

Civil Liability for the Practice of Closing Brand Labels on Hijab Fashion Products Based on Law Number 20 of 2016 concerning Trademarks

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ABSTRACT

The practice of closing brand labels or *cutting labels* on hijab fashion products is a form of using brands without rights that is still found in trade activities. This action is carried out by removing or closing the original brand label and recirculating the product without the consent of the registered trademark owner, thus potentially causing losses to the trademark rights holder. This study aims to analyze civil liability for perpetrators of the practice of closing brand labels based on Law Number 20 of 2016 concerning Trademarks and Geographical Indications. The research method used is normative legal research with a legislative approach and a conceptual approach, especially the provisions of Article 83 paragraph (1) of the Trademark Law. The results of the study show that the practice of label cutting is an act that violates the exclusive rights of the brand owner and causes losses both materially and immaterially. Based on the provisions of Article 83 of the Trademark Law, the trademark owner has the right to demand compensation and request the termination of all acts related to the trademark infringement. The conclusion of the study confirms that civil liability has an important role in providing effective legal protection for brand owners as well as maintaining legal certainty and justice in the trade of hijab fashion products.

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1. INTRODUCTION

The development of the fashion industry in Indonesia, especially in the Muslim fashion segment such as hijab, shows significant growth in line with increasing market demand and the use of digital trading platforms. This dynamic not only opens up economic opportunities for business actors, but also raises various legal issues in the practice of product distribution and marketing (Fitriliana et al., 2024).

One of the problems that often occurs is the practice of closing brand labels or *label cutting*, which is the act of removing or closing the original brand label on a product and redistributing it without the consent of the registered trademark owner. This practice is an important issue because it is directly related to the protection of intellectual property rights and legal certainty in trade activities.

In the context of brand law, a trademark does not only function as a distinguishing mark of a product, but also represents reputation, quality assurance, and consumer trust in business actors (Lekosono et al., 2023). Therefore, brand protection has a strategic role in creating a healthy and fair business climate. Law Number 20 of 2016 concerning Trademarks and Geographical Indications was established to provide legal protection for registered trademark owners from various forms of use without rights. However, in practice, trademark infringement is not always in the form of outright counterfeiting, but can also be done through more hidden means such as *label cutting*, which is often difficult to detect and prove (Safira & Gultom, 2023).

A number of previous studies have shown that the practice of closing brand labels is carried out in bad faith and has the potential to cause economic losses and reputational damage for brand owners (Dharmawan et al., 2023; Rahadiyanti & Toreh, 2023). On the other hand, there is a view that considers that the practice is often seen as a purely business problem and has not been fully understood as a violation of the law that gives rise to civil liability. This difference of views shows that there is room for discourse on the extent to which civil liability mechanisms can be effectively applied to perpetrators *label cutting* within the framework of brand law.

Based on these conditions, this study aims to analyze civil liability for the practice of closing brand labels on hijab fashion products based on the provisions of the Trademark Law, especially Article 83. This research emphasizes the importance of civil lawsuits as an instrument of legal protection for aggrieved registered trademark owners. Through a normative legal approach, this research is expected to provide a comprehensive understanding of the legal position of brand owners and emphasize the role of civil liability in maintaining legal certainty and justice in the trade of fashion products.

2. METHODS

This research uses a normative legal research approach with a doctrinal juridical character. This approach was chosen because the research focused on the analysis of written legal norms that govern brand protection and civil liability for trademark infringement, especially the practice of *label cutting* on hijab fashion products. Normative legal research places law as a norm or rule that becomes a guideline for behavior, so it is relevant to examine the conformity between the provisions of Law Number 20 of 2016 concerning Trademarks and Geographical Indications with practices that occur in trade activities.

The subject of the study in this study is the legal norms that regulate the rights and obligations of brand owners and business actors, with the object of research in the form of the provisions of Article 83 of the Trademark Law which regulates civil lawsuits for trademark infringement. The research does not involve respondents or informants directly, but rather focuses on legal materials as the main source of analysis.

The research procedure is carried out through several stages, namely the identification of legal issues related to the practice of closing brand labels, the collection of legal materials, and the review and interpretation of relevant legal norms. The legal materials used consist of primary legal materials in the form of laws and regulations, especially Law Number 20 of 2016 concerning Trademarks and Geographical Indications, as well as secondary legal materials in the form of legal textbooks, scientific journals, and academic publications that discuss brand protection and civil liability. Tertiary legal materials are used on a limited basis to help understand certain legal terms and concepts.

