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Trademark Protection in Metaverse: Evaluating Indonesia's Legal Framework for Well-Known Marks on Roblox

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ABSTRACT

The rise of the Roblox gaming platform within the Metaverse presents new challenges for trademark protection in Indonesia. Users frequently create, trade, and sell virtual goods incorporating well-known marks without authorization, raising concerns about the adequacy of Trademark Act No. 20 of 2016 in addressing digital trademark violations. This study aims to evaluate Indonesia's legal framework for protecting well-known marks in virtual spaces and assess its effectiveness in preventing unauthorized use on platforms like Roblox. Using a normative juridical approach, the research analyzes the current legal provisions, particularly the scope and interpretation of Articles 1, 21, and 83 of Law No. 20 of 2016, and also identifies normative gaps in addressing violations involving virtual goods and digital environments. The findings reveal that while the Trademark Act provides a foundation for brand protection, it lacks explicit regulations for virtual goods and digital environments, leaving well-known marks vulnerable to misuse. To address these challenges, the study recommends broadening key legal definitions within the Trademark Act and enhancing preventive measures on Roblox, such as stricter verification and enforcement systems. Strengthening Indonesia's trademark regulations in response to technological advancements is essential to ensure comprehensive intellectual property protection. Theoretically, the study contributes to the discourse on adapting IP law to digital realities. Practically, it offers policy insights for legislators and platforms to prevent misuse of well-known marks in virtual spaces.

1. INTRODUCTION

In recent years, metaverse platforms such as Roblox have become increasingly prominent as virtual environments for user interaction.[1] By 2024, Roblox reported more than 380 million active monthly users, with individuals under the age of 16 accounting for 58% of its user base.[2] The platform has transformed from a simple gaming space into a sophisticated digital economy, where users can create, purchase, and trade virtual items like avatar clothing and accessories.Major global brands, including Gucci, Nike, and Ralph Lauren, have taken advantage of Roblox's popularity by offering virtual products, some of which have been sold for hundreds of dollars. A prominent example is the Gucci Garden collection released in 2021, where certain items were resold by users for as much as $4,115.[3] As engagement with metaverse platforms like Roblox continues to grow, the need for robust trademark protection in these virtual marketplaces has become increasingly critical, emphasizing the vital role of trademarks in safeguarding intellectual property in digital environments.

The term metaverse was first introduced by Neal Stephenson in his 1992 science fiction novel *Snow Crash*, which depicted a three-dimensional virtual world where users interact through digital avatars. This fictional vision laid the conceptual foundation for the development of modern virtual environments.[4] In the early 2000s, platforms like Second Life began to bring this vision to life, offering users the ability to create avatars, engage in social interaction, and participate in digital economies through the exchange of virtual goods.[5] These early developments demonstrated the potential of virtual spaces to function as both social and economic ecosystems, paving the way for more advanced platforms.

One of the most prominent modern metaverse platforms is Roblox, a user-generated content (UGC)-driven ecosystem first launched in 2006 by David Baszucki and Erik Cassel.[6] Unlike blockchain-based virtual platforms, Roblox enables users to design, play, and share games created with its proprietary development tool,[7] Roblox Studio, which utilizes the Lua programming language.[8]With over 380 million monthly active users as of 2024, primarily children and teenagers, Roblox has grown into a vibrant digital space that encourages creativity and social interaction. Central to its virtual economy is a digital currency known as Robux,[9] which users can purchase with real money to acquire in-game items such as avatar clothing and accessories.[10] Creators can also monetize their virtual goods, making Roblox a viable avenue for digital entrepreneurship.[11]

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1 Tivani Yuliastika, Mayasari, and Ana Fitriana Poerana, "Motif Penggunaan Game Online Roblox Pada Anak Usia Sekolah," Jurnal Ilmiah Wahana Pendidikan 9, No. 9 (2023): 364, https://doi.org/https://doi.org/10.5281/zenodo.7953027.

2 Brian Dean, "Roblox User Stats: How Many People Play Roblox in 2023?," Backlinko, https://backlinko.com/roblox-users accessed on September 26, 2024, at 12.06 WIB.

3 Mario Abad, "Gucci's Virtual Bag Sold for More on Roblox Than IRL," Paper, 2021, https://www.papermag.com/gucci-bag-roblox#rebelltitem3 accessed on September 29, 2024, at 11.00 WIB.

4 Bilal Zakarneh et al., "Virtual Reality and Alternate Realities in Neal Stephenson's 'Snow Crash,'" *World Journal of English Language* 14, No. 2 (2024): 244, https://doi.org/10.5430/wjel.v14n2p244.

5 Markus Weinberger and Daniel Gross, "A Comparison of Virtual Worlds Based on The Metaverse Maturity Model," *ITU Journal on Future and Evolving Technologies* 4, No. 4 (2023): 541, https://doi.org/10.52953/revf5378.

6 Ii Sopiandi and Deffy Susanti, "Menganalisis Informasi Metaverse Pada Game Online Roblox Secara Garis Besar," *Jurnal PETISI (Pendidikan Teknologi Informasi)* 3, No. 1 (2022): 2, https://doi.org/10.36232/jurnalpetisi.v3i1.2021; "Informasi Perusahaan Roblox," Roblox, https://en.help.roblox.com/hc/id/articles/203313370-Informasi-Perusahaan-Roblox accessed on December 1, 2024, at 13.26 WIB.

7 Akbar Iskandar et al., *Dunia Virtual Masa Depan Di Era Society 5.0* (Padang: PT Global Eksekutif Teknologi, 2023), p.108.Iskandar et al., 108.

8 Muhammad Asrul Maulana and Niken Nurcahyani, "Tinjauan Hukum Hak Atas Kekayaan Intelektual Pada Platform Roblox," *Jurnal Analisis Hukum* 6, No. 1 (2023): p.69, https://doi.org/10.38043/jah.v6i1.4205.

9 Yuan Yuan and Yongzhong Yang, "Embracing the Metaverse: Mechanism and Logic of a New Digital Economy," *Metaverse* 3, no. 2 (2022): 2–3, https://doi.org/10.54517/met.v3i2.1814.

10 Wojciech Hardy, Michał Paliński, and Satia Rożynek, "Roblox and the Market for Virtual Experiences" (Warsaw, 2022), 3.

11 Hardy, Paliński, and Rożynek, *Op. Cit*. p.17; Sopiandi and Susanti, *Op. Cit*. p.3.

In this digital commercial environment, well-known marks are increasingly exposed to misuse and infringement, particularly due to the lack of clear legal boundaries and enforcement mechanisms in virtual platforms. Their vulnerability stems from the ease with which users can replicate or imitate these marks in user generated content without authorization, combined with the anonymity and global reach of metaverse platforms.[12] A well-known mark refers to a trademark that enjoys widespread recognition among consumers within a specific market segment, regardless of its formal registration status in a particular jurisdiction.[13]Legal protection for well-known marks is designed to prevent consumer confusion about the origin or quality of products and to safeguard the reputation and distinctiveness of brands. As these marks begin to appearoften without consenton metaverse platforms such as Roblox, ensuring their protection becomes critical to maintaining brand integrity. The problem lies in the legal uncertainty surrounding how Indonesian trademark law applies to these virtual representations, raising the urgent question of whether the current legal framework is adequate to address such digital infringements.

Trademarks including well-known marks, serve as vital identifiers that distinguish goods and services, taking the form of names, terms, logos, designs, or combinations thereof.[14] They ensure quality assurance for consumers, protect the reputation of businesses, and confer exclusive rights to owners.[15]In both physical and digital markets, trademarks are essential in establishing product identity and fostering consumer trust.[16] Legal protection further empowers trademark owners to pursue legal remedies against infringement and unauthorized use. However, the rise of digital commerce and the metaverse introduces unprecedented challenges to maintaining these rights, particularly concerning well-known trademarks.

