

Bibliography

Laws and Regulations

The 1945 Constitution

Indonesian Civil Code

Law No. 31 of 2000 on Industrial Design

Law No. 15 of 2001 on Marks

Law No. 11 of 2008 on Electronic Information and Transaction

Law No. 28 of 2014 on Copyright

Law No. 20 of 2016 on Marks and Geographical Indications

Presidential Decision No. 15 Year 1997 concerning the Amendment of Presidential Decision No. 24 1979 concerning the Ratification of Paris Convention for the Protection of Industrial Property and Convention Establishing the World Intellectual Property Organization.

Government Regulation No. 80 of 2019 concerning Trade through Electronic System

Ministry of Law and Human Rights No. 67 of 2016 on Mark Registration

Indonesia Supreme Court's Decision Number 29 PK/Pdt.SusHKI/2016

International Laws, Conventions, and Guidelines

Agreement on Trade-Related Aspects of Intellectual Property Rights 1994

‘Paris Convention for the Protection of Industrial Property’
<<https://www.wipo.int/treaties/en/ip/paris/>>

United Nations General Assembly, *Universal Declaration of Human Rights (UDHR)* (217 (III) A, 1948)

‘United States of America. U.S. Trademark Act of 1946, 15 §§ 1051 et Seq.’
(*WIPO*)

Books

Adi R, *Metodologi Penelitian Sosial Dan Hukum* (Cet 2, Indonesia Crisis Center 2004)

Altschuler BE, Sgroi CA and Ryniker MR, *Understanding Law in a Changing Society* (3rd ed, Taylor and Francis 2016)

Bhat PI, ‘Comparative Method of Legal Research: Nature, Process, and Potentiality’ in P Ishwara Bhat, *Idea and Methods of Legal Research* (Oxford University Press 2020)
<<https://academic.oup.com/book/41749/chapter/354159472>> accessed 25 May 2023

Dadhe A, *Research Methodology* (First Edition, DrArchana Dadhe 2016)

Introduction to Trademark Law & Practice: The Basic Concepts (Rev ed, WIPO 1989)

Marzuki PM, *Penelitian Hukum* (Edisi revisi, Cetakan ke-14, Kencana 2019)

Muhaimin, *Metode Penelitian Hukum* (Mataram University Press 2020)

Ninth Circuit and Jury Instructions Committee, *Manual of Model Civil Jury Instructions for the District Courts of the Ninth Circuit* (2017 Print, 2017)

Soerjono Soekanto and Mamudji S, *Penelitian hukum normatif* (Cetakan ke-17, Rajawali Pers 2015) <<https://opac.perpusnas.go.id/DetailOpac.aspx?id=1174906>>

Utomo TS, *Hak Kekayaan Intelektual (HKI) Di Era Global: Sebuah Kajian Kontemporer* (Ed 1, cet 1, Graha Ilmu 2010)

Walliman N, *Research Methods: The Basics* (Routledge 2011)

World Intellectual Property Organization, *WIPO Intellectual Property Handbook : Policy, Law and Use* (Second edition, WIPO Publication 2004)
<https://www.wipo.int/edocs/pubdocs/en/intproperty/489/wipo_pub_489.pdf>

Journal Articles

Buccafusco C and Fromer JC, ‘Fashion’s Function in Intellectual Property Law’ (2017) 93 Notre Dame Law Review 51

Chung D, ‘Law, Brands, and Innovation: How Trademark Law Helps to Create Fashion Innovation’, (2018) 17 John Marshall Review of Intellectual Property Law 491

Doan AP and others, ‘NFTs: Key U.S. Legal Considerations for an Emerging Asset Class’ (2021) 38 Journal of Taxation of Investments 63

Dubey Y, ‘The Role of IPR in Fashion Industry’ (2022) 10 International Journal for Research in Applied Science & Engineering Technology (IJRASET)

<<https://www.ijraset.com/best-journal/the-role-of-ipr-in-fashion-industry>>
accessed 17 May 2023

Eberle EJ, 'The Methodology of Comparative Law' (2011) 16 Roger Williams
University Law Review 51