The data collection technique is carried out through literature studies by searching, reading, and reviewing legal materials that are relevant to the focus of the research. All collected legal materials are then analyzed using qualitative analysis techniques with deductive reasoning methods, namely drawing conclusions from general legal norms towards their application to the practice of closing brand

labels. This analysis is directed to assess the extent to which the provisions of Article 83 of the Trademark Law can be used as a basis for civil liability against *label cutting actors* as well as to explain the form of legal protection that registered trademark owners can obtain.

3. FINDINGS AND DISCUSSION

The Practice of Closing Brand Labels on Hijab Fashion Products Is a Form of Trademark Infringement That Can Be Filed Civil

Based on the results of a normative study on Law Number 20 of 2016 concerning Trademarks and Geographical Indications, the practice of closing brand labels (*label cutting*) on hijab fashion products can be qualified as a form of trademark use without rights. The act directly removes the identity of the registered trademark that should be attached to the product in circulation, thus depriving the trademark owner of the exclusive right to control the use of his trademark in trade activities.

The practice of *label cutting* also shows the existence of bad faith from business actors, because it is carried out with commercial purposes to redistribute products with different identities. This condition is contrary to the principle of brand protection which gives the registered trademark owner the right to sue civilly for any act related to the use of the trademark without a license, as stipulated in Article 83 paragraph (1) of the Trademark Law.

Table 1. Qualification of Cutting Label Practices as Trademark Infringement

Elements	Facts Practice Label Cutting
Objects	Registered branded hijab fashion products
Deeds	Closure or removal of original brand labels
Perpetrators	Reseller or distributor
Trademark Owner	None
Permissions	
Impact	Loss of brand identity and potential losses

Based on Table 1, it can be seen that all elements of trademark infringement are met, ranging from the existence of objects in the form of branded products to acts of unauthorized use. The absence of permission from the trademark owner is the main factor that confirms that the practice is not legally justified.

Thus, the practice of closing brand labels cannot be viewed as an ordinary business strategy, but rather as an act that violates the civil rights of trademark owners. This provides a strong legal basis for trademark owners to file a civil lawsuit as stipulated in Article 83 of the Trademark Law.

Registered Trademark Owners Have the Right to Claim Civil Liability for Losses Due to Trademark Label Closure Practices

The results of the study show that Article 83 of the Trademark Law provides a wide space for registered trademark owners to demand civil liability against label cutting perpetrators. These rights include filing a lawsuit for damages and requesting the termination of all acts related to trademark infringement. This civil lawsuit serves as an instrument for the restoration of rights and protection of the economic interests of brand owners.

The losses arising from the practice of closing brand labels are not only material, such as the loss of potential sales profits, but also immaterial, in the form of reputational damage and decreased consumer trust. Therefore, civil liability is a relevant means of demanding proportionate recovery for the losses suffered by brand owners.

Table 2. Types of Brand Owners Losses Due to Label Cutting

Types of Losses	Forms of Loss
Material	Decreased turnover and potential profits
Immaterial	Damage to reputation and brand image
Commercial	Loss of distribution control
Consumers	Declining market confidence

Table 2 shows that the losses due to *label cutting practices* are multidimensional. Material and immaterial losses are interrelated and strengthen the position of the trademark owner in filing a civil lawsuit based on Article 83 of the Trademark Law.

Thus, civil liability is not only oriented towards providing financial sanctions, but also aims to restore the legal standing of the trademark owner and maintain the integrity of the trademark protection system in trade activities.

Lawsuits for Damages and Termination of Acts Are Relevant Forms of Civil Liability for Label Cutting Practices

The results of the analysis show that the most relevant forms of civil liability for the practice of closing brand labels are lawsuits for damages and requests for termination of actions. Article 83 of the Trademark Law explicitly gives the authority to trademark owners to sue for both forms of protection as an effort to recover due to trademark infringement.

Termination of the act has a preventive function to prevent greater losses in the future, while compensation serves as compensation for losses that have already occurred. These two forms of accountability complement each other and reflect the principle of justice in civil law.

Table 3. Form of Civil Liability Based on Article 83 of the Trademark Law

Form of Accountability	Purpose
Indemnity	Recovery of loss of brand owners
Cessation of acts	Prevent repeat violations
Product recall	Stop the circulation of problematic products
Reputation restoration	Maintain brand image

Table 3 shows that civil liability is not only oriented to the financial aspect, but also includes corrective action against the circulation of infringing products. This shows the character of brand protection that is comprehensive.