A well-known mark is recognized broadly by the public or a specific market segment, meriting stronger legal protection due to its established reputation. In the metaverse, the distinction between the physical and virtual worlds is increasingly blurred, necessitating that brands traditionally associated with physical goods now require protection in digital form.[17] This need aligns with Legal Protection Theory, which underscores the importance of effective legal mechanisms to uphold individual rights, prevent disputes, and maintain social order.[18] Moreover, Property Rights Theory, grounded in Ronald Coase's "Coase Theorem," emphasizes that well-defined property rights are essential for promoting economic efficiency.[19] In the digital sphere, trademarks function as valuable intangible assets that drive innovation, enhance consumer confidence, and sustain market competition. This theoretical framework underscores the urgency of securing trademarks in virtual spaces, ensuring that brand owners retain exclusive economic benefits from their digital creations.[20]

The Indonesian legal system faces considerable challenges in adapting existing regulations to protect trademarks within digital environments such as the metaverse.[21] A significant issue lies in the ambiguity surrounding the application of trademark law to virtual goods. Although intangible, these items possess undeniable

[12] Kimiko Auguchiro Putri Samudra, Tasya Safiranita, and Rika Ratna Permata, "Unauthorized Use of Famous Brands In Virtual Products of The Metaverse World In The Perspective of Brand Law And Technology Law In Indonesia," Jurnal Indonesia Sosial Sains 4, no. 03 (2023): 255, https://doi.org/10.59141/jiss.v4i03.796.

[13] Rahmi Jened, *Hukum Merek: Trademark Law* (Jakarta: Prenadamedia Group, 2013). p.241.

[14] Dwi Suryahartati and Nelli Herlina, *Buku Ajar Hukum Kekayaan Intelektual* (Jambi: UNJA Publisher, 2022). p.74.

[15] Maya Ruhtiani, Yuris Tri Naili, and Hesti Ayu Wahyuni, "Perlindungan Hukum Terhadap Merek Dagang Di Metaverse Berdasarkan Perspektif Hak Kekayaan Intelektual Maya," *Journal of Law, Economics, and English* 4, No. 2 (2022): p.20, http://ejournal.uhb.ac.id/index.php/J-LEE/issue/archive.

[16] Maria Isabel Clarissa and Lena Ellitan, "Peran Brand Equity Dan Kepuasan Pelanggan Dalam Membangun Brand Loyality," *Jurnal Cendekia Ilmiah* 2, No. 2 (2023): p.251.

[17] Svetlana Ilnitskaya, "Brand Protection in the Metaverse: What Brands Need to Know," Corsearch, 2022, https://corsearch.com/content-library/blog/brand-protection-in-the-metaverse-what-brands-need-to-know/, accessed on on September 29, 2024, at 9.21 WIB.

[18] Rahardjo, Satjipto. Ilmu Hukum. V. Bandung: Citra Aditya Bakti, 2000. cited in Prayoga, Daffa Arya, Jadmiko Anom Husodo, and Andina Elok Puri Maharani. "Perlindungan Hukum Terhadap Hak Warga Negara Dengan Berlakunya Undang-Undang Nomor 23 Tahun 2019 Tentang Pengelolaan Sumber Daya Nasional." Souvereignty : Jurnal Demokrasi Dan Ketahanan Nasional 2, no. 2 (2023): 188–200. https://journal.uns.ac.id/Souvereignty/article/view/865.

[19] Adam Mossoff, "Trademark As A Property Right," *Kentucky Law Journal* 107, No. 1 (2018): p.38.

[20] R. Murjiyanto, "Konsep Kepemilikan Hak Atas Merek Di Indonesia (Studi Pergeseran Sistem 'Deklaratif' Ke Dalam Sistem 'Konstitutif'" (Universitas Islam Indonesia, 2016). p.81.

[21] Dewi Ambarwati, "Urgensi Pembaharuan Hukum Di Era'Metaverse' Dalam Perspektif Hukum Progresif," *DIALEKTIKA: Jurnal Ekonomi Dan Ilmu Sosial* 7, No. 2 (2022): p.152, https://doi.org/10.36636/dialektika.v7i2.1306.

economic value and warrant protection comparable to physical goods.[22] Trademark counterfeiting, as outlined in Trademarks Act No. 20 of 2016, occurs when third parties use marks resembling registered trademarks without authorization, misleading consumers. In virtual spaces, this infringement manifests when users create and market digital items that imitate the designs and branding of well-known marks. Additionally, violations of trademark licensing, regulated under Article 42 of the Trademark Act, may arise when exclusive rights are exploited without the trademark owner's consent. However, despite these provisions, the current law does not expressly recognize virtual goods as protected objects, nor does it offer clear procedural guidance for enforcement in the context of metaverse platforms. As a result, legal accountability remains limited, and perpetrators can evade sanctions due to the absence of specific norms addressing trademark use in virtual environments. Without adequate legal safeguards, virtual goods in the metaverse face heightened risks of unfair competition, intellectual property infringements,[23] and reputational damage to trademark owners, while consumers may struggle to distinguish authentic from counterfeit digital products.

On an international scale, the protection of well-known trademarks is governed by key legal instruments such as the Paris Convention and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). Article 6bis[24] of the Paris Convention protects well-known marks by prohibiting the registration or use of trademarks likely to cause confusion, even if the mark is not locally registered in the member country. Similarly, Articles 16(2) and (3)[25] of the TRIPS Agreement expand this protection to include dissimilar goods or services, as stipulated in Annex 1C. These provisions aim to prevent reputational harm resulting from unauthorized use and extend broader rights to trademark owners. While these international frameworks offer robust protections in the physical world, the metaverse presents unique challenges that existing laws were not designed to address.

Several prior studies offer valuable insights into intellectual property issues within digital spaces.[26] highlights the inadequacy of copyright protections for digital artworks in Non-Fungible Token (NFT) formats due to the declarative nature of copyright law and low registration rates among creators.[27] explore intellectual property rights on Roblox, focusing on the platform's non-exclusive, royalty-free licenses and its control over user-generated content.[28] affirm that unauthorized use of well-known brands in the metaverse constitutes trademark infringement, aligning with physical-world laws. Meanwhile, Desiani[29] conduct a comparative analysis of well-known mark protection in the Metaverse under Indonesian and United States trademark laws, concluding that Indonesia must enhance its legal provisions to effectively address virtual infringements. Similarly, Septarina and Salamiah[30] examine the legal remedies available for protecting unregistered well-known marks under Act No. 20 of 2016, emphasizing the significance of market recognition in granting such protection. However, while these studies contribute to a broader understanding of intellectual property law, they tend to either generalize digital IP concerns or focus on comparative and doctrinal aspects. Few have addressed the practical application of Indonesian trademark law specifically to user-generated content on platforms like Roblox. This research seeks to

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[22] Ujang Badru Jaman, Galuh Ratna Putri, and Tiara Azzahra Anzani, "Urgensi Perlindungan Hukum Terhadap Hak Cipta Karya Digital," *Jurnal Rechten : Riset Hukum Dan Hak Asasi Manusia* 3, No. 1 (2021): p.10, https://doi.org/10.52005/rechten.v3i1.22.

[23] Ruhtiani, Naili, and Wahyuni, *Op. Cit*, p.17.

[24] Hafid Zakariya and Amir Junaidi, "Protection Intellectual Property To Well-Known Marks In Indonesia" 10, No. 8 (2021): p.1.

[25] "The Agreement on Trade Related Aspects of Intellectual Property Rights," https://www.wto.org/english/docs_e/legal_e/27-trips.pdf, accessed on December 12, 2024, at 15.20 WIB.

[26] Rafael, Josep. "Perlindungan Hak Cipta Karya Seni Digital Non-Fungible Token Dalam Hukum Kekayaan Intelektual." Universitas Sriwijaya, 2023. p. 13.

[27] Maulana, Muhammad Asrul, and Niken Nurcahyani. "Tinjauan Hukum Hak Atas Kekayaan Intelektual Pada Platform Roblox." *Jurnal Analisis Hukum* 6, No. 1 (2023): 70. https://doi.org/10.38043/jah.v6i1.4205.

