Journal of Law & Social Politics
Volume 4, Issue 4, 647-659
e_ISSN: 2807-6311
https://jolastic.id/index.php/jlsp/index
DOI: doi.org/10.59261/jlsp.v4i4.180

Evidentiary Strength of Notarial Deeds in Trademark Disputes: Registration, Transfer, and Litigation in the DENZA Case of BYD Company Limited Versus PT Worcas Nusantara Abadi

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Article Info:
Article history:
Received: July 13, 2026
Revised: August 14, 2026
Accepted: August 14, 2026
Available Online: September 18, 2026

Keywords:
Notarial Deed; Trademark Registration; DENZA Dispute

Abstract

Background: This article examines the evidentiary strength of notarial deeds in the DENZA trademark dispute between BYD Company Limited and PT Worcas Nusantara Abadi within Indonesia's *first-to-file* trademark system. The dispute highlights the relationship between registration priority, ownership statements, good faith, and evidence of trademark transfer in litigation.
Objective: This study aims to analyze the role and evidentiary value of notarial deeds in determining trademark ownership, transfer validity, and legal certainty within Indonesia's trademark registration framework.
Methods: This study employs normative legal research using statutory, conceptual, and case approaches. The analysis examines trademark regulations, civil evidentiary principles concerning authentic deeds, notarial law, and Decision Number 1/Pdt.Sus-HKI/Merek/2025/PN.Niaga.Jkt.Pst. *jo.* Supreme Court Decision Number 1338 K/Pdt.Sus-HKI/2025.
Results: The findings show that trademark registration in Indonesia follows a constitutive system, where *first-to-file* priority must be accompanied by good faith and valid ownership evidence. In the DENZA dispute, the notarial deed did not create trademark rights but functioned as authentic evidence of trademark transfer. Its evidentiary strength became significant when supported by recordal evidence from the Directorate General of Intellectual Property (DJKI). This study contributes by connecting the evidentiary function of notarial deeds with trademark administration and dispute resolution.
Conclusion: Notarial deeds provide legal certainty in intellectual property transactions; however, courts must distinguish between contractual transfer, administrative recordal, and substantive trademark validity. The findings offer implications for notarial practice, trademark litigation, and intellectual property governance in Indonesia.

To cite this article: Sepvinasari, N., Subrata, W. S., & Budi, H. S. (2026). Evidentiary strength of notarial deeds in the DENZA trademark dispute: BYD Company Limited versus PT Worcas Nusantara Abadi. *Journal of Law & Social Politics*, *4*(4), 647-659. https://doi.org/10.59261/jlsp.v4i4.180

INTRODUCTION

Trademarks have become some of the most valuable legal assets in modern commerce because they connect products, reputation, consumer trust, and business expansion (Ossai, 2025; Simon, 2020; Sujatmiko, 2026). In a market where goods and services move quickly across borders, a trademark is no longer merely a sign printed on packaging or displayed on a product (Pokrovskaya, 2024; Zakiya, 2025). It represents business identity, quality assurance, and the economic value of goodwill. Finezea et al. (2025) explain that a trademark functions as an identity and distinguishing sign for goods or services in business activities. Similarly, Vincent et al. (2026) emphasize that trademark protection is closely related to legal certainty for business actors in commercial competition. For that reason, trademark law must perform two functions at the same time. It must provide certainty to entrepreneurs who register and commercialize a mark, and it must also prevent opportunistic registration that exploits another party's reputation. This dual function becomes difficult when a foreign mark has developed international recognition but has not yet been registered in Indonesia, while a domestic applicant has already obtained registration for a similar sign. The urgency of this issue has intensified with the rise in foreign trademark registrations in Indonesia and the expansion of cross-border commercial activities, where international brands increasingly encounter registration conflicts with domestic applicants in first-to-file jurisdictions.

Indonesia's trademark system is principally based on registration (Siswani, 2025). Law Number 20 of 2016 on Trademarks and Geographical Indications adopts a constitutive approach in which exclusive rights are granted by the state to the owner of a registered mark. In practical terms, a party that is first to file a valid application before the Directorate General of Intellectual Property, commonly referred to as DJKI, generally obtains the stronger legal position. This first-to-file orientation is designed to encourage early registration and to create an easily verifiable public record. Finezea et al. (2025), state that the first-to-file principle gives priority to the party that first submits a trademark application to DJKI, not necessarily to the party that first uses the mark in trade. However, this system is not absolute. The same statute also contains grounds for refusal and cancellation, especially where an application is filed in bad faith or has similarity in principle to a previously registered mark or to a well-known mark owned by another party. Vincent et al. (2026) note that this framework creates legal complexity when the protection of a registered mark conflicts with the existence of a well-known mark that has not yet been registered in Indonesia.