Thus, the application of civil liability based on Article 83 of the Trademark Law is an effective mechanism to provide legal protection for brand owners while creating legal certainty in the trade of hijab fashion products.

Discussion

The results of this study directly answer the purpose of the research that has been formulated in the introduction, which is to analyze civil liability for the practice of closing brand labels on hijab fashion products. The findings show that *label cutting* is a form of use of the trademark without rights that has an impact on the violation of the exclusive rights of the registered trademark owner. Normatively, this condition places Article 83 of the Trademark Law as the main instrument of civil protection for trademark owners (Sufilah, 2021). The findings also reinforce the view that trademark law not only regulates the administrative aspects of registration, but also regulates the civil relationship between the trademark owner and the aggrieved party (Novita, 2019). Thus, this study confirms the relevance of the civil lawsuit mechanism in answering the complexity of trademark infringement in the fashion sector. This implication suggests that the legal purpose of the trademark is aligned with the protection of the economic interests of the trademark owner. This protection is important in the context

of modern trade based on a wide distribution network. Therefore, the results of this study affirm the legal position of trademark owners in civil disputes. This shows that civil liability has adequate accountability for the practice *label cutting*.

An interpretation of the first finding shows that the practice of closing brand labels is closely related to the concept of bad faith. From a civil law perspective, bad faith is reflected in the perpetrator's intentionality in eliminating the brand identity for commercial gain. This condition is in line with the view that trademark infringement is not always carried out through open counterfeiting, but also through manipulation of product identity (Jamillah, 2017). These findings reinforce the argument that *label cutting* is not a neutral act, but an act that violates propriety in trade. Thus, the use of Article 83 of the Trademark Law becomes relevant to demand the restoration of the rights of the trademark owner. This approach shows that trademark law has both moral and economic dimensions. This dimension serves to protect consumer trust in the brand. Therefore, civil liability is an important means of corrective action. This shows the rationality of the application of civil lawsuits. This view is in line with the objective of substantive brand protection (Septarina & Salamiah, 2020).

The findings regarding the losses suffered by the brand owner show that the losses due to *label cutting* is complex. Material losses in the form of decreased turnover are often accompanied by immaterial losses in the form of damage to brand reputation (Sulaiman et al., 2020). This study interprets that the two types of losses are interrelated and cannot be rigidly separated. This view is in line with the theory of damages in civil law that recognizes immaterial damages as part of a lawsuitable loss (Pasaribu & Hasyim, 2018). Thus, Article 83 of the Trademark Law provides an adequate legal basis to claim proportionate compensation. These findings show that trademark law adopts a comprehensive approach to protection. The protection is not solely oriented to the financial aspect. Therefore, a civil lawsuit becomes a relevant instrument to restore the legal position of the trademark owner. This approach strengthens the function of justice in civil law. It also affirms the legal character of a trademark as part of private law (Hasanah & Permana, 2025).

When compared to previous research, the results of this study are consistent with the view that the practice of *label cutting* is a form of trademark infringement that harms the rights owner. Some studies highlight trademark infringement from a criminal perspective, while this study places a focus on civil liability (Istiwati, 2022). This difference in focus shows that there is a diversity of approaches in brand law enforcement. This research complements the previous study by emphasizing the function of recovering losses through civil mechanisms. Thus, the contribution of this research lies in strengthening the discourse on brand civil protection. This approach is also in line with the view that civil law is more flexible in resolving business disputes. Such flexibility is important in the context of a dynamic fashion trade. Therefore, this study expands the understanding of alternative brand law enforcement. This view is in line with the literature that emphasizes the role of civil law in intellectual property disputes (Lubis & Rahaditya, 2023). Moreover, these results are consistent with the principle of restorative justice in private law (Puteri & Santoso, 2023).

An important difference between this study and some other studies lies in the emphasis on termination of acts as part of civil liability. Many studies focus more on compensation as the main sanction. This study shows that cessation of acts has a significant preventive function (Putra & Santoso, 2023). This function prevents repeated losses for brand owners. This approach is in line with the brand's legal goal of maintaining trade order. Thus, Article 83 of the Trademark Law not only functions repressively, but also preventively. This view expands the interpretation of the civil lawsuit mechanism. This shows that brand protection is sustainable. This preventive approach has rarely been discussed in depth in previous research. Therefore, these findings provide academic added value (Nashir, 2023). A similar view is also found in the study of business competition law.