[28] Auguchiro, Kimiko Putri Samudra, Tasya Safiranita, and Rika Ratna Permata. "Unauthorized Use of Famous Brands In Virtual Products of The Metaverse World In The Perspective of Brand Law And Technology Law In Indonesia." *Journal of Indonesian Social Science* 4, No. 03 (2023): 248. http://jiss.publikasiindonesia.id/.

[29] Hasna Desiani, Raisya, Rika Ratna Permata, and Enni Soerjati Priowirjanto. "Studi Komparasi Perlindungan Merek Terkenal Dalam Metaverse Berdasarkan Hukum Merek Indonesia Dan Amerika Serikat." *COMSERVA : Jurnal Penelitian Dan Pengabdian Masyarakat* 3, No. 09 (2024): 3591. https://doi.org/10.59141/comserva.v3i09.1141.

[30] Muthia Septarina and Salamiah, "Upaya Perlindungan Hukum Terhadap Pelanggaran Merek Terkenal Yang Tidak Terdaftar Di Indonesia Berdasarkan Undang-Undang Nomor 20 Tahun 2016 Tentang Merek Dan Indikasi Geografis," *Al'Adl* XII, No. 1 (2020): p. 94.

bridge that gap by investigating the application of Indonesian trademark law to virtual platforms like Roblox, contributing to the ongoing discourse on adapting intellectual property protections to evolving digital environments.

The absence of clear regulations on trademark protection within digital spaces creates legal uncertainty, fostering loopholes that facilitate infringement. This lack of clarity arises because existing provisions in the Trademark Act No. 20 of 2016 do not explicitly mention virtual goods, digital platforms, or the Metaverse, leaving uncertainty about their legal status and the scope of protection available. Furthermore, enforcement mechanisms are not adapted to the borderless, decentralized nature of digital environments, making it difficult to hold infringers

accountable. Without comprehensive regulatory measures, well-known Indonesian trademarks remain vulnerable to inadequate protection in the metaverse. This research aims to explore how Indonesian law regulates the use of well-known marks on metaverse platforms like Roblox and evaluates the extent of legal protections provided under the Trademark Act for such use.

To guide this inquiry and ensure a structured analysis, the paper is organized into several key sections that collectively examine both the current legal framework and its practical application in virtual environments. First, it examines the development of trademark protection under Indonesian law, with a focus on the preventive and repressive provisions stipulated in Articles 21, 42, 83, and 100 of the Trademarks Act No. 20 of 2016.These provisions are assessed in relation to how they might apply or fall short in cases where users on platforms like Roblox create and trade digital items bearing unauthorized well-known marks. For instance, Article 21 prohibits the registration of marks that are substantially similar to well-known ones, while Article 42 regulates trademark licensing, which is frequently bypassed in user-generated content on Roblox. Articles 83 and 100 provide for civil and criminal enforcement, but their applicability to digital infringement remains uncertain due to the lack of explicit provisions on virtual goods. Second, it analyzes the application of Roblox's internal intellectual property policies and the challenges in applying traditional trademark concepts to virtual goods, including the limitations of the Nice Classification system in accommodating digital goods and services. Third, the paper presents a comparative case study of *Hermès v. Rothschild* to illustrate how other jurisdictions have addressed similar issues within virtual environments. Through this structure, the paper aims to offer a systematic evaluation of the adequacy of Indonesia's legal framework in protecting well-known marks in the Metaverse.

2. METHOD

This study employs a normative legal research approach, chosen for its effectiveness in analyzing and evaluating the legal framework governing the use of well-known trademarks within the Roblox platform and assessing the practical implementation of these regulations.[31] The research integrates the statute approach,[32] which examines relevant national laws, including Trademarks Act No. 20 of 2016, alongside international frameworks such as the TRIPS Agreement and the Paris Convention; the conceptual approach, which explores legal doctrines and principles to establish a deeper understanding of the theoretical foundations surrounding trademark protection in digital environments;[33] and the case approach, which involves an analysis of court decisions that have reached final and binding legal force (*inkracht van gewijsde*)[34] to observe the practical application of legal norms. In light of Indonesia's current lack of explicit regulations governing trademark protection in digital or virtual spaces, this study also includes a limited comparative approach, not as a primary method, but as a supporting tool to highlight regulatory gaps and provide insight into potential legal developments by referencing how other jurisdictions address similar issues.[35]Accordingly, the normative problem in this research centers on the absence of specific provisions within Indonesian trademark law to address violations occurring in virtual environments such as the Metaverse, particularly in cases involving user-generated content on platforms like Roblox. To ensure a comprehensive and systematic legal analysis, the study draws upon primary legal materials (statutes, treaties, court rulings), secondary legal materials (journals, scholarly literature), and tertiary legal materials (legal dictionaries

[31] Sigit Sapto Nugroho, Anik Tri Haryani, and Farkhani, *Metodologi Riset Hukum* (Madiun-Surakarta: Oase Pustaka, 2020). p.39.

[32] Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020). p.56.

[33] *Ibid.* p.57.

[34] *Ibid*.

[35] Muhammad Siddiq Armia, Penentuan Metode Dan PendekatanPenelitian Hukum (Banda Aceh:LembagaKajian Konstitusi Indonesia (LKKI), 2022), p. 30.

and related references).

3. FINDINGS AND DISCUSSION

3.1. Regulation on the Use of Well-Known Marks on Metaverse Platforms Based on Indonesian Laws

Well-known marks represent a distinct category within the framework of Trademarks Act No. 20 of 2016, which grants enhanced legal protection to trademarks that possess broad public recognition and significant market influence. This protection is designed to safeguard trademark owners from potential misuse or unauthorized appropriation that could tarnish the mark's reputation and commercial value.[36]The legal foundation for the recognition and protection of well-known marks in Indonesia is principally established in Article 21 paragraph (1), letters b and c of the Act.

Article 21 paragraph (1) letter b of Act No. 20 of 2016 states:

"b. Well-known marks owned by another party for goods and/or services of the same type;"

This provision is intended to prevent unauthorized parties from exploiting well-known marks to identify similar goods or services, which could lead to consumer confusion and ultimately harm the mark's goodwill and distinctiveness in the market.[37]

Building upon this, Article 21 paragraph (1) letter c expands protection even further by addressing scenarios involving dissimilar goods or services, provided certain conditions are met.

Article 21 paragraph (1) letter c of Act No. 20 of 2016 further provides:

"c. Well-known marks owned by another party for goods and/or services of a different type that meet certain requirements"

These requirements are typically assessed based on the likelihood of consumer confusion or potential harm to the established reputation of the well-known mark.[38] Thus, even when the goods or services differ, legal protection is still extended if there is a deceptive association that could mislead the public or degrade the value of the original mark.

Although these provisions demonstrate Indonesia's commitment to protecting well-known marks, they remain inadequate in addressing challenges posed by the digital environment, particularly the Metaverse. Despite these protective measures, the scope of Act No. 20 of 2016 does not explicitly extend to cyberspace or virtual environments, thus limiting its effectiveness. Article 21, which prohibits the unauthorized use of well-known marks, primarily operates within the context of conventional physical goods and services. In these virtual settings, the traditional boundaries between "goods" and "services" become increasingly ambiguous, with users trading digital assets and virtual items that mimic real-world brands. The Act does not recognize these virtual items as protectable under its current definitions, nor does it provide a clear framework for addressing trademark violations occurring in digital spaces.[39]As a result, enforcement becomes difficult, leaving famous brands vulnerable to misuse without adequate legal recourse. Therefore, while the Act lays a legal foundation, it fails to provide comprehensive protection for well-known marks in the context of cyberspace and virtual platforms like Roblox.