The dispute over the DENZA mark illustrates this tension. BYD Company Limited, a Chinese automobile and electric vehicle company, claimed that DENZA was part of its global brand portfolio and had been used internationally in relation to electric vehicles. PT Worcas Nusantara Abadi, on the other hand, appeared in the Indonesian legal record as the party whose DENZA mark had been registered first in Indonesia in Class 12. Restu et al. (2025) explain that PT Worcas Nusantara Abadi registered the DENZA mark earlier, while BYD submitted its application in Indonesia only afterward. Finezea et al. (2025) also describe the DENZA dispute as a concrete example of the complexity of applying the first-to-file principle in Indonesian trademark law, particularly when a foreign company claims international reputation for a mark that has not yet been registered domestically. The dispute was brought before the Commercial Court at the Central Jakarta District Court in Decision Number 1/Pdt.Sus-HKI/Merek/2025/PN.Niaga.Jkt.Pst. Afterward, the dispute continued at the cassation level and was addressed in Supreme Court Decision Number 1338 K/Pdt.Sus-HKI/2025. The public discussion surrounding the case shows that the controversy was not limited to the question of whether DENZA was a well-known mark (Kolmašová & Kolmaš, 2026). It also concerned whether the proper defendant had been sued after the mark had allegedly been transferred to another company before the lawsuit was filed. According to data from DJKI, Indonesia recorded a significant increase in trademark filings over the period 2020–2024, with foreign trademark applications constituting a growing share of total applications. The Commercial Court in Jakarta consistently handles hundreds of trademark disputes per year, reflecting the increasing legal complexity generated by the interaction between Indonesia's first-to-file system and the rising volume of international brand activity in the Indonesian market.

The notarial deed became central to that procedural question. The case materials show that PT Worcas Nusantara Abadi argued that the DENZA mark had been transferred to PT Raden Reza Adi through a transfer agreement, later affirmed before a notary in Deed Number 1 dated September 10, 2024, and that the request to record the transfer was submitted to DJKI on September 11, 2024. Under Indonesian civil evidence law, an authentic deed has strong evidentiary value because it is made in the form prescribed by law by or before an authorized public official. This principle is reflected in Article 1868 of the Indonesian Civil Code and is also connected to the authority of notaries under Law Number 2 of 2014 concerning the Amendment to Law Number 30 of 2004 on the Office of Notary. In the cassation reasoning reported by Dandapala (2026), the Supreme Court accepted the significance of this transfer evidence, granted

PT Worcas Nusantara Abadi's cassation, rejected BYD's cassation, annulled the Commercial Court decision, and declared BYD's claim inadmissible because the claim was directed at the wrong party. This transforms the DENZA dispute into a useful case study not only of trademark priority but also of the evidentiary role of authentic deeds in intellectual property litigation. The significance of this evidentiary dimension extends beyond the individual case: the way courts treat notarial deeds in trademark disputes directly shapes how notaries should draft transfer documents, how practitioners should structure trademark assignments, and how Indonesia's trademark governance framework should be developed to reduce procedural uncertainty in future litigation.

Previous studies on the DENZA dispute have largely focused on the first-to-file principle, the protection of well-known marks, and the tension between national territoriality and international brand reputation. Vincent et al. (2026), for example, argue that PT Worcas Nusantara Abadi had a stronger legal position because it registered the DENZA mark first in Indonesia, while BYD had not yet obtained Indonesian registration when claiming ownership based on global reputation. Finezea et al. (2025) further emphasize that the DENZA dispute demonstrates a gap between the certainty provided by the first-to-file system and the protection of well-known marks under international intellectual property norms. Restu et al. (2025) also discuss the dispute from the perspective of intellectual property law in Indonesia, especially in relation to the first-to-file principle, bad faith, and the concept of well-known marks. Those studies are important because they explain why Indonesian law tends to protect the first registrant and why foreign brand owners must register promptly before entering the Indonesian market. Nevertheless, the evidentiary dimension of the dispute deserves separate analytical attention for a specific reason: the legal effect of an authentic deed in trademark proceedings is governed by civil evidence law, not trademark law, and this intersection has not been adequately explored in the existing literature on the DENZA dispute. A notarial deed does not function as a trademark certificate and does not replace the administrative recordal of a transfer before DJKI. Yet, as an authentic deed under Indonesian civil evidence law, it may have strong evidentiary value regarding the existence of a legal act, the identity of the parties, and the date on which the transaction was executed. The novelty of this article lies in linking the law of trademark registration with the law of evidence and notarial deeds within the same analytical framework. This integration responds to a practical gap in Indonesian trademark litigation: parties and courts frequently encounter disputes about the evidentiary weight of transfer documents, yet there is no consolidated doctrinal analysis that places notarial deeds within the broader architecture of trademark registration, cancellation, and procedural standing.

