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Legal Feasibility of Trademark Certificates as Credit Collateral and Its Implications for Indonesian MSMEs

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This article examines the legal feasibility of using trademark certificates as credit collateral in Indonesia and highlights the practical challenges arising from their application within the financing landscape of Micro, Small, and Medium Enterprises (MSMEs). It analyzes how trademark-based collateral fits within Indonesia's existing credit and intellectual property framework. Employing normative legal research with a statute-based and doctrinal approach, this study focuses on the structure and substance of Indonesian trademark and collateral law, supported by qualitative analysis of relevant legal materials. The findings indicate that trademark rights, as exclusive, transferable, and economically valuable assets, meet the legal requirements to function as credit collateral. However, their practical implementation remains constrained by the absence of standardized valuation mechanisms, uncertainty in enforcement procedures, prudential banking practices, and the limited readiness of MSMEs. The originality of this research lies in its emphasis on legal feasibility and normative-regulatory challenges, offering a distinct perspective on intellectual property-based financing beyond purely economic valuation.

1. Introduction

The government's efforts to expand access to financing for Micro, Small, and Medium-Sized Enterprises (hereinafter will be abbreviated as MSMEs) have led to the emergence of ideas regarding the use of intellectual property as collateral, including trademark certificates. This idea has developed in line with the need to provide more inclusive financing schemes. Trademarks hold a significant role among the numerous types of intellectual property, as they function as an identity or distinguishing mark for a product, allowing differentiation between goods manufactured by one business and those of another. A trademark serves not just to prevent product similarity among different entities but also fulfils a more extensive function. From a manufacturer's perspective, a trademark raises the company's image and reputation, draws consumer interest, and increases customer loyalty (Adjie & Kansil, 2024). In the context of a progressively more competitive modern

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economy, brands are no longer regarded simply as symbols but have evolved into strategic tools that impact consumer purchasing choices and foster market loyalty. For numerous companies, particularly those involved in consumer goods and services, brand strength can significantly influence the overall valuation of the business (Zheng, 2024).

In the context of Indonesia, the position of brands becomes even more significant when coupled to the function of MSMEs as the primary drivers of the national economy (Tribuana & Lubis, 2024) MSMEs play an essential part in the economy of the nation by being the primary drivers of economic activities, providing employment opportunities, establishing new markets, and performing as major actors in the economies of local communities and empowering communities (Mahfud, 2025). However, MSMEs still face fundamental obstacles in obtaining financing, mainly due to limited physical assets that can be used as collateral. Taking into consideration the situation, the Indonesian government has implemented a policy that permits the use of intellectual property rights as collateral for debt (Atikah & Sari, 2024). This concept has led to increased attention on the use of trademark certificates as credit collateral, particularly following regulatory incentives that indicate a policy shift towards using intellectual property for financing.

However, increased attention to this idea does not automatically mean that trademark certificates can actually be used as collateral for credit. The first question that must be answered is whether the legal nature of trademarks meets the requirements as collateral in the Indonesian legal system, particularly in the fiduciary guaranteed regime that has been used to bind movable objects, including intangible ones. One of the primary risks is legal ambiguity, specifically the lack of normative guidelines regarding the use of inventory as collateral, the methods for its valuation, and the procedures for executing enforcement in the event of default. When a creditor defaults on payment, the lender lacks legal certainty concerning the appropriate legal measures that may be pursued against the collateralized assets.

Normative analysis may suggest that trademarks can be used as collateral in theory, but in fact, this does not always work effectively. The Indonesian financial sector remains highly cautious regarding intangible assets. Evaluating the value of a trademark is more complex than assessing physical assets, as it relies on factors such as reputation, business sustainability, market conditions, and the owner's capacity to maintain brand equity. Moreover, the absence of standardized valuation standards for intellectual assets in Indonesia leads to individual financial institutions adopting their own policies, with some deciding not to accept this type of collateral entirely. This situation demonstrates that legal feasibility is inadequate without institutional

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readiness, clear valuation mechanisms, and enhanced risk management within the banking sector. This situation highlights the importance of a comprehensive understanding of the issue, considering both legal aspects and the practical realities that influence the effectiveness of intellectual property-based collateral schemes. This research aims to examine the legal feasibility of trademark certificates as credit collateral under Indonesian law and to analyze the normative and regulatory challenges related to their utilization by MSMEs.