To reinforce these domestic provisions, Indonesia's legal framework aligns with international standards, particularly through the incorporation of principles under the Paris Convention.Additionally, Article 21 of the Indonesian Trademarks Act aligns with Article 6bis[40] of the Paris Convention for the Protection of Industrial

[36] Muthia Septarina and Salamiah, "Upaya Perlindungan Hukum Terhadap Pelanggaran Merek Terkenal Yang Tidak Terdaftar Di Indonesia Berdasarkan Undang-Undang Nomor 20 Tahun 2016 Tentang Merek Dan Indikasi Geografis," *Al'Adl* XII, No. 1 (2020): 94.

[37] Muhamad Shafwan Afif and Heru Sugiyono, "Perlindungan Hukum Bagi Pemegang Merek Terkenal Di Indonesia," *Jurnal Usm Law Review* 4, No. 2 (2021): 572, https://doi.org/http://dx.doi.org/10.26623/julr.v4i2.4097.

[38] Hasna Desiani, Ratna Permata, and Soerjati Priowirjanto, *Op. Cit*. p.3586.

[39] Marta Staudt, "Legal Challenges Related to the Registration of Trademarks and Designs Connected with the NFTs and the Metaverse" (Jagiellonian University, 2023), 16.

[40] Article 6bis stated that "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."

Property, which mandates member states to safeguard well-known marks even if they are not formally registered in a particular jurisdiction. Article 6bis (1) obliges states to reject or cancel registrations that are deemed conflicting with existing well-known marks, especially where there is substantial recognition within the jurisdiction. Furthermore, Article 6bis (2) grants member countries the discretion to determine criteria for well-known mark status, including factors such as reputation, consumer awareness, and extent of use in relevant markets. This provision enhances the scope of protection for trademark owners by recognizing the significance of reputation and market presence, even in the absence of formal registration.

Nonetheless, as Retno Kusniati[41] explains, Indonesia adheres to a dualist legal system, whereby international legal commitments, such as those under the Paris Convention, must be formally incorporated into national legislation to be enforceable. While Indonesia has already reflected many of these principles in Act No. 20 of 2016, this structural framework requires that further legal adaptation occur at the domestic level in response to new global developments, such as digital trademark infringement.

However, even with international reinforcement, the existing legal instruments, both domestic and international, struggle to provide sufficient protection in the increasingly complex digital landscape. Nevertheless, both Indonesian legislation and the Paris Convention face inherent limitations in tackling the complexities of digital trademark infringement. The rise of the digital economy, particularly with the emergence of Metaverse platforms, has introduced new forms of infringement that extend beyond conventional trademark violations. In these virtual ecosystems, the unauthorized use of well-known marks may occur through the creation of virtual goods, digital merchandise, and user-generated content. These types of misuse are not explicitly addressed by existing legal norms. The absence of clear legal guidelines for protecting well-known marks in such contexts creates significant enforcement gaps, leaving trademark owners vulnerable to reputational damage and financial loss. These gaps are further amplified by emerging technologies such as non-fungible tokens (NFTs) and in-platform branding, which continue to complicate enforcement efforts in the Metaverse.

Moreover, while Article 6bis of the Paris Convention provides a solid framework for addressing bad-faith registrations and traditional counterfeitingby prohibiting the use and registration of well-known marks by unauthorized parties, it remains insufficient for regulating modern phenomena such as NFTs, virtual storefronts, and in-game branding within Metaverse platforms. The article focuses on conventional forms of infringement and does not explicitly address digital environments, where the replication of well-known marks often occurs without direct physical goods or services, making enforcement difficult. For instance, the lack of clear definitional scope regarding what constitutes "use" of a mark in a virtual context leads to uncertainty about whether digital assets fall under the same level of protection. This legal ambiguity creates interpretive challenges for regulators and rights holders, who struggle to apply traditional standards to activities occurring in borderless, user-generated platforms like Roblox. Accordingly, to ensure more effective protection of well-known marks in digital environments, both domestic and international legal frameworks must evolve to include specific provisions tailored to the unique characteristics of the Metaverse.

In evaluating the effectiveness of the current regulatory framework, it becomes evident that Indonesia's legal instruments while conceptually aligned with international standards remain reactive and insufficiently tailored to the nuanced challenges posed by virtual platforms such as the Metaverse. Article 21 paragraph (1) letter a of the Trademarks Act No. 20 of 2016 prohibits the registration of a mark that is substantially similar to a well-known mark belonging to another party for similar goods or services. Paragraph (1) letter b extends this protection to dissimilar goods or services, provided that the use may harm the reputation of the well-known mark. However, these provisions presuppose a clear classification of goods and services under conventional frameworks, which do not yet accommodate digital products such as NFTs, virtual fashion, or in-game brand replicas. The lack of digital specificity in these articles results in enforcement barriers, particularly where the infringing act occurs on foreign-hosted platforms or through anonymous user-generated content. This is compounded by jurisdictional challenges and the absence of interpretive guidelines that address how traditional conceptssuch as "use in commerce" or "goods/services"should apply in virtual contexts. As a result, enforcement authorities often rely on analogical reasoning to extend legal protection to virtual environments, leading to inconsistencies and legal uncertainty. Therefore, to ensure the effective protection of well-known marks in digital commerce, it is essential to modernize the legal infrastructure by incorporating digital-specific definitions and enforcement mechanisms into existing provisions, bolstering institutional capacity, and promoting cross-border cooperation.

[41] Kusniati, Retno, Prasit Aekaputra, and Nhonlaphat Pitpiboonpreeya. "Domestic Implementation of International Law in Indonesiaand Thailand." Indonesian Journal of International Law 22, no. 1 (2024): 169. https://doi.org/10.17304/ijil.vol22.1.1895.

3.2. Legal Protection for the Use of Well-Known Marks in Roblox Games

3.2.1. Regulatory Development of Legal Protection for Well-Known Marks in the Metaverse under the Trademarks Act No. 20 of 2016

The Trademarks Act No. 20 of 2016 provides the primary legal framework for the protection of trademarks in Indonesia, including well-known marks. Several key provisions, namely Articles 83, 42, and 100, establish both civil and criminal legal protections, as well as licensing mechanisms. While these provisions were crafted with conventional, tangible goods and services in mind, their capacity to address infringements in the digital domain, particularly in the context of Metaverse platforms like Roblox, remains limited and demands critical re-evaluation.

In this regard, Article 83[42]of the Trademarks Act No. 20 of 2016 serves as a foundational legal provision for the protection of trademark rights in Indonesia, encompassing both registered and well-known marks. It empowers trademark holders to initiate legal proceedings against parties who engage in the unauthorized use of marks that are identical or substantially similar, whether in relation to similar or dissimilar goods or services.Notably, the protection afforded by this article is not confined to trademarks registered domestically but it may also extend to well-known foreign marks, provided their reputation can be demonstrated in court. While this provision has shown relative efficacy in conventional marketplaceswhere infringing acts typically involve identifiable parties, physical goods, and traceable transactionsit becomes significantly less effective in virtual contexts.

In the Metaverse, particularly on platforms like Roblox, the decentralized and anonymous nature of user-generated content complicates the application of Article 83. Trademark infringements often take the form of digital items such as avatars, accessories, or game assets, which are not explicitly regulated under existing classifications of goods and services. Moreover, the burden of proof for establishing substantial similarity or confusion becomes more complex in an environment where digital representations may be altered rapidly or distributed globally in real-time. Enforcement is further undermined by the jurisdictional ambiguities of virtual platforms, many of which operate across borders and are governed by foreign terms of service. Consequently, while Article 83 offers a broad legal basis for brand protection, its practical enforceability in virtual marketplaces is constrained by definitional gaps, evidentiary challenges, and procedural limitations. This underscores the urgent need for legislative refinement to explicitly encompass digital goods and to establish mechanisms tailored to the realities of trademark use and infringement in virtual spaces.

In the digital context, the concept of "substantial similarity" becomes increasingly difficult to delineate, as virtual goodssuch as digital clothing or accessoriesoften incorporate stylized or derivative elements that may draw inspiration from well-known marks without directly replicating them. For instance, a virtual outfit created by a Roblox user might mimic the aesthetic, logo, or iconic color palette of a luxury brand or a popular consumer product, such as adapting a well-known instant noodle brand into themed apparel or avatar accessories. These forms of brand appropriation blur the line between homage and infringement, especially when the mark is used in connection with dissimilar goods or outside its original product category. This raises complex questions about brand dilution and reputational harm, which are not sufficiently addressed under existing legal definitions.