Ferrill E and Tanhehco T, 'Protecting the Material World: The Role of Design
Patents in the Fashion Industry' (2011) North Carolina Journal of Law and
Technology 12 251

Finguerra-DuCharme D, Noh M and Saady N, 'NFTs and Blockchain-Enabled
Goods Are Not Above the Law' [2023] New York Law Journal

Justin H, 'The Philosophy of Intellectual Property' (1988) 77 The Georgetown
Law Journal 287

Frymark JC, 'Trademark Dilution: A Proposal to Stop the Infection from
Spreadig' (2003) 38 Valparaiso Univerisity Law Review 165

Kuncheria J, 'Trademark Law - Determining a Likelihood of Confusion - The
Southern District of New York Improperly Denies Preliminary Injunction Due to
Its Misconstruction of the Relevant Standard and Misapplication of the Polaroid
Factors' (2008) 73 Journal of Air Law and Commerce 97

Khoury AH, 'Three-Dimensional Objects as Marks: Does a Dark Shadow Loom
over Trademark Theory' (2008) 26 Cardozo Arts & Entertainment Law Journal
355

Peguera M, 'Trademark Functions and Trademark Rights' [2014] SSRN
Electronic Journal <<https://www.ssrn.com/abstract=3693270>> accessed 21 May
2023

McColum A, 'Treating Non-Fungible Tokens As Digital Goods Under the
Lanham Act' (2023) 63 The Law Review of the Franklin Pierce Center for IP 415

McKenna MP and Osborn L, 'Trademarks and Digital Goods' (2017) 97 Notre
Dame Law Review
<https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2929589> accessed 20
October 2023

Mewies S, 'Legal Implications of the Looming NFT Boom Opinion: Company,
Consumer, and Contract' (2022) 165 Solicitors' Journal 14

Multazam MT, 'Exploring the Legal and Policy Implications of Non-Fungible
Tokens' (2022) 4 Jurnal Politik dan Pemerintahan Daerah 293

Rawlins KC, 'Likelihood of Dilution by Blurring: A Circuit Comparison and
Empirical Analysis' (2008) 16 Texas Intellectual Property Law Journal 385

Sandberg SC, 'Trade Dress: What Does It Mean?' (2009) 29 Franchise Law Journal

Schechter FI, 'The Rational Basis of Trademark Protection' (1927) 40 Harvard Law Review

Shahrullah RS, Amboro FYP and Marlina V, 'Reviewing The Approaches of Indonesia To Trademark Dilution Doctrine' (2023) 7 Syiah Kuala Law Review 68

Shpetner MA, 'Determining A Proper Test for Inherent Distinctiveness in Trade Dress' (1998) 8 Fordham Intellectual Property, Media and Entertainment Law Journal 947

Vaughan-Jones J, 'Fashion Forward: How Luxury Brands, Handbags, and NFTs Are Shaping the Future of Trademark Law in the Metaverse and Beyond' (2022) 24 North Carolina Journal of Law & Technology 134

Williams C, 'Research Methods' (2011) 5 Journal of Business & Economics Research (JBER) <<https://clutejournals.com/index.php/JBER/article/view/2532>> accessed 25 May 2023

Wimonkunarak S, 'The Introduction of Trademark Dilution: The Review of Dilution Concept in ASEAN' (2011) 27 Sukhothai Thammathiarat Law Journal

Wright DJ, 'Explicitly Explicit: The Rogers Test and the Ninth Circuit' (2013) 21 Journal of Intellectual Property Law 193

Yen AC, 'Intent and Trademark Infringement' (2015) 57 Arizona Law Review 713

Zubair AA-Q, 'The Role of Comparative Legal Research in The Development of Law' (2014) 8 Australian Journal of Basic and Applied Sciences 249

Thesis

Juniar C, 'PENGATURAN HUKUM VALIDITAS PEMEGANG HAK CIPTA KARYA SENI DALAM NON- FUNGIBLE TOKEN (NFT)' (Universitas Gadjah Mada 2022)