In the literature on intellectual property as an object of financing, existing research is still limited and generally focuses on economic valuation aspects. One example is a study by (Arief et al., 2025) which focuses on patent valuation and its influence on financing decisions. The study discusses valuation methods and how financial institutions assess the economic risk of intangible assets but does not evaluate whether intellectual property can be used as collateral under Indonesian law or how MSMEs face obstacles in utilising it. This gap indicates that the legal feasibility and normative constraints of intellectual property-based credit financing remain underexplored in the existing literature. In response to this gap, this study examines the legal feasibility of using trademark certificates as credit collateral under Indonesian law and analyzes the normative and regulatory challenges related to their utilization by MSMEs. To achieve these objectives, this research adopts a normative juridical approach using statutory and conceptual analysis, drawing upon primary legal materials in the form of relevant legislation and secondary legal materials consisting of scholarly writings and legal literature

2. Method

This research uses a normative legal research method, this discussion centers on assessing the legal feasibility of trademark certificates as credit collateral and identifying the regulatory framework that governs their use. The method relies on the examination of laws and regulations related to intellectual property, secured transactions, and MSMEs financing in Indonesia. All materials were obtained through library study (Susila & Devty, 2026), and legal materials are collected through document study techniques, including the review of statutes, government regulations, and related official documents. The analysis is carried out qualitatively to understand how the legal framework accommodates trademark certificates as collateral and to identify the practical challenges that arise for MSMEs within that framework.

3. Analysis & Results

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3.1. Assessing the Legal Feasibility of Trademark Certificates as Credit Collateral

The legal assessment of the use of trademark certificates as collateral credit for MSMEs must begin with the fundamental question of how Indonesian law positions trademarks as objects of rights that can be encumbered with collateral. In intellectual property law or Law No. 20 of 2016 concerning Trademarks and Geographical Indications (hereinafter will be abbreviated as Trademark Law) explicitly states that trademark rights are exclusive rights granted by the state to registered owners (Wijanarko & Slamet Pribadi, 2023). According to Article 1 of Trademark Law, a Brand is defined as a sign that can be graphically represented through various forms, including images, logos, names, words, letters, numbers, colour arrangements, and may exist in two-dimensional or three-dimensional formats, sounds, holograms, or combinations of these elements. Its purpose is to differentiate goods and/or services produced by individuals or legal entities in commercial activities (Olivia, 2023). This formulation shows that a trademark serves as a property right with economic value, allowing for its transfer and commercial use.

The certainty regarding the status of trademark rights is confirmed in Article 3 of Trademark Law, which states that 'Trademark rights are obtained after the trademark has been registered (Balik et al., 2023). Although this article does not regulate transfers, the rules regarding the transferability and utilisation of trademarks are contained in Articles 41 and 42 of the same law. Article 41(1) stipulates that Trademark rights may be transferred or assigned by inheritance, will, waqf, grant, agreement, or other causes permitted by law (Usanti et al., 2024). Meanwhile, Article 42(1) states that trademark owners have the right to grant licences to other parties to use their trademarks (Syarifaini et al., 2022). These two provisions indicate that trademark rights are transferable property rights and therefore fall under the category of objects according to Article 499 of the Civil Code defines property as every item and right subject to control through property rights. In legal terminology, objects are equivalent to objects, contrasting with the form of subjects, specifically persons and *rechtspersoon*. Therefore, objects defined by law are those that can possess rights or be owned by people. Conversely, anything that cannot possess rights or is not owned by an individual is excluded from the definition of objects as outlined in the Civil Code (Satory et al., 2025). Thus, trademark rights as intangible property rights are still included in the category of objects in the sense of Indonesian civil law.

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The next step is to assess whether trademark certificates can be objects of fiduciary collateral. Law No. 42 of 1999 concerning Fiduciary Guarantee (hereinafter will be abbreviated as Fiduciary Guarantee Law) provides the basis that fiduciary collateral can be imposed on tangible and intangible movable objects (Wiradirja et al., 2021). Article 1(4) states that 'Property is any object that can be owned and transferred, whether tangible or intangible, as well as immovable (Mashdurohatun & Gunarto, 2018). This provision directly opens the door for intellectual property to be used as an object of fiduciary security as long as it fulfils the elements of being ownable and transferable. Since a trademark is an exclusive right that can be transferred, it normatively fulfils the elements of a fiduciary object. Trademarks are legally categorised as intangible movable objects, so the existence of this norm further confirms their legal eligibility as collateral objects. Since trademarks are exclusive rights that can be transferred as stipulated in Article 41 of the Trademark Law, the rights to trademarks normatively fulfil the elements as objects of fiduciary. Thus, from the legal construction of fiduciary guarantees, there are no normative obstacles that prevent trademarks from being encumbered with fiduciary guarantees.