Compounding this issue is the absence of explicit regulatory guidance within the Trademarks Act No. 20 of 2016 addressing the protection of marks applied to virtual goods or used outside their original class of goods and services, despite their growing economic relevance and potential to mislead consumers. In light of these developments, there is a pressing need to reform and expand Article 83 to accommodate the realities of the digital age. This includes the formal recognition of virtual goods as objects of trademark protection, as well as the development of interpretive guidelines for assessing similarity in non-traditional and cross-category uses.[43]Such enhancements would not only fortify the legal position of trademark holders but also ensure that the regulatory framework remains responsive to the evolving challenges posed by digital and metaverse-based commerce.

These regulatory shortcomings in Article 83 highlight a broader legislative gap that also extends to the realm of licensing, where the legal mechanisms governing trademark use, particularly those outlined in Article

[42] Article 83 stated that, "(1) Pemilik Merek terdaftar dan/atau penerima Lisensi Merek terdaftar dapat mengajukan gugatan terhadap pihak lain yang secara tanpa hak menggunakan Merek yang mempunyai persamaan pada pokoknya atau keseluruhannya untuk barang dan/atau jasa yang sejenis berupa: a. gugatan Ganti rugi; dan/atau b. penghentian semua perbuatan yang berkaitan dengan penggunaan Merek tersebut. (2) Gugatan sebagaimana dimaksud pada ayat (1) dapat pula diajukan oleh pemilik Merek terkenal berdasarkan putusan pengadilan. (3) Gugatan sebagaimana dimaksud pada ayat (1) diajukan kepada Pengadilan Niaga."

[43] Hasna Desiani, Ratna Permata, and Soerjati Priowirjanto, *Op. Cit*. p.3587.

42, face similar limitations in addressing the complexities introduced by virtual goods and Metaverse platforms.

Article 42[44]of the Trademarks Act No. 20 of 2016 serves as an essential legal foundation for the licensing of trademarks, enabling registered trademark owners to authorize third parties to use their marks, either in part or for the full range of goods and services for which the mark is registered. To ensure legal effect against third parties, the licensing agreement must be duly recorded with the Minister and published in the Official Trademark Gazette. While this provision provides a degree of legal certainty in the conventional context of physical goods and services, its applicability becomes increasingly unclear in the digital landscape, particularly concerning the protection of well-known marks on Metaverse platforms such as Roblox. The emergence of virtual goods, such as digital apparel or accessories mimicking well-known brands, presents challenges for the traditional licensing framework, which has not yet adapted to encompass digital assets. As a result, such virtual items can be created and circulated without any formal licensing arrangement, undermining the rights of trademark owners.

From the standpoint of property theory, a well-known mark constitutes a form of intellectual property that confers upon its owner the exclusive right to control its use, distribution, and commercial exploitation. The trademark functions as a valuable asset, one that can be leveraged through licensing agreements to maximize economic benefit. In the context of digital environments, including platforms like Roblox, virtual goods that replicate or evoke the imagery of well-known marks must similarly be regarded as digital property. Accordingly, the licensing regime under Article 42 should be interpreted and extended to encompass such virtual representations to preserve the exclusivity of trademark rights. However, the statutory definitions of "goods" and "services" remain anchored in traditional, tangible concepts, leaving digital assets largely outside the ambit of current trademark protections. This regulatory gap not only disadvantages trademark proprietors but also creates uncertainty for digital platforms, which frequently act as intermediaries in the dissemination of virtual goods.

Moreover, property theory underscores the necessity of legal adaptability in response to evolving technological realities. Just as physical property is protected through formal licensing mechanisms, so too should digital property, particularly in the form of well-known marks, benefit from similarly robust legal safeguards. The current registration process prescribed under Article 42, designed for the physical domain, does not adequately account for the decentralized and borderless nature of digital marketplaces. To address this, future reforms might consider the use of emerging technologies such as blockchain to facilitate transparent, enforceable digital licensing systems.[45] While Article 42 remains an important provision within the broader trademark framework, it requires significant recalibration to effectively protect well-known marks in virtual environments. Integrating principles of property theory into legislative revisions could offer a coherent basis for both preventive protection through comprehensive digital licensing regimes and repressive enforcement mechanisms suitable for the realities of the Metaverse.

Building upon this need for a more adaptive legal framework, Article 100[46]of Trademarks Act No. 20 of 2016 serves as a critical provision for the imposition of criminal sanctions in cases of trademark infringement

[44] Article 42 stated "(1) Pemilik Merek terdaftar dapat memberikan Lisensi kepada pihak lain untuk menggunakan Merek tersebut baik Sebagian maupun seluruh jenis barang dan/atau jasa. (2) Perjanjian Lisensi berlaku di seluruh wilayah Negara Kesatuan Republik Indonesia, kecuali bila diperjanjikan lain. (3) Perjanjian Lisensi wajib dimohonkan pencatatannya kepada Menteri dengan dikenai biaya. (4) Perjanjian Lisensi sebagaimana dimaksud pada ayat (3) dicatat oleh Menteri dan diumumkan dalam Berita Resmi Merek. (5) Peranjian Lisensi yang tidak dicatatkan tidak berakibat hukum pada pihak ketiga. (6) Perjanjian Lisensi dilarang memuat ketentuan baik yang langsung maupun tidak langsung yang menimbulkan akibat yang merugikan perekonomian Indonesia atau memuat pembatasan yang menghambat kemampuan bangsa Indonesia dalam menguasai dan mengembangkan teknologi."

[45] Uti Asikin et al., "Intellectual Property Rights in the Use of Blockchain Technology From A Contemporary Islamic Legal Perspective," *Daengku: Journal of Humanities and Social Sciences Innovation* 3, No. 6 (2023): 991, https://doi.org/10.35877/454ri.daengku2148.

[46] Article 100 stated "(1) Setiap Orang yang tanpa hak menggunakan Merek yang sama secara keseluruhan dengan Merek terdaftar milik pihak lain untuk barang dan/atau jasa sejenis yang diproduksi dan/atau diperdagangkan, dipidana dengan pidana penjara paling lama 5 (lima) tahun dan/atau pidana denda paling banyak Rp2.000.000.000,00 (dua miliar rupiah). (2) Setiap Orang yang tanpa hak menggunakan Merek yang mempunyai persamaan pada pokoknya dengan Merek terdaftar milik pihak lain untuk barang dan/atau jasa sejenis yang diproduksi dan/atau diperdagangkan, dipidana dengan pidana penjara paling lama 4 (empat) tahun dan/atau pidana denda paling banyak Rp2.000.000.000,00 (dua miliar rupiah). (3) Setiap Orang yang melanggar ketentuan sebagaimana dimaksud pada ayat (1) dan ayat (2), yang jenis barangnya mengakibatkan gangguan kesehatan, gangguan lingkungan hidup, dan/atau kematian manusia, dipidana dengan pidana penjara paling lama 10 (sepuluh) tahun dan/atau pidana denda paling banyak Rp5.000.000.000,00 (lima miliar rupiah)."

involving both similar and dissimilar goods or services. Paragraph (1) of the Article stipulates that any person who unlawfully uses a registered trademark with resemblance to an existing mark for similar goods or services may be subject to imprisonment for a term of up to five years and/or a monetary fine of up to IDR 2 billion. Paragraph (2) further broadens this protection by extending criminal liability to the unauthorized use of registered marks on dissimilar goods or services, provided such use results in public confusion or causes reputational harm to the trademark in question. This comprehensive framework is designed to safeguard the proprietary and reputational interests of trademark holders against a range of infringing conduct.