Fuady AR, 'TRADE DRESS PROTECTION UNDER TRADEMARK LAW: COMPARISON STUDY BETWEEN INDONESIA AND THE UNITED STATE OF AMERICA' (Universitas Gadjah Mada 2020)

Online Media and Articles

Adegeest D-A, 'Hermès Calls for Removal of Virtual MetaBirkin Bags from NFT Platforms' (*FashionUnited*, 30 December 2021)
<<https://fashionunited.uk/news/fashion/hermes-calls-for-removal-of-virtual->

[metabirkin-bags-from-nft-platforms/2021123060357](#)> accessed 17 September 2023

Adobe, ‘What Is Digital Art?’ (*Adobe*, n.d.)
<<https://www.adobe.com/uk/creativecloud/illustration/discover/digital-art.html>>
accessed 27 May 2023

Aletha NO, ‘Understanding Non-Fungible Tokens (NFT) in CryptoArt Industry’
<<https://cfd.fisipol.ugm.ac.id/wp-content/uploads/sites/1423/2022/01/80-CfDS-Case-Study-Understanding-Non-Fungible-Tokens-NFT-in-CryptoArt-Industry.pdf>>

Andrew R, ‘The Nike v. StockX Lawsuit Could Determine What Type of NFTs Can Be Created’ (*NFT Now*, 26 May 2022) <<https://nftnow.com/features/the-nike-v-stockx-lawsuit-could-determine-what-type-of-nfts-can-be-created/>> accessed 18 May 2023

Arifin TH and Soemantri YA, ‘Perlindungan Hak Cipta Terhadap Karya Lagu Melalui Prinsip Fair Use’ (2022) 1 Unit Kegiatan Mahasiswa Fakultas Kelompok Riset dan Debat Fakultas Hukum Universitas Diponegoro

Aristidou C, ‘Trade Mark Infringement And Dilution As Causes Of Action: The US And UK Framework’ (*Mondaq*, 9 May 2014)
<<https://www.mondaq.com/cyprus/trademark/312146/trade-mark-infringement-and-dilution-as-causes-of-action-the-us-and-uk-framework>> accessed 27 May 2023

BBC News, ‘What Are NFTs and Why Are Some Worth Millions?’ (*BBC*, 16 December 2022) <<https://www.bbc.com/news/technology-56371912>> accessed 26 May 2023

Bench J, ‘A Legal Guide to NFTs’ (*Harris Bricken*, 14 March 2023)
<<https://harrisbricken.com/blog/a-legal-guide-to-nfts/>> accessed 26 May 2023

CFI Team, ‘Minting Crypto’ (*Corporate Finance Institute*, 19 January 2022)
<<https://corporatefinanceinstitute.com/resources/cryptocurrency/minting-crypto/>>

Clark M, ‘NFTs, Explained’ (*The Verge*, 6 June 2022)
<<https://www.theverge.com/22310188/nft-explainer-what-is-blockchain-crypto-art-faq>> accessed 26 May 2023

Cointelegraph, ‘A Beginner’s Guide on the Legal Risks and Issues around NFTs’ (*Cointelegraph*, n.d.) <<https://cointelegraph.com/learn/a-beginners-guide-on-the-legal-risks-and-issues-around-nfts>> accessed 19 May 2023

—, ‘The Regulatory Considerations of NFTs in the United States’ (*Cointelegraph*, n.d.) <<https://cointelegraph.com/learn/the-regulatory-considerations-of-nfts-in-the-united-states>> accessed 26 May 2023

—, ‘What Is a Smart Contract, and How Does It Work?’ (*Cointelegraph*, n.d.)
<<https://cointelegraph.com/learn/what-are-smart-contracts-a-beginners-guide-to-automated-agreements>> accessed 22 May 2023

‘Digital Artist Mason Rothschild Drops 100 “MetaBirkins” NFTs Through Basic.Space’ (*Forbes*, 13 December 2021)
<<https://www.forbes.com/sites/cassellferere/2021/12/13/digital-artist-mason-rothschild-drops-100-metabirkins-nfts-through-basicspace/?sh=48c6a0fc2000>>
accessed 17 September 2023