Accordingly, with the evidentiary role of notarial deeds as the analytical focus, this article addresses two interrelated research questions within the narrative of the DENZA dispute. First, how is trademark registration regulated in Indonesia, especially through the first-to-file principle, the statement of ownership submitted by the applicant, and the requirement of good faith? Second, how is the protection of registered trademarks implemented in Indonesia, including through preventive examination, corrective instruments for cancellation when registration fails to satisfy the requirements of good faith, similarity in principle, or applicable first-to-file requirements, and the role of a notarial deed in evidencing the transfer of the disputed mark? By answering these questions, this article clarifies the legal position of trademark registration, the limits of well-known mark protection, the procedural consequences of suing the wrong party, and the evidentiary strength of notarial deeds in trademark litigation.

METHOD

This research used normative legal research because the object of analysis was the coherence among legal norms, legal documents, and judicial reasoning. The study did not conduct interviews or collect empirical data from respondents. Instead, it examined primary legal materials consisting of Law Number 20 of 2016 on Trademarks and Geographical Indications, the Civil Code provisions on authentic deeds, Law Number 2 of 2014 concerning the Amendment to the Notary Law, relevant implementing regulations on trademark registration, Decision Number 1/Pdt.Sus-HKI/Merek/2025/PN.Niaga.Jkt.Pst., and Supreme Court Decision Number 1338

K/Pdt.Sus-HKI/2025, as published in the official records of the Supreme Court of the Republic of Indonesia and reported by (Dandapala, 2026). Secondary legal materials included journal articles discussing the DENZA dispute, academic literature on trademark law, and legal commentary on the first-to-file principle and well-known marks. The document selection criteria prioritized: (a) official legal texts enacted or in force under Indonesian law; (b) court decisions accessible through official judicial repositories or reliably reported by legal news media; and (c) peer-reviewed academic publications from the past ten years that directly addressed trademark registration, notarial law, or intellectual property evidence.

The research applied three approaches. The statutory approach was used to identify the formal requirements and legal consequences of trademark registration, refusal, cancellation, transfer, and infringement claims. The conceptual approach was used to explain the meaning of the first-to-file principle, trademark territoriality, well-known mark protection, authentic deeds, and evidentiary strength. The case approach was used to understand how these concepts operated in the DENZA dispute, particularly when the notarial deed of transfer was used to support an error in persona objection. The analysis proceeded by first reconstructing the applicable normative framework, then identifying the case facts relevant to registration and proof, and finally evaluating whether the implementation of registered trademark protection was consistent with the purposes of legal certainty and fairness. The legal reasoning model applied was deductive normative reasoning: starting from the applicable legal norms, the study derived the legal consequences that should follow from the facts of the DENZA dispute and evaluated whether the actual judicial outcomes were consistent with those normative derivations. Legal interpretation employed three techniques: the grammatical method to establish the ordinary meaning of statutory provisions; the systematic method to read individual provisions within the context of the entire statute; and the teleological method to interpret provisions in light of their legislative purpose. The analytical procedure followed three layers: (a) formal validity, examining whether the registration requirements were procedurally met; (b) substantive legality, examining whether the requirements concerning good faith, distinctiveness, and similarity were satisfied; and (c) evidentiary assessment, examining the documentary chain from trademark registration through private transfer, notarial authentication, and DJKI recordal.

This study did not involve human or animal participants and therefore did not require ethical approval. All data were collected from legal documents, official or publicly accessible legal information, and academic sources. The use of court decision materials was limited to the legal reasoning and procedural facts relevant to the research questions. The article avoided making factual claims beyond the available documentary record and treated news reports as supporting materials rather than as substitutes for the official text of a judgment.

RESULTS AND DISCUSSION

Legal Analysis

Regulation of Trademark Registration in Indonesia: First to File, Statement of Ownership, and Good Faith

The first normative analysis establishes that Indonesian trademark law adopts a constitutive registration system. A trademark right arises after the mark is registered, not merely after the sign is used in trade. This makes registration before the Directorate General of Intellectual Property (DJKI) the primary source of exclusive rights. The first-to-file principle therefore gives priority to the applicant who first submits a valid application for a mark in the relevant class of goods or services. In this system, the register becomes the legal reference for determining ownership, filing date, scope of goods or services, transfer history, and the period of legal protection. In the DENZA dispute, this principle was directly operative: PT Worcas Nusantara Abadi held the earlier registration of the DENZA mark in Indonesia, while BYD Company Limited, despite its global commercial use of the mark, had not yet completed Indonesian registration when the cassation proceedings commenced. The dispute thus illustrates how the first-to-file system distributes formal legal advantage and why that advantage is both the starting point and the central tension in the case.