However, its application within digital environments, particularly on Metaverse platforms like Roblox, remains limited. The traditional definition of "goods" and "services" under the Act does not encompass virtual assets, thereby excluding digital items such as NFTs or virtual apparel from legal protection, despite their capacity to replicate well-known marks and cause consumer confusion. Enforcement is further complicated by the anonymity and user-generated nature of digital platforms, which hinder the identification of infringers.[47]To address these gaps, legislative reform is necessary. The definitional scope of Article 100 should be expanded to explicitly include virtual goods, aligning trademark protection with current technological realities. Incorporating digital enforcement tools, such as blockchain, may also enhance traceability and accountability. Such reforms would reinforce the legal efficacy of Article 100 and provide clearer protection for well-known marks in the evolving digital economy.

The provisions within Articles 83, 42, and 100 of Act No. 20 of 2016 provide protection for well-known marks; however, they prove inadequate in addressing the challenges arising in the virtual realm. The legal gaps identified in these provisions lead to difficulties in effectively safeguarding trademarks used within metaverse platforms such as Roblox. An evaluation of these provisions reveals that the existing legal framework remains anchored in traditional concepts, which are primarily grounded in the physical world, and fails to account for emerging issues in the digital space, such as infringements that occur within virtual environments. As a result, substantial adjustments to these regulations are necessary in order to make them more responsive to the needs of trademark protection in the virtual sphere.

3.2.2. Roblox as a Case Study: Analyzing Trademark Protection in Virtual Platforms Through the Lens of Act No. 20 of 2016

Roblox, as a leading metaverse platform, facilitates user interaction, creativity, and commercial exchange in the form of digital creations, including virtual goods that may involve trademarked elements. Its operational model reflects the broader category of online activities within the digital economy that raise new legal challenges in trademark protection. This section uses Roblox as a representative case study to explore how Indonesian trademark law, particularly Act No. 20 of 2016 on Trademarks and Geographical Indications, addressesor falls short in addressing such emerging digital phenomena.

Within the Roblox ecosystem, internal regulatory instruments namely, its Community Standards and Terms of Use which function as the primary mechanisms governing the use of intellectual property, including trademarks. Roblox Community Standards expressly prohibit content that infringes intellectual property rights and bar users from uploading or incorporating trademarks to which they hold no rights, especially when such use may mislead others regarding the origin or authenticity of goods or services. Although these guidelines are significant in theory, enforcement largely depends on a report-based mechanism initiated by trademark holders or users, reflecting the limitations of platform-based self-regulation.

Roblox's Terms of Use further require compliance with applicable IP laws, offering reporting and takedown mechanisms for suspected violations. While these reflect the platform's intent to align with legal obligations, they also highlight the platform's reliance on user-initiated enforcement in the absence of a centralized legal authority, particularly in cross-border disputes.

From the perspective of Indonesian trademark law, Article 21 of Act No. 20 of 2016 provides the core legal basis for the protection of well-known marks, allowing owners to prohibit the unauthorized use of identical or similar marks where such use may cause consumer confusion or reputational harm even across different classes of goods or services. However, these provisions are rooted in a territorial legal framework and were developed for traditional market structures. The emergence of virtual platforms like Roblox exposes significant gaps in the law's applicability to digital goods, which are not explicitly recognized within the scope of the Act.

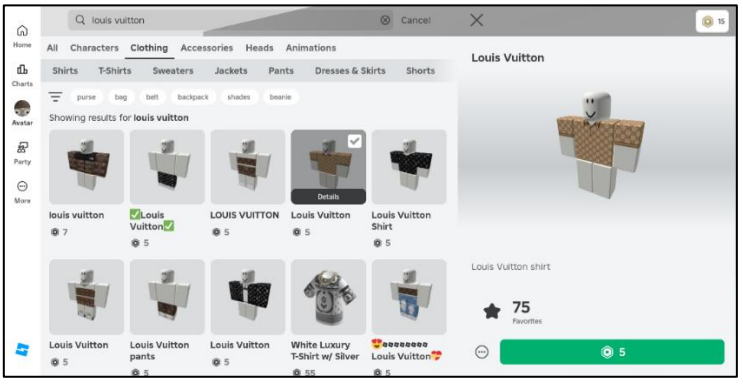
[47] Staudt, *Op. Cit*. p.9; Hasna Desiani, Ratna Permata, and Soerjati Priowirjanto, *Op. Cit*. p.3588.

While both Roblox's internal policies and Article 21 share a common normative goal of preventing the unauthorized exploitation of trademarks, a critical divergence lies in their scope and enforceability. Roblox operates under a transnational framework guided by its own community standards, whereas Article 21 remains territorial and jurisdiction-bound.[48] Consequently, trademark protection in virtual environments illustrated by user activity on platforms like Roblox remains legally fragmented and difficult to enforce under current Indonesian law.

In conclusion, the challenge lies not only in regulating specific platforms like Roblox but in expanding Indonesia's legal framework to address the broader category of trademark use in virtual spaces. The Roblox case reveals how platform self-regulation and national IP laws often operate in isolation, creating enforcement gaps that disadvantage trademark holders. Thus, future legal reforms must focus on bridging these regulatory silos to ensure effective protection of well-known marks in the digital age.

3.2.3. Challenges of Protecting Well-Known Marks on Digital Platforms

Figure 1. The use of the well-known mark Louis Vuitton in Roblox



Source: Roblox

Act No. 20 of 2016 governs the protection of well-known marks in Indonesia, particularly through Article 21, which prohibits the use of another party's well-known marks on goods and services, whether similar or dissimilar. However, applying this provision to digital platforms, such as Roblox, presents significant challenges. While Article 21 addresses the use of well-known marks in relation to similar or dissimilar goods and services, the digital context complicates this understanding. On platforms like Roblox, the nature of "similar" or "dissimilar" becomes increasingly difficult to define, particularly because the goods and services involved are often intangible and based on visual representation or user experience rather than traditional physical products.[49]For example, virtual clothing or accessories branded with "Louis Vuitton" on Roblox, as shown in Figure 1, do not exist in a tangible form, yet they can influence users' perceptions and potentially cause confusion or harm to the brand's reputation.

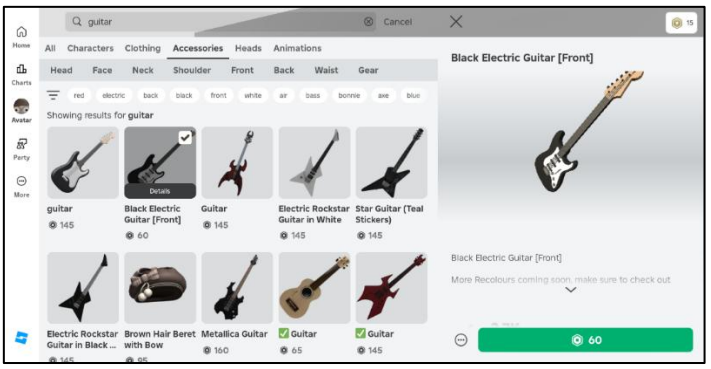
In this digital context, the interpretation of "dissimilar goods and services" requires reassessment. While traditional interpretations consider goods dissimilar if they fall outside the same market category, digital assets on platforms like Roblox, even if unrelated to physical products, can still generate strong associations with a well-known mark in consumers' minds. This association can damage the reputation of the mark, even when the virtual items are not directly related to the physical goods. The digital nature of these goods further complicates enforcement. Trademark infringement in the physical world can be identified through tangible products, but in the digital world, violations may occur without clear physical manifestation, making it difficult to detect and address infringements. For instance, virtual goods like clothing or avatars on Roblox that replicate elements of well-known marks may proliferate quickly without oversight, making evidence collection challenging. Trademark violations in the digital space require evidence beyond visual likeness, such as transaction patterns, metadata, and usage records.