Directorate General of Intellectual Property, ‘New Brand Registration Procedure’ (*Direktorat Jenderal Kekayaan Intelektual Kementerian Hukum dan HAM R.I.*)
<<https://dgip.go.id/menu-utama/merek/syarat-prosedur>> accessed 18 May 2023

Eden Gallery, ‘What Is Digital Art’ (*Eden Gallery*, 9 September 2019)
<<https://www.eden-gallery.com/news/what-is-digital-art>> accessed 26 May 2023

Enger R, ‘Defining “Art”’ (*Obelisk Art History*, 15 August 2019)
<<https://www.arthistoryproject.com/essays/defining-art/>> accessed 26 May 2023

Fortnow M and Terry Q, *The NFT Handbook* (John Wiley & Sons, Inc 2021)
<<https://learning.oreilly.com/library/view/the-nft-handbook/9781119838388/c02.xhtml#head-2-1>> accessed 26 May 2023

Gillet E, ‘Hermès v. Rothschild: How to Fight Trademark Infringement Committed by NFT Minters’ (*IP Twins*, 16 February 2023)
<<https://www.iptwins.com/en/2023/02/16/hermes-v-rothschild-how-to-fight-trademark-infringement-committed-by-nft-minters/>> accessed 23 June 2023

Grieder D, ‘Technology and Fashion – between Creativity and Innovation’ (*LinkedIn*, 18 August 2020) <<https://www.linkedin.com/pulse/technology-fashion-between-creativity-innovation-daniel-grieder/>> accessed 17 May 2023

Hedera, ‘What Is an NFT Smart Contract?’ (*Hedera*, n.d.)
<<https://hedera.com/learning/smart-contracts/nft-smart-contract#:~:text=Smart%20contracts%20are%20used%20for,when%20a%20sale%20is%20made>> accessed 22 May 2023

Jain T, ‘Examining the Concept of “Cause of Action” in India’
<https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1087352>

Kementerian Hukum dan HAM Republik Indonesia, ‘Panduan Kekayaan Intelektual’ (*Kantor Wilayah Jambi Kementerian Hukum dan HAM Republik Indonesia*, 16 August 2022) <[https://jambi.kemenkumham.go.id/layanan-publik/pelayanan-hukum-umum/panduan-kekayaan-intelektual#:~:text=berguna%20untuk%20manusia,-.Pada%20intinya%20Kekayaan%20Intelektual%20adalah%20hak%20eksklusif%](https://jambi.kemenkumham.go.id/layanan-publik/pelayanan-hukum-umum/panduan-kekayaan-intelektual#:~:text=berguna%20untuk%20manusia,-.Pada%20intinya%20Kekayaan%20Intelektual%20adalah%20hak%20eksklusif%20)>

20yang%20diberikan%20oleh,Kepemilikan%20Personal%20dan%20Kepemilikan%20Komunal> accessed 20 May 2023

Kliklegal.com, ‘Perdagangan Non-Fungible Token (NFT) Dalam Hukum Indonesia’ (*KlickLegal.com*, 3 February 2022) <<https://kliklegal.com/perdagangan-non-fungible-token-nft-dalam-hukum-indonesia/>> accessed 26 May 2023

Legal Information Institute, ‘15 U.S. Code § 1127 - Construction and Definitions; Intent of Chapter’ (*Cornell Law School*, n.d.) <<https://www.law.cornell.edu/uscode/text/15/1127>> accessed 27 May 2023

——, ‘Case Law’ (*Cornell Law School*, n.d.) <https://www.law.cornell.edu/wex/case_law> accessed 27 May 2023

——, ‘Class Action’ (*Cornell Law School*, n.d.) <https://www.law.cornell.edu/wex/lanham_act#:~:text=The%20Lanham%20Act%20defines%20a,%C2%A7%201127.> accessed 10 September 2023

——, ‘Dilution (Trademark)’ (*Cornell Law School*, n.d.) <<https://www.law.cornell.edu/uscode/text/15/1127>> accessed 20 September 2023