Government Regulation Number 24 of 2022, which related to the implementation of Law Number 24 of 2019 on the Creative Economy (Rio Lastuti; Sugiharti, Dewi Kania, 2024), establishes an administrative framework for introducing intellectual property as financing objects. This regulation explains that the financing scheme based on intellectual property rights seeks to optimize human resources within the creative economy, facilitating productive and extensive development. This scheme contributes to the national economy by generating income through the utilization of the added value of intellectual property (Putri Azka Adriliya et al., 2024). Article 10 stipulates that intellectual property eligible to be used as debt collateral includes intellectual property that has been duly recorded or registered with the relevant governmental authority responsible for legal and intellectual property affairs, as well as intellectual property that has been commercially managed, either independently by the right holder or through transfer to another party (Lukito & Hartanto, 2024). This provision does not alter the provisions of the Trademark Law or the Fiduciary Guarantee Law, but provides administrative legitimacy that intellectual property, including trademarks, is recognised as an asset worthy of consideration in financing schemes for creative economy actors and MSMEs.

Normatively, trademark certificates also fulfil the element of authentic evidence that a trademark right is registered with the Directorate General of Intellectual Property. Article 25 of Trademark Law states that

'Registered trademarks are given a Trademark Certificate as proof of trademark rights.' Thus, it is not the physical certificate that is pledged, but rather the trademark rights proven by the certificate. From an enforcement perspective, Article 29 of the Fiduciary Guarantee Law provides an enforcement mechanism in the form of a public auction or private sale in the event of debtor default. There is no restriction that the fiduciary object must be a tangible object. Since trademark rights can be legally transferred, this enforcement mechanism can theoretically also be applied to trademarks (Kurniawati & Saleh, 2024).

Based on the overall construction of Indonesian positive law, there are no provisions prohibiting the use of trademarks as collateral. On the contrary, there are a number of norms from the Trademark Law, the Civil Code, the Fiduciary Guarantee Law, and Government Regulation No. 24 of 2022 which cumulatively form the basis that trademark certificates qualify as collateral credit. Thus, it can be concluded that, normatively, the use of trademark certificates as collateral for MSMEs is feasible, although the success of its implementation remains dependent on technical and implementation aspects.

3.2. Challenges in the Practical Use of Trademark Certificates as Credit Collateral for MSMEs

The challenges in utilising trademark certificates as collateral credit for MSMEs cannot be separated from the legal characteristics of trademarks as formulated in Trademark Law (Sultan et al., 2025). Article 1 paragraph (1) of Trademark Law explicitly characterizes a trademark as a sign that is capable of being represented in a graphical form, including but not limited to pictures, logos, names, words, letters, numbers, and colour arrangements presented in either two-dimensional or three-dimensional formats, as well as sounds, holograms, or any combination of these elements, which is used for the purpose of distinguishing goods and/or services offered in commercial activities (Keliat et al., 2024). Furthermore, Article 1 paragraph 5 emphasises that trademark rights are exclusive rights granted by the state to registered trademark owners, both for their own use and to grant permission to other parties (Saly & Khoman, 2022). This formulation indicates that a trademark is an intangible property right that can be transferred, but its intangible nature also poses obstacles when a trademark is used as collateral for financing because financial institutions require instruments that can be measured and have a clear execution market.

The first and most dominant obstacle is the issue of brand valuation. Although Article 1(4) of Fiduciary Guarantee Law recognises that

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fiduciary objects can be tangible or intangible as long as they can be owned and transferred (Anggriani et al., 2024), this regulation does not provide guidelines on how the value of an intangible object should be calculated for financing purposes. There are no implementing regulations governing the standards for assessing the economic value of trademarks, so financial institutions do not have a uniform reference (Sutikno & Sabiq, 2023). In banking practice, banks are required to ensure the debtor's ability to repay the loan and assess the adequacy of collateral (Prabeswara, 2025). As there are no government-established valuation standards, banks assess trademarks as assets with a high degree of uncertainty. As a result, financial institutions tend to reject brands as collateral because they cannot ascertain their market value and liquidity value. This obstacle is compounded by the reality that the valuation of intellectual property in Indonesia is still very limited, and there are not many public appraisers with specific expertise in the valuation of intellectual property rights.