To understand these challenges, it is essential to examine how digital assets are categorized within the current legal framework. Trademark protection relies heavily on the classification system for goods and services used in trademark registration. This classification determines the scope of protection for well-known marks in

[48] Hasna Desiani, Ratna Permata, and Soerjati Priowirjanto, *Loc. Cit*.
[49] Staudt, *Op. Cit*. p.20.

both physical and digital environments.[50]The Nice Classification system, which is internationally adopted to categorize goods and services, faces particular difficulties in addressing digital assets. For example, Class 9[51]which includes downloadable software, electronic devices, and digital files, is relevant for many digital goods on Roblox. However, this classification may cause consumer confusion due to the lack of sufficient distinctions between various types of digital goods, potentially increasing the likelihood of trademark infringement disputes.

Figure 2. Guitar as a virtual item in Roblox



Source: Roblox

Similarly, Class 15,[52]which covers musical instruments and related goods, is pertinent to digital representations of musical instruments, such as virtual guitars or digital pianos. The question arises whether such virtual items should fall under Class 15 as musical instruments or Class 9 as digital files, creating ambiguity in classification and, consequently, in trademark protection.

Given Roblox's global user base, enforcement of trademark rights becomes even more complicated due to the jurisdictional challenges of international platforms. While Act No. 20 of 2016 provides a critical legal foundation for the protection of well-known marks in Indonesia, it must evolve to address the unique issues posed by the digital space. An evaluation of this classification system demonstrates that the application of traditional classifications is problematic in the context of virtual goods that are not bound by geographical boundaries or physical form. This system overlooks the evolution of digital innovations, which requires a more nuanced regulatory approach for non-physical goods and services. This indicates a pressing need for reform in the classification system to better align with the realities of digital markets and technological advancements.

Therefore, in light of the complexities and enforcement limitations highlighted above, this study emphasizes the urgency of initiating comprehensive legal reform to enhance trademark protection on metaverse platforms like Roblox. First, legal definitions within Act No. 20 of 2016 need to be expanded to explicitly encompass virtual goods, user-generated content, and digital environments. The current law does not recognize virtual assets as protectable subjects under trademark law, resulting in a regulatory vacuum that is frequently exploited on platforms like Roblox. Second, the classification system for goods and services must be updated or supplemented to reflect the unique characteristics of digital goods that do not fit neatly into traditional categories. This includes developing clearer criteria for determining "similarity" in virtual contexts, where mimicry may involve stylization, conceptual likeness, or iconic branding elements rather than direct duplication. Third, enforcement mechanisms must be modernized to allow for proactive monitoring of digital platforms, beyond the current complaint-based approach that places a heavy burden on rights holders. Mechanisms such as AI-driven infringement detection, cross-border IP cooperation, and digital evidence protocols should be considered to support implementation.

Finally, reform must address not only legal text but also institutional capacity. Regulatory bodies must be equipped with the technical and procedural tools necessary to understand and act upon violations occurring in rapidly

[50] Staudt, *Op. Cit*. p.17.

[51] Class 9 "Scientific, research, navigation, surveying, photographic, cinematographic, audiovisual, optical, weighing, measuring, signalling, detecting, testing, inspecting, life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling the distribution or use of electricity; apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data; recorded and downloadable media, computer software, blank digital or analogue recording and storage media; mechanisms for coin-operated apparatus; cash registers, calculating devices; computers and computer peripheral devices; diving suits, divers' masks, ear plugs for divers, nose clips for divers and swimmers, gloves for divers, breathing apparatus for underwater swimming; fire-extinguishing apparatus."

[52] Class 15 stated, "Musical instruments; music stands and stands for musical instruments; conductors' batons."

evolving virtual spaces. By modernizing the trademark regulatory framework in this way, Indonesia will be better positioned to prevent reputational harm, protect the commercial interests of brand owners, and fulfill its obligations under international IP agreements in the context of digital commerce. This will also signal Indonesia's readiness to engage with future Metaverse developments and contribute to shaping global discourse on intellectual property in virtual environments.

3.2.4. Case Study: Infringement of Well-Known Marks on Metaverse Platforms

The Hermès v. Rothschild case is a prominent example of trademark infringement in the metaverse, highlighting the complexities of protecting brand rights in the digital sphere. Hermès, a luxury brand renowned for its Birkin bags, filed a lawsuit against digital artist Mason Rothschild over the creation and sale of NFTs called "Metabirkins." These virtual items, which closely resembled the design of Hermès' iconic bags, prompted the brand to claim that Rothschild's NFTs infringed its trademark rights. Hermès argued that the unauthorized use of its brand elements could lead to consumer confusion and damage its brand reputation. The case raised critical issues regarding the application of traditional trademark protections to digital goods. Specifically, it questioned whether the use of a famous brand in digital creations like NFTs, which lack physical form, could still cause consumer confusion and harm the brand's image. Additionally, Hermès sought claims for trademark dilution and misleading advertising, concepts typically linked to physical goods, but now extended to virtual items. This case underscores the urgent need to update intellectual property laws to address the unique challenges posed by digital environments, where the distinction between physical and digital goods is increasingly unclear. The case's outcome may set important precedents for how trademarks are protected in the metaverse and similar platforms, offering valuable insights into how brands can safeguard their intellectual property in the evolving digital economy.[53]

In the context of Indonesian law, particularly the Trademarks Act No. 20 of 2016, the Hermès v. Rothschild case can be analyzed through Article 21. This provision prohibits the use of a trademark that is identical or substantially similar to a well-known registered mark, whether for similar or dissimilar goods or services, if such use may cause consumer confusion or harm the reputation of the mark.[54]In this case, the "Metabirkins" name and design, which closely resembled the "Birkin" brand, could potentially be considered an infringement under Article 21. Paragraph (1), letters b and c of this article provide a legal basis for the protection of well-known marks against unauthorized use, even when the goods or services are not directly related to the original market of the trademark.[55]Although Hermès was not initially involved in the digital sale of its products, the potential harm caused by the MetabirkinsNFTs illustrates the need for trademark protection under the Trademarks Act. This case exemplifies the growing need for trademark laws to address the challenges of digital and virtual environments, ensuring brands can maintain their rights and reputation in the context of virtual goods like NFTs.

Data from Sung[56] and Payal[57] further reinforce this reality by showing that many globally recognized luxury brands have begun to actively participate in the metaverse. Brands such as Gucci, Nike, Louis Vuitton, Balenciaga, Burberry, and Dolce and Gabbana have entered virtual environments by launching branded NFTs and digital assets on platforms like Decentraland and The Sandbox. These digital products, often sold as limited-edition collectibles or wearable items, aim to reach younger, tech-savvy audiences while maintaining the brand's exclusivity. Such authorized uses highlight how well-known trademarks are now being commercialized in virtual spaces, often parallel to their physical offerings, and point to a broader industry shift. However, the expansion of legitimate brand presence in the metaverse also correlates with an increase in unauthorized use, making the need for strong legal protection even more pressing.

There are, however, notable differences between the Roblox platform and the Hermès v. Rothschild case. Roblox, a metaverse platform, does not operate on blockchain technology, unlike NFTs discussed in the previous

[53] Lapatoura, *Op*. *Cit*. p.2–3.

[54] Hasna Desiani, Ratna Permata, and Soerjati Priowirjanto. *Op*. *Cit*. p.3586.

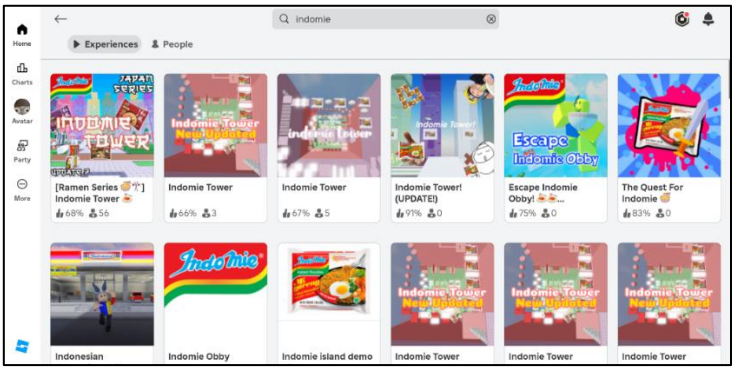
[55] Putri Samudra, Safiranita, and Ratna Permata, *Op*. *Cit*. p.252.