The second normative analysis establishes that the first-to-file principle is not a standalone rule. Registration priority must be read together with the ownership declaration and the good-faith requirement. In practice, the applicant must submit administrative documents identifying the applicant, the representation of the mark, the class and description of goods or services, and supporting documents, including a declaration of ownership. The ownership declaration is not merely an administrative formality. It is a legally significant document under Article 21 paragraph (3) of Law Number 20 of 2016, which provides that an application may be rejected when filed in bad faith, including when the applicant knowingly files for a mark belonging to another party. The declaration thus operates as a documentary checkpoint: it places on the applicant the burden of truthful disclosure and creates an evidentiary baseline against which later allegations of bad faith or false ownership can be assessed. In the DENZA dispute, whether the ownership declaration submitted by PT Worcas Nusantara Abadi accurately reflected genuine legal ownership, or whether BYD's allegations of bad faith could undermine that declaration, was central to the merits of the cancellation claim, even if the Court ultimately disposed of the case on procedural grounds.

The third normative analysis establishes that good faith functions as a substantive filter within the Indonesian first-to-file system. A party may be the earliest applicant in the chronological sense, but that party does not automatically obtain an indefeasible right if the application is filed in bad faith. Good faith requires that the applicant not file a mark by imitating another party's mark, trading on another party's reputation, misleading consumers, or creating unfair competition. Therefore, the first-to-file principle should be understood as a priority rule applicable to a lawful and honest applicant. It is not a legal shield for trademark squatting or for registration based on opportunistic knowledge of another party's commercial reputation.

Table 1
Findings on the regulation of trademark registration in Indonesia

Aspect	Normative content	Result of analysis
First-to-file principle	Trademark rights are obtained through registration before DJKI and priority is generally determined by filing and registration records.	The principle provides certainty and public notice, but its protection is conditional upon the validity of the application.
Statement of ownership	The applicant submits a written ownership statement and supporting documents as part of the registration process.	The statement strengthens administrative accountability because ownership claims can later be tested in opposition or cancellation proceedings.
Good faith	Applications made in bad faith may be refused or become the basis of cancellation when the registration has already been granted.	Good faith limits the first filer's protection and prevents the register from being used as an instrument of unfair competition.
Similarity in essence	An application may be refused or cancelled when the mark has similarity in principle or entirety with an earlier mark or a well-known mark.	The test protects consumers and prior rights by examining the overall impression, dominant element, pronunciation, visual similarity, and relationship of goods or services.
Administrative publicity	Publication, opposition, examination, registration, renewal, and recordal make trademark rights visible to the public.	The register allows third parties, business actors, and courts to verify legal status rather than relying only on private claims of use.

Based on these findings, the regulation of trademark registration in Indonesia is best understood as a layered system. The first layer is administrative priority, namely, who files first and whether the application satisfies the formal requirements. The second layer is documentary responsibility, namely, whether the applicant's statement of ownership corresponds to the actual legal and commercial circumstances. The third layer is substantive legality, namely, whether the mark has distinctiveness, does not conflict with prior rights, does not imitate a well-known mark, and is not filed in bad faith. These layers explain why Indonesian law can protect the first registrant while still allowing a subsequent challenge when the initial registration is legally defective.

Implementation of Registered Trademark Protection in Indonesia: Case-Based Empirical Findings

The second research question concerns implementation. The study finds that the protection of registered trademarks in Indonesia is implemented through preventive, corrective, and remedial mechanisms. Preventive protection appears in the registration process through formal examination, publication, opposition, and substantive examination. Corrective protection appears when a registered mark is challenged through deletion, cancellation, or administrative correction. Remedial protection appears when the owner of a registered mark brings a civil claim or, in certain circumstances, pursues criminal enforcement against unauthorized use. These mechanisms demonstrate that a trademark certificate constitutes strong evidence of trademark rights, but it remains subject to legal challenge.

A case-based empirical reading of the DENZA dispute demonstrates how these mechanisms operate in practice. The dispute did not merely concern which party used the DENZA sign globally or which party filed first in Indonesia. It also involved the questions of whether the registration had been filed in bad faith, whether the mark was similar in principle to another mark, whether BYD could rely on the status of a well-known mark, and whether the proper party had been sued after the DENZA mark had allegedly been transferred. Thus, the implementation of registered trademark protection is not only substantive but also procedural. A claimant must establish the legal ground for cancellation and must also sue the party whose registered rights will be affected by the judgment.

