991: - the trademark has been distributed beyond regional boundaries and even beyond national boundaries; - the trademark has been registered in many countries worldwide, so it has been distributed beyond the boundaries of its country of origin.

Source: Authors analysis, 2026

The table shows that the definitions and standards for well-known trademarks in the Indonesian trademark legal framework, as well as those derived from judicial rulings, remain ambiguous. The stipulations outlined in the two most recent trademark laws, the Trademark Law enacted in 2001 and its subsequent 2016 iteration, lack clarity in elaborating on the parameters concerning well-known trademarks. Considerations regarding public awareness of a specific trademark, its reputation, and the requisite evidence of registration across multiple jurisdictions are ongoing concerns in evaluating a trademark's status as well-known (Gultom et al., 2024).

Consequently, the judiciary, as the entity responsible for resolving specific legal matters, warrants examination in instances concerning well-known trademarks. Included in this array of decisions is Supreme Court Decision No. 274 PK/Pdt/2003. The Supreme Court, in its examination of the Prada trademark case, found that the trademark had significant recognition due to its registration and the presence of its stores across various regions, including Europe, ASEAN, Asia, Asia Pacific, Africa, and the United States. The Supreme Court examined the historical context of the trademark, which has been in use since 1913, noting its considerable age and established reputation for quality, as part of its deliberations in designating Prada as a well-known trademark (Roisah & Setiyono, 2019).

In the context of the Indonesian Supreme Court's ruling No. 1486 K/PDT/1991, it is articulated that a brand attains the status of well-known when it transcends regional confines and extends into transnational territories. Consequently, should it be established that a brand has achieved registration in numerous countries globally, it may be deemed a well-known brand, as it has transcended the boundaries of its country of origin.(Rojali, 2024)

The author articulates that the current framework of Indonesian trademark law lacks robust legal protection for "well-known marks," particularly in terms of legal certainty. This is because, while Indonesian trademark law includes provisions regarding "well-known marks," these provisions often prove perplexing and illogical in their application in disputes concerning such marks. This situation is undoubtedly at odds with contemporary legal principles, which stipulate that legislation should be made clear and minimise ambiguity to guarantee legal certainty (Marcellinno & Fathoni, 2023)

This is in stark contrast to the trademark legal framework in India, where regulations clearly state that the designation well-known trademarkmust be based on the trademark's international standing, irrespective of its registration status under the Trademark Act of 1999. Moreover, India disallows the construal of renowned trademarks as being confined to elements of nationality in the following manners: a. the trademark has been utilised in India; b. the trademark has been officially registered; c. a request for trademark registration has been submitted in India; d. the trademark is broadly recognised by the public in India (Roderick & Pollock, 2012; Sharma, 2018).

India's trademark legal framework protects "well-known trademarks" by thoroughly evaluating their global reputation and disallowing interpretations that are confined to regional or national contexts (Rai, 1997). Consequently, to propose a reform of trademark law aimed at protecting "well-known trademarks" with legal clarity, the author puts forth the subsequent definition of a well-known trademark:

> *Well known trade mark, in relation to any goods or services, means a mark which has become so to the substantial segment of the public which uses such goods or receives such services that the use of such mark in relation to other goods or services would be likely to be taken as indicating a connection in the course of trade or rendering of services between those goods or services and a person using the mark in relation to the first-mentioned goods or services.*

A well-known trademark is defined as one that has gained significant recognition among a considerable segment of the public utilising the relevant goods or services. Thus, utilising such a trademark in association with different goods or services is likely to be perceived as a sign of a relationship, during commerce or service providing, between those goods or services and the renowned trademark (Howell, 2008).