[56] Eunyoung Sung, Ohbyung Kwon, and Kwonsang Sohn, "NFT Luxury Brand Marketing in the Metaverse: Leveraging Blockchain-Certified NFTs to Drive Consumer Behavior," Psychology and Marketing 40, no. 11 (2023): 2310, https://doi.org/10.1002/mar.21854.

[57] Ruchi Payal, Nitika Sharma, and Yogesh K. Dwivedi, "Unlocking the Impact of Brand Engagement in the Metaverse on Real-World Purchase Intentions: Analyzing Pre-Adoption Behavior in a Futuristic Technology Platform," Electronic Commerce Research and Applications 65 (2024): 2, https://doi.org/10.1016/j.elerap.2024.101381.

case.[58] Roblox provides a virtual space where users can create and interact with digital goods, such as virtual clothing and accessories, which can be bought, sold, or traded within the platform. Unlike blockchain-based systems, Roblox operates within a centralized framework, with policies and rules set by the platform itself. This centralization poses unique challenges for trademark enforcement. Unlike blockchain systems, which maintain traceable and immutable records of transactions, Roblox's centralized system makes it more difficult to monitor and address intellectual property violations. With millions of users capable of creating and uploading content, there are substantial challenges in terms of oversight and enforcement. This situation underscores the complexities of protecting intellectual property on large-scale platforms, especially when dealing with virtual goods and the unauthorized use of well-known marks.

Figure 2. The use of the Indomie brand on Roblox



Source: Roblox

For instance, on Roblox, unlicensed infringement of well-known marks is prevalent. Users often create virtual items, such as clothing, accessories, or entire virtual worlds, incorporating well-known brand elements without authorization. Prominent Indonesian brands like Indomie and SilverQueen have been used on Roblox in virtual items without licensing. Under Indonesian law, particularly Article 21 of the Trademarks Act, the use of well-known brand elements without authorization can be prohibited, even when such use is unrelated to the original goods or services, as long as it could confuse consumers or harm the trademark's reputation. Article 83 provides a legal basis for trademark owners to seek remedies for infringement on Roblox, including demands for cessation of infringing activities and compensation claims. Article 42 offers strong protection for well-known marks, safeguarding against attempts to exploit them unfairly. Furthermore, Article 100 allows for criminal penalties in cases of intentional infringement.

Despite the differences between Roblox and blockchain-based systems like NFTs, the Trademarks Act remains relevant as the legal foundation for protecting well-known marks in the digital space. However, enforcement of trademark rights on global platforms like Roblox requires international cooperation and adaptation to technological developments.[59]Legal reforms are necessary to ensure Indonesian law can effectively safeguard intellectual property rights, including well-known marks, in the rapidly evolving digital world.

To enrich the analysis and highlight potential directions for legal development in Indonesia, a brief comparison with the United States' approach under the Lanham Act offers valuable insight into how well-known marks are recognized and protected in digital environments.

Furthermore, a significant distinction exists between the criteria used to determine the status of well-known marks under Indonesian and United States trademark law. In Indonesia, legal practice tends to emphasize the requirement of international registration as one of the indicators of a trademark's notoriety. This implies that recognition of a mark as "well-known" often depends on formal documentation of registrations across multiple jurisdictions. In contrast, the United States adopts a more reputation-centric approach under the Lanham Act. Section 43(c)(2) of the Lanham Act (15 U.S.C. §1125(c)) defines a famous mark as one that is widely recognized by the general consuming public in the United States as a designation of the source of goods or services. The U.S. framework relies primarily on factors such as sales volume, geographic reach, market recognition, and advertising investmentwithout mandating evidence of international registration.[60]

[58] Iskandar et al., *5.0Loc. Cit.*; Yinliang Tan, "Implications of Blockchain-Powered Marketplace of Preowned Virtual Goods," *Production and Operations Management*, 2024, 2, https://doi.org/10.1111/poms.13657.

[59] Hasna Desiani, Ratna Permata, and Soerjati Priowirjanto, *Loc. Cit*.

[60] *Ibid*.p.3587.

This comparison illustrates that while both countries provide legal mechanisms to protect well-known marks, the United States offers a more explicit statutory definition, reflecting a more pragmatic, market-based interpretation of brand fame. Indonesia, by contrast, lacks a clear statutory definition of "well-known mark" within its Trademarks Act, despite acknowledging the concept through provisions such as Article 21 paragraph (1) letters b and c. These provisions allow for the refusal of trademark registration if a proposed mark bears substantial similarity to a well-known mark, regardless of whether the goods or services are of the same type.

The increasing presence of well-known brands in digital environments such as the Metaverse reinforces the urgency of reforming Indonesia's legal framework. As companies and consumers transition into virtual platforms like Roblox, trademark law must adapt to ensure continued relevance and enforceability. This includes not only refining the criteria for recognizing well-known marks but also expanding legal definitions and enforcement mechanisms to address the unique nature of digital infringement. In this regard, comparative analysis with jurisdictions such as the United States can offer valuable insights for Indonesia's legislative development. Integrating elements from more established regimessuch as the explicit recognition of virtual goods, reputation-based fame, and digital enforcement standardscould strengthen Indonesia's ability to safeguard well-known trademarks in the evolving digital economy.

4. CONCLUSION

The current regulatory framework under Indonesian law, particularly the Trademarks Act No. 20 of 2016, remains insufficient to address the complexities of protecting well-known marks in digital environments such as the Metaverse. Although Articles 21, 42, 83, and 100 offer a normative foundation for trademark protection, they are predominantly oriented toward traditional, physical commerce and lack specific provisions applicable to virtual goods, services, or platforms like Roblox. For instance, Article 21 does not provide clear criteria for addressing the use of famous marks on digital goods that do not correspond with conventional classes. Similarly, Articles 42 and 83 offer limited guidance for interpreting and enforcing rights in cases involving intangible assets, while Article 100's criminal sanctions are difficult to operationalize in online, cross-border settings. The application of the Nice Classification system further underscores this limitation, as it does not adequately accommodate the evolving nature of virtual goods, contributing to legal uncertainty in classification and protection.

Drawing from comparative insights, particularly from the United States' Lanham Act and the Hermès v. Rothschild case, it is evident that jurisdictions adopting a reputation-based and consumer-recognition model offer more flexible and responsive protections for well-known marks in digital contexts. Unlike Indonesia's current emphasis on international registrations and multi-jurisdictional presence, U.S. law emphasizes market reach, public awareness, and commercial impact, enabling more effective legal remedies even when traditional categories of goods and services are blurred. This comparison highlights the need for Indonesia to recalibrate its approach by integrating clearer definitions and thresholds for "well-known marks" that reflect digital market realities.

In response to these findings, this study recommends legal reforms directed at multiple stakeholders. First, the Directorate General of Intellectual Property (DGIP) and relevant lawmakers should amend the Trademarks Act to explicitly recognize virtual goods and environments as protected domains, accompanied by implementing regulations that define and categorize digital assets more precisely. Second, the classification system used in Indonesia should be adapted or expanded to reflect Metaverse-specific product types. Third, enforcement proceduresparticularly under Articles 83 and 100should be strengthened through digital investigative tools and international cooperation frameworks. Lastly, platform operators such as Roblox should implement stronger monitoring systems and explore the use of technologies like blockchain to enhance traceability and authenticity. These reforms would ensure a more adaptive, coherent, and forward-looking legal framework, capable of protecting well-known marks in Indonesia's rapidly digitalizing commercial landscape.

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6. CONFLICT OF INTEREST

The author affirms that there are no conflicts of interest related to the research, authorship, or publication of this article. This study was conducted independently, without any financial or institutional influence that could compromise its objectivity. The author also confirms that this manuscript has not been published elsewhere and will not be submitted to another journal during the review and publication process in Jurnal Ilmiah Kebijakan Hukum.

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