The DENZA dispute therefore demonstrates that the first-to-file principle has practical strength, but it is not absolute. On the one hand, the first registrant receives a strong formal position because Indonesian trademark law is based on registration and territoriality. On the other hand, the law provides corrective mechanisms when the initial registration does not satisfy substantive requirements. In concrete litigation, however, those corrective mechanisms must be invoked and procedurally implemented correctly. If a mark has been transferred before the claim is filed, the transferee becomes legally relevant because cancellation of the mark will affect the transferee's rights. Failure to include the transferee as a party may result in a procedural defect, as illustrated by the error in persona consideration at the cassation stage of the DENZA dispute.

Table 2
Corrective instruments for testing a registered mark

Instrument	Ground tested	Function in implementation
Refusal during examination	Absolute grounds, similarity with earlier marks, well-known marks, and bad faith.	Prevents problematic applications from becoming registered rights.
Opposition during publication	Objection from interested parties before registration is completed.	Allows third parties to submit evidence that the application conflicts with their rights.
Cancellation lawsuit	Violation of refusal grounds, including bad faith and similarity in principle or entirety.	Corrects a registration that should not have been granted and restores the integrity of the trademark register.
Deletion/non-use action	Non-use or other statutory grounds for removal from the register.	Prevents unused marks from blocking fair market entry and keeps the register commercially accurate.
Administrative recordal	Transfer, license, change of name/address, or other changes affecting the registered mark.	Makes private legal acts visible to the public and reduces uncertainty in ownership and standing.

The corrective instruments above are relevant to the formulation of the problem because they explain how the law responds when a registration does not satisfy the requirements of good faith, similarity, or lawful application of the first-to-file principle. Bad faith functions as a moral and legal corrective against opportunistic filing. The similarity requirement, in principle, functions as a consumer-protection and prior-rights safeguard. The first-to-file principle functions as an administrative priority rule, but it can operate properly only when the application is supported by a truthful ownership statement and does not conflict with the statutory grounds for refusal. Therefore, cancellation is not an attack on the first-to-file system. Rather, cancellation is the legal instrument that preserves the legitimacy of the first-to-file system.

Case Position in the DENZA Dispute and the Evidentiary Function of the Notarial Deed

The position of the parties in the DENZA dispute demonstrates the intersection of trademark registration, transfer of rights, and civil evidence. PT Worcas Nusantara Abadi was recorded as the party that had obtained registration in Indonesia earlier, while BYD Company Limited relied on the mark's global reputation and subsequently sought cancellation. During the litigation, PT Worcas Nusantara Abadi argued that the disputed DENZA mark had been transferred to PT Raden Reza Adi before the lawsuit was filed. The evidence referred to in the case discussion included a transfer agreement dated August 28, 2024; Deed Number 1, dated September 10, 2024, executed before a notary; and a request for recordal of the transfer submitted to the Directorate General of Intellectual Property (*Direktorat Jenderal Kekayaan Intelektual* or DJKI) on September 11, 2024.

The notarial deed did not create the trademark right and did not replace the trademark certificate. Its function was evidentiary. As an authentic deed (*akta autentik*), it helped establish that the parties had appeared before a notary, acknowledged or affirmed the transfer, and recorded the date and legal act in a form recognized under the law of civil evidence. When considered together with the request for recordal submitted to DJKI, the deed became relevant to determining whether PT Worcas Nusantara Abadi remained the proper defendant. This is why the deed was not merely an accessory document. It affected the identification of the proper party and, consequently, the procedural framework of the cancellation claim.

Table 3

Evidentiary role of documents in the DENZA case position

Document	Legal role	Implication for the dispute
Trademark registration record	Shows the existence, owner, class, and status of the registered DENZA mark in Indonesia.	Gives the registered party a strong formal position under the first-to-file system.
Statement of ownership in registration	Represents the applicant's claim that the mark belongs to the applicant at the time of filing.	May be assessed later when another party alleges bad faith, imitation, or false ownership.
Private transfer agreement	Shows the contractual intention to transfer the mark between the transferor and transferee.	Creates a basis for transfer between the parties but requires stronger proof and administrative follow-up for public certainty.
Notarial deed of transfer affirmation	Authenticates the legal act, date, identity of parties, and statements made before the notary.	Strengthens evidence of transfer and may determine whether the plaintiff sued the correct party.
DJKI recordal request	Connects private transfer documentation with the public trademark administration.	Supports the public visibility of ownership changes and reduces uncertainty in litigation.

Discussion

Regulation of Trademark Registration

The regulation of trademark registration in Indonesia reflects a policy choice in favor of legal certainty (Saka, 2024). By granting rights upon registration, the law encourages business actors to search the register, file their marks promptly, and define the scope of protection through classes and specifications of goods or services. This approach is particularly important in a developing market, where business actors need a reliable public record to evaluate whether a sign is available for use. It also protects domestic businesses that invest early in registration because the certificate serves as evidence of ownership and a basis for preventing others from using a similar sign.