The Trade Marks Act 1999 not only defines a well-known trademark but also stipulates that the Trade Marks Registry must use specified criteria while assessing a

trademark's recognition in India (Li, 2010). The conditions for renowned trademarks under Indian trademark law are elaborated in the Trade Marks Act of 1999, encompassing the following aspects:

1. awareness or recognition of the trade mark in the relevant public sector, including awareness of the trade mark in India resulting from the promotion of the trade mark;
2. the duration, scope, and geographical area of each use of the trade mark;
3. the duration, scope, and geographical area of any promotion of the trade mark, including advertising or publicity and presentations at exhibitions or fairs of goods or services where the trade mark is in use;
4. the duration and geographical scope of any registration or any application for registration of the trade mark under this Act, insofar as this reflects the use or recognition of the trade mark;
5. a record of the successful enforcement of rights in respect of the trade mark, in particular the extent to which the trade mark has been recognised as a well-known mark by the courts or the trade mark registration office under that record.

The criteria for well-known trademarks set out in the Trade Marks Act 1999 guide the Trademarks Registry and the courts in Indonesia in determining a trademark's renown. The above norm is followed by a prohibition on the protection of well-known trademarks, which is defined as follows (Medury, 2019):

1. the trademark has been used in Indonesia;
2. the trademark has been registered in Indonesia;
3. An application for trademark registration has been filed in Indonesia.
4. The Indonesian public widely knows the trademark.

Nonetheless, regardless of the criteria for well-known trademarks, the insight from India applicable to the reform of well-known trademark protection resides in the administrative acknowledgement of well-known trademarks, wherein a state authority recognises well-known marks either via judicial proceedings or through a trademark registration office. The trademark registration office is obligated to regard that trademark as well-known for registration purposes (Choudhary, 2010). The expectation is that a trademark, although not yet registered, but recognised by a court or a trademark registration authority as a well-known brand, should be considered a well-known trademark for registration purposes (Bereskin, 2023).

Moreover, India's criminal provisions on trademarks merit consideration for incorporation into the national trademark legal framework, given that they apply not only to registered trademarks but also to infringements involving unregistered trademarks. Unlike India, Indonesia applies criminal sanctions solely to violations of registered trademarks, as elaborated in Article 100 (1) and (2) of the 2016 Trademarks and Geographical Indications Law (Naser, 2008).

Consequently, in the context of trademark law reform concerning the protection of well-known trademarks, the author proposes revising the Trademarks and Geographical Indications Law to include a definition of well-known trademarks in the national Trademark Law, taking cues from India, where future amendments to the Trademarks and Geographical Indications Law requires the following definition:

> Well-known trademarkmeans a trade mark that is widely recognised by the majority of the public who use the goods or receive the services in question, such that the use of that trademark in connection with other goods or services is likely to be regarded as an indication of a connection, in the course of trade or the provision of services, between those goods or services and the party using the trade mark.

Concerning the interpretation of the well-known trademark clause, one must evaluate the degree of its renown and the conditions necessary for its precise definition. This is also evident in the requirements for renowned trademarks elaborated in the Indian Trade Marks Act 1999, which encompass (Sun, 2015a):

1. the recognition or awareness of the trade mark in the relevant public sector, including awareness of the trade mark in India resulting from the promotion of the trade mark;
2. the duration, scope, and geographical area of each use of the trade mark;
3. the duration, scope, and geographical area of any promotion of the trade mark, including advertising or publicity and presentations at exhibitions or fairs of goods or services where the trade mark is in use;
4. the duration and geographical scope of each registration or each application for registration of the trade mark under this Act, insofar as this reflects the use or recognition of the trade mark;
5. a record of the successful enforcement of rights in respect of the trade mark, in particular the extent to which the trade mark has been recognised as a well-known mark by the courts or the trade mark registration office under that record.

The final section elucidates that a well-known trademark must demonstrate a "Record of successful enforcement of trademark rights, particularly regarding its recognition as a well-known trademark by the courts or the trademark registration office" (Medury, 2019).

Indonesian trademark regulations accommodate the "recognition of a trademark as a well-known trademark by the competent authority" in Regulation of the Minister of Law and Human Rights No. 67 of 2016; however, the specific authority responsible for this recognition, whether the Directorate General of Intellectual Property (DJKI) or another entity, has not been explicitly identified. In India, the Trade Marks Act 1999 explicitly stipulates that the courts or the trademark registration office conduct such recognition.