The second obstacle lies in the execution mechanism, which is considered to provide no certainty for financial institutions. Article 29 of the Fiduciary Guarantee Law stipulates that execution can be carried out through public auction or private sale (Budi, 2017). This provision does allow for the execution of intangible assets, including trademarks. However, in practice, it is not easy to find parties willing to purchase trademark rights from MSMES debtors, especially if the trademarks do not yet have broad commercial value. Financial institutions consider the execution process for intangible assets to be high risk because the secondary market for such assets is very limited. This makes it difficult for banks to ensure that the enforcement process can cover the remaining principal of the loan in the event of default. This situation has led banks to ultimately prefer conventional collateral such as land, buildings, or vehicles that have a liquid market.

The next obstacle is the low level of trademark ownership and management by MSMEs. Although Government Regulation No. 24 of 2022 on the Creative Economy provides space for intellectual property to be used in financing schemes (Mahmudah et al., 2024), including through the provisions of Article 10, which states that intellectual property that can be used as collateral for debt must be registered and well managed (Mariska, 2022), many MSMEs do not yet meet these requirements. Many MSMEs players do not register their brands, so they do not have certificates as proof of legal rights. Even for MSMEs that have registered their brands, commercial management is often not optimal, for example, there is no record of royalties, no separate financial reports for brands, or no commercialisation strategy that can demonstrate their economic value.

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This condition causes financial institutions to assess MSMEs brands as assets that are not yet mature enough to be used as a basis for financing.

The administrative barriers that were previously caused by the absence of guidelines from the Financial Services Authority have partially shifted following the issuance of Financial Services Authority Regulation No. 19 of 2025 (hereinafter will be abbreviated as POJK 19 of 2025) concerning the Assessment and Encumbering of Intellectual Property as Collateral (Dewi et al., 2025). Rather than mandating acceptance, this regulation establishes an administrative and supervisory framework that allows financial institutions to consider intellectual property, including trademarks, within MSMEs financing schemes. This regulation provides an operational basis for financial institutions to accept intellectual property as collateral, including brands, by regulating the procedures for assessment, binding, and supervision of loans secured by intellectual property assets (Wahyuni, 2025). However, its practical implementation still faces obstacles because banks remain bound by the prudential principle under general banking regulations, meaning that the acceptance of trademarks as collateral continues to depend on risk assessment, market feasibility, and the availability of accountable valuation methods. Thus, although POJK 19 of 2025 fills a regulatory gap, it does not immediately remove the administrative and technical obstacles to the use of trademark certificates as collateral for MSMEs.

In addition to substantive and administrative barriers, there are also structural barriers related to the understanding and readiness of MSMEs. Many MSMEs do not yet understand that trademarks can be used as business assets that have economic value (Mariska, 2023). In some cases, MSMEs only register trademarks to protect their business identity without developing their commercial value. Low intellectual property literacy prevents MSMEs from preparing the documents, reports, or strategies needed to show banks that their trademarks are eligible for financing. These obstacles show that although legally trademarks qualify as objects that can be owned and transferred and can be normatively encumbered with fiduciary rights, practical conditions in the field do not yet support their implementation in the context of MSMEs credit. Basic regulations do provide scope, but their implementation is hampered by the absence of valuation standards, uncertainty of execution, the unpreparedness of financial institutions, and the low capacity and literacy of MSMEs. Thus, the legal feasibility that has been proven normatively in the previous discussion is not directly proportional to practical feasibility, so that the use of brand certificates as collateral is still difficult to realise in the practice of MSMEs financing in Indonesia.

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4. Conclusion

Based on the analysis, this study concludes that trademark certificates are normatively feasible to be used as credit collateral under Indonesian law. Trademark rights are legally recognized as exclusive, transferable, and economically valuable intangible property rights, thereby fulfilling the essential legal characteristics required of collateral objects. This conclusion is supported by the combined framework of the Trademark Law, the Civil Code, the Fiduciary Guarantee Law, and Government Regulation No. 24 of 2022, which collectively provide a juridical basis for the use of intellectual property as credit collateral.

However, normative feasibility does not automatically ensure effective implementation in MSMEs financing practices. The utilization of trademark certificates as collateral remains constrained by unresolved regulatory and institutional challenges, particularly the absence of standardized valuation mechanisms, uncertainty in execution and enforcement processes, and the cautious approach of financial institutions operating under prudential banking principles. Although recent regulatory developments, including POJK 19 of 2025, have begun to provide an administrative framework for intellectual property-based collateral, these measures function as enabling instruments rather than mandatory obligations.

Furthermore, limited MSMEs readiness, reflected in low levels of trademark registration, weak commercial management of trademark assets, and insufficient intellectual property literacy, further restricts practical application. Accordingly, this study finds that while trademark certificates are legally qualified as collateral objects in principle, their effective use in MSMEs credit financing remains limited in practice due to persisting normative and regulatory constraints.

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