Nevertheless, the first-to-file system has an inherent risk. It may be used by an applicant who knows that another party has developed a reputation abroad but has not yet registered the mark in Indonesia. The requirement of a statement of ownership and the principle of good faith are therefore necessary to prevent the registration system from becoming merely chronological. Chronology answers the question of who filed first; good faith answers the question of whether the filing deserves legal protection. A first filing based on dishonest imitation, concealment, or exploitation of another party's reputation should not receive the same protection as a first filing made by a genuine owner with a legitimate business interest.

The statement of ownership is also important from the perspective of evidentiary accountability (Farooq et al., 2023). When an applicant signs or submits an ownership statement, the applicant places a legal assertion into the administrative record. If a dispute later arises, that assertion can be compared with evidence of prior use, business relations, distribution agreements, corporate affiliation, foreign registrations, media exposure, consumer recognition, and other documents (Khanom, 2023). In this sense, the statement of ownership serves as a bridge between the administrative stage and the litigation stage. It does not guarantee that the applicant is substantively entitled to the mark, but it provides a documentary point from which good faith and ownership may be tested. The relationship between the statement of ownership and the notarial deed is particularly significant for understanding the evidentiary architecture of trademark disputes. While the statement of ownership operates at the moment of filing, establishing who claims the right at the point of registration, the notarial deed operates at a later stage by authenticating or documenting the transfer of an already-registered right to a new party. Together, they form a documentary chain that defines the trajectory of rights from initial registration through subsequent transfer. In the DENZA dispute, this chain was decisive at the cassation level because it determined whether PT Worcas Nusantara Abadi remained the proper defendant at the time the lawsuit was filed or whether the rights had already been transferred through an authenticated legal act to PT Raden Reza Adi.

Accordingly, the proper understanding of Indonesian trademark registration is not that "the first filer always wins." A more accurate formulation is that the first lawful and good-faith applicant obtains priority, provided that the mark is distinctive and does not have substantial similarity or overall similarity with an earlier mark, a well-known mark, or another protected sign. This interpretation harmonizes certainty and fairness. It preserves the usefulness of the register while still allowing the courts to correct registrations that were obtained in bad faith or that conflict with prior rights.

Implementation of Protection for Registered Trademarks

The implementation of registered trademark protection in Indonesia operates through the interaction of administrative and judicial mechanisms (Alexsander & Kansil, 2025). Administratively, DJKI examines applications and records legal changes affecting registered marks, including transfers supported by private agreements or notarial deeds. Judicially, the Commercial Court and the Supreme Court examine cancellation claims, infringement claims, and procedural issues concerning standing. The DENZA dispute demonstrates that these mechanisms are not isolated from one another: a private transfer agreement, a notarial deed affirming the transfer, a DJKI recordal request, and a cancellation lawsuit may operate simultaneously, and their interaction may determine whether a court can examine the merits of a case or must dispose of it on procedural grounds. The evidentiary weight of the notarial deed in this interaction is the central concern of this study.

The DENZA dispute illustrates how the evidentiary weight of documentary proof—specifically, the notarial deed and DJKI recordal request—can become more decisive than the underlying substantive debate over trademark priority and international reputation. While BYD's argument was built on global use and the claimed international reputation of the DENZA mark, and PT Worcas Nusantara Abadi relied on its earlier Indonesian registration, the Supreme Court's cassation reasoning ultimately turned on a procedural and evidentiary question: whether the correct party had been sued after the mark had been transferred. This outcome demonstrates that in trademark litigation, the evidentiary function of authentic deeds may foreclose substantive inquiry when procedural standing is not properly established. The tension between territorial registration and international business reputation, though legally significant in first-to-file jurisdictions when a foreign mark is internationally known but not yet secured domestically, was secondary in the DENZA case to the question of whether the notarial deed and recordal request established a valid transfer affecting party standing.

In the implementation of protection, evidence becomes decisive. A claimant alleging that a registered mark was filed in bad faith cannot rely only on an abstract claim of reputation (Stobbs et al., 2022). The claimant must show why the registrant knew or should have known of the mark, how the similarity operates, whether the goods or services are related, whether consumers are likely to be confused, and whether the registrant's conduct indicates an intention to imitate or take unfair advantage of another party's goodwill. Conversely, a registered owner must be able to show that the filing was made honestly, supported by legitimate business reasons, and not designed to block another party. This evidentiary balance is what makes the good-faith requirement meaningful in practice.

The corrective instrument of cancellation is central to this implementation. Cancellation allows the court to review a registration after it has been granted. Through cancellation, the court can test whether the mark should have been refused because of similarity, bad faith, or conflict with a well-known mark. However, cancellation must still follow procedural discipline. The party whose registered right will be affected must be properly included in the proceedings. If the mark has been transferred, the transferee is not a passive third party but the party whose legal interest may be directly affected by the decision. The DENZA case shows that a failure to structure the lawsuit around the correct rights holder may prevent the court from entering into the substantive debate over fame, similarity, and bad faith.