This prompts a critical inquiry: What would be the ramifications if the stipulations regarding well-known trademarks were clarified, specifically the definition and criteria for such trademarks? The future Trademark Law's clarification of the definition and criteria for well-known trademarks will streamline the trademark registration process by providing clear grounds for rejecting applications that are similar to a well-known trademark. Consequently, business operators and trademark applicants must assess whether their proposed trademark resembles a well-known trademark prior to registration, thereby enhancing legal certainty (Marcellinno & Fathoni, 2023).

Nonetheless, the disagreements on the definition of well-known trademarks and their requirements will bear no consequences, as Article 83 of the Trademarks and Geographical Indications Law stipulates the following concerning trademark infringement or claims of infringement:

> *The owner of a registered trade mark and/or the licensee of a registered trade mark may bring an action against any other party who, without authorisation, uses a trade mark that is substantially or entirely similar to that trade mark in relation to goods and/or services of the same kind, in the form of:*
> *a. a claim for damages; and/or*
> *b. an injunction against all acts relating to the use of the trademark."*

Section 83 of the TradeMarks and Geographical Indications Law exclusively addresses registered trademarks; hence, well-known unregistered trademarks receive diminished protection under this section in cases of trademark infringement. Consequently, it is essential to include provisions on trademark protection from India that safeguard both registered and unregistered trademarks, especially the criminal provisions in Section 103 of the Trade Marks Act 1999, which govern specific acts of trademark infringement subject to legal penalties, including counterfeiting any trademark or trademarked product. The phrase "any trademark" in these sections includes well-known trademarks (Alsalamat et al., 2025).

Consequently, legislation to protect renowned trademarks, informed by legal certainty and lessons from India, can be enacted by amending the Trademarks Law to incorporate definitions and criteria for well-known trademarks. Moreover, the administrative framework for the recognition of well-known trademarks should be established; in this context, the author posits that such recognition ought to be conferred by the 'Directorate General of Intellectual Property', considering the stipulations concerning the criteria for well-known trademarks, while also revising the definition of trademark infringement to reflect that infringement encompasses not only 'registered trademarks' but also well-known trademarks that, although unregistered, have already received such recognition.

CONCLUSION

After a thorough examination of the research results and discussions, this paper concludes that the justification for safeguarding 'well-known marks' in Indonesia, regardless of their registration status, extends beyond the economic interests of trademark proprietors. This sort of protection is essential to protect customers from the risks of selecting inappropriate items due to trademark infringement or the exploitation of the esteemed reputation of a well-known mark for financial gain. Secondly, the legislative framework governing the protection of renowned trademarks in Indonesia is confusing and seemingly illogical. Starting with the meaning and breadth of public recognition, which remain unregulated in the 2016 Trademark Law, we analysed diverse judicial decisions that vary in their interpretation of 'well-known marks' under Indonesian trademark law. This circumstance stems from inconsistent laws. This sharply contrasts with India, where the Trade Marks Act of 1999 has meticulously and precisely delineated the concept of 'well-known marks' and their qualifications. The Act explicitly forbids restrictive interpretations of 'well-known marks', thereby narrowly defining them based solely on their use, registration, and administrative acknowledgement by courts or the trademark registration office within the Indian legal system. In India, the concept of 'well-known marks' necessitates a comprehensive approach that considers international recognition or the prominence of a brand in multiple countries. Consequently, amending trademark law to strengthen the protection of 'well-known marks' within the Indonesian legal framework is essential for providing legal certainty. Potential adaptations for the Indonesian trademark law structure, as learned from the Indian model, encompass three aspects: *First*, clarifying the concept of 'well-known marks' as delineated in the 2016 Trademarks Law, together with the conditions for such trademarks; *second*, integrating the safeguarding of 'well-known marks' within an administrative structure via the acknowledgement of 'well-known marks' by the Directorate General of Intellectual Property; *third*, redefining trademark infringement to encompass not only 'registered trademarks' but also a violation of trademark rights in a broader context, including 'well-known marks.'

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