——, ‘Lanham Act’ (*Cornell Law School*, n.d.) <https://www.law.cornell.edu/wex/lanham_act#:~:text=The%20Lanham%20Act%20defines%20a,%C2%A7%201127.> accessed 27 May 2023

——, ‘Trade Dress’ (*Cornell Law School*, n.d.) <https://www.law.cornell.edu/wex/case_law> accessed 17 June 2023

——, ‘Trademark Infringement’ (*Cornell Law School*, n.d.) <https://www.law.cornell.edu/wex/trademark_infringement> accessed 27 May 2023

Loh M, ‘An NFT Artist Who Sold Virtual “MetaBirkin” Handbags for up to \$45,100 a Piece Violated Hermès Trademark Rights, New York Jury Rules’ (*Insider*, 9 February 2023) <<https://www.insider.com/meta-birkin-nfts-violated-trademark-mason-rothschild-new-york-jury-2023-2>> accessed 20 October 2023

MasterClass, ‘NFT Art Explained: What Is NFT Art?’ (*MasterClass*, 16 September 2022) <<https://www.masterclass.com/articles/nft-art>> accessed 26 May 2023

Merriam-Webster.com Dictionary, ‘Fungible’ (*Merriam-Webster*, n.d.) <<https://www.merriam-webster.com/dictionary/fungible>> accessed 27 May 2023

Myre M, ‘Plagiarism in Design: How To Avoid This Dangerous Pitfall’ (*DesignLab*, 28 December 2021) <<https://designlab.com/blog/plagiarism-in-design/>> accessed 17 May 2023

‘Non-Fungible Token – Everything You Need To Know’ (*Nashville Film Institute*) <<https://www.nfi.edu/non-fungible-token/>> accessed 19 May 2023

Oliveira L and others, ‘To Token or Not to Token: Tools for Understanding Blockchain Tokens’ <<https://www.zora.uzh.ch/id/eprint/157908>> accessed 28 May 2023

Placik A, ‘Leaving a Mark: Artistic Expression, New Media in Protest and Law’ (*Center for Art Law*, 18 June 2018) <<https://itsartlaw.org/2018/06/18/leaving-a-mark-artistic-expression-new-media-in-protest-and-law/#:~:text=Artistic%20expression%20is%20a%20type,implement%20limitations%20on%20artistic%20expression.>> accessed 25 June 2023

Practical Law Intellectual Property & Technology, ‘Bored Ape NFTs Are Protectable Goods Under the Lanham Act: C.D. Cal.’ (*Westlaw Today*, 26 April 2023) <[https://today.westlaw.com/Document/I8debae58e38d11ed8921fbef1a541940/View/FullText.html?contextData=\(sc.Default\)&transitionType=Default&firstPage=true](https://today.westlaw.com/Document/I8debae58e38d11ed8921fbef1a541940/View/FullText.html?contextData=(sc.Default)&transitionType=Default&firstPage=true)> accessed 17 September 2023

Ryan C, ‘Got a Birkin Bag to Sell? That’s a Problem for Hermès’ (*The Wall Street Journal*, 28 February 2020) <<https://www.wsj.com/articles/got-a-birkin-bag-to-sell-thats-a-problem-for-hermes-11582885805>> accessed 20 October 2023

Sanjana, ‘India: An Overview On The Concept Of Dilution Of Trademarks’ (*Mondaq*, 8 October 2021) <<https://www.mondaq.com/india/trademark/1119104/an-overview-on-the-concept-of-dilution-of-trademarks#:~:text=Dilution%20and%20its%20types&text=Dilution%20is%20widely%20categorized%20into,created%20by%20an%20unauthorized%20party.>> accessed 17 June 2023

Siegler M, ‘Hermès Suing Artist over Birkin Bag NFTs’ (*PageSix*, 20 January 2022) <<https://pagesix.com/2022/01/20/hermes-suing-artist-over-birkin-bag-nfts/>> accessed 20 October 2023