The results of the study also show that the practice *label cutting* reflects weak oversight in the distribution chain of fashion products (Aslam & Mulya, 2025). These findings have broader implications for trade governance. When distribution supervision is not optimal, the chances of trademark infringement are even greater. In this context, civil liability serves as a correction mechanism

for these structural weaknesses. This research interprets that trademark law does not stand alone, but rather is related to the trading system as a whole. Thus, the implications of the research results go beyond the individual relationship between the brand owner and the infringer. Brand protection is part of efforts to create healthy business competition. This view is in line with the literature that emphasizes the role of brand law in maintaining market fairness (Hafsari, 2021). Therefore, the results of this study have policy relevance. Consequently, the enforcement of Article 83 of the Trademark Law needs to be supported by effective distribution supervision. This shows the linkage between civil law and economic policy (Syafira, 2021)).

From the perspective of the research objectives, these findings successfully explain why civil liability is such an important instrument in brand protection. The results of the study show that civil lawsuits provide space for trademark owners to fight for their rights rationally and proportionately. This approach is in line with the character of civil law which emphasizes the balance of interests of the parties (Ajeng Ayu, 2023). This study also shows that the civil mechanism is more adaptive to variations in the form of trademark infringement. This adaptivity is important in dealing with practice *label cutting* which is disguised. Thus, the results of the study support the initial objectives of the research substantially. The normative approach used has proven effective in explaining contemporary legal issues. This strengthens the methodological legitimacy of the research. Therefore, this research can be used as an academic reference in the study of trademark law. This view is in line with modern normative law theory (Saraswati et al., 2024). Moreover, these results are consistent with the Indonesian intellectual property law literature (Setiyawati et al., 2025).

The practical implications of the results of this study can be seen in the potential to increase the awareness of brand owners to take the civil route. Many brand owners are still reluctant to file a civil lawsuit because it is considered complex. This research shows that Article 83 of the Trademark Law provides a clear and applicable legal basis (Angeliqa & Andriani, 2020). Thus, the results of this study can encourage the optimization of the use of civil mechanisms. This also has an impact on increasing business actors' compliance with trademark laws. When the risk of civil lawsuits increases, the practice of *label cutting* become less profitable. This approach is in line with the preventive function of civil law. Therefore, this research has significant policy implications. These implications are relevant for policymakers and law enforcement. This view is in line with the study of the effectiveness of civil sanctions. In addition, these results support a remediation-based brand protection approach (Santyaningtyas et al., 2023).

As a closing discussion, this study opens up space for more in-depth follow-up research. The next research can examine the effectiveness of commercial court decisions in *label cutting cases*. In addition, an empirical study of business actors' behavior towards the risk of civil lawsuits is also important. The empirical approach can complement the normative findings of this study. Thus, the discourse on brand protection has become more comprehensive. Further research can also compare the application of Article 83 of the Trademark Law in various industrial sectors. This will enrich the understanding of the character of brand infringement. Thus, the results of this research are open and progressive. This approach is in line with the dynamic nature of legal science. Therefore, the contribution of this research is relevant for the development of trademark law in the future. In addition, these findings support the importance of strengthening trademark civil protection in Indonesia.

4. CONCLUSION

This study aims to analyze civil liability for the practice of closing brand labels (*label cutting*) on hijab fashion products based on the provisions of Law Number 20 of 2016 concerning Trademarks and Geographical Indications. Based on the results of the research and discussion, it can be concluded that the practice of closing brand labels is a form of using a trademark without rights that violates the exclusive rights of the registered trademark owner. Such actions not only intentionally eliminate brand identity, but also cause material and immaterial losses to brand owners.

Article 83 of the Trademark Law provides a clear legal basis for trademark owners to demand civil liability against label cutting perpetrators, both in the form of a lawsuit for compensation and a request for termination of the act. This civil liability mechanism has an important role as a means of restoring the rights and protection of the economic interests of brand owners, as well as a preventive instrument to prevent the recurrence of trademark infringement in the future. Thus, civil protection in trademark law is not only repressive, but also serves to maintain legal certainty and justice in trade activities.

This study also shows that civil liability has strong relevance in dealing with covert and complex forms of trademark infringement, such as *label cutting practices*. Therefore, the strengthening of understanding and implementation of the civil lawsuit mechanism needs to be encouraged, both by brand owners and law enforcement officials. For further research, it is recommended to conduct an empirical study on the effectiveness of commercial court decisions in trademark infringement cases related to label closure, as well as a comparative analysis of the application of trademark civil liability in other industrial sectors to enrich the development of trademark law in Indonesia.

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