Role of the Notary in Trademark Protection and Transfer

The role of the notary in trademark protection should be placed at the intersection of private law, evidence law, and trademark administration. Trademark rights are exclusive rights arising from registration. Their transfer, however, frequently occurs through private legal acts. Common forms include sale, assignment, corporate restructuring, grant, and inheritance (Mary, 2024). A transfer made only under hand may bind the contracting parties as a private agreement. It may not, however, provide sufficient evidentiary clarity when ownership is disputed in court. A notarial deed addresses this evidentiary concern by giving the legal act the form of an authentic deed and recording the parties, the date, and the acknowledged content in a manner recognized by civil evidence law.

In the DENZA dispute, the notarial deed became important because it helped transform the alleged transfer from a private transaction into a more robust evidentiary record. The deed provided evidence of the appearance of the parties, the date of the legal act, and the acknowledgment of the transfer before an authorized public official. The Supreme Court's cassation reasoning, as reported by Dandapala (2026), indicates that the consideration rested on a combination of two documentary elements: the notarial deed (Deed Number 1, dated September 10, 2024) served as authentic evidence of the legal act of transfer and its acknowledgment before a notary, while the DJKI recordal request (submitted September 11, 2024) demonstrated the administrative follow-through of that transaction. Neither document alone would necessarily have established the same evidentiary chain: the deed documented and authenticated the underlying legal act, while the recordal request demonstrated that the transfer had been submitted to the relevant administrative authority for recordal. Their combined effect supported the conclusion that the transfer had occurred, had been authenticated, and had been submitted for administrative recognition before the lawsuit was filed. Therefore, the notary's role was not merely clerical. The notary contributed to legal certainty by producing a document that, when read together with the DJKI recordal evidence, allowed the court to identify that the relevant trademark rights had already moved to a new holder before the cancellation claim was brought.

However, the evidentiary strength of a notarial deed must not be overstated. A notary does not determine whether a trademark is famous, whether the registration was made in bad faith, or whether a mark is substantially similar to another mark. Those questions remain within the authority of DJKI and the courts. A notarial deed also does not cure a registration that is substantively unlawful. If the initial registration was obtained in bad faith, or if the transfer was fictitious and designed only to avoid litigation, the deed may still be challenged with contrary evidence. Thus, the notarial deed is strong evidence of the legal act recorded in it, but the substantive validity of the trademark right remains governed by trademark law.

For that reason, notarial practice in trademark transactions should include preventive safeguards grounded in the lessons of the DENZA case. The notary should verify the identity and authority of the parties, confirm corporate approvals, identify the trademark object precisely by name, registration number, class, and certificate details, and remind the parties that recordal before DJKI is necessary to provide public notice and legal certainty. When a transfer was previously made under hand, the notary can assist by preparing a deed of affirmation or acknowledgment, but the deed should clearly describe the prior agreement and should not obscure the chronology of the transaction. This is important because the chronology may become decisive in a cancellation lawsuit, especially when a plaintiff challenges ownership or standing. The DENZA case illustrates the importance of such procedural diligence: the transfer from PT Worcas Nusantara Abadi to PT Raden Reza Adi proceeded from a private agreement dated August 28, 2024, through notarial authentication in Deed Number 1 on September 10, 2024, and finally to the DJKI recordal request on September 11, 2024—a carefully documented sequence that proved decisive in the cassation proceedings.

The DENZA dispute therefore provides an important lesson for notaries and trademark practitioners. A carefully drafted notarial deed can protect parties by clarifying the transfer of rights and reducing the risk of evidentiary disputes. It can also assist the court in determining whether a party is properly included in the lawsuit. At the same time, the notary must preserve professional limits. The notary authenticates legal acts and strengthens the evidentiary record; the notary does not validate the registrability of a mark or replace DJKI's examination. This balanced position is essential to avoid misunderstanding the legal effect of an authentic deed in intellectual property litigation.