Small Z, ‘Hermès Wins MetaBirkins Lawsuit; Jurors Not Convinced NFTs Are Art’ (*The New York Times*, 8 February 2023) <<https://www.nytimes.com/2023/02/08/arts/hermes-metabirkins-lawsuit-verdict.html#:~:text=On%20Wednesday%2C%20a%20nine%2Dperson,NFTs%20were%20not%20protected%20speech.>> accessed 27 May 2023

‘Trade Dress’ (*The Fashion Law*) <<https://www.thefashionlaw.com/resource-center/trade-dress-law/>> accessed 9 December 2023

‘Trademark Dilution (Intended for a Non-Legal Audience)’ (*International Trademark Association*, 9 November 2020) <<https://www.inta.org/fact->

[sheets/trademark-dilution-intended-for-a-non-legal-audience/>](#) accessed 17 June 2023

United States Patent and Trademark Office, ‘Protecting Your Trademark: Enhancing Your Rights Through Federal Registration’
<https://www.uspto.gov/sites/default/files/BasicFacts_1.pdf> accessed 27 May 2023

United States Patent and Trademark Offices, ‘About Trademark Infringement’ (USPTO) <[Upcounsel, ‘Design Intellectual Property: Everything You Need to Know’ \(Upcounsel\) <<https://www.upcounsel.com/design-intellectual-property>> accessed 18 May 2023](https://www.uspto.gov/page/about-trademark-infringement#:~:text=Trademark%20infringement%20is%20the%20unauthorized,the%20goods%20and%20For%20services.> accessed 22 May 2023</p></div><div data-bbox=)

‘U.S. Trademark Law’ (Digital.gov, 22 December 2022)
<<https://digital.gov/resources/u-s-trademark-law/>> accessed 26 May 2023

‘Virtual Currency, Cryptocurrency, and Digital Assets Primer’ (Washington State Department of Financial Institutions, n.d.) <<https://dfi.wa.gov/consumers/virtual-currency/primer#:~:text=Digital%20assets%3A%20an%20asset%20that,%2C%E2%80%9D%20and%20%E2%80%9Ctokens.%E2%80%9D>> accessed 26 May 2023

‘What Is Minting?’ (OpenSea Learn, 18 April 2023)
<<https://opensea.io/learn/what-is-minting-nft>> accessed 26 May 2023

‘What Is Minting An NFT? Everything You Need To Know’ (Nashville Film Institute, n.d.) <<https://www.nfi.edu/what-is-minting-an-nft#:~:text=Minting%20an%20NFT%20means%20converting,edited%2C%20modified%2C%20or%20deleted>> accessed 26 May 2023

‘What Is Trademark Fair Use?’ (Trademark Lawyer Firm, 1 February 2022)
<<https://www.trademarklawyerfirm.com/what-is-trademark-fair-use/#:~:text=A%20three%2Dprong%20test%20is,not%20do%20anything%20to%20suggest>> accessed 19 September 2023

‘When Cryptoart and Physical Art Collide’ (The Finery Report, 10 March 2021)
<<https://tfr.news/articles/2021/3/10/when-cryptoart-and-physical-art-collide>> accessed 16 May 2023

Williams R, ‘Hermès Sues NFT Creator Over “MetaBirkin” Sales’ (The Business of Fashion, 17 January 2022)
<<https://www.businessoffashion.com/news/luxury/hermes-sues-nft-creator-over-metabirkin-sales/>> accessed 18 May 2023

World Intellectual Property Organization, ‘What Is Intellectual Property?’
<https://www.wipo.int/edocs/pubdocs/en/wipo_pub_450_2020.pdf> accessed 26
May 2023

World Trade Organization, ‘Overview: The TRIPS Agreement’ (*World Trade
Organization*)
<https://www.wto.org/english/tratop_e/trips_e/intel2_e.htm#:~:text=The%20TRIPS%20Agreement%20requires%20Member,novelty%2C%20inventiveness%20and%20industrial%20applicability.> accessed 21 May 2023

——, ‘What Are Intellectual Property Rights?’ (*World Trade Organization*)
<https://www.wto.org/english/tratop_e/trips_e/intel1_e.htm> accessed 18 May
2023