The synthesis of the two research questions shows that Indonesian trademark law is built on registration, but it is corrected by good faith, similarity assessment, and judicial cancellation. The first-to-file principle provides certainty only when the application satisfies both formal and substantive requirements. The statement of ownership adds documentary accountability to the application. Good faith prevents the administrative register from being used to appropriate another party's commercial identity. The cancellation mechanism then functions as a corrective instrument when the registration process fails to filter out problematic applications. A comparative perspective reinforces this conclusion. In Singapore, Section 38 of the Trade Marks Act (Cap. 332) provides that assignment of a registered trademark must be recorded in the trade marks register, and the assignee may not exercise rights under the assignment before registration is completed. In Japan, Article 35 of the Trademark Act provides that trademark rights may be transferred in whole or in part, but the transfer does not take effect against third parties until recorded in the trademark register. In the European Union, Article 20 of Regulation (EU) 2017/1001 on the European Union Trade Mark similarly provides that a transfer of a registered mark is not effective against third parties until recorded in the Register of European Union Trade Marks. These comparative examples share a consistent principle: authenticated transfer documents evidence the private agreement between the parties, while administrative recordal is the mechanism that makes the transfer effective against third parties and provides public notice. Indonesia's regulatory framework shares this structure under Article 41 of Law Number 20 of 2016, and the DENZA case demonstrates that Indonesian courts apply this distinction consistently.

In the implementation of protection, the DENZA dispute shows that evidence and procedure may be as important as substantive trademark doctrine. A registered mark may be challenged by a party claiming reputation, but the claimant must prove the relevant grounds and must sue the correct party. A notarial deed may become decisive not because it creates trademark rights, but because it proves a transfer and helps identify who owns the disputed mark at the time of litigation. The role of the notary is therefore protective, preventive, and evidentiary. It protects the transaction, prevents uncertainty in ownership, and provides authentic evidence for courts and administrative bodies.

This study is limited by its normative and documentary method. It does not conduct interviews with DJKI officials, judges, notaries, or litigating parties, and it does not independently measure consumer recognition of the DENZA mark in Indonesia. Future empirical research could examine how DJKI examiners assess bad faith, how judges evaluate similarity in principle and evidence concerning well-known marks, and how notarial deed drafting standards can be improved for intellectual property assignments. Despite these limitations, the present analysis provides a clearer doctrinal structure for understanding the relationship between registration, cancellation, and notarial evidence in Indonesian trademark disputes.

CONCLUSION

Trademark registration in Indonesia operates under a constitutive first-to-file system, in which exclusive rights arise from valid registration with the Directorate General of Intellectual Property (*Direktorat Jenderal Kekayaan Intelektual* or DJKI). Although this principle provides priority and legal certainty to the earliest valid applicant, it must be interpreted together with the statement of ownership and the requirement of good faith. The statement of ownership requires applicants to truthfully assert ownership of the mark, while the good-faith principle prevents speculative, imitative, or unfair registrations from obtaining legal protection. Accordingly, the legal strength of a first filing depends not only on compliance with formal requirements but also on the absence of prohibited similarity and bad faith. Protection for registered trademarks is further maintained through substantive and formal examination, publication and opposition, administrative recordal, cancellation and deletion mechanisms, civil litigation, and other enforcement measures. The DENZA dispute demonstrates that registration may still be challenged when allegations of bad faith or similarity arise, provided that such claims are supported by sufficient evidence and properly brought through the applicable procedural mechanisms. These corrective mechanisms do not undermine the first-to-file system but instead preserve its legitimacy by ensuring that legal protection remains limited to lawful and good-faith registrations. This study therefore addresses a doctrinal gap by demonstrating that the first-to-file principle should not be assessed independently of the evidentiary and notarial dimensions involved in trademark ownership and transfer.

The notary also plays an important role in strengthening legal certainty and evidentiary reliability in trademark transfers. Where a transfer is initially conducted through a private agreement, a notarial deed can provide authentic evidence concerning the parties, the object of the transfer, the date, and the legal act underlying the transfer. In the DENZA dispute, Deed Number 1, dated September 10, 2024, neither replaced the trademark certificate nor determined whether DENZA constituted a famous trademark or whether its original registration had been made in bad faith. Rather, its significance was evidentiary: together with the request for recordal of the transfer with DJKI, the deed supported the conclusion that the disputed trademark had been transferred before the lawsuit was filed and that PT Worcas Nusantara Abadi was therefore no longer the proper defendant. Notarial deeds may consequently have a material impact on trademark litigation by clarifying ownership and standing, while questions concerning the substantive validity of a trademark remain subject to trademark law and judicial determination. These findings contribute to Indonesian trademark law reform by highlighting the evidentiary uncertainty resulting from the absence of a statutory requirement for notarial authentication of trademark transfers, demonstrating the need for clearer procedural rules concerning standing when transfers occur before cancellation proceedings, and emphasizing the importance of integrating notarial practice standards into intellectual property administration. Such integration would strengthen the alignment among trademark transfer documentation, DJKI recordal, and the procedural requirements applicable to trademark litigation.

ACKNOWLEDGEMENT

The author expresses appreciation to all parties who provided legal materials and academic references relevant to this study. No external funding was received for this article.

AUTHOR CONTRIBUTION STATEMENT

Nike Sepvinasari is responsible for conceptualization, legal analysis, manuscript drafting, revision, and final approval of